

échelon  
planning

**AMENDMENT C231 TO THE  
YARRA PLANNING SCHEME**  
EXPERT WITNESS STATEMENT – SARAH ANCELL  
CLIENT: YARRA CITY COUNCIL

<b>Project number, version and date</b>	2481 V2 190802
<b>Prepared by</b>	Sarah Ancell, Principal Urban Planner

## Table of Contents

---

1.	<b>Introduction .....</b>	5
2.	<b>Expert Witness Statement.....</b>	7
3.	<b>Summary of evidence.....</b>	9
4.	<b>The Queens Parade Activity Centre .....</b>	11
5.	<b>The Planning Scheme Amendment.....</b>	13
6.	<b>Planning Merit of Amendment C231 .....</b>	16
6.1.	<i>Overall consistency of the proposed built form provisions with Plan Melbourne and the State and Regional Planning Policies .....</i>	16
6.2.	<i>The extent to which the proposed built form provisions will enable the intended strategic role of the Queens Parade Activity Centre to be realised, and for the Local Planning Policies to be achieved.....</i>	23
6.3.	<i>The role of the Queens Parade Activity Centre in the Yarra City Council Housing Strategy and Yarra Spatial Economic and Employment Strategy.....</i>	27
6.4.	<i>The proposed overall built form objectives and requirements.....</i>	28
6.5.	<i>The proposed precinct-specific built form requirements and controls.....</i>	29
6.6.	<i>Mandatory vs discretionary controls .....</i>	35
6.7.	<i>The suitability of the proposed side and rear building setbacks .....</i>	43
6.8.	<i>660-668 Smith Street and 1-41 Queens Parade.....</i>	44
6.9.	<i>The role of the reference documents .....</i>	45
6.10.	<i>Other drafting matters.....</i>	46
6.11.	<i>My opinion in relation to Exhibited DDO16 and Councils' Preferred DDO16.....</i>	47
7.	<b>Submissions to Amendment C231 .....</b>	48
7.1.	<i>Accommodating growth .....</i>	48
7.2.	<i>Protecting heritage values.....</i>	48
7.3.	<i>Visibility above the parapet and upper level setbacks.....</i>	49
7.4.	<i>Building height.....</i>	50
7.5.	<i>Variations to height and setbacks recommended by consultants .....</i>	51
7.6.	<i>Impact on amenity and residential development to the rear .....</i>	52
7.7.	<i>Setbacks on land in Commercial 2 Zone.....</i>	52
7.8.	<i>Impacts on the public realm.....</i>	53
7.9.	<i>Mandatory vs discretionary (or preferred) controls.....</i>	53
7.10.	<i>Net community benefit .....</i>	54
7.11.	<i>Rezoning of land .....</i>	54
7.12.	<i>Social and affordable housing.....</i>	55
7.13.	<i>Extent of study area .....</i>	55
7.14.	<i>Consistency of the exhibited DDO with interim controls.....</i>	56



## 1. Introduction

---

1. I have been instructed in this matter by Maddocks who acts for Yarra City Council. Amendment C231 to the Yarra Planning Scheme was prepared by and made at the request of Council, and they are also the Planning Authority for the amendment.
2. I have been asked to consider the following matters:
  - My opinion in relation to Amendment C231, including the DDO16 as exhibited and Council's Preferred DDO16, and with reference to the 3D modelling of the Queens Parade Activity Centre prepared post-exhibition by Ethos Urban; and
  - My response to the key themes raised by submitters insofar as they relate to my area of expertise.
3. In preparing my assessment I have had regard to the following documents:
  - The exhibited version of Amendment C231 by Yarra City Council
  - Council's Preferred Design and Development Overlay Schedule 16 (DDO16) which was prepared as a post-exhibition document and which is dated 20 May 2019
  - Maddocks brief dated 26 July 2019
  - Queens Parade Built Form Framework (February 2017) prepared by Hansen
  - Queens Parade Built Form Framework (December 2017) prepared by Hansen
  - Queens Parade Built Form Heritage Review (December 2017) prepared by GJM Heritage
  - Yarra City Council Housing Strategy (September 2018)
  - Strategic Economic and Employment Strategy (August 2018) prepared by SGS Economics and Planning
  - Ordinary Meeting of Council Agenda and Minutes (7 February 2017)
  - Ordinary Meeting of Council Agenda and Minutes (19 December 2017)
  - Officer's report and minutes from Council meeting (12 March 2019) including the summary of submissions
  - Officer's report and minutes from Council meeting (28 May 2019) including the officer's response to submissions
  - Still images from the 3D model prepared by Ethos Urban of the Exhibited and Preferred DDO16 (as supplied by Maddocks on 16 July 2019)

- A live viewing and screenshots of the 3D model prepared by Ethos Urban of the Exhibited and Council's Preferred DDO16 (viewed on 30 July 2019)
- Yarra Planning Scheme
- Planning Practice Note 30 Potentially Contaminated Land (June 2005)
- Planning Practice Note 59 – The role of mandatory provisions in planning schemes (September 2018)
- Planning Practice Note 60 – Heights and setback controls for activity centres (September 2018)
- Victoria in Future 2019 'Data for Local Government Areas (LGA) and Victoria in Future Small Areas (VIFSA)' Excel file

## **2. Expert Witness Statement**

---

**The name and address of the expert.**

Sarah Ancell of Echelon Planning, 3 Prentice Street, Brunswick 3056.

**The expert qualification and experience.**

Sarah Ancell holds a Bachelor of Arts (Geography) from the University of Canterbury and a Master of Regional and Resource Planning from the University of Otago. She is a member of the Victorian Planning and Environment Law Association and the Property Council of Australia.

A Curriculum Vitae is included as Appendix 1.

**The expert's area of expertise to make this report.**

Sarah has a broad range of experience in planning and development matters with a sound understanding of statutory planning provisions and significant experience in strategic planning and policy development enabling her to comment on a wide range of planning and development issues.

**Other significant contributors to the report.**

Not applicable.

**Instructions that define the scope of the report**

Sarah Ancell has been instructed by Maddocks who acts for Yarra City Council. The specific instructions are set out in paragraph 2 of this statement.

**The identity of any person who carried out tests or experiments upon which the expert has relied on and the qualifications of that report.**

Not applicable.

**The facts and matters and all assumptions upon which the report proceeds.**

Sarah Ancell relies upon the reports and documents listed in section 1 of this report.

**Documents and other materials the expert has been instructed to consider or take into account in preparing his report, and the literature of other material used in making the report.**

Sarah Ancell has reviewed and taken into account the reports and materials listed in section 1 of this report.

**A summary of the opinion or opinions of the expert witness**

A summary of Sarah Ancell's opinions is provided for within section 3 of this statement.

**Any opinions that are not fully researched for any reason**

Not applicable.

**Questions falling out of the expert's expertise and completeness of the report.**

Sarah Ancell has not been asked to make comment on any matters outside of her area of expertise. This report is a complete statement of evidence.

**Expert Declaration**

I have made all the inquiries that I believe are necessary and desirable to prepare and present expert evidence in this matter and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.



Sarah Ancell  
2 August 2019

### **3. Summary of evidence**

---

4. The following is a summary of my opinions in relation to the principal matters that I have addressed in this statement.
5. I have reviewed the planning merit of Amendment C231 (including Council's Preferred DDO16) and am of the view that it is consistent with State and Regional Planning Policies and will enable the intended strategic role of the Queens Parade Activity Centre to be realised whilst also protecting its heritage assets.
6. I have reviewed the proposed mandatory built form controls contained in Council's Preferred DDO16 and am of the view that they can be justified in light of Planning Practice Notes 59 (The Role of Mandatory Provisions in Planning Schemes) and 60 (Heights and setback controls for activity centres).
7. I have reviewed the proposal to rezone 660-668 Smith Street and 1-41 Queens Parade from the Commercial 2 to the Commercial 1 Zone and to apply the Environmental Audit Overlay and agree that this would be appropriate as it would enable the sites to be utilised for residential development which is an outcome supported by both State policy and the Yarra Housing Strategy.
8. I have reviewed the proposal to rezone 245 Gold Street from the Commercial 1 Zone to a residential zone as requested by several submitters and agree that rezoning it to the Neighbourhood Residential Zone would be appropriate. It contains a single storey detached dwelling and has no real relationship to the Queens Parade Activity Centre, as it faces Gold Street and has no frontage to Queens Parade. The surrounding residential land is within the Neighbourhood Residential Zone.
9. I generally support the changes made to the Yarra Planning Scheme by the most recent version of Amendment C231 (being the exhibited documents except with the exhibited DDO16 being replaced by Council's Preferred DDO16), with the following exceptions where I would recommend further changes:
  - DDO16 Clause 2.0 – Delete the definition of setback and add a new definition as follows:  
**"Upper level setbacks are measured from the street wall to the building"**.
  - Reorder the definitions in Clause 2.1 of DDO16 so that they are in alphabetical order for ease of use.
  - Amend DDO Clause 2.3 to "**Where a street-wall height is required to match the parapet height of a neighbouring heritage building, it must match the height for a minimum length of 6m from the heritage building**".

- Amend DDO16 Clause 2.5 to “New development on a corner site with a frontage to Queens Parade must continue the street wall height established at the Queens Parade frontage along the side street, with a transition in height to match the rear interface where required. This requirement does not apply to a lane or to the corner of Queens Parade and Napier Street.”
- Amend DDO16 Table 2 to identify what setback is required above 25m up to 31m.
- Amend DDO16 Table 2 to correct the references to “10 25 metres”, “10-25 metres” and to “1025 metres” to **“10 to 25 metres”**.
- Either update the Queens Parade, Clifton Hill Built Form Review report to reflect the new height and setback controls, or include the outcomes of the Ethos Urban 3D modelling as a reference document. This may require the preparation of a short report that includes images from the modelling and explanation as to why the selected heights and setbacks have been chosen.
- Amend Clause 21.11 (Reference Documents) to include the Queens Parade, Clifton Hill Built Form Review and the Queens Parade, Clifton Hill Built Form Heritage Analysis and Recommendations, as other similar documents are included in this clause.

## 4. The Queens Parade Activity Centre

---

10. Amendment C231 seeks to apply built form controls to parts of the Queens Parade Activity Centre. The centre consists of a “high street”-style mixed use area stretching from the intersection of Queens Parade, Alexandra Parade and Brunswick Street through to the intersection of Queens Parade and Hoddle Street. The north-east extent encompasses the Queens Parade Neighbourhood Activity Centre, the boundaries of which are defined in Clause 21.08-4 of the Yarra Planning Scheme. The Queens Parade Activity Centre also includes strategic development sites (as per Clauses 21.08-4 and 21.08-8), and other clusters of Commercial and Mixed Use zoned land to the south-west. These are depicted on Attachment 1, along with the study area boundary from the December 2017 Queens’ Parade, Clifton Hill Built Form Review (herein referred to as the Built Form Review), and the precincts from Council’s Preferred DDO16.
11. The term “Queens Parade Activity Centre” is used in various contexts within the documents relating to the Amendment. It is not a term that is used in the Yarra Planning Scheme, which only refers to the Queens Parade Neighbourhood Activity Centre. The Built Form Review uses the term once to refer to the Neighbourhood Activity Centre, whereas the Council Officer Report from the 28 May 2019 Meeting Agenda uses it to refer to the wider centre as defined by the Built Form Review study area depicted on Attachment 1.
12. When I use the term “Queens Parade Activity Centre”, I refer to the wider centre, not just land identified within the Queens Parade Neighbourhood Activity Centre.
13. The parts of the Queens Parade Activity Centre subject to Amendment C231 are in the Commercial 1, Commercial 2 and Mixed Use Zone (refer to Attachment 2). There are also other sites in the Neighbourhood Residential, General Residential, Public Park and Recreation, and Public Use Zones, but these are not impacted by the Amendment.
14. The majority of the Queens Parade Activity Centre is within a Heritage Overlay (refer to Attachment 3). The Built Form Review identifies the following municipal and local landmarks:
  - St Johns Church
  - Former ANZ bank
  - Former UK Hotel
  - Former Clifton Motors
15. The other relevant overlays (refer to Attachment 3) are the Environmental Audit, Special Building, and Design and Development (Schedules 2, 16 (interim) and 20(interim)) Overlays.

16. The Queens Parade Activity Centre incorporates a mix of retail, hospitality, commercial, industrial, community (including education, institutions, churches and parks) and residential uses.
17. All of the Queens Parade Activity Centre is located within 400m of either the 11 or 86 tram lines, and the eastern half of the centre is located within 800m of the Clifton Hill and/or Rushall Train Stations (refer to Attachment 1).
18. Queens Parade has a particularly wide road width at 60m, with heritage-listed boulevard planting at the south-west end. By way of comparison, the other “main street” centres within Yarra have the following widths:
  - St Georges Road (NAC) = 20m
  - Johnston St (NAC) = 20m
  - Nicholson St (NAC) = 20m
  - Brunswick St (MAC) = 20m
  - Smith St (MAC) = 20m
  - Victoria St (MAC) = 20.8m
  - Bridge Road (MAC) = 20m at western end, 30m at eastern end
  - Swan Street (MAC) = 20m
19. Napier Reserve, Raines Reserve, Mayors Park, Edinburg Gardens, Darling Gardens and Smith Reserve are located within or in close proximity to the Queens Parade Activity Centre.
20. The Queens Parade Activity Centre is surrounded by the residential areas of Clifton Hill, Fitzroy North and Fitzroy.

## 5. The Planning Scheme Amendment

---

21. Amendment C231 seeks to introduce permanent built form controls to parts of the Queens Parade Activity Centre via DDO16. This new DDO16 is intended to replace the existing interim DDO16 and DDO20. The Amendment also seeks to amend Clause 22.02 (Development guidelines for sites subject to the Heritage Overlay), to rezone land on the corner of Smith Street and Queens Parade to the Commercial 1 Zone and apply the Environmental Audit Overlay, and to apply, delete or amend the Heritage Overlay for a range of properties and update the Incorporated Document (which is the list of Heritage Gradings).
22. The strategic basis for the amendment is provided in the Queens Parade Built Form Framework (December 2017, prepared by Hansen Partnership) and the Queens Parade Built Form Heritage Review (December 2017, prepared by GJM Heritage), both of which are proposed to become reference documents to the planning scheme.
23. The Built Form Review and DDO16 establish the following five precincts, some of which are broken into sub-precincts:
  - Precinct 1 – Brunswick Street
  - Precinct 2 – Boulevard Precinct
  - Precinct 3 – St John’s Precinct
  - Precinct 4 – Activity Centre Precinct
  - Precinct 5 – North Eastern Precinct
24. Amendment C231 was exhibited in October and November 2018. A total of 399 submissions were received, and in response to these, Council undertook the following additional analysis and modelling:
  - Ethos Urban were engaged to prepared 3D modelling to test the building heights
  - Traffix Group were engaged to investigate the capacity of the laneways to accommodate additional traffic
  - Council officers undertook a detailed analysis of the development applications and approvals along Queens Parade
  - Council officers undertook a review of DDOs in other planning schemes
  - GJM Heritage provided advice on submissions that queried the heritage grading of some properties
25. Based on the above analysis, Council Officers prepared a revised version of DDO16 (herein referred to as ‘Council’s Preferred DDO16’) and identified two minor corrections to be made to the exhibition material relating to heritage sites. It did not re-exhibit the revised DDO16, but did write to all

landowners, directly affected occupiers and submitters to inform them of their position in support of this version of DDO16.

