

Expert Witness Statement for Amendment C231 to the Yarra Planning Scheme

2 August 2019

Prepared for the City of Yarra under the instruction of Maddocks Lawyers by
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1. Introduction

1.1 Name and address of expert

- [1] James (Jim) Maitland Gard'ner, Director, GJM Heritage, Level 3, 124 Exhibition Street, Melbourne, VIC 3000.

1.2 Expert's qualifications and experience

- [2] I hold a Bachelor of Building Science and an Honours Degree in Architecture from Victoria University of Wellington (New Zealand), a post graduate diploma in building conservation from the Architectural Association of London and a graduate certificate in visual arts from Harvard University. I am registered with the Architects' Registration Board of Victoria (16044) and am a member of the Australian Institute of Architects, the Victorian Planning & Environmental Law Association and Australia ICOMOS (International Council on Monuments and Sites).
- [3] I have practiced as an architect on heritage buildings and new design projects in New Zealand and the United Kingdom, and have specialised in heritage conservation since 1997. I have worked as Project Architect on commercial projects in the World Heritage Listed City of Bath and, as a Historic Buildings Architect at English Heritage, I provided technical and regulatory advice on a diverse range of heritage places including Stonehenge, Bolsover Castle, Derbyshire and the Wellington Arch in London. At the National Trust of Australia (Victoria), I led the classification of heritage places on the National Trust Register and the development of responses to heritage and planning permit applications.
- [4] In my role as the Director, Strategy and Policy and then Executive Director at Heritage Victoria I developed and implemented heritage policy and guidance to assist in the interpretation of the provisions of the *Heritage Act 1995* including in relation to: the assessment of 'reasonable or economic use' under s73(1)(b) of the Heritage Act; *Victoria's Framework of Historical Themes*; *The Victorian Heritage Register Criteria and Threshold Guidelines*; and the *Victorian Government Cultural Heritage Asset Management Principles*. I previously Chaired the Royal Exhibition Building and Carlton Gardens World Heritage Steering Committee and have been a member of the Heritage Chairs and Officials of Australia and New Zealand. From 2012-15 I held the position of Executive Director, Statutory Planning and Heritage in the Victorian State Government where I administered the *Environment Effects Act 1978* (Vic) and advised the Minister for Planning on planning scheme amendments and permit decision making under the *Planning and Environment Act 1987* (Vic).
- [5] As an independent heritage consultant, I have advised on heritage assessment, management and works to heritage places including private dwellings, places of worship, institutional and commercial buildings, and industrial properties. I continue to advise local and State Governments on statutory planning approvals and strategic planning matters and have undertaken place specific assessments and area heritage studies.

1.3 Statement identifying the expert's areas of expertise to make this report

- [6] I am expert in the assessment of cultural heritage significance of historic heritage places, the administration of legislation to regulate and manage historic heritage places and objects, and in providing advice and preparing documentation to support conservation and redevelopment of heritage places. I have experience and expertise in formulating and implementing policy and controls for heritage places.

- [7] As Executive Director under the Heritage Act I have been the independent statutory decision maker for heritage permits for works to heritage places and objects, and consents for the disturbance or destruction of historical archaeological sites.
- [8] As a consultant I have prepared numerous Heritage Impact Statements detailing the impact of proposed works upon places included on both the Victorian Heritage Register and the Heritage Overlay, and have provided independent peer review of development proposals on behalf of local planning authorities.
- [9] I have provided expert evidence to VCAT, Planning Panels Victoria and the Heritage Council of Victorian under the instruction of private property owners, developers and local government.

1.4 Statement identifying other significant contributors to the report

- [10] This report was prepared with the assistance of Renae Jarman, Director of GJM Heritage. The views expressed in this report are my own.

1.5 The identity and qualifications of the person who carried out any tests or experiments upon which the expert relied in making the report

- [11] Three-dimensional (3D) modelling prepared by Ethos Urban was relied upon in preparing this evidence. The screen shots from the modelling reproduced in this statement of evidence were provided to me by Ethos Urban on 8 July 2019.

