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## AMENDMENT C231 TO THE YARRA PLANNING SCHEME

PANEL HEARING 12 August 2019

HERITAGE EVIDENCE

PRECINCT 4 - QUEENS PARADE SHOPPING PRECINCT

### 1.0 INTRODUCTION

#### 1.1 Instructions and procedures

I have been instructed by David Young, acting on behalf of the Queens Parade Heritage, Planning and Traders Group, to provide evidence regarding this amendment, to support the submissions made by this group concerning this amendment. I have previously provided advice to this group regarding heritage matters related to this amendment.

I have been the sole author of this statement.

#### 1.2 Name and address

Nigel Richard Bannatyne Lewis  
Nigel Lewis Pty Ltd  
40 Stawell Street Kew 3101

#### 1.3 Qualifications and experience

I have a Bachelor of Architecture degree (Melbourne 1975), and I am a registered architect and have been director of Nigel Lewis Pty Ltd since 2002, the continuation of a practice established in 1976. In the subsequent period, it operated as Jacobs Lewis Vines, Nigel Lewis and Associates and Nigel Lewis Richard Aitken Pty Ltd. These practices have specialised in the conservation of historic buildings and complexes, historic landscapes and historic urban areas.

I was involved in the original urban conservation studies for many inner suburban areas in the 1970s and 1980s. These included conservation studies for North and South Fitzroy in 1978 and 1979, Carlton, the North Carlton and Princes Hill conservation study and Lygon Street Action Plan, both in 1984. Other conservation studies were for the Melbourne CBD, Parkville, St Kilda, Port Melbourne, Brunswick, Prahran, Malvern, in addition to, Ballarat and Maldon. These studies have contributed to the development of urban conservation implementation and management in this state through policy formulation. They included the development of guidelines that remain in policies for some planning schemes. This pioneering work has played a part in the conservation of many historic buildings, works and complexes, historic landscapes and historic urban areas in Victoria and Tasmania.

My office worked with Evan Walker and Miles Lewis on the North Fitzroy Conservation Study and Daryl Jackson on the Lygon Street Action Plan. Both studies both have particular relevance for this panel.

I was the first architectural and heritage adviser in Australia, appointed by the then Department of Planning at Maldon in 1978. Since then I have been engaged in this role for many areas, including the Cities of Prahran, Melbourne, Ballarat, and Shires of Maldon, Mornington Peninsula, Murrindindi and Mount Alexander. Urban design matters have always been an aspect of this work.

Nigel Lewis Pty Ltd has undertaken numerous conservation and adaptive re-use projects and new developments within heritage places and precincts, including working in association with other architects. This has involved the adaptive re-use of the entire former Caloola Training Centre at Sunbury for Victoria University and two primary schools, and restoration of the historic features of Luna Park. More recent projects have included the restoration and upgrading of the former Cathedral Hall for the Australian Catholic University. An ongoing project is the restoration and adaptive re-use of the Abbotsford Convent as a community arts and education precinct.

I have provided expert witness evidence at numerous AAT and VCAT hearings, at panel hearings, and Historic Buildings Council and Heritage Council hearings since the 1970s. I have been retained by municipal councils, project architects, developers and objectors to provide expert evidence at these hearings.

### **1.3 Area of expertise relevant to this report**

I have been involved with the assessment of heritage significance and heritage impact since 1977 as a consultant for various responsible authorities. The undertaking of various urban conservation and heritage studies has informed this work, in particular the development of guidelines. My private architectural and conservation consulting work has had a major focus on the management of change in a heritage context.

## 1.4 Referral documents

The following documents have been referred to in the preparation of this statement of evidence:

Exhibited documents of proposed Amendment C231, including.

- Yarra Planning Scheme, Amendment C231, Explanatory Report,
- Proposed version of Schedule 16 to Clause 43.02 Design and Development Overlay (described as Attachment 6), as amended at Yarra Council meeting of 28 May 2019.
- Response to submissions (described as Attachment 7) and Summary of differences table presented to Yarra Council meeting of 28 May 2019.