26. Council subsequently received several additional submissions in response to their Preferred DDO16.
27. My summary of the built form controls in the Exhibited DDO16 against those in Council's Preferred DDO16 is provided as a table at Appendix 2. The key differences I have noted between these (in relation to heights and upper level setbacks) are as follows:
  - Precinct 1:
    - The mandatory 5m upper level setback for 460 Brunswick St has been changed to 6m
  - Precinct 2:
    - In Precinct 2C, the preferred 5m upper level setback has been amended to a mandatory 6m setback on Napier St and a preferred 6m setback elsewhere
  - Precinct 3:
    - In Precinct 3A, the preferred 18m maximum height has been changed to a mandatory 18m maximum height
    - In Precinct 3B, the preferred 18m maximum height has been changed to a mandatory 14m maximum height
    - In Precinct 3B, the preferred 6m minimum upper level setback for sites other than 664 Smith Street has been changed to a mandatory 6m setback
  - Precinct 4:
    - The mandatory 21.5m maximum height has been changed to a mandatory 14m maximum height
    - The mix of 6m and 8m minimum upper level setbacks (which was a mix of preferred and mandatory setbacks for various sites) has been changed to a mandatory 8m setback
  - Precinct 5:
    - In Precinct 5A, the preferred 18m maximum height has been changed to a mandatory 11m maximum height
    - In Precinct 5A, the upper level setback has been changed from a preferred 5m setback to a preferred 6m setback
    - In Precinct 5B, the 1:1 heritage street wall behind Clifton Motors has been changed to a mandatory 18m maximum height for 201-215 Queens Parade
    - In Precinct 5B, the mandatory 6m minimum upper level setback at Clifton Motors has been changed to a mandatory 8m setback for 201-215 Queens Parade
    - In Precinct 5C, the preferred 49m maximum height has been changed to a preferred 43m maximum height
    - In Precinct 5C, the front street wall height has been changed from a preferred 35m maximum to a preferred 18m maximum height
    - In Precinct 5C, the preferred 10m minimum upper level setback has been changed to a preferred 6m setback

28. Amendment C231 was preceded by two interim amendments that apply temporary built form controls as follows:
  - Amendment C229 applies DDO16 to Precincts 1 and 2A (using Council's Preferred DDO16 numbering), and generally applies the same built form controls as the exhibited C231 DDO16.
  - Amendment C241 applies DDO20 to Precincts 2B, 2C, 3A, 3B, 4, 5A, 5B and 5C (using Council's Preferred DDO16 numbering), and generally applies the same built form controls as the exhibited C231 DDO16.
29. I am generally comfortable with Council's Preferred DDO16, as in my opinion it strikes an appropriate balance between enabling development and respecting the existing heritage built form character.
30. I provide detailed comments in relation to the changes to Council's Preferred DDO16 in section 6.4 and 6.5 of this evidence statement.
31. My evidence largely focuses on DDO16, and also addresses the rezoning proposal and the application of the Environmental Audit Overlay. I have not reviewed the proposed changes to the Heritage Overlay or the Incorporated Document (List of heritage gradings) as these are outside my area of expertise.

## 6. Planning Merit of Amendment C231

---

32. I have considered the following issues in regards to the planning merit of the built form provisions contained within Amendment C231 (the post-exhibition version, i.e. Council's Preferred DDO16, with reference to the exhibited version where relevant):

- The overall consistency of the built form provisions with Plan Melbourne and the State and Regional Planning Policies
- The extent to which the proposed built form provisions will enable the intended strategic role of the Queens Parade Activity Centre to be realised, and for the Local Planning Policies to be achieved
- The suitability of the proposed built form controls
- The suitability of mandatory vs discretionary height controls
- The proposed rezoning of 660-668 Smith Street and 1-41 Queens Parade
- The role of the reference documents
- The drafting of the amendment
- My opinion on the exhibited DDO16 and Council's Preferred DDO16
- My opinion in relation to the key themes within the submissions (refer to Section 8 of this evidence statement)

### 6.1. Overall consistency of the proposed built form provisions with Plan Melbourne and the State and Regional Planning Policies

33. I have considered Amendment C231 against Plan Melbourne and State and Regional Planning Policies, as set out below.

34. Plan Melbourne includes the following relevant directions:

- *2.1 – Manage the supply of new housing in the right locations to meet population growth and create a sustainable city*
- *2.2 – Deliver more housing closer to jobs and public transport*
- *2.5 – Provide greater choice and diversity of housing*
- *4.3 – Achieve and promote design excellence*
- *4.4 – Respect Melbourne's heritage as we build for the future*

- *5.1 – Create a city of 20-minute neighbourhoods*

35. I consider that Amendment C231 will contribute to realising these outcomes by providing for growth (in particular housing that can benefit from good access to public transport) within the Queens Parade Activity Centre and allowing it to expand its role as a hub for a 20 minute neighbourhood while respecting its heritage values.
36. As per the excerpts below, Plan Melbourne mentions the need to both provide flexible planning controls and to involve the community in identifying the scope of future growth and the desired built form outcomes in centres with certain values such as heritage:

*All activity centres have the capacity to continue to grow and diversify the range of activities they offer. Opportunities to partner with the private sector to enable future diversification, investment and employment growth should be explored and, where appropriate, facilitated through planning provisions.*

*Diversification will give communities access to a wide range of goods and services, provide local employment and support local economies and the development of 20-minute neighbourhoods. In many activity centres, this growth will include housing, particularly at higher densities.*

*To capture and to accommodate future growth opportunities activity centres will need greater flexibility in planning controls than surrounding residential areas. Local plans undertaken in consultation with the community will identify the scope and nature of future growth within each activity centre. (p. 37)*

*Where centres are well established or communities are seeking to protect the unique character of their centres (such as protecting heritage buildings or access to public land or open space to achieve community benefit), they should be assisted in determining the desired built form outcomes. (p. 99)*

37. It is my view that Council's Preferred DD016 provides an appropriate response to these aspects of Plan Melbourne. The approach taken in the revised overlay is to provide flexible planning controls on sites where there is the greater capacity to accommodate change, and to provide lower and in most cases mandatory controls in precincts where the community has expressed a preference to prioritise the preservation of existing heritage values.
38. In regards to the Yarra Planning Scheme, Clauses 21.08 identifies the eastern part of the Queens Parade Activity Centre as a Neighbourhood Activity Centre, and 501-513 Hoddle Street, the Former Gas & Fuel Site, and 26-56 Queens Parade as Strategic Redevelopment Sites (refer to Attachments 1 and 2). It also identifies the latter and parts of the easternmost Queens Parade Activity Centre as a Mixed Use Zone Not Subject to Heritage Overlay. The remainder of the Queens Parade Activity Centre contains land within the Mixed Use, Commercial 1, Commercial 2, General Residential and

Neighbourhood Residential Zones (as well as various other public purpose zones). The majority of sites within the Amendment area are within a Heritage Overlay.

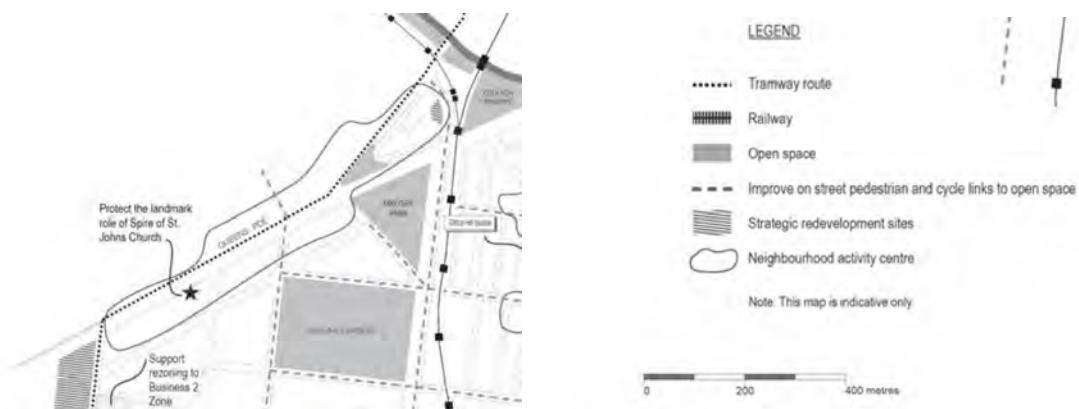


Figure 1: Excerpts from Figure 11 from Clause 21.08-4 of the Yarra Planning Scheme

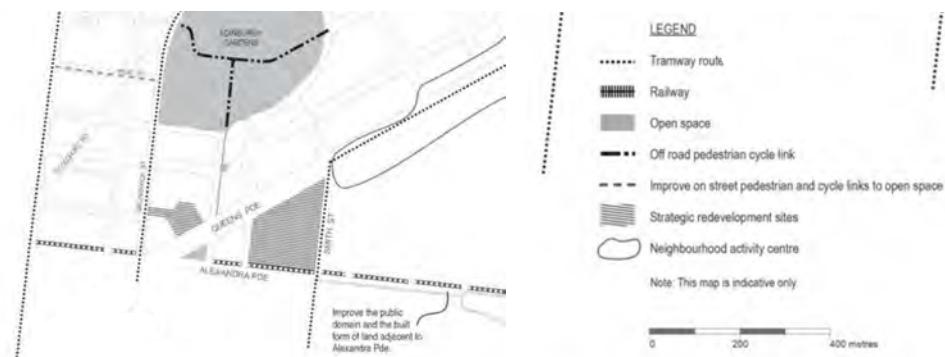


Figure 2: Excerpts from Figure 19 from Clause 21.08-8 of the Yarra Planning Scheme

39. I note that Amendment C231 does not seek to apply controls to the Former Gas & Fuel site or to land within the Residential Zones.
40. The following relevant State and Regional planning policies apply to neighbourhood activity centres, strategic redevelopment sites, Mixed Use / Commercial land, heritage sites, and built form.
41. Clause 11 – Settlement contains a number of relevant objectives and strategies relating to the future planning of activity centres, including:
  - *Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur.*
  - *Planning for urban growth should consider:*

- *Opportunities for the consolidation, redevelopment and intensification of existing urban areas.*
  - *Neighbourhood character and landscape considerations...*
  - *Support the role and function of each centre in the context of its classification, the policies for housing intensification, and development of the public transport network.*
  - *Encourage a diversity of housing types at higher densities in and around the activity centres.*
42. I consider that Amendment C231 will contribute to realising these outcomes as follows:
- It will encourage urban consolidation by facilitating the development of medium and high density housing.
  - It will allow for the Queens Parade Activity Centre to accommodate population growth over the next 15 years and beyond, and provides clear direction as to where this should be accommodated, and at what scale.
  - Consolidation to varying degrees of intensification is justified within all precincts, as each precinct has excellent access to the tram network, and the greatest development opportunities are provided in Precinct 5 which is closest to the Clifton Hill and Rushall Stations.
  - It takes into account the neighbourhood character within and around the precincts by proposing building controls that are more stringent where heritage or nearby dwellings are key design considerations.

43. Clause 11 – Built Environment and Heritage contains a number of relevant objectives and strategies relating to new developments and existing built form (including heritage values), including:
- *Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.*
  - *Achieve building design outcomes that contribute positively to the local context and enhance the public realm.*
  - *Ensure development responds and contributes to the strategic and cultural context of its location.*
  - *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
  - *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*

- *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- *Ensure development is designed to protect and enhance valued landmarks, views and vistas.*
- *Recognise, support and protect neighbourhood character, cultural identity, and sense of place.*
- *Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by emphasising the...heritage values and built form that reflect community identity.*

44. I consider that Amendment C231 will contribute to realising these outcomes as follows:

- Setting a mix of mandatory and discretionary building height controls will ensure that future development appropriately reflects the local context within and around each precinct within the Queens Parade Activity Centre. The more stringent controls are applied to precincts where there are greater heritage values, or where impacts on nearby residential properties would be greatest.
- Mandatory setback controls are proposed to protect viewlines to key heritage buildings.
- The provisions will minimise impacts on neighbouring residential properties through planning controls on building heights and building setbacks.
- The provision will ensure active frontages are provided to protect and enhance personal safety.

45. Clause 16 – Housing contains a number of relevant objectives and strategies relating to the future planning for housing need, including:

- *Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.*
- *Provide certainty about the scale of growth by prescribing appropriate height and site coverage provisions for different areas.*
- *Increase the proportion of new housing in designated locations within established urban areas.*
- *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- *Identify opportunities for increased residential densities to help consolidate urban areas.*

- *Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are:*
  - *...Urban-renewal precincts and sites*
  - *...Neighbourhood activity centres – especially those with good public transport connections*
  - *Areas near existing and proposed railways stations that can support transit-oriented development*
- *Facilitate increased housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport.*
- *To provide for a range of housing types to meet diverse needs.*

46. Amendment C231 will contribute towards the achievement of all of these outcomes. It recognises that the Queens Parade Activity Centre has a role to play in providing for higher density housing given its good access to public transport and local services. It will provide for diverse dwelling types in a neighbourhood where lower scale development will predominate.
47. Amendment C231 provides certainty about the scale of growth in different development settings, ranging from mandatory height controls where the heritage values or surrounding land uses require development to be modest in scale, and more flexibility on sites where there are fewer development constraints to allow a range of development outcomes to be considered.
48. Clause 17 – Economic Development contains the following relevant objectives and strategies relating to the future planning for employment uses in activity centres, including:
  - *Improve access to jobs closer to where people live.*
  - *To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*
  - *Provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.*
49. Amendment C231 seeks to retain and protect the Queens Parade Activity Centre for its convenience role and for its role in supporting commercial activity. The built form controls are intended to enable redevelopment of sites within these centres, providing both ongoing retail and commercial activities, as well as residential and other activities which will complement the business role of the centre.
50. In summary, it is my view that the differentiated approach taken in Amendment C231, where mandatory heights are proposed for sites where the heritage values or surrounding land uses require

development to be modest in scale, and discretionary controls on sites that can accommodate greater change, will provide for wider state policy outcomes to be achieved and for an appropriate balance between encouraging development in a centre that has good access to public transport, and providing certainty that heritage values will be respected and that impacts on surrounding dwellings will be minimised.