1.6 Instructions

- [12] On 12 April 2019 I was instructed in writing by Ms. Kristin Richardson of Maddocks Lawyers to provide a preliminary opinion on:
 - 16 submissions received by Yarra City Council in response to the exhibition of Yarra Planning Scheme Amendment C231 (C231); and
 - appropriate building heights and setbacks within Precincts 3 and 4 identified within the 'Queens Parade Built Form Review' (Hansen Partnership, December 2017), based on my review of the above submissions.
- [13] Further instructions were provided on 13 May 2019, which requested me to consider alternative upper level setback and heights controls within Schedule 16 to the Design and Development Overlay (DDO16) (proposed to be put to Council at their meeting of 28 May 2019).
- [14] In addition, further instructions were received on:
 - 25 June 2019, which requested me to:
 - Review the Council preferred version of DDO16 and the Council resolution of 28 May 2019; and
 - Prepare an expert witness report and appear for Council at the C231 Panel hearing.
 - 15 July 2019, which requested me to provide a written response to the following submissions received during exhibition of C231 as part of my expert witness report:
 - Submission 90;
 - Submission 95;
 - Submission 147;
 - Submission 160;

Submission 199;
Submission 209;
Submission 222;
Submission 227;
Submission 258;
Submission 259;
Submission 262;
Submission 266;
Submission 280;
Submission 281;
Submission 284; and
Submission 338.

and the following additional submissions received following exhibition:

Submission 401;
Submission 402;
Submission 405;
Submission 405A; and
Submission 338 (Part B).

- 26 July 2019, which requested me to provide a written response to the following submissions received during exhibition of C231 as part of my expert witness report:

Submission 11;
Submission 259A;
Submission 259B;
Submission 265;
Submission 283; and
Submission 295.

I was provided with a copy of Planning Panels Victoria's *Guide to Expert Evidence* (April 2015).

1.7 Relationship between the expert witness and the City of Yarra

- [15] Outside of providing heritage advice on various matters, there is no private or business relationship between myself and the City of Yarra or Maddocks Lawyers.

1.8 Reports and documents relied upon

- [16] The documents I have relied upon in the preparation of my evidence are:

- Queens Parade Built Form Heritage Analysis & Recommendations, GJM Heritage, 11 December 2017 (GJM Report)
- Queens Parade Built Form Review, Hansen Partnership, 15 December 2017 (Hansen Report)
- 3D modelling prepared by Ethos Urban (2019) including screen shots reproduced within this report (Ethos Urban modelling)
- Exhibited Planning Scheme Amendment documentation for C231
- C231 submissions provided to me by Ms. Richardson, with particular reference to:
 - Submission 11;
 - Submission 90;

- Submission 95;
 - Submission 147;
 - Submission 160 – Collingwood Historical Society;
 - Submission 199;
 - Submission 209;
 - Submission 222 – National Trust;
 - Submission 227 – Fitzroy Residents' Association;
 - Submission 258;
 - Submission 259 – Royal Historical Society of Victoria Inc.;
 - Submission 259A – Chair, Heritage Committee – Royal Historical Society of Victoria;
 - Submission 259B – Royal Historical Society of Victoria Inc. (revised 15 July 2019);
 - Submission 262;
 - Submission 265;
 - Submission 266;
 - Submission 280 – Protect Fitzroy North;
 - Submission 281;
 - Submission 283;
 - Submission 284;
 - Submission 295;
 - Submission 338 – 3068 Group;
 - Submission 338 (part B) – 3068 Group;
 - Submission 401 – Ratio Consultants Pty Ltd;
 - Submission 402 – A & F Pace Investments Pty Ltd;
 - Submission 405 – Queens Parade Heritage and Planning Groups; and
 - Submission 405A – Queens Parade Heritage and Planning Groups.
- In addition, I have had regard to the following submissions from parties appearing before Panel:
 - Submission 2;
 - Submission 23;
 - Submission 39;
 - Submission 74;
 - Submission 78;
 - Submission 86;
 - Submission 136;
 - Submission 145;
 - Submission 158;
 - Submission 181;
 - Submission 190;
 - Submission 196;
 - Submission 223;
 - Submission 224;
 - Submission 240;
 - Submission 298;
 - Submission 302;
 - Submission 398 – Pabas Mad Family Properties Pty Ltd;
 - Submission 406 – Samcas Pty Ltd;
 - Submission 407 – Village Vineyard; and
 - Submission 408 – Zacs Pet Supplies and Grooming Salon.