GJM 2017 Yarra High Streets: Statements of Significance  
(Reference Document) Appendix H to the GJM report – see Appendix Three

GJM report (2017 Queens Parade Built Form Heritage Analysis & Recommendations) – Precinct 4

Hansen report (2017 Queens Parade, Clifton Hill: Built Form Review)

Computer generated images prepared for council by Ethos Urban. They show potential building envelopes of the exhibited amendment, and council's preferred option; also versions showing approved projects and current applications.

Nomination of the Queens Parade Shopping Precinct to the Victorian Heritage Register

Australia ICOMOS Burra Charter

Yarra Planning Scheme Clauses 15.03, 22.02, and 43.01.

North Fitzroy Conservation Study 1978, prepared by Jacobs Lewis Vines in conjunction with the Fitzroy Urban Planning Office, subconsultants Daryl Jackson Evan Walker Pty Ptd and Dr. Miles Lewis – see Appendix One.

Lygon Street Action Plan 1984, consultants Daryl Jackson Pty Ltd with Nigel Lewis and Associates. See appendix Two.

## 1.5 Areas covered by this evidence

The heritage impact on the proposed amendment on the values of the Precinct 4, the Queens parade Shopping Precinct from Delbridge and Wellington Streets to 410 Queens Parade and Turnbull Street. The specific issues addressed are the heights and setbacks described in the Recommended Changes to Schedule 16 to Clause 43.02 Design Development Overlay, and related design guidelines.

## 1.6 Declaration

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.



NIGEL LEWIS

2 August 2019

## 2.0 SUMMARY OF OPINION

This precinct was identified as the most important precinct in North Fitzroy in 1978 in the first comprehensive urban conservation study for inner suburban Melbourne. This study identified the relationship of the built form with the adjoining residential area, and the scale transition between them.

Subsequent heritage studies and precinct statements of significance have confirmed these values. The recent documents to support the nomination of the Queens Parade Shopping Precinct to the Victorian Heritage Register provide a comprehensive analysis of the significance. The proposed Amendment would allow these values to be undermined. This is clearly demonstrated by the Ethos Urban 3D modelling.

The current concern about development impacts on the Queens Parade Precinct 4 is similar to when Lygon Street was under threat from development pressures in the early 1980s. The Lygon Street Action Plan introduced mandatory building envelopes for the large study area. For the most sensitive areas, including most of Lygon Street, a 10 metre setback was imposed with a 13.5 maximum height limit behind this. These controls also ensured the continuing viability of Lygon Street as a retail precinct. The 10 metre setback allowed adequate space for retail activities. This limitation of development potential kept a lid on land values, and ensured that the rents charged for retail premises were affordable for most businesses at that time. This has now been made more restrictive with a maximum height of 10.5 metres for section of Lygon Street north of Grattan Street, and between Cardigan and Rathdowne streets.

Heritage values are immutable. The experience of the last 36 years since the introduction of urban conservation areas has confirmed the importance of scale restrictions in conservation areas.

The heritage values of Precinct 4 require that new development is subject to conservation objectives and mandatory maximum building envelope. These must ensure that an acceptable relationship with adjoining areas subject to the heritage overlay is achieved. The scale of new infill must reflect the scale of all adjoining buildings. The building envelopes must ensure that there is a harmonious transition to adjoining residential areas.

The successful strategy that led to the current legacy of Lygon Street is applicable for Queens Parade Precinct 4. No new buildings should be built within a 10 metres setback, and an even greater setback if required to include principal roof form. The maximum height should be restricted to 12.5 metres - 4 storeys can be built within this height. However a uniform range of heights and setbacks is not appropriate. In some more exposed or sensitive locations 3 storeys or 11 metres should be required. This amendment requires a more nuanced approach.

Particular care is required for corner sites to ensure streetscape scale is maintained with a transition with residential streets. A two storey scale limit should be retained to achieve this, whether as an addition to a significant building, or for a new infill building. Similarly, for lanes, the form should be compatible with the scale and form of any adjoining or nearby significant buildings.