51. In regards to the Urban Design Guidelines for Victoria, I note that the following elements are relevant to Amendment C231:
  - *OBJECTIVE 5.1.1 - To ensure the building scale and form supports the context and preferred future character of the activity centre.*
    - a) *Locate and shape the building to accommodate local topography and natural and cultural features of the site.*
    - b) *Locate and shape the building to protect view corridors from streets and public spaces toward landmarks.*
    - c) *Shape the building scale and form to support the existing character or the preferred future character of the area.*
    - d) *Use the building height and setbacks to frame the street space as a public space.*
    - e) *Where the street proportions and character are strongly defined, align the building frontage with existing front setbacks.*
    - f) *In retail and commercial mixed-use areas, place the building frontage on the front lot line.*
    - g) *Shape the building form and detail to reinforce important street corners.*
    - h) *Set back upper levels of tall buildings or use a podium and tower form to create a pedestrian scale at street level.*
  - *OBJECTIVE 5.1.2 - To ensure the activity centre provides a graduated transition between different building scales and uses.*
    - a) *Provide a transition in scale from larger buildings to adjacent areas of smaller scale built form.*
    - b) *Define the boundary or transition between public space and private space without the need for high fences or barriers.*
  - *OBJECTIVE 5.1.3 - To ensure buildings in activity centres provide equitable access to daylight and sunlight.*
    - a) *Locate and arrange the building to allow daylight and winter sun access to key public spaces and key pedestrian street spaces.*
    - b) *Allow sufficient distance between buildings to allow access to daylight for neighbouring windows.*
    - c) *Protect daylight and sunlight access to the private and communal open space of adjacent dwellings.*
  - *OBJECTIVE 5.1.4 - To minimise adverse wind effects caused by buildings in activity centres*
    - a) *Orient large buildings to minimise wind effects at street level and on adjoining properties and public spaces.*

b) *Detail the building façade to minimise wind effects on streets and public spaces.*

52. I consider that Amendment C231 responds appropriate to these issues of building scale and form, interface treatment, overshadowing and wind impacts for reasons discussed in detail throughout my statement.
- 6.2. The extent to which the proposed built form provisions will enable the intended strategic role of the Queens Parade Activity Centre to be realised, and for the Local Planning Policies to be achieved
53. The following strategies of Clause 21.04-2 (Activity Centres) are relevant:
- *Strategy 4.3 – Support the role of all activity centres, including Neighbourhood Activity Centres, in providing local day-to-day needs of residents of all abilities.*
  - *Strategy 5.2 – Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

54. I consider that Amendment C231 will contribute to implementing these strategies as follows:

- It will facilitate the continued provision of residents' day-to-day needs in the Neighbourhood Activity Centre through the retention of the Commercial 1 Zoned land.
- It will facilitate the ongoing evolution of the Queens Parade Activity Centre to provide for the increasing population within Yarra.

55. In regards to the role of the Queens Parade Activity Centre in providing for residential growth, Clause 21.04-1 (Accommodation and Housing) explains that:

*Yarra will continue to accommodate its share of the housing growth<sup>1</sup> of the inner Melbourne Metropolitan region...However, in order to protect valued character, and particularly its*

---

<sup>1</sup> I note that page 2 of Clause 21.02 includes reference to specific dwelling targets, but given that this clause dates from 2009 and refers to targets prepared under Melbourne 2030, I have instead considered the more up to date figures in the Yarra Housing Strategy 2018 and the recently released Victoria in Future population and dwelling forecasts.

*heritage places, the majority of new development will be accommodated on strategic redevelopment sites.*

56. The key relevant strategy from this clause is as follows:

- *Strategy 1.2 – Direct higher density residential development to Strategic Redevelopment Sites identified at clause 21.08 and other sites identified through any structure plans or urban design frameworks.*

57. I consider that Amendment C231 will implement this strategy as it directs the highest densities to the strategic redevelopment sites at the south-west and north-east ends of the Queens Parade Activity Centre, while providing more moderate development opportunities elsewhere.

58. Clause 21.04-5 (Parks, Gardens and Public Open Space) includes the following relevant strategy:

- *Strategy 13.3 – Ensure new development does not have a negative impact on adjoining open space.*

59. I consider that Amendment C231 will implement this by requiring overshadowing impacts on Napier Reserve to be considered.

60. Clause 21.05-1 (Heritage) includes a range of relevant strategies:

- *Strategy 14.1 – Conserve, protect and enhance identified sites and areas of heritage significance...*
- *Strategy 14.3 – Protect the heritage skyline of heritage precincts.*
- *Strategy 14.4 – Protect the subdivision pattern within heritage places.*
- *Strategy 14.5 – Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces.*
- *Strategy 14.6 – Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*

61. I consider that Amendment C231 will contribute to implementing these strategies as follows:

- It will protect the heritage values of sites through the use of mandatory built form controls that are based on 3D modelling that identifies heights that will not dominate the heritage buildings.
- It will ensure the impacts of upper level developments in precincts with heritage values are limited so that the close-range skyline view remains and the longer-range views of upper

levels are minimised. Whilst parts of the new built form would be seen from longer-range views, this would not be in a manner that would be considered visually intrusive.

62. Clause 21.05-2 (Urban Design) includes an objective to retain Yarra's identity as a low-rise urban form with pockets of higher development, and the following strategies:
  - *Strategy 16.2 – Maintain and strengthen the preferred character of each Built Form Character Type within Yarra.*
  - *Strategy 21.1 – Require development within Yarra's activity centres to respect and not dominate existing built form.*
63. In regards to Strategy 16.2, the relevant Built Form Character Types are identified in Clause 21.05-3 (Built Form Character) as Non-Residential Areas, Boulevards, and Main Roads. The relevant strategies for these are as follows:
  - *Strategy 26.2 – Maintain the dominance of the avenue trees over built form along boulevards.*
  - *Strategy 27.1 [applies to non-residential areas] – Allow flexibility in built form in areas with a coarse urban grain (larger lots, fewer streets and lanes).*
64. I consider that Amendment C231 will contribute to implementing the relevant strategies of Clauses 21.05-2 and 21.05-3 by including a design requirement that development must not diminish or detract from these heritage trees, and by providing more generous and flexible design controls in precincts with larger sites.
65. In regards to Clause 21.08 (Neighbourhoods), the Queens Parade Activity Centre is located within the Clifton Hill and North Fitzroy Neighbourhoods.
66. Clause 21.08-4 (Clifton Hill) identifies the Queens Parade Neighbourhood Activity Centre in the east of the centre as a “mixed use centre with strong convenience retailing”, and seeks to:
  - Encourage the redevelopment of Site 3 Dummett Crescent (refer Figure 1) “in a way that contributes positively to the urban fabric and public domain of Yarra” – which Council’s Preferred DDO16 addresses via a more human-scale podium and setback arrangement.
  - Maintains the visual prominence of the Spire of St John’s Church – which the design controls address.
67. Clause 21.08-8 (North Fitzroy) seeks to encourage the redevelopment of Site 4 – 26-56 Queens Parade (refer Attachment 3) “in a way that contributes positively to the urban fabric and public domain of Yarra” – I note that this site already has a planning approval in place.

68. Clause 22.02 (Development Guidelines for Site Subject to the Heritage Overlay) applies to all land within DDO16 that is subject to a Heritage Overlay, and provides guidance on how development can protect and enhance the City's heritage places. It generally focuses on development in residential settings, with only the following applying specifically to an activity centre context:

***Industrial, Commercial and Retail Heritage Place or Contributory Elements***

*Encourage new upper level additions and works to:*

- *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage built forms.*
- *Incorporate treatments which make them less apparent.*

69. Amendment C231 requires upper level additions to be set back from the heritage streetscapes in accordance with this requirement.
70. There are also a number of the general requirements that apply but I have not reviewed these in detail as they are generally urban design and heritage matters.
71. Clause 22.03 (Landmarks and Tall Structures) seeks to maintain the prominence of Yarra's valued landmarks which includes the Spire of St Johns Church on Queens Parade. I consider that Amendment C231 addresses this through the application of mandatory height and setback controls for sites that could impact on viewlines to the church.
72. Clause 22.10 (Built Form and Design Policy) applies to sites outside the Heritage Overlay, i.e. Precincts 2A, 2C, 5B and 5C.
73. It includes the following Design Objectives (which must be met) that are relevant to Amendment C231:
- *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
  - *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
  - *To ensure that the setbacks of new development complement the desired neighbourhood character of the area (as identified in the Site Analysis Plan and Design Response, the Municipal Strategic Statement and any relevant local planning policies).*

- *To ensure that the height of new development is appropriate to the context of the area (as identified in the Site Analysis Plan and Design Response) and respects the prevailing pattern of heights of the area where this is a positive contribution to neighbourhood character.*
  - *To ensure that new development does not prejudice the rights of adjoining and/or nearby land users (especially residents) to enjoy solar access, privacy, and acceptable noise levels.*
  - *To ensure that built form enhances and does not detract from the landscape character of parks and open spaces.*
  - *To ensure that new development does not substantially overshadow adjoining residential private open space or public facilities such as parks and gardens.*
74. Amendment C231 provides development parameters that will assist future planning applications in responding to these requirements.
- 6.3. The role of the Queens Parade Activity Centre in the Yarra City Council Housing Strategy and Yarra Spatial Economic and Employment Strategy
75. Yarra Council adopted its Housing Strategy in September 2018, and is intending to implement it in the Planning Scheme via an upcoming amendment to the Yarra Planning Scheme which would introduce a new local housing planning policy, and include the Strategy as a reference document.
76. The Strategy identifies that the majority of the growth in activity centres will occur in Major Activity Centres (approximately 9,900 dwellings from 2016-2031), and that the Neighbourhood Activity Centres will provide approximately 4,400 new dwellings from 2016-2031, with Queens Parade and Heidleberg Road providing the most new housing of the neighbourhood centres. The ‘Estimated Supply of New Dwellings’ graph on page 65 of the strategy identifies that approximately 2,000 dwellings will be provided in the Queens Parade Activity Centre. The majority of growth within Queens Parade is anticipated to be accommodated on Strategic Redevelopment Sites at 111 Queens Parade and 433 Smith Street (which is not within the Preferred DDO16 area) and 26-52 Queens Parade. I understand that Mr Spencer is presenting evidence to the Panel on the capacity of the Queens Parade Activity Centre in light of the proposed planning controls.
77. I also note that the Housing Strategy was based on the Victoria In Future 2016 population and household projections, where it was forecast that between 2016 and 2031, 29,412 new residents and 13,431 new dwellings would be accommodated (p. 6). With the recent release of the Victoria in Future 2019 figures, I note that within the 2016 to 2031 timeframe it is now forecast that there will be 32,962 residents and 18,483 new dwellings within Yarra. This shows the importance of ensuring that activity centres do not just cater for medium term population growth at a fixed point in time, but that planning should consider long term trends and seek to make efficient use of urban land and provide some flexibility for activity centres to respond to future changes.

78. The Yarra Spatial Economic and Employment Strategy August 2018 will be used to inform new policies in the planning scheme. Strategy 1 seeks to encourage growth in employment in Queens Parade (as a neighbourhood activity centre) as follows:

*Strategy 1: Support employment growth in Activity Centres*

*Yarra's major and neighbourhood activity centres already host a vibrant and constantly evolving range of retail, entertainment, hospitality and commercial services meeting the needs of visitors and the local population. They are also generally well served by public transport. Building on these existing strengths, growth in employment should be encouraged. Yarra's local centres are also appropriate locations for intensification of employment activities.*

79. I understand that Mr Spencer is providing commentary on the impacts of the controls on the capacity of the Queens Parade Activity Centre to accommodate economic growth. In a more general planning sense, I note that the built form controls and proposed zoning approach will continue to encourage employment uses to be located in the Queens Parade Activity Centre including through providing for increases in floorspace on all sites, in particular on the Commercial 2 Zoned land.

#### 6.4. The proposed overall built form objectives and requirements

80. DDO16 proposes overall design objectives and requirements that apply to all precincts.
81. I have reviewed the design objectives and definitions in the exhibited and Council's Preferred DDO16, and am of the view that the latter provides clearer guidance as to what the overlay seeks to achieve and more easily understandable definitions. The only definition I do not agree on is for setback, which reads as follows:

*Setback is the shortest horizontal distance from a building, including projections such as balconies, building services and architectural features, to the boundary.*

82. As the planning scheme already contains a definition of setback in Clause 73.01, it is preferable not to provide a different definition and I am of the view that this should be deleted.
83. However, in the case of upper level setbacks, it could be interpreted that these are to be measured from the front boundary of a site rather than from the street wall, which I understand from reading the Built Form Review is the intention. To make this clearer, I recommend that the following definition be added:

**Upper level setbacks are measured from the street wall to the building.**

84. Clauses 2.2 to 2.8 list a range of requirements that Clause 6.0 (Decision Guidelines) states must be met. I have reviewed these and agree that the drafting in Councils' Preferred DDO16 is more

instructive than the exhibited version. I generally support the wording of Council's Preferred DDO16 apart from the following:

- Clause 2.3 requires street-wall heights to match the parapet height of a neighbouring heritage building for a minimum length of 6m from the heritage building. This is confusing when read in conjunction with the requirements within the individual precincts; for example, Precinct 1 includes a mandatory requirement to "retain existing street wall" and a preferred requirement to "match the parapet or eaves height of taller adjacent heritage building". I am of the view that Clause 2.3 should be amended to **Where a street-wall height is required to match the parapet height of a neighbouring heritage building, it must match the height for a minimum length of 6m from the heritage building**.
- Clause 2.5 requires new development on a corner site with a frontage to Queens Parade to continue the Queens Parade street wall height along the side street with a transition in height to match the rear interface where required. However, the site on the corner of Queens Parade and Napier Street in Precinct 2C has a mandatory street wall height of 10m on Napier Street and a preferred height of 18m on Queens Parade. It is my view that Clause 2.5 should be amended to include reference to this exception.

## 6.5. The proposed precinct-specific built form requirements and controls

85. DDO16 proposes a preferred character statement, design requirements, and built form controls for each of the five precincts identified within the overlay.
86. My following comments on the individual precincts focuses on the proposed heights and front setbacks. I provide a more detailed discussion of the mandatory or discretionary nature of the controls in Section 6.6 and a discussion of the overall approach to side and rear setbacks in Section 6.7.
87. In regards to building heights in the exhibited versus Council's Preferred DDO16, I note that the approach has generally been to lower the heights and in some cases turn preferred controls into mandatory controls, thus lowering the overall capacity of the Queens Parade Activity Centre to accommodate additional floorspace. However, the greatest flexibility is still maintained via higher and (generally) discretionary height limits in the precincts with the ability to absorb greater change; placing more stringent restrictions on the heights in the lower scale precincts will not adversely impact the development capacity to a point where the centre could no longer serve its role as a location for some growth. I defer to Mr Spencer in regards to the impact on retail and employment capacity.

### **Precinct 1 – Brunswick Street (Clause 2.9.1)**

88. The preferred character statement for this precinct seeks to deliver fine-grained low-scale heritage buildings with moderate low-rise infill behind the main heritage frontage accessed via a rear

laneway, and the retention of the visual prominence of the significant heritage building on the corner of Brunswick St and Queens Parade. I agree that the design requirements and Table 1 (which includes 9m maximum building heights) achieve this.