- Agenda and minutes of the Ordinary Meeting of Yarra City Council held on 28 May 2019
- Clauses 15, 15.03-1S, 21.05-1, 21.05-2, 22.02, 43.01 and 71.02-3 of the Yarra Planning Scheme
- Incorporated Document City of Yarra Review of Heritage Overlay Areas 2007, Appendix 8, Revised December 2017, updated May 2018 (Appendix 8)
- City of Yarra Review of Heritage Overlay Areas (Graeme Butler & Associates, 2007), in particular the Statements of Significance for HO317 – Clifton Hill West Precinct, HO327 – North Fitzroy Precinct and HO330 – Queens Parade Precinct.
- Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Department of Environment, Land, Water and Planning, 2017)
- A Practitioner's Guide to Victoria Planning Schemes (Version 1.1, October 2018)
- Planning Practice Note 1: Applying the Heritage Overlay (August 2018) (PPN1)
- Planning Practice Note 59: Role of mandatory provisions in planning schemes (June 2015) (PPN59)
- Planning Practice Note 60: Height and setback controls for activity centres (June 2015) (PPN60, June 2015)
- Planning Practice Note 60: Height and setback controls for activity centres (September 2018) (PPN60)
- Planning Panel Report Yarra Amendment C220 – Johnston Street Built Form Controls
- Planning Panel Report Melbourne Amendment C240 – Bourke Hill
- Planning Panel Report Melbourne Amendment C258 – Heritage Policies Review
- Planning Panel Report Melbourne Amendment C308 – Central Melbourne Urban Design
- Planning Panel Report Moreland Planning Scheme Amendment C134 – Brunswick Activity Centre
- Australia ICOMOS Charter for Places of Cultural Significance, 2013 (The Burra Charter)
- Yarra Housing Strategy, adopted 4 September 2018

1.10 Statement identifying the role the Expert had in preparing or overseeing the exhibited report(s)

- [17] In April 2017, GJM Heritage was engaged by the City of Yarra to undertake a built form heritage analysis and review for the Queens Parade Study Area, which resulted in the report entitled *Queens Parade Built Form Heritage Analysis & Recommendations* (GJM Report) and 11 December 2017. In late 2016 to January 2017, GJM Heritage provided ad hoc advice to Council on the heritage impact of the proposed redevelopment of the K.G. Luke site at 26-58 Queens Parade and provided high-level input on heritage principles into the draft report entitled *Queens Parade, Clifton Hill Built Form Review* prepared by Hansen Partnership and dated February 2017, which informed Interim DDO16 and DDO20 drafted by Council.
- [18] During 2017, site inspections, historical research and physical analysis were undertaken to inform the GJM Report. The Report was also informed by a number of workshops convened by the Council officers as well as built form modelling and urban design advice prepared by Hansen Partnership.

Renae Jarman and I both provided heritage advice that informed the exhibited version of the final (December 2017) version of the Hansen Report.

- [19] GJM Heritage did not have carriage of drafting the built form controls within Interim DDO16 for Precinct 1 and the K. G. Luke site (part Precinct 2) introduced through Yarra C229, or those within Interim DDO20 for Precincts 3, 4 and 5, and the balance of Precinct 2 which was introduced through C241. GJM Heritage did not have direct involvement in the drafting of DDO16 as exhibited, although the GJM Report informed Council's preparation of C231.