### **3.0 PROPOSED AMENDMENT PRECINCT 4**

#### **3.1 Amendment context**

The Amendment, as set out in the draft version of Schedule 16 to Clause 43.02 Design and Development Overlay, provides guidance regarding applications to construct a building or carry out works at these parts of the draft, including:

- 2.3 Street wall requirements
- 2.4 Upper level requirements
- 2.5 Corner site requirements
- 2.8 Heritage design requirements
- 2.9 Precinct design requirements and, in reference to Precinct 4:
  - 2.9.4 Precinct 4 – Activity Centre Precinct.

#### **3.2 Specific provisions**

While the Exhibited Amendment set out details of building height and setbacks from front and rear boundaries for buildings and works in Precinct 4, Council has provided recommended changes for Precinct 4 as follows:

*Height:* 14 metres (4 storeys) mandatory, the exhibited height was 21.5 metres (6 storeys). Council has stated that a ‘no visibility’ option is too restrictive.

*Upper level setbacks:* Minimum 8 metres mandatory, the exhibited setback was 6 metres. Council has stated that this appropriately responds to the heritage context of the Queens Parade precinct.

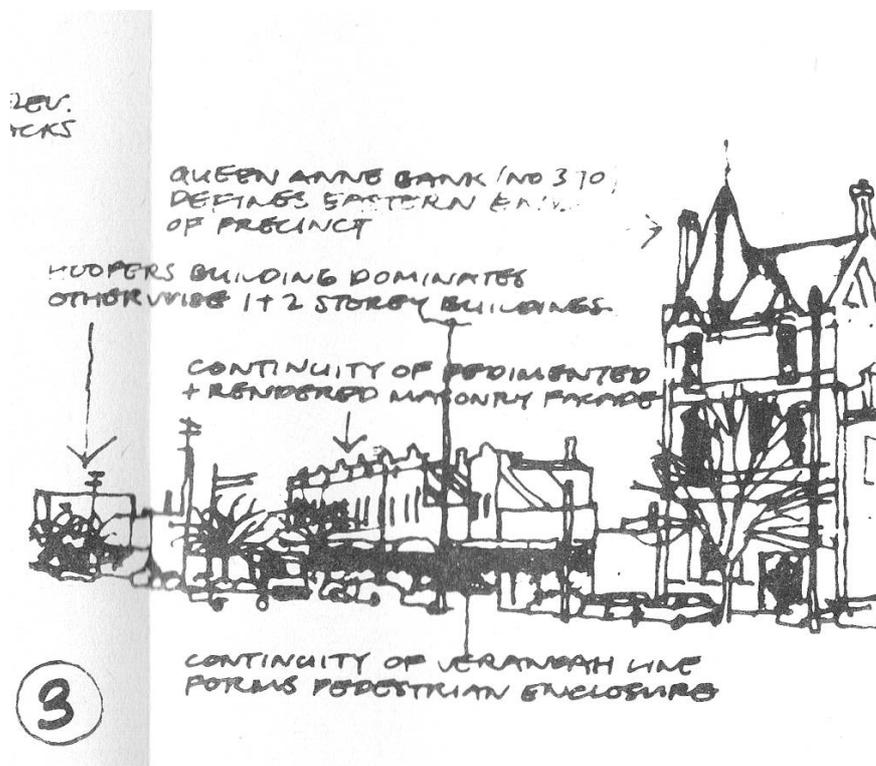
## 4.0 DISCUSSION

### 4.1 Urban conservation history

4.1.1 This precinct was identified as the most important precinct in North Fitzroy in 1978 .

Among other attributes it noted the consistency of heights, setback and building form, being predominantly two storey with rendered facades, built to the boundary; and the intactness and diversity of 19th and early 20th century facades above the verandah line.

It also identified the scale of the streetscape elements, continuity of parapets and pediments at first floor level, the sense of scale and enclosure of surviving post supported cast iron verandahs.