**Precinct 2 – Boulevard Precinct (Clause 2.9.2)**

89. The preferred character statement for this precinct seeks to deliver mid-rise development that provides a preferred location for housing and employment growth within the Queens Parade Activity Centre.
90. I agree that the design requirements and Table 2 will deliver the outcomes sought in the preferred character statement.
91. I understand that planning approvals have been issued for the development of Precinct 2A and for the north-east corner of Precinct 2C, and that the Ethos Urban modelling incorporates the approved building designs.
92. The 31m maximum height proposed for Precinct 2A reflects the 31m high approved development on this site and will allow this site to fulfil its role as a strategic development site where higher density built form would be expected but where restricting building heights will ensure that impacts on heritage values are minimised.
93. The preferred 28m maximum height proposed for Precinct 2C will allow for higher density built form in one of the few low-constraint precincts in the Queens Parade Activity Centre where there are no heritage overlays or directly adjoining residentially zoned land present.
94. The preferred 18m maximum building height proposed for Precinct 2B (Council's Preferred DDO16 reference) will provide for some more moderate development opportunities while respecting the heritage values of the existing buildings.
95. However, I make the following comments in regards to the drafting of the controls:
  - Minimum setbacks from side and rear boundaries – Precinct 2A: The maximum building height in precinct 2A is 31m, yet some of the minimum setbacks only provide preferred requirements for developments up to 25m in height. It is not clear what setback is intended for development above 25m and this requires resolution in the planning control.
  - Maximum street wall height – Precinct 2C: As per my discussion above in relation to the general requirements, Clause 2.5 requires new development on a corner site with a frontage to Queens Parade to continue the Queens Parade street wall height along the side street with a transition in height to match the rear interface where required. However, the site on the corner of Queens Parade and Napier Street in Precinct 2C has a mandatory street wall height of 10m on Napier Street and a preferred height of 18m on Queens Parade. It is my view that Clause 2.5 should be amended to include reference to this exception.

**Precinct 3 – St John’s Precinct (Clause 2.9.3)**

96. The preferred character statement for this precinct seeks to deliver a mixed use area with a consistent street wall from Queens Parade marked by a higher street wall on the corner of Queens Parade and Smith Street and the retention of the intact streetscape on Smith Street. Upper levels will be recessed and development will provide a transition to the residential areas to the south and east. I agree that the design requirements and Table 3 will deliver the outcomes sought in the preferred character statement.
97. This precinct was exhibited with a preferred height of 18m for the entire precinct, and Council’s Preferred DDO16 has a mandatory 18m maximum height for Precinct 3A and a mandatory 14m maximum height for Precinct 3B. For the latter, the height reflects the heritage character of the sub-precinct. For Precinct 3A, the height control seeks to avoid adverse impacts on the Neighbourhood Residential Zoned land to the south. These residential sites and those directly to the south of the southern boundary of Precinct 4 are the most sensitive to visual bulk and overshadowing impacts from developments within from the Queens Parade Activity Centre.
98. In forming my view that the height controls in Council’s Preferred DDO16 are more appropriate, I have viewed the Ethos Urban 3D model and provide screenshots of these at Attachments 4 and 5.
99. I have also viewed the Ethos Urban 3D model in relation to how the proposed setbacks respond to views to the St Johns Church, and provide a screenshot of this at Attachment 6. I defer to Mr Parsons, Mr Gard’ner and Mr Helms on matters of urban design and heritage respectively, but observe that the proposed setbacks will enable long-range views to the church spire to be retained.

**Precinct 4 – Activity Centre Precinct (Clause 2.9.4)**

100. The preferred character statement for this precinct seeks to reinforce its role as the retail and activity focus of Queens Parade and to allow sympathetic upper level infill whilst protecting the distinctive heritage qualities (in particular, the former ANZ building).
101. This precinct was exhibited with a mandatory 21.5m maximum height, but following receipt of submissions and the commissioning of detailed 3D modelling by Ethos Urban, Council’s Preferred DDO16 has a mandatory 14m maximum height to address heritage protection.
102. I have viewed the Ethos Urban 3D model and provide screenshots of these at Attachments 7 and 8. I defer to Mr Parsons, Mr Gard’ner and Mr Helms on matters of urban design and heritage respectively, but note that 21.5m maximum building heights would result in the built form above the heritage street walls being significantly more prominent. With the majority of the existing heritage buildings being two storeys in height, allowing an additional four storeys (as per the exhibited version of DDO16) would result in development that would make the heritage elements form a much smaller component of the view of the building from the opposite side of Queens Parade. This is exacerbated by the width of Queens Parade, which provides long range views at a lower angle than

Yarra's other narrower 20m to 30m main streets. Restricting additional development to a maximum of 14m would ensure that the heritage elements would remain the dominant feature of views towards the buildings.

103.I note that page 57 of the Queens Parade Built Form Heritage Analysis & Recommendations identifies that controls should ensure that "new development does not visually dominate the existing heritage fabric by requiring that new upper level built form is no greater than the volume of the heritage façade when the site is viewed from the opposite side of the Queens Parade Boulevard". A 14m maximum height would be more in line with this recommendation.

104.I also understand that the exhibited DDO16 included a mandatory 6m minimum upper level setback in the significant heritage streetscape area, and that Council's Preferred DDO16 instead applies a mandatory 8m minimum upper level setback to all sites. This will further assist to minimise the appearance of additional built form. I am aware that some submitters seek greater setbacks so that no development would be visible from any viewpoint along Queens Parade. Given the 60m road width, this would be very difficult to achieve, given that the viewlines from the opposite side of the road taken in a greater viewshed compared to Yarra's other narrower main streets.

105.I have also read the proposed updated Statement of Significance for Heritage Overlay HO330 (being the applicable overlay to Precinct 4) in the Built Form Heritage Analysis & Recommendations document, and note that while it refers to the "façade parapets, with pitched roofs behind" being an element that contributes to the significance of the place, it does not mention that viewing these in a skyline setting (i.e. with a backdrop of the sky only) is an element.

106.I also note that Planning Scheme Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) includes the following requirement for commercial and retail heritage places or contributory elements (refer to Clause 22.02-5.7.2):

*Encourage new upper level additions and works to:*

- *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage built forms.*
- *Incorporate treatments which make them less apparent.*

107.The general requirements in clause 22.02-5.7.1 also include encouraging development to "be visually recessive and not dominate the heritage place".

108.These requirements do not mandate the invisibility of upper level additions. They instead require such development to be "visually recessive" and "less apparent".

109.In my view, the proposed mandatory 14m maximum height and mandatory 8m minimum upper level setback would allow Precinct 4, which forms the majority of the Queens Parade Neighbourhood Activity Centre, to fulfil its role in providing for some growth whilst respecting heritage values. I do not agree that no additional building height should be provided for in this precinct as is sought by some submitters. Whilst it will form a more minor role than Precinct 5 in relation to the provision of additional floorspace for residential and employment uses, planning should still seek to make efficient use of the land within this precinct given its proximity to both rail and tram services. Not all neighbourhood activity centres have such good access to public transport, and state policy specifically mentions these conditions as being of importance in considering locations for housing and mixed use development. State policy of course also requires the protection of heritage, and this is a case where the net community benefit must be considered in weighing up the future for Precinct 4.

110.For the Queens Parade Activity Centre, it is necessary to weigh up the prioritisation of heritage character with providing development opportunities within a neighbourhood activity centre well-served by public transport, and with providing more diverse housing options within Yarra. It is my view that Council's Preferred DDO16 provides a balanced approach that provides community benefit through the retention of the heritage streetscape as the dominant visual element and the opportunity for existing and future residents to access diverse housing that can be accessed via tram or train.

111.I have also viewed the Ethos Urban 3D model in relation to how the proposed setbacks respond to views to the ANZ Bank, and provide a screenshot of this at Attachment 9. I defer to Mr Parsons, Mr Gard'ner and Mr Helms on matters of urban design and heritage respectively, but observe that the proposed setbacks will enable long-range views to the building to be retained. I also note that DDO16 includes the following relevant design requirement:

*Development must protect and maintain key view lines and visual prominence of the former ANZ Building from the south-west and north-east, in particular to the upper floor, roof form and chimneys. A planning permit cannot be granted to vary this requirement.*

112.The proposed mandatory maximum height and mandatory minimum setback controls combined with this mandatory design requirement will ensure that there is no situation in which built form could be approved that would adversely impact on viewlines to and the visual prominence of the building.

#### **Precinct 5 – North Eastern Precinct (Clause 2.9.5)**

113.The preferred character statement (Council's Preferred DDO16 version) for this precinct seeks to facilitate the renewal of Precinct 5 as a preferred location for housing growth, with an area of contemporary high rise to the east, and lower built form in the west that steps down in "distinct increments" to the significant heritage buildings to the south-west (former United Kingdom Hotel and former Clifton Motors Garage). Development must ensure the significant heritage fabric of these Victorian Heritage Register listed buildings remains a prominent feature in any development.

- 114.I agree that the design requirements and Table 5 within Council's Preferred DDO16 will deliver the outcomes sought in the preferred character statement.
- 115.In Council's Preferred DDO16, Precinct 5A (the former UK Hotel site) has been expanded to include the entire car park associated with the building, and the mandatory maximum height has been lowered from 18m to 11m. I have viewed the Ethos Urban 3D model and provide screenshots of these at Attachments 10 and 11. I defer to Mr Parsons, Mr Gard'ner and Mr Helms on matters of urban design and heritage respectively, but note that the higher building heights would result in the built form above the heritage street walls being significantly more prominent.
- 116.In Precinct 5B, I understand that there is a current planning application for the majority of the precinct which is due to be considered at VCAT shortly. The exhibited DDO16 proposes a preferred 1:1 heritage street wall for new built form behind Clifton Motors and 203 Queens Parade visible from the opposite side of Queens Parade, and a preferred maximum 28 metres elsewhere. Council's Preferred DDO16 proposes a mandatory 18m maximum height on 201-215 Queens Parade, and a preferred maximum 28m height elsewhere. I understand that the 18m height represents the 1:1 heritage street wall ratio and has been changed to make the control clearer and easier to interpret and apply.
- 117.The minimum upper level setbacks have also been increased from a mandatory 6m minimum setback on the Clifton Motors site and preferred 6m minimum elsewhere to a mandatory 8m minimum setback on 201-215 Queens Parade and preferred 6m minimum elsewhere.
- 118.Given the significance of the Clifton Motors Building, which is on the Victorian Heritage Register, I agree that mandatory height and upper level setback controls are justified in this precinct. I defer to Mr Parsons, Mr Gard'ner and Mr Helms on matters of urban design and heritage respectively, but observe that the proposed setbacks will enable the heritage façade of the building to be more visually prominent with the proposed increased setback.
- 119.In Precinct 5C, the exhibited controls proposed a preferred 49m maximum height and a preferred street wall of 35m. Council's Preferred DDO reduces these to 43m (to reflect 3m rather than 3.5m floor to floor residential heights and still allow for a 14 storey building as initially intended in the Built Form Review) and 18m respectively. I understand that there is an approved permit and an application in progress for parts of this site.
- 120.I agree that a 3m floor to floor height better reflects the likely built form outcome, and that as the heights are expressed in metres rather than storeys in the built form control, that the height should be lowered accordingly. I also note that this remains a discretionary control, so additional floor to floor heights could potentially be sought.
- 121.I agree that the revised street wall height will create a podium that better reflects the character of the area, and refer to Attachments 12 and 13 which provide details from the Ethos Urban 3D model. The surrounding precincts have much lower street walls of varying heights up to 18m, and I agree

that this precinct should include the same maximum 18m height to promote a more human-scale streetscape experience.

## 6.6. Mandatory vs discretionary controls

122. The amendment seeks to apply a range of mandatory and discretionary height, street wall height and setback controls. I set out below my understanding of the application of these by topic, followed by an assessment against the relevant planning practice notes.

### Height controls

123. The originally exhibited DDO16 contained mandatory height controls within Precincts 2A and 4 and parts of Precinct 1 and 5B. The Preferred DDO16 also seeks to apply mandatory controls in Precincts 3A, 3B and 5A.

124. Table 1 below provides a comparison of the height controls in the Exhibited and Preferred DDO16.

*Table 1: Comparison of height controls in Exhibited and Preferred DDO16 – mandatory controls highlighted*

Precinct	Exhibited DDO16	Preferred DDO16
1 – 460 Brunswick St	<u>Mandatory:</u> 9m	No change
1 – adjacent to 460 Brunswick St	<u>Mandatory:</u> 9m	<u>Preferred:</u> 9m (as part of remainder of precinct; no site-specific control)
1 – Lot 1 TP806921	<u>Mandatory:</u> 9m	No change
1 – remainder of precinct	<u>Preferred:</u> 9m	No change
2A	<u>Mandatory:</u> 31m	No change
2B (exhibited as 2D)	<u>Preferred:</u> 18m	No change
2C	<u>Preferred:</u> 28m	No change
3A (exhibited as 3)	<u>Preferred:</u> 18m	<u>Mandatory:</u> 18m
3B (exhibited as 3)	<u>Preferred:</u> 18m	<u>Mandatory:</u> 14m
4	<u>Mandatory:</u> 21.5m	<u>Mandatory:</u> 14m
5A	<u>Preferred:</u> 18m	<u>Mandatory:</u> 11m
5B – Clifton Motor Garage site and sites adjacent to it and former UK Hotel	<u>Mandatory:</u> Match parapet height of former Clifton Motor Garage and eaves line of former UK Hotel	<u>Mandatory:</u> 201-215 Queens Parade - Match parapet height of former Clifton Motor Garage and eaves line of former UK Hotel
5B – Other sites	<u>Preferred:</u> 11 metres for non contributory buildings facing Queens Parade and Dummett Crescent	<u>Preferred:</u> 4-10 Dummett Crescent - 11m
5C	<u>Preferred:</u> 49m	<u>Preferred:</u> 43m

125. Mandatory controls are proposed where there are heritage constraints (being individually significant heritage buildings or relatively intact heritage streetscapes with significant and contributory buildings) or where development is proposed directly to the north of land in the Neighbourhood Residential Zone. Discretionary controls are provided in precincts or sub-precincts where there are fewer constraints.

126. Council's Preferred DDO16 proposes mandatory controls in the following precincts for the following reasons:

- Precinct 1 – 460 Brunswick St where there is an individually significant heritage building
- Precinct 1 – Lot 1 TP806921 where there is a sensitive interface and where the Victorian Civil and Administrative Tribunal determined that a 9m height was appropriate for the site (refer *Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2017] VCAT 1745* and *Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2018] VCAT 1047*)
- Precinct 2A – Where development above the mandatory maximum 31m height would impact on the Queens Parade boulevard trees and where the Victorian Civil and Administrative Tribunal determined that a 31m height was appropriate for the site (refer *Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2017] VCAT 1745* and *Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2018] VCAT 1047*)
- Precinct 3A – Where dwellings in the Neighbourhood Residential Zone directly adjoin to the south and would be impacted by overshadowing and the visual dominance of built form
- Precinct 3B – Where there is a heritage streetscape
- Precinct 4 – Where there is a heritage streetscape
- Precinct 5A – Where there is a heritage building listed on the Victorian Heritage Register
- Precinct 5B – Where there is a heritage building listed on the Victorian Heritage Register

#### **Front street wall heights**

127. The exhibited and Council's Preferred DDO16 seek to apply mandatory street wall heights in precincts with heritage values, and discretionary controls elsewhere.

#### **Upper level setbacks**

128. The originally exhibited DDO16 contained mandatory upper level setback controls within Precinct 2B and parts of Precinct 1, 3, 4 and 5B. The Preferred DDO16 also seeks to apply mandatory controls in parts of Precinct 2C. Table 2 below provides a comparison of the setback controls in the Exhibited and Preferred DDO16. Mandatory upper level setbacks generally apply to sites with or adjacent to

heritage buildings. A fine-grained approach has been applied where within some sub-precincts, mandatory controls only apply to sites with heritage buildings.

*Table 2: Comparison of upper level setback controls in Exhibited and Preferred DDO16 – mandatory controls highlighted*

Precinct	Control	Exhibited DDO	Preferred
1 - 460 Brunswick St	Upper level setback	<u>Mandatory:</u> Minimum 5m	<u>Mandatory:</u> Minimum 6m
1 - elsewhere	Upper level setback	<u>Preferred:</u> 6 metres from façade	No change
2A	Upper level setback from front of building	<u>Preferred:</u> Above existing heritage façade: - Minimum 8 metre setback from 10 metres to 16 metres - Minimum 10 metre setback from 16 metres Above new street wall (where no existing heritage façade): - Minimum of 5 metre setback from 10 metres to 16 metres - Minimum of 8 metres setback from 16 metres	No change
2B (2D exhibited)	Upper level setback	<u>Mandatory:</u> Minimum 6m from façade	<u>Mandatory:</u> Minimum 6m
2C – Napier Street	Upper level setback	<u>Preferred:</u> 5 metres minimum	<u>Mandatory:</u> Minimum 6m
2C - elsewhere	Upper level setback	<u>Preferred:</u> 5 metres minimum	<u>Preferred:</u> Elsewhere - 6m
3A (3 exhibited) – 15-41 Queens Parade	Upper level setback	<u>Mandatory:</u> Minimum 6 metres	No change
3A (3 exhibited)	Upper level setback	<u>Preferred:</u> Mininum 6m	No change

Precinct	Control	Exhibited DDO	Preferred
3B	Upper level setback	<u>Mandatory:</u> Minimum of 6 metres at 664 Smith Street (former Fire Station) and <u>Preferred:</u> 6m elsewhere	<u>Mandatory:</u> 6m
4	Upper level setback Queens Parade	<u>Mandatory:</u> Minimum 6 metres in significant heritage streetscape area Minimum 8 metres at 364 Queens Parade <u>Preferred:</u> Minimum 6 metres at 167-197 Queens Parade	<u>Mandatory:</u> 8m
4	Upper level setback in side streets	<u>Preferred:</u> Minimum 6 metres	No change
5A	Upper level setback	<u>Preferred:</u> Minimum 5 metres	<u>Preferred:</u> Minimum 6m
5B – 201-215 Queens Parade	Upper level setback	<u>Mandatory:</u> 6 metres for development at former Clifton Motor Garage	<u>Mandatory:</u> 201-215 Queens Pde - 8m
5B – elsewhere	Upper level setback	<u>Preferred:</u> Minimum 6m elsewhere	No change
5C	Upper level setback	<u>Preferred:</u> 10m	<u>Preferred:</u> 6m

#### Planning Practice Notes

129. In considering whether the proposed mandatory controls are justified, I have had regard to Planning Practice Notes 59 (PPN59 - The Role of Mandatory Provisions in Planning Schemes) and 60 (PPN60 - Height and Setback Controls for Activity Centres).

130. PPN60 provides the following guidance for the use of mandatory controls:

*Mandatory height and setback controls (that is, controls that cannot be exceeded under any circumstance) will only be considered where they are supported by robust and comprehensive strategic work or where exceptional circumstances warrant their introduction.*

*Mandatory height or setback controls should only be applied where:*

- Exceptional circumstances exist; or

- *Council has undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context, and*
- *They are absolutely necessary to achieve the preferred built form outcomes and it can be demonstrated that exceeding these development parameters would result in unacceptable built form outcomes.*

131.PPN60 defines 'exceptional circumstances' as including the following criterion that I consider to be relevant to the Queens Parade setting: "significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values".

132.PPN59 also notes that mandatory provisions in the VPP are the exception, and that:

*The VPP process is primarily based on the principle that there should be discretion for most developments and that applications are to be tested against objectives and performance outcomes rather than merely prescriptive mandatory requirements.*

*Nevertheless, there will be circumstances where a mandatory provision will provide certainty and ensure a preferable and efficient outcome. Although these circumstances cannot be common practice, they may include areas of high heritage value, strong and consistent character themes, or sensitive environmental locations such as along the coast.*

133.PPN59 sets out the following criteria for the assessment of whether or not the benefits of proposed mandatory provisions outweigh any loss of opportunity and the flexibility inherent in a performance based system:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provisions reduce administrative costs?

134.PPN60 deals with all types of centres from Metropolitan down to Neighbourhood and Local Centres, and it anticipates that a different level of strategic analysis is required for different types of centres:

*Structure planning should be undertaken for all Metropolitan and Major Activity Centres. However, it may not always be necessary for councils to undertake detailed structure planning for smaller activity centres (eg. Neighbourhood Activity Centres). In these instances,*

*a comprehensive built form analysis will need to be undertaken to identify preferred built form outcomes and provide the basis for any proposed controls. (p. 2)*

135. It also requires the comprehensive built form analysis to achieve the following:

- *identifies significant opportunities for change within an activity centre and explores alternative built form objectives and outcomes to accommodate this change*
- *includes an analysis of visual and amenity impacts, solar access and overshadowing impacts and any impact on environmental conditions within the centre, including in respect of wind*
- *identifies any significant physical features, such as views to or from the activity centre or topography that needs to be considered*
- *identifies and articulates how new development should address street frontages and laneways or relate to adjacent residential areas*
- *selects appropriate heights and built form outcomes at a precinct level through evaluation of built form objectives, land use outcomes and economic growth consistent with state and regional policy.*

136. The Built Form Review prepared by Hansen and the 3D modelling prepared by Ethos Urban is sufficient for the purposes of applying this practice note.

137. As these practice notes were updated recently (September 2018), there are only a few Panel decisions that consider mandatory controls in light of them, including the following:

*City of Yarra Amendment C220 – where the Panel supported mandatory height controls:*

*"The Panel also considers that Johnston Street is exceptional in a metropolitan context. While typical in many ways of strip commercial development associated with Melbourne's cable car and tramway network, Johnston Street did not develop at the same intensity as other inner urban commercial strips. This makes the street more susceptible to development undermining its heritage character." (p. 36)*

*City of Bayside Amendment C126 – where the Panel did not support mandatory height controls, except in a few limited circumstances:*

*"The Panel does not consider it essential for a threshold as high as "extraordinary circumstances" in every case to apply to justify mandatory provisions. Ultimately, the main scenarios it has identified for the Amendment as strategically justifying mandatory controls are direct coastal sensitivity or the heritage significance of adjacent properties." (p. 40)*

138. Table 3 below sets out my views on the degree to which the mandatory provisions proposed in Preferred DDO16 satisfy the criteria set out in PPN59 and PPN60.

*Table 3: Assessment of Amendment C231 against PPN59 and PPN60*

Criteria	Criteria Satisfied	Comment
<b>PPN59</b>		
Is the mandatory provision strategically supported?	Yes	Detailed heritage and urban design analysis has been undertaken in preparing the built form controls. The mandatory controls seek to implement policies relating to the protection of heritage, the sensitive treatment of interfaces with residential development, and views from Edinburg Gardens.
Is the mandatory provision appropriate to the majority of proposals?	Refer to evidence of Mr Parsons	This is an urban design matter that is beyond my expertise
Does the mandatory provision provide for the preferred outcome?	Likely; refer to evidence of Mr Spencer for further details	The scale of built form envisaged by the provisions would likely still allow for the forecast housing supply over the next 15 years to be delivered, and would allow the Neighbourhood Activity Centre functions of the Queens Parade Activity Centre to be provided for. It would also allow the Queens Parade Activity Centre to grow but in a manner that respects the heritage character.  It will also allow resolution of divergent opinions within the community by protecting heritage and residential amenity while providing for some additional development capacity.
Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?	Refer to evidence of Mr Parsons	This is an urban design matter that is beyond my expertise
Will the mandatory provisions reduce administrative costs?	Likely although only minimal	Whilst mandatory height and/or setback controls will settle some design variables, the overall administrative cost of dealing with development proposals is only likely to be incrementally reduced.
<b>PPN60</b>		
Do exceptional circumstances exist?	Yes	There are significant heritage buildings or streetscapes on sites or adjacent sites within Precincts 1, 2B, 2C, 3B, 4, 5A and 5B where mandatory controls are sought

Criteria	Criteria Satisfied	Comment
<b>OR</b> Has council undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context	Yes	<p>Precinct 3A includes detailed 3D modelling to consider the impacts on land in the Neighbourhood Residential Zone to the south.</p> <p>PPN60 refers to the need for Councils to demonstrate that there is sufficient land capacity available to meet forecast demand and projected population growth over at least a 15 years – the proposed controls will still enable a reasonable level of growth.</p> <p>PPN60 also refers to the need for a comprehensive built form analysis to have been completed to inform the proposed controls. I am satisfied that this has been undertaken.</p>
<b>AND</b> Are the provisions absolutely necessary to achieve the preferred built form outcomes and it can be demonstrated that exceeding these development parameters would result in unacceptable built form outcomes.	Refer to evidence of Mr Parsons	This is an urban design matter that is beyond my expertise

139. As Council has undertaken sufficiently comprehensive strategic analysis to demonstrate that proposed built form controls will facilitate design outcomes that respect the heritage values whilst also providing for the preferred economic and housing outcomes over the long term, mandatory height controls would be appropriate.

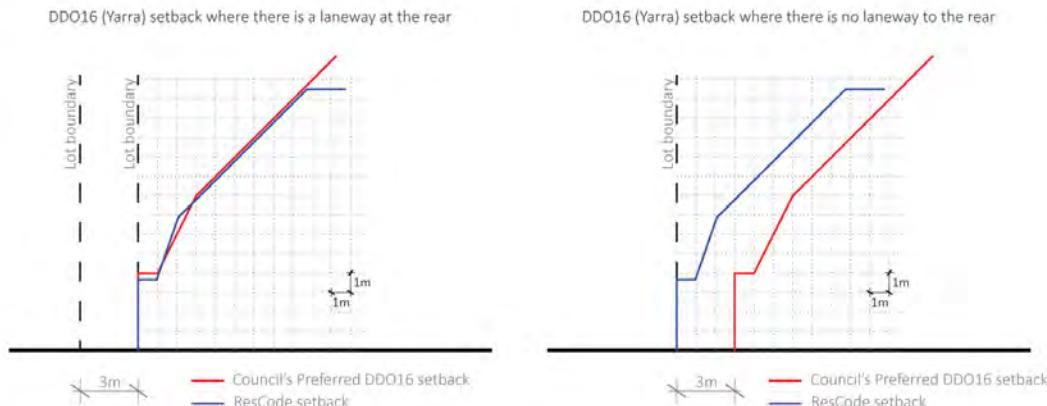
140. PPN60 also identifies certain tests of what might be considered to be robust and comprehensive strategic work, which I have assessed Amendment C231 against, as per the table on the following page.

*Table 4: Assessment of Amendment C231 against PPN60*

Strategic Work	Amendment C231
Consistency with state and regional policy	I consider that this amendment is consistent with State and Regional policy, for the reasons set out in Section 6.1 of this statement.
Currency of work (documents should be no more than 5 years old)	The Built Form Review, Built Form Heritage Analysis and Recommendations, Ethos Urban 3D modelling, Yarra Housing Strategy and Yarra Strategic Economic and Employment Strategy were all prepared in the last two years.
Capacity to accommodate growth within the activity centre over at least a 15 year timeframe and into the 30 year horizon	The evidence of Mr Spencer provides details of the capacity of the Queens Parade Activity Centre.
A housing strategy which examines the City's future housing needs and the role of activity centres in accommodating these needs.	The Yarra Housing Strategy addresses this requirement.
An activity centre/economic strategy which examines the role of the activity centre as part of a network of centres.	The Yarra Strategic Economic and Employment Strategy addresses this requirement.

## 6.7. The suitability of the proposed side and rear building setbacks

141. The side and rear setbacks are all preferred, allowing for the responsible authority to consider variations to the setbacks if these can be shown to still avoid adverse impacts. I also understand that the setback controls should be read in tandem with the design requirement in Clause 2.4 (reference to Council's Preferred DDO16) to "avoid repetitive stepped built form at upper levels of development".
142. Most of the setbacks use a modified version of the Rescode B17 setback to provide for the continued application of a 45 degrees above the fourth level where the Rescode controls end and for a larger 4m ground floor height. They also provide for a 3m laneway or an equivalent 3m setback. I have compared the setbacks in Figures 1 and 2 of Council's Preferred DDO16 to Rescode B17 (refer to Figure 3 on the following page) and find that this generally provides for a similar outcome.



**Figure 3 – comparison of Rescode B17 and DDO16 setbacks**

143.I am of the view that the proposed setbacks and their application as discretionary controls is an acceptable outcome.

144.In forming my view, I note that the Panel for Bayside Council’s Amendment C126 found that the application of B17 as a discretionary control for developments in its small neighbourhood activity centres where buildings in precincts with preferred building heights of up to 5 storeys was provided for was appropriate.

## 6.8. 660-668 Smith Street and 1-41 Queens Parade

145.Amendment C231 seeks to rezone these sites from the Commercial 2 to the Commercial 1 Zone and apply the Environmental Audit Overlay (EAO). The sites are located in Precincts 3A and 3B of Council’s Preferred DDO16. I understand that the primary purpose of this rezoning is to allow the development of dwellings above ground level, since the Commercial 2 Zoning prohibits these.

146.Council’s Preferred DDO16 seeks to apply 14m and 18m height limits to these sites. I agree that given the good proximity of the sites to public transport, the rezoning would allow for them to provide a role in providing for both commercial and residential outcomes. In regards to the impacts on the supply of Commercial 2 Zoned land within Yarra, I defer to Mr Spencer, but note that the planning scheme policies do not mention Queens Parade as location where office developments are a focus (unlike other neighbourhoods such as Cremorne; refer to Clause 21.08). I note that page 70 of the Yarra Spatial Economic and Employment Strategy identifies that a zone change could be contemplated for this site (p. 70).

147.In regards to the application of the EAO, I understand that this applies to several other sites along Queens Parade. I have reviewed Planning Practice Note 30 Potentially Contaminated Land (PPN30), as this includes the guidance as to when an Environmental Audit Overlay should be applied. It includes reference to Ministerial Direction No. 1 – Potentially Contaminated Land (Direction No. 1),

which requires planning authorities when preparing planning scheme amendments, to satisfy themselves that the environmental conditions of land proposed to be used for a sensitive use (such as residential) are, or will be, suitable for that use.