*Sketches by Daryl Jackson Evan Walker Pty Ltd*

This study also identified the relationship of the built form with the adjoining residential area, and the scale transition between them.



4.1.2 This study provided the basis for the introduction of urban conservation controls in 1983.

4.1.3 Subsequently, more thorough heritage studies and precinct statements of significance have confirmed these values. The draft statement of significance that supports the 2019 nomination of the Queens Parade Shopping Precinct to

the Victorian Heritage Register in Appendix Three provide the most comprehensive analysis of the significance. This remarkably well documented nomination provides a *prima facie* case for VHR listing.

4.1.4 Among other attributes, the Queens Parade Shopping Precinct is the only 19th century city boulevard in Melbourne that is flanked with strip shopping. Its close physical and stylistic relationship with the adjoining residential areas, built at the same time, its integrity, and the relatively intact skyline are others. It also notes that the shop-house built form is related to use, and this has not been properly recognised previously. This characteristic provides a strong linkage with the adjoining residential areas. These are also subject to the heritage overlay.

## 4.2 Lygon Street precedent

4.2.1 The current concern about development impacts on the Queens Parade Precinct 4 recalls a similar situation to when Lygon Street was under threat from development pressures in the early 1980s. Planning minister Evan Walker commissioned the Lygon Street Action Plan in response to this threat. This study led to mandatory building envelopes for a large area. For the most sensitive areas, including most of Lygon Street, a 10 metre setback was imposed with a 13.5 height limit behind this (the equivalent of 4 storeys at this time). This led to Lygon Street retaining its significant scale in the retail sections, despite being on the edge of the CBD. This scale management is manifested by the major Tyne Street redevelopment, between Tyne Street and Little Elgin Street. A recent 3 storey residential development behind 398B Queens Parade provides a similar scenario. There is now a 10.5 metre mandatory maximum height control in Lygon Street between Elgin Street and Grattan Street, and between Cardigan and Rathdowne streets.

4.2.2 The controls also ensured the continuing viability of Lygon Street as a retail precinct. The 10 metre setback allowed adequate space for retail activities. This limitation of development potential kept a lid on land values, and ensured that the rents charged for retail premises were affordable for most businesses at that time.

## 4.3 Heritage impact of proposed amendment

4.3.1 The proposed amendment would allow these values to be undermined. This is clearly demonstrated by the Ethos Urban 3D modelling. The exhibited models showing additions of 21.5 metres high with 6 metres setback create a strong sense of facadism. While the recommended 14 metres high with 8 metres setback represents a major improvement, it will still impose a very evident and adverse heritage impact.

4.3.2 The colour coding is as follows:  
Salmon pink = street wall  
Blue = development above street wall  
White = existing buildings

Orange = current application  
Yellow = permit granted

For each viewpoint there are several images

- showing the exhibited built form (6-storeys in Precinct 4)
- showing Council's recommended version (4-storeys in Precinct 4)
- some have additional pairs showing applications and permits at both exhibited and recommended.



*Exhibited built form*



*Council's recommended version showing permits granted*



*Exhibited built form*



*Council's recommended version showing permits granted*

4.3.3 The above view should be compared with Sketch 3 by Daryl Jackson Evan Walker Pty Ltd. In this instance, the approved development has its main wall set back about 10 metres, indicating that the 14 metre height with a 10 metre setback will still be visible. It also shows the importance of retaining the main building form intact, and how the former ANZ bank would retain more of its landmark character.