148.The first step is to identify whether land is potentially contaminated. I have not been provided with detailed information on the existing and previous uses of the sites, so cannot comment as to whether any of the uses may have had the potential for contamination (taking into consideration the list of potentially contaminating uses in PPN30). I also note that PPN30 mentions that any potential contamination from surrounding land uses must also be considered, and that as the sites are adjacent to the former Gas & Fuel site, this could be a possibility.

149.Where land has been identified as potentially contaminated or it is not yet known (as in the case of Amendment C231), PPN30 states that:

*For land that has been identified as potentially contaminated land and where a planning scheme amendment would have the effect of allowing that land to be used for a sensitive use, [Ministerial] Direction No. 1 [Potentially Contaminated Land] requires a planning authority to satisfy itself that the land is suitable for the use by:*

- (a) A Certificate of Environmental Audit issued for the site; or*
- (b) A Statement of Environmental Audit issued by an environmental auditor stating that the environmental conditions of the site are suitable for the sensitive use (with or without conditions on the use of the site).*

*Direction No. 1 requires that this be done before notice of a planning scheme amendment is given.*

*However, it may be appropriate to delay this requirement if testing of the land before a notice of the amendment is given is difficult or inappropriate. For instance, if the rezoning relates to a large strategic exercise or involves multiple sites in separate ownership. Direction No. 1 provides for the requirement for an environmental audit to be included in the amendment. This can be done by applying the EAO.*

150.Given that the sites are in multiple ownership, it is reasonable to utilise the option to delay meeting this requirement and instead apply the EAO.

## 6.9. The role of the reference documents

151.The Amendment seeks for the Built Form Review and the Built Form Heritage Analysis and Recommendations to become reference documents to the planning scheme. DDO16 does not require any assessment against these documents as part of a planning application.

152. The relevant Planning Practice Note 13 on Incorporated and Background Documents (dated September 2018) provides the following guidance on the use of reference documents:

- Documents can be referenced in the scheme if they provide useful background information or general advice to applicants, or will assist in understanding the scheme.
- A reference document may explain why particular requirements are in the scheme, substantiate a specific issue or provide background to specific decision guidelines in local planning policies or schedules.
- However, the substantive planning elements of the reference document will generally have been included in the scheme in either the MSS, a local planning policy or a schedule.
- Reference documents have only a limited role in decision-making as they are not part of the planning scheme. They do not have the status of incorporated documents or carry the same weight.

153. I consider that Preferred DDO16 has been drafted so that all relevant requirements of these documents have been translated into planning controls and requirements in the overlay. Their role as reference documents will provide useful background information but not require any particular assessment against is justified.

154. However either the Hansen report should be updated to reflect the new height and setback controls, or the outcomes of the Ethos Urban 3D modelling should also become a reference document. This may require the preparation of a short report that includes images from the modelling and explanation as to why the selected heights and setbacks have been chosen.

155. Alternatively, these could be deleted as reference documents from the Amendment.

#### 6.10. Other drafting matters

156. In reviewing the draft documentation (including Council's Preferred DDO16) I have also identified some minor errors and inconsistencies that I would recommend be corrected as follows:

- Amend Clause 21.11 (Reference Documents) to include the Queens Parade, Clifton Hill Built Form Review (as amended or supplemented with additional advice from Ethos Urban) and the Queens Parade, Clifton Hill Built Form Heritage Analysis and Recommendations, as other similar documents are included in this clause.
- Amend DDO16 Table 2 to correct the "references to "10 25 metres", "10-25 metres" and to "1025 metres" to "10 to 25 metres".
- Reorder the definitions in Clause 2.1 of DDO16 so that they are in alphabetical order for ease of use.

## 6.11. My opinion in relation to Exhibited DDO16 and Councils' Preferred DDO16

157. My views on Council's post-exhibition changes, i.e. the changes that have been made to the DDO16 documents before the Panel, are set out in Appendix 2.

158. In summary, I generally support the post-exhibition version of the amendment documents, subject to the following changes being made:

- DDO16 Clause 2.0 – Delete the definition of setback and add a new definition as follows:  
**"Upper level setbacks are measured from the street wall to the building".**
- Reorder the definitions in Clause 2.1 of DDO16 so that they are in alphabetical order for ease of use.
- Amend DDO Clause 2.3 to "**Where a street-wall height is required to match the parapet height of a neighbouring heritage building, it must match the height for a minimum length of 6m from the heritage building**".
- Amend DDO16 Clause 2.5 to "New development on a corner site with a frontage to Queens Parade must continue the street wall height established at the Queens Parade frontage along the side street, with a transition in height to match the rear interface where required. This requirement does not apply to a lane **or to the corner of Queens Parade and Napier Street**."
- Amend DDO16 Table 2 to identify what setback is required above 25m up to 31m.
- Amend DDO16 Table 2 to correct the references to "10 25 metres", "10-25 metres" and to "1025 metres" to "**10 to 25 metres**".
- Either update the Built Form Review report to reflect the new height and setback controls, or include the outcomes of the Ethos Urban 3D modelling as a reference document. This may require the preparation of a short report that includes images from the modelling and explanation as to why the selected heights and setbacks have been chosen.

## 7. Submissions to Amendment C231

---

159.I have been asked to provide comment in relation to the key issues raised in submissions to Amendment C231 insofar as these relate to my area of expertise. I have read Council's summary of the key issues as provided in Attachments 3 (Key and Precinct Wide Issues Raised in Submissions), 4 (Precinct Specific Summary) and 7 (Response to Submissions – Key and Precinct-Wide Issues) to the Council Officer Report that was considered at the Council meeting dated 28 May 2019, being Item 11.2 of the meeting agenda. My comments below are grouped under the headings within the Council Officer Report Attachment 7.

### 7.1. Accommodating growth

160.The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *The impacts of the amendment on heritage was a key concern raised by a large number of submitters.*
- *Some submissions acknowledged a need for a degree of change to accommodate Melbourne's growth.*
- *Some also noted that the centre is a neighbourhood activity centre and not a major activity centre. They questioned whether development elsewhere on Queens Parade – the Gasworks, 26-56 Queens Parade and in Precinct 5 (behind McDonalds) meant that Queens Parade was already accommodating growth. They argued that allowing tall development in the historical retail precinct for a relatively small gain in additional housing was unnecessary.*

161.It is my view that the Queens Parade Activity Centre does have a role to play in accommodating growth. In order to make the most efficient use of urban land and infrastructure such as public transport, it is always important to always identify whether a site within an activity centre has the capacity to accommodate growth.

162.My comments on heritage are provided in the following section.

### 7.2. Protecting heritage values

163.The Council officer prepared the following summary of the issues raised in the submissions relating to the urban planning elements of the theme:

- *An overarching theme was the importance of maintaining the prominence of the existing heritage fabric and the need to ensure that new development does not overwhelm the existing buildings and heritage streetscapes.*

- *Many expressed the view that if a 6 storey development were permitted the heritage character and significance of Queens Parade would be lost forever.*
- *Other submissions were concerned that the proposed controls did not achieve the heritage objectives in the DDO or Council's Heritage Policy e.g. the DDO encourages demolition of heritage buildings.*
- *A small number of residents whose dwellings face onto the rear of properties in Queens Parade want to ensure that their residential amenity is valued equally to that of the heritage on Queens Parade. They expressed concern that new development has been pushed to the rear in order to protect heritage.*

164.The Council officer also summarised additional elements within this theme, however these relate to heritage matters that are outside the area of my expertise and thus I have not considered these.

165.In regards to the first two points, Council's Preferred DDO16 lowers the mandatory maximum height in Precinct 4 from 21.5 metres to 14m. I support this, and my comments in relation to this are at Section 6.5 of this evidence statement.

166.I understand that the third bullet point relates to the submitters wanting all relevant heritage matters to be included in DDO16. However, the overlay is not intended to be a "one stop shop". It must be applied in conjunction of all other relevant parts of the planning scheme, and it would not be appropriate to repeat the relevant sections of the Heritage Overlay within DDO16. I do agree that the current wording of Clause 22.02 is confusing when applied to the Queens Parade situation in that it provides limited guidance for mixed use developments, and understand that Council is in the process of reviewing this policy on a municipality wide basis and rewriting this clause.

167.In regards to the fourth bullet point, I note that activity centres have a strategic role to play and the level of amenity for dwellings adjacent would not be the same as if that property adjoined another residential property. The setback controls, which generally reflect Rescode B17, and the DDO16 design objectives require development to consider visual bulk, overshadowing and overlooking.

### 7.3. Visibility above the parapet and upper level setbacks

168.The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *The need for greater upper level setbacks was also raised as an important issue. The issue was largely focused on precinct 4 and was driven by the desire to reduce the visibility of the new upper level development.*
- *Concerns were expressed about the 1:1 visibility test. Submitters said that it resulted in new development that dominated the street.*

- *Submitters identified the need to maintain the prominence of the existing building and reduce the visibility of new additions.*
- *A large number of submitters also spoke of their desire to see the heritage parapets remain visible with blue sky behind.*
- *Alternative setbacks of 8, 10 and 12 meters were proposed.*
- *The Coalition of Heritage Protection in Queens Parade proposed varied setback depending on the heritage grading of the building.*
- *They recommended new development on buildings with a “contributory” heritage grading must be set back by the extent of the principal roof or 10 metres, whichever is the greater.*
- *They recommended individually significant buildings should be retained in their entirety.*

169. Many of these comments relate to heritage matters which are outside the scope of my expertise.

However in relation to the comments regarding whether the planning scheme requires the upper levels of buildings to be completely concealed, I agree with the Council Officer's comment that "no visibility is not considered a reasonable outcome", and provide my view in relation to this at Section 6.5. The planning scheme seeks for additional built form on heritage sites to be "visually recessive" and "less apparent" rather than invisible.

170. I note that in general, Council's Preferred DDO16 seeks to increase the upper level setbacks in some precincts in response to submitters' concerns.

#### 7.4. Building height

171. The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *There was a strong message that taller buildings are not supported in the centre.*
- *A number of submissions commented on the adverse impacts of recently constructed taller developments (eg Clifton Views, 217-241 Queens Parade in Precinct 5).*
- *The proposed maximum height of 6 storeys in Precinct 4 – the Activity Centre Precinct attracted the most submissions. Almost all submitters to the amendment did not support 6 storeys in this Precinct. Only one submitter explicitly supported the proposed height.*
- *A range of alternative heights for Precinct 4 were suggested in submissions, including retaining the current two storey scale, three, four or five storeys.*

- *There was an emphasis in some submissions that there should be no visibility of new development above the parapet.*
- *In Precinct 2, a submitter said the height limit should be 8 storeys instead of 28 meters. The recent approval of a building of 34.8 metres demonstrates this height can be accommodated.*
- *In Precinct 5, a range of other heights were proposed up to a maximum of 14 storeys. However strong concerns were expressed about the impacts of height on its prominent modern heritage buildings eg Clifton Motors, former UK Hotel.*

172. My comments in relation to the proposed heights are in Section 6.5. I support the proposed heights in Council's Preferred DDO16 as I am of the view that these provide a balance between the need to protect heritage and the need to accommodate growth, and take a fine-grained differentiated approach between precincts.

## 7.5. Variations to height and setbacks recommended by consultants

173. The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *A few submitters identified difference between the exhibited heights and strategic work for the centre produced over the past two years.*
- *These differences mainly related to Precinct 4 and included:*
  - *Initial consultant work from February 2017 to support the interim controls for the western end of Queens Parade recommended 4 storeys (with an 8 metre upper level setback) for the rest of the centre.*
  - *Updated consultant work from December 2017 for the entire centre (to support the permanent controls) recommended 5 storeys and a 6 metre upper level setback in the final draft.*
  - *The exhibited amendment recommended 6 storeys and 6 metre upper level setback.*
- *Some submitters noted that on 22 November 2016 Council resolved to request the Minister for Planning introduce interim controls to historic shopping streets which included a maximum height limit of 11.5 metres and a 10 metre upper level setback.*

174. The Council officer has set out the history of the various recommendations made by its consultants during the preparation of the strategic work underpinning the amendment. I note that it is common for draft and interim recommendations to change throughout strategic planning processes as additional information, data and feedback comes to hand, and do not see this as having any impact on the amendment before the Panel.

## 7.6. Impact on amenity and residential development to the rear

175.The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *Strong concerns were expressed about the negative impact of taller development on the low scale and well-established residential areas and dwellings to the side/rear.*
- *Submitter concerns included:*
  - *Loss of privacy through overlooking*
  - *Overshadowing of private open space, living areas and solar panels*
  - *Impacts of building bulk*
  - *Wind-tunnel effect in laneways.*
- *A number submitted that the proposed setbacks in the amendment were not adequate to protect the amenity of residents which abutted the commercial strip. They consider Res Code Standard B17 – side and rear setbacks offers a better alternative.*
- *A small number of residents whose dwelling face onto the rear of the properties in Queens Parade want to ensure that their residential amenity is valued equally to that of the heritage on Queens Parade. They expressed concerns that new development has been pushed to the rear in order to protect heritage.*
- *One submitter commented on disparities in consultant reports where setbacks on lanes were measured from.*

176.I understand that Council included additional setback controls and introduced equinox overshadowing controls to Precincts 3 and 4 as a result of these submitters' concerns. I agree with the controls proposed in Council's Preferred DDO16. My comments on setbacks are provided in Section 6.7.

## 7.7. Setbacks on land in Commercial 2 Zone

177.The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *Setbacks on land in the Commercial 2 Zone (C2Z) were also raised. The amendment proposes Res Code B17 setbacks but a land owner argues that B17 setbacks are only suited in a residential context where Res Codes applies (ie up to 4 storeys) and are total inappropriate in a C2z context as commercial floor heights are higher than residential floor heights.*

178.The amendment proposes to retain the Commercial 2 Zoning in Precincts 2B and 2C only. The application of Rescode B17 on boundaries where there is no residential land on either side is not appropriate. The proposed setbacks will provide for 9m between habitable windows and 6m between non-habitable windows, which is an acceptable outcome in a commercial site (noting that the Commercial 2 Zone prohibits dwellings, so the only residential buildings that could be constructed would likely be residential hotels).

## 7.8. Impacts on the public realm

179.The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *Submitters were also concerned about impacts on the public realm through loss of heritage, increased overshadowing, wind and building bulk of an inappropriate scale.*
- *Concerns about loss of views of the centre from residential properties, streets (eg McKean Street) or Rushall Station were also raised. The effects of recently constructed buildings in Precinct 5 on views was commented upon.*
- *One submitted supported the building separation controls as they will allow for greater visual variety in the streetscape.*
- *A number of submitters considered the amendments should consider building quality and materials. Comments were made about building finishes and materials particularly in Precinct 5.*

180.In regards to overshadowing of the public realm, I note that Council's Preferred DDO16 includes a design requirement to ensure Napier Reserve receives adequate solar access.

181.In regards to wind impacts and building design and materials, I note that Council's Preferred DDO16 includes these as considerations in the decision guidelines and includes an application requirement for a wind assessment for proposals exceeding 20 metres in height.

182.In regards to loss of views, I agree with the Council Officer that planning does not consider loss of views from private property, and that Council's Preferred DDO16 protects views to the key heritage items in the area.