*Exhibited built form showing permit granted*



*Council's recommended version showing permit granted*

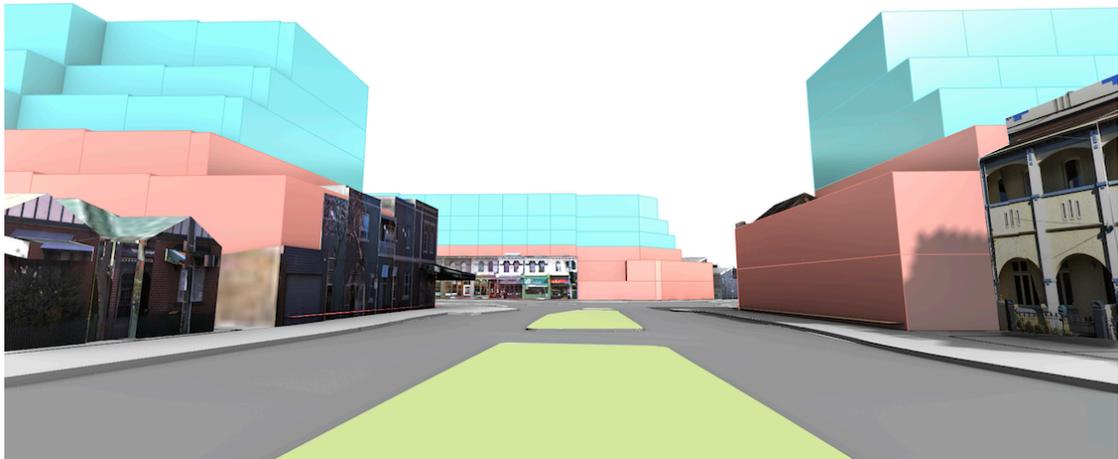


*Exhibited built form showing permit granted*



*Council's recommended version showing permit granted*

4.3.4 The above view should be compared with Sketch 2 by Daryl Jackson Evan Walker Pty Ltd. It demonstrates the need for a better scale transition from Queens Parade to Michael Street.



*Exhibited built form*



*Council's recommended version*

4.3.5 Heritage values are immutable. The objectives do not change although government policy does. Overseas lessons inform us in this matter.

The experience of the last 36 years since the introduction of urban conservation areas has confirmed the importance of scale restrictions in conservation areas. The mandatory controls worked extremely well until the introduction of discretion when Rob MacLellan was planning minister.

4.3.6 The Australia ICOMOS Burra Charter states that the use of a place may be significant. However, the different uses of significant buildings, but similar building form and design attributes, should not lead to different conservation

objectives and outcomes. There are many similarities in form, design and massing between nineteenth century residential terrace housing and retail premises, especially as most of them have a residential use on the first floor. This should be taken account of when developing planning controls.

4.3.7 The heritage values of Precinct 4 require that new development is subject to conservation objectives that ensure an acceptable relationship with adjoining areas subject to the heritage overlay. The scale of new infill must reflect the scale of all adjoining buildings. It must ensure a harmonious transition to adjoining residential areas.

4.3.8 The successful strategy that led to the current legacy of Lygon Street is applicable for Queens Parade Precinct 4. No new buildings should be built within a 10 metres setback, or an even greater setback if required to include principal roof form.

4.3.9 The case is even more compelling for Queens Parade as the road reservation is so much wider. The rear additions will still be highly visible from directly opposite.

4.3.10 This amendment requires a more nuanced approach than has been proposed with uniform heights and setbacks.

4.3.11 In most situations, a maximum of 3 storeys or 10.5 metres should be required. This will match the height limits in Lygon Street. Most sites are widely exposed, or are very sensitive.

4.3.12 Only in very limited situations would a 4 storey height be acceptable, and only when it can be demonstrated that these locations there would not be an adverse heritage impact, because they are not widely exposed or sensitive. Furthermore, the maximum height in such locations should be reduced from 14 metres to 12.5 metres. This allows 500m for a raised ground level and roof structure, 600 for 3 intermediate floors, and an average ceiling height for 4 floors of 2850. These are not onerous limitations.

4.3.13 Particular care is required for corner sites to ensure streetscape scale is maintained, as the transition with the residential streets is a crucial element of the significance of the precinct. A 2 storey scale should be retained for the whole standard width site to achieve this, whether as an addition to a significant building, or for a new infill building. All major corners have two storey buildings.

4.3.14 Similarly, for lanes, the form should be compatible with the scale and form of any adjoining or nearby significant buildings.