## 7.9. Mandatory vs discretionary (or preferred) controls

183.The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *A large number of the submitters strongly supported mandatory controls – as they provided certainty to residents and developers, rather than discretionary controls which end up in endless debate at VCAT.*
- *A number commented that they wished to see more mandatory height, setbacks and other built form controls.*
- *Mandatory controls were supported across all precincts.*

184. My view on mandatory vs discretionary controls is set out in Section of my evidence. In summary, I support the mix of mandatory and discretionary controls that Council seeks to apply in its Preferred DDO16.

#### 7.10. Net community benefit

185. The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *A few submissions raised the issue of ‘net community benefit’.*
- *Their view was that the amendment should benefit the whole community, rather than just developers.*
- *They suggest that the benefit from this amendment was preservation of the heritage streetscape for future generations.*

186. My views on net community benefit considerations are provided in Section 6.5. In summary, I am of the view that Council’s Preferred DDO16 provides a balanced approach that provides community benefit both through the retention of the heritage streetscape as the dominant visual element and through the opportunity for existing and future residents to access diverse housing that can be accessed via tram or train.

#### 7.11. Rezoning of land

187. The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

Land on the corner of Smith Street and Queens Parade

- *Two opposed the rezoning and wished to see employment opportunities for small business retained rather than providing incentives for residential development.*
- *Three other submissions supported it if it provided additional housing.*

- *A late submission was received from a planning consultant representing the owner of 15 – 33 Queens Parade. The submission notes that the land is proposed for rezoning but does not express a view on this.*

#### 245 Gold Street

- *Three submissions (including one from the property owner) requested a rezoning of 245 Gold Street from C1Z to GRZ or NRZ as recommended in the GJM Heritage report.*

188. In regards to the sites on the corner of Smith Street and Queens Parade, I note that the Amendment C231 proposal to rezone this to Commercial 1 would provide for both business and residential outcomes as sought by the submitters, and that a permit would need to be sought for any ground floor residential uses with a frontage exceeding 2m.

189. In regards to the rezoning sought for Gold Street, I agree that this site could be rezoned to match the Neighbourhood Residential Zone surrounding it south and east. It contains a single storey dwelling and has no real relationship to the Queens Parade Activity Centre, as it faces Gold Street and has no frontage to Queens Parade. The surrounding residential land is within the Neighbourhood Residential Zone.

### 7.12. Social and affordable housing

190. The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *Others mentioned the need for social and affordable housing and housing diversity.*

191. I note that the Planning and Environment Act has recently been amended to facilitate the voluntary provision of affordable housing via Section 173 Agreements. I understand that Yarra Council will be pursuing a planning scheme amendment in the future to implement its Housing Strategy which will seek affordable housing contributions on certain developments and rezonings in the future. However, as these do not currently form part of the planning scheme, there is no strategic basis that Council could rely on to modify Amendment C231 at this late stage to seek contributions for affordable housing. Any such change would require further strategic work on a municipality-wide basis to identify the specific affordable housing needs and the appropriate level of contributions, and then re-exhibiting the amendment.

### 7.13. Extent of study area

192. The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *One submission commented that the study area should be expanded to include land in Commercial 1 and Public Use Zones at Rushall Crescent and McKean Street.*

193.I have reviewed the comments made by the Council officer and agree that the boundary for the built form controls has been correctly identified and that this small cluster of buildings does not need to be included.

#### 7.14. Consistency of the exhibited DDO with interim controls

194.The Council officer prepared the following summary of the issues raised in the submissions relating to this theme:

- *Some submitters were concerned that the drafting of the permanent controls differed from the drafting of interim DDO16.*
- *They want to see the drafting identical to the interim controls as it has been tested at VCAT.*

195.I understand these comments generally relate to the inclusion of the built form outcomes within the tables of height and setback controls in DDO16. I agree with the Council Officer's comment that the redrafted controls contain the same intent but distribute these elsewhere in the overlay, and am of the view that this makes the overlay easier to interpret with less repetition.





## SARAH ANCELL

### PRINCIPAL URBAN PLANNER

#### CAREER OVERVIEW

2015 –  
Principal Urban Planner, Echelon Planning

2009-2014  
Senior Consultant, Urbis

2008-2009  
Strategic Planner, Aurecon (Melbourne)

2004-2008  
Planner, Aurecon (New Zealand)

2003-2004  
Student Planner, Aurecon (New Zealand)

#### QUALIFICATIONS

Master of Regional and Resource Planning  
(with Distinction), University of Otago

Bachelor of Arts (Geography), University of Canterbury

#### MEMBERSHIPS

Victorian Planning & Environmental Law Association

Sarah has fifteen years of experience on a broad range of planning projects in Victoria, Tasmania and New Zealand. She has equal expertise in strategic and development approval planning, giving her the ability to advise clients on any aspect of their projects, from initial feasibility queries through to all stages of the strategic planning and development approval processes.

Working for consultancy firms has given Sarah an excellent understanding of the financial considerations of her clients. During this time she has also worked closely with numerous state and local government clients, which has bestowed her with insight into the planning and approval processes within these organisations.

Sarah specialises in bringing strategic planning documents such as structure plans and regional-scale strategies to fruition, and in obtaining development approvals for growth area subdivisions and complex sites. She has worked on a range of residential, commercial, industrial, retail, transportation, airport, open space, justice, education, and telecommunications projects.

Her clients value her persistence in seeing projects through from beginning to end with a determined energy and focus. Sarah is passionate about improving how our cities function, and gains immense job satisfaction from working with her clients to facilitate transformative and lasting change to urban areas.



## SARAH ANCELL

### PROJECT EXPERIENCE

#### DEVELOPMENT FACILITATION AND PROJECT APPROVALS.

Sarah has worked with a wide range of private and state government clients to obtain development approvals for residential, office, commercial and specialist land use projects. Her equal expertise in statutory and strategic planning gives her the ability to advise clients through all stages of the framework planning and development approval processes.

Sarah's work in Melbourne's growth areas has included providing development advice and obtaining approvals for the following clients:

- LLT Developments for their Verdant Hill estate
- Satterley for their Mickleham Road estate
- Mirvac for their Smiths Lane estate
- Lend Lease for their Harpley and Aurora estates
- Peet Ltd for their Aston, Aspect Greenvale and Tarneit Gardens estates
- Dacland for their Regent Street estate
- The Barro and Richmond families for their Werribee landholding

Sarah has also provided planning assistance with the following inner city projects:

- Altona North brownfield development site
- 664 Collins Street office development
- 167 Cremorne Street mixed use development
- Australia 108 (70 Southbank Boulevard) mixed use development
- 40 La Trobe Street apartment complex
- 477 Collins Street office development
- Goodman's Fishermans Bend mixed use development proposal

The commercial projects Sarah has worked on include:

- Woolworth's Masters Home Improvement stores
- Major Project Victoria's Melbourne Wholesale Markets Development Plan and development approvals
- Colonial First State Global Asset Management's DFO South Wharf rejuvenation
- Geelong Homemaker Centre
- Selwyn District Council's IZone Business Park

Sarah has also assisted the State Government to advance development on specialist sites including the following:

- Tallangatta Department of Environment Land Water and Planning Depot Project
- Rezoning surplus school sites for the Department of Education and Training
- Ravenhall Prison Correctional Facility Development Plan for the Department of Justice and Regulation
- Shrine of Remembrance Galleries of Remembrance Development for Major Projects Victoria

In Victoria's regional areas, Sarah's work has included:

- The roll-out of gas infrastructure to 11 regional towns for TasGas and Brookfield
- Waranga Green Energy's anaerobic bio-digester project in Stanhope
- Mennotty's Spring Creek residential project in Torquay
- Telecommunications sites for Optus



## SARAH ANCELL

### PROJECT EXPERIENCE

#### STRATEGIC PLANNING.

Sarah specialises in small town structure plans, and has also undertaken a range of other strategic and open space planning projects in urban and regional areas. She has extensive experience in leading multi-disciplinary project teams and in running consultation processes including design charrettes. She also has experience in presenting submissions and expert evidence at planning panels.

Examples of the strategic planning projects Sarah has led and participated in include:

- Sorell Land Supply Strategy
- Corowa Urban Design Framework
- Wallan Town Centre Masterplan and Urban Design Framework
- Stonnington Neighbourhood Centres Strategy
- Vision East 2030 Sub-Regional Land Use Strategy
- Ballarat Residential Infill Opportunities Study
- St Helens Structure Plan
- Huonville/Ranelagh Structure Plan
- Bicheno Structure Plan
- Triabunna/Orford Structure Plan
- Nubeena/White Beach Structure Plan
- Devonport CBD Structure Plan
- Brighton Structure Plan

Examples of the open space projects Sarah has led or participated in include:

- Living Links Corridor Study for the Port Phillip Westernport Catchment Management Authority
- Colac Otway Shire Public Open Space Strategy
- Wangaratta Shire Public Open Space Strategy

#### RESEARCH AND POLICY DEVELOPMENT.

Several of Sarah's projects have required her to undertake in-depth research into particular urban planning issues. Her findings and policy recommendations have assisted clients to refine their approaches to these issues.

Research projects Sarah has contributed to include:

- Plan Melbourne Affordable Housing
- Hobsons Bay Council Affordable Housing Framework
- Melbourne Airport's Master Plan zoning approach and Plan Melbourne submission
- Grattan Institute's "Cities – Who Decides?" report
- Tourism and Transport Forum's Tourism Planning Code

#### TRANSPORT.

Sarah's time at Aurecon gave her the opportunity to participate on a range of large scale transport projects including the following:

- Port of Hastings Rail Corridor Feasibility Study
- South Morang to Mernda Rail Extension
- Rutherford Heavy Vehicle Deviation Route Study
- Christchurch Rolleston and Environs Transportation Study



**Appendix 2 – Comparison of Exhibited DDO16 and Council’s Preferred DDO16**

Precinct	Control	Exhibited DDO	Council's Preferred DDO	My Opinion
1 - 460 Brunswick St	Height	Mandatory: 9m	No change	Support
1 - 460 Brunswick St	Street wall height	Mandatory: Match 460 Brunswick St parapet height	Mandatory: Match the parapet height of the existing building Preferred: Match the parapet or eaves height of taller adjacent heritage building	Support
1 - 460 Brunswick St	Front/street setback	Preferred: Build to boundary at ground level	Mandatory: Match the setback of the existing heritage building	Support
1 - 460 Brunswick St	Upper level setback	Mandatory: Minimum 5m	Mandatory: Minimum 6m	Support
1 - 460 Brunswick St	Side and rear setbacks	Preferred: Rescode B17	No change	Support
1 - Lot 1 TP806921	Height	Mandatory: 9m	No change	Support
1 - elsewhere	Height	Preferred: 9m	No change	Support
1 - elsewhere	Street wall or facade height	Mandatory: Retain existing Preferred: Match the parapet or eaves height of taller adjacent heritage building	No change	Support
1 - elsewhere	Front/street setback	Mandatory: Retain existing	Preferred: Built to boundary at ground level	Support
1 - elsewhere	Upper level setback	Preferred: 6 metres from façade	No change	Support
1 - elsewhere	Side and rear setbacks	Preferred: Rescode B17	No change	Support
2A	Height	Mandatory: 31m	No change	Support
2A	Front street wall height	Mandatory: Retain height of existing heritage façade mandatory, Maximum of 10 metres where no heritage façade exists Preferred: Street wall of development adjoining the individually significant building must not exceed the parapet height of the taller adjoining heritage building	No change	Support
2A	Front setback	Preferred: 0 metres to maximum 10 metres	No change	Support
2A	Upper level setback from front of building	Preferred: Above existing heritage façade: - Minimum 8 metre setback from 10 metres to 16 metres - Minimum 10 metre setback from 16 metres Above new street wall (where no existing heritage façade): - Minimum of 5 metre setback from 10 metres to 16 metres - Minimum of 8 metres setback from 16 metres	No change	Support
2A	Setback(s) from rear boundaries north and west adjacent to NRZ and GRZ	Preferred: ResCode B17 from rear boundary of adjoining properties to 10 metres Setback within 45 degree angle measured from 10-25 metres	No change	Support but add control back in for 25 to 31m

Precinct	Control	Exhibited DDO	Council's Preferred DDO	My Opinion
2A	Setbacks from side boundary east adjacent to NRZ	<u>Preferred:</u> 0 metre setback to match party wall of existing adjoining development to 10 metres Setback within 45 degree angle measured from 10-25 metres	No change	Support but add control in for 25 to 31m
2A	Setbacks from side boundary east adjacent to MUZ	<u>Preferred:</u> 0 metre setback to match party wall of existing adjoining development, or 10 metre where no party wall exists. Minimum of 9 metre setback from the windows/balconies of adjoining apartments up to 16 metres Minimum of 15 metre setback above 16 metres	No change	Support
2A	Setbacks from side and rear boundaries west and north-west adjacent to MUZ	<u>Preferred:</u> 0 metre setback to match party wall of existing adjoining development, or 10 metre where no party wall exists. Setback within 45 degree angle measured from 10-25 metres	No change	Support but add control in for 25 to 31m
2B (2D exhibited)	Height	<u>Preferred:</u> 18m	No change	
2B (2D exhibited)	Front street wall height	<u>Mandatory:</u> Retain existing parapet height	<u>Mandatory:</u> Napier St - Retain existing parapet height	Support
2B (2D exhibited)	Upper level setback	<u>Mandatory:</u> Minimum 6m from façade	No change	Support
2B (2D exhibited)	Minimum rear setback	Not specified	<u>Preferred:</u> 4.5m from centreline of laneway for height of the entire building	Support
2C	Height	<u>Preferred:</u> 28m	No change	Support
2C	(Front) Street wall height	<u>Preferred:</u> Maximum 18 metres for development on Queens Parade, George Street and Alexandra Parade Development on Napier Street should not exceed the parapet height of the adjoining heritage buildings.	<u>Mandatory:</u> Napier St - 10m <u>Preferred:</u> Queens Pde, George St, Alexandra Pde - 18m	Support but address inconsistency in Clause 2.3 re: transition
2C	Upper level setback	<u>Preferred:</u> 5 metres minimum	<u>Mandatory:</u> Napier St - 6m <u>Preferred:</u> Elsewhere - 6m	Support
2C	Setback(s) from boundary of 472-484 Napier St	Preferred: Setback within a 45 degree angle line measured from 12 metres	See side and rear setbacks below	

Precinct	Control	Exhibited DDO	Council's Preferred DDO	My Opinion
2C	Side and rear setbacks	Preferred: ResCode B17	<p>Preferred:</p> <p>Rear setback: 4.5m from centreline of laneway for height of the entire building</p> <p>Side setbacks: For upper levels, where a habitable room window is proposed: - 4.5 metres from the common boundary or from the centre line of the laneway.</p> <p>For upper levels, where a non-habitable room window or commercial window is proposed: - 3 metres from the common boundary or the centre line of the laneway (on a where the laneway is less than 6 metres wide)</p>	Support
3A (3 exhibited)	Height	Preferred: 18m	Mandatory: 18m	Support
3A (3 exhibited)	Front street wall height	<p>Mandatory: Maximum 11 metres for 15-33 Queens Parade</p> <p>Retain height of existing heritage façade.</p> <p>Development adjoining a heritage building must match the parapet height of adjacent taller heritage building.</p> <p>Maximum of 14m elsewhere</p>	<p>Mandatory: 15-33 &amp; 41 Queens Parade -11 metres 35-37 Queens Parade - retain height of existing heritage façade</p> <p>Development adjoining a heritage building must match the parapet height of an adjacent taller heritage building.</p> <p>14 metres elsewhere</p>	Support
3A (3 exhibited)	Upper level setback	<p>Mandatory: Minimum 6 metres at 15-41 Queens Parade</p> <p>Preferred: 6m elsewhere</p>	No change	Support
3A (3 exhibited)	Street wall setback	Preferred: 0 metres - built to front boundary at ground level	No change	Support
3A (3 exhibited)	Rear setback	<p>Preferred: 45° above 8 metres from rear boundary to a laneway</p> <p>45° above 5 metres from rear boundary (no laneway)</p>	<p>Preferred: Where there is a laneway: - Modified ResCode Standard B17 (See Figure 1)</p> <p>Where there is no laneway: - Modified ResCode Standard B17. (See Figure 2)</p>	Support
3A (3 exhibited)	Side setback	<p>Preferred: If adjoins NRZ, ResCode B17</p> <p>0 metres elsewhere</p>	No change	Support
3B (3 exhibited)	Height	Preferred: 18m	Mandatory: 14m	Support
3B (3 exhibited)	Front street wall height	<p>Mandatory: Retain height of existing heritage façade.</p> <p>Development adjoining a heritage building must match the parapet height of adjacent taller heritage building.</p> <p>Maximum of 14m elsewhere</p>	Mandatory: Retain height of existing heritage façade	Support

Precinct	Control	Exhibited DDO	Council's Preferred DDO	My Opinion
3B (3 exhibited)	Upper level setback	<u>Mandatory:</u> Minimum of 6 metres at 664 Smith Street (former Fire Station) and <u>Preferred:</u> 6m elsewhere	<u>Mandatory:</u> 6m	Support
3B (3 exhibited)	Street wall setback	<u>Preferred:</u> 0 metres - built to front boundary at ground level	No change	Support
3B (3 exhibited)	Rear setback	<u>Preferred:</u> 45° above 8 metres from rear boundary to a laneway 45° above 5 metres from rear boundary (no laneway)	<u>Preferred:</u> Where there is a laneway: - Modified ResCode Standard B17 (See Figure 1) <u>Where there is no laneway:</u> - Modified ResCode Standard B17. (See Figure 2)	Support
3B (3 exhibited)	Side setback	<u>Preferred:</u> If adjoins NRZ, ResCode B17 0 metres elsewhere	No change	Support
4	Height	<u>Mandatory:</u> 21.5m	<u>Mandatory:</u> 14m	Support
4	Front street wall height on Queens Parade	<u>Mandatory:</u> Retain height of existing heritage façade. Where no heritage façade exists, development must be: - a minimum of 8 metres a maximum of 11 metres or where there is an adjacent heritage building, the parapet height of that building if taller than 11 metres.	No change	Support
4	Front street wall height in side streets	<u>Preferred:</u> Retain height of existing heritage façade. Where no heritage façade exists development should be: - a minimum of 8 metres a maximum of 11 metres or where there is an adjacent heritage building, the parapet height of that building if taller than 11 metres	No change	Support
4	Upper level setback Queens Parade	<u>Mandatory:</u> Minimum 6 metres in significant heritage streetscape area Minimum 8 metres at 364 Queens Parade <u>Preferred:</u> Minimum 6 metres at 167-197 Queens Parade	<u>Mandatory:</u> 8m	Support
4	Upper level setback in side streets	<u>Preferred:</u> Minimum 6 metres	No change	Support
4	Street wall setback	<u>Mandatory:</u> 0 metres - built to front boundary at ground level	No change	Support

Precinct	Control	Exhibited DDO	Council's Preferred DDO	My Opinion
4	(Side and) rear setback (NRZ interface)	Preferred: 45 degree angle above 8 metres from rear boundary to laneway 45 degree angle above 5 metres where no laneway	Preferred: Where there is a laneway: - set back at least 1 metre, plus 0.3 metres for every metre of height over 4 metres up to 7.3 metres, plus 1 metre for every metre of height over 8 metres. (See Figure 1) Where there is no laneway: - set back at least 4 metres, plus 0.3 metres for every metre of height over 4 metres up to 7.3 metres, plus 1 metre for every metre of height over 8 metres. (See Figure 2)	Support
4	Rear setback (C1Z interface)	Not specified	Preferred: 3m above 11m	Support
5A	Height	Preferred: 18m	Mandatory: 11m	Support
5A	Street wall height	Mandatory: Match existing parapet or eaves height	No change	Support
5A	Upper level setback	Preferred: Minimum 5 metres	Preferred: Minimum 6m	Support
5B	Height	Preferred: 1:1 heritage street wall to new built form behind Clifton Motors and 203 Queens Parade visible from the opposite side of Queens Parade 28 metres elsewhere	Mandatory: 201-215 Queens Pde - 18m Preferred: 28m elsewhere	Support
5B	Front street wall height	Mandatory: Match parapet height of former Clifton Motor Garage and eaves line of former UK Hotel Preferred: 11 metres for non contributory buildings facing Queens Parade and Dummett Crescent	Mandatory: 201-215 Queens Parade - Match parapet height of former Clifton Motor Garage and eaves line of former UK Hotel Preferred: 4-10 Dummett Crescent - 11m	Support
5B	Street wall setback	Mandatory: 0m	No change	Support
5B	Setback from side and rear boundary	Mandatory: 0m	Preferred: For upper levels, where a habitable room window is proposed: - 4.5 metres from the common boundary or from the centre line of the laneway; For upper levels, where a non-habitable room window or commercial window is proposed: - 3 metres from the common boundary or from the centre line of the laneway (on a where the laneway is less than 6 metres wide).	Support
5B	Upper level setback	Mandatory: 6 metres for development at former Clifton Motor Garage Preferred: 6m elsewhere	Mandatory: 201-215 Queens Pde - 8m Preferred: 6m elsewhere	Support

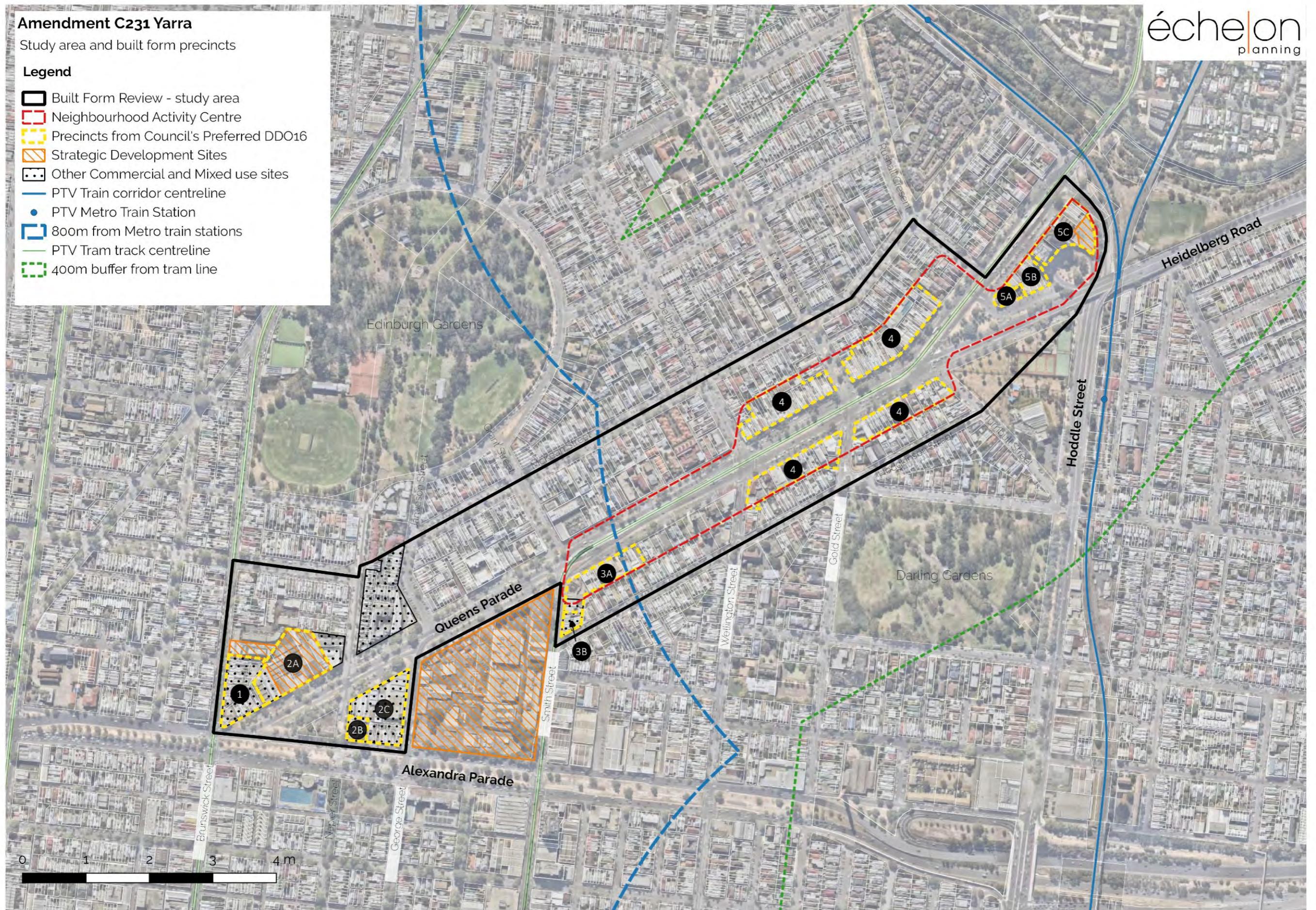
Precinct	Control	Exhibited DDO	Council's Preferred DDO	My Opinion
5C	Height	Preferred: 49m	Preferred: 43m	Support
5C	Front street wall height	Preferred: 35m	Preferred: 18m	Support
5C	Upper level setback	Preferred: 10m	Preferred: 6m	Support
5C	Setback from side and rear boundary	N/A	Preferred: For upper levels, where a habitable room window is proposed: - 4.5 metres from the common boundary or from the centre line of the laneway; For upper levels, where a non-habitable room window or commercial window is proposed: - 3 metres from the common boundary or from the centre line of the laneway (on a where the laneway is less than 6 metres wide).	Support

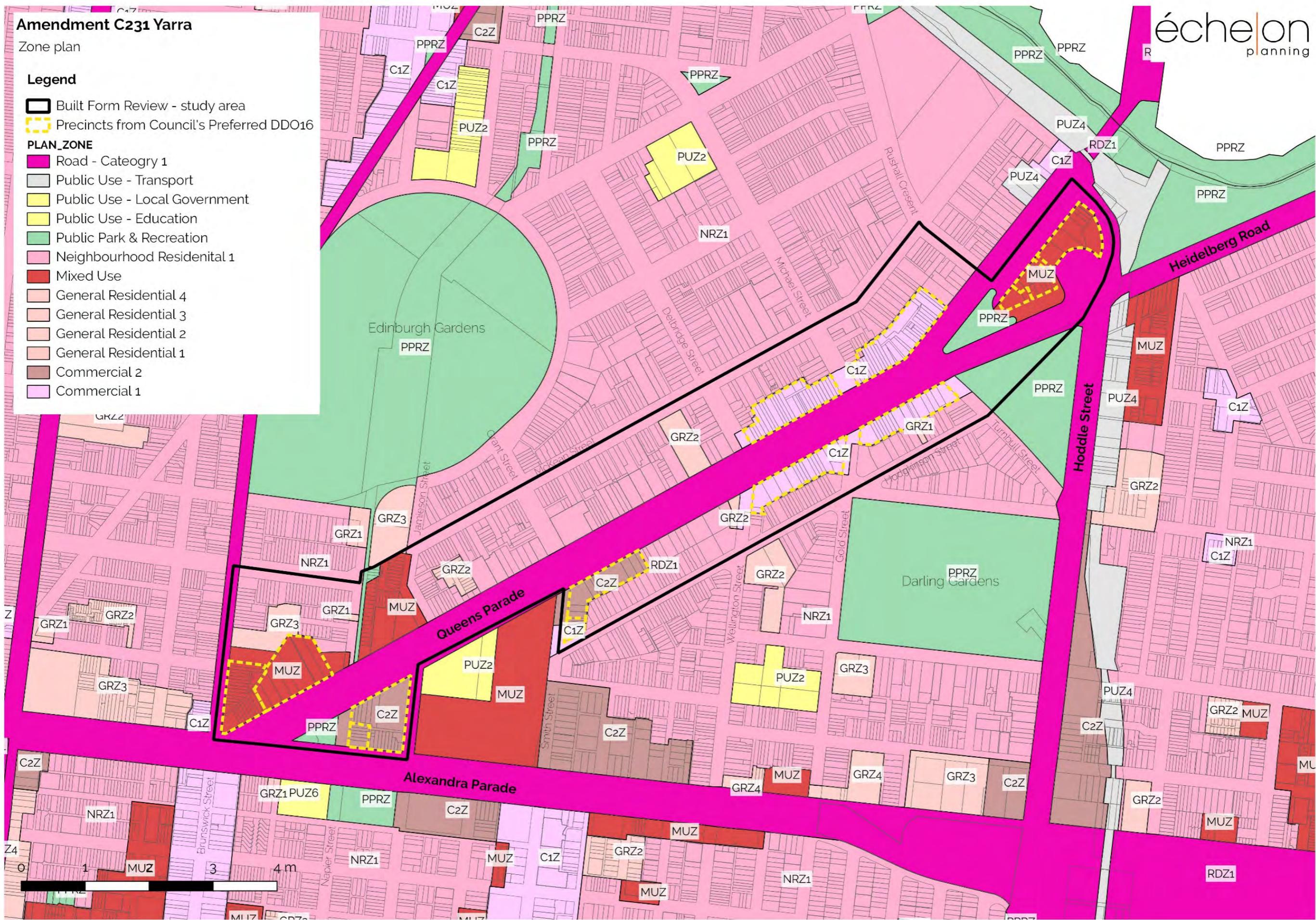
**AMENDMENT C231 TO THE YARRA PLANNING SCHEME**

**Expert Witness Statement – Sarah Ancell**

**Attachments 1 to 13**

Attachment 1: Aerial Photo







Attachment 4: Precinct 3 – Exhibited DDO16 controls



Attachment 5: Precinct 3 – Council’s Preferred DDO16 controls



Attachment 6: View to St Johns Church – Council's Preferred DDO16 controls







Attachment 9: View to ANZ Bank – Council's Preferred DDO16 controls



Attachment 10: View to UK Hotel – Exhibited DDO16 controls