1.11 Facts, matters and assumptions upon which statement proceeds

- [20] In the preparation of this report, it is assumed that all material referred to above, including the exhibited amendment documents and 3D modelling, are current and correct in the information they contain at the time of completion of this report.
- [21] Site visits were made to Queens Parade during the preparation of the GJM Report and further site inspections were undertaken in the preparation of this evidence, most recently on 25 July 2019. All photos were taken by Jim Gard'ner or Renae Jarman of GJM Heritage unless otherwise stated.

1.12 Any questions falling outside the expert's expertise

- [22] No questions have been raised that fall outside my expertise. However, I have not had specific regard to the economic and social impacts of this amendment, as the assessment of these impacts falls outside my area of expertise.

1.13 Summary opinion

- [23] In summary, it is my view that:
- Council's 'preferred' version of DDO16 is generally supported from a heritage perspective, subject to amendments summarised below. It will achieve a positive heritage outcome that reflects the revised objectives of the DDO and the findings of recent Planning Panels that have considered Activity Centre DDOs.
 - Some changes to the 'preferred' DDO16 are recommended to achieve an acceptable heritage outcome. These are provided at Table 1 and include:
 - Resolving inconsistencies in the language used to express mandatory and discretionary controls
 - Removing a control to protect the heritage fabric of existing heritage street walls as it duplicates aspects of the heritage provisions of the Yarra Planning Scheme
 - Using 'should' or 'encourage' rather than 'must' within discretionary controls
 - Reducing the maximum height within Precinct 2B by one storey to 14m (4 storeys) and increasing the upper level setback to 8m
 - Amending the requirements for infill development to match the height of adjacent taller heritage building to provide that it must not exceed the height of the adjacent taller heritage building
 - Avoiding differentiating between mandatory and preferred controls based on the significance or grading of part of a streetscape.
 - The general, heritage and precinct specific design requirements articulated in the 'preferred' DDO16 are generally consistent with the recommendations of the GJM Report. However, it is my

view that the requirements included within the table at 2.8 (with the exception of dot point 2) under the heading 'Upper level setbacks' are unnecessary to achieve an acceptable heritage outcome. Additionally, greater clarity is required around the language used to articulate mandatory or discretionary nature of the design requirements.

- The six-storey maximum height limit for Precinct 4 proposed within exhibited DDO16 is generally two storeys too high and is not supported from a heritage perspective. I note that there are a small number of deeper lots that might be able to accommodate a further-recessed fifth level without adversely affecting the primacy of the heritage street wall. However, a mandatory approach to the building height and upper level setback throughout the precinct will provide certainty and consistency in the heritage outcome.
- The submissions made by the community and reviewed as part of this evidence generally achieve a better heritage outcome than that recommended by the GJM Report or the exhibited or 'preferred' versions of DDO16. However, many of these submissions seek outcomes that achieve the retention of the complete form of 'individually significant' graded buildings and/or the total concealment of new (upper level) development. It is my view that neither of these outcomes achieve a reasonable balance between heritage conservation and enabling appropriate development, nor are they consistent with the application of the City of Yarra's existing heritage policy.
- Reference to the *"picturesque shop-row skyline, visible from across Queens Parade"* within the existing Statement of Significance for HO330 is acknowledged as accurately describing the existing condition. It is my view that the parapet forms, visible roof lines and chimneys do not need to be viewed against clear sky to retain the heritage significance of HO330, and that suitably designed and recessive built form can provide a satisfactory backdrop to these elements.

1.14 Declaration

- [24] 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.



Jim Gard'ner, Director - GJM Heritage

2. Exhibited Yarra Planning Scheme Amendment C231

- [25] The area affected by C231 extends along either side of Queens Parade between the intersection of Brunswick Street and Alexandra Parade to the southwest and Coulson Reserve in the north-east. It generally extends one block either side of Queens Parade to Newry and McKean Streets in Fitzroy North, and to Hodgkinson Street in Clifton Hill. The Study Area excludes the former Fitzroy Gasworks site (bounded by Queens Parade, Alexandra Parade, George Street and Smith Street), which is identified as a 'strategic redevelopment site' and is managed through a separate Urban Design Framework. The Study Area is approximately 1.6 kilometres in length and 250 metres in width.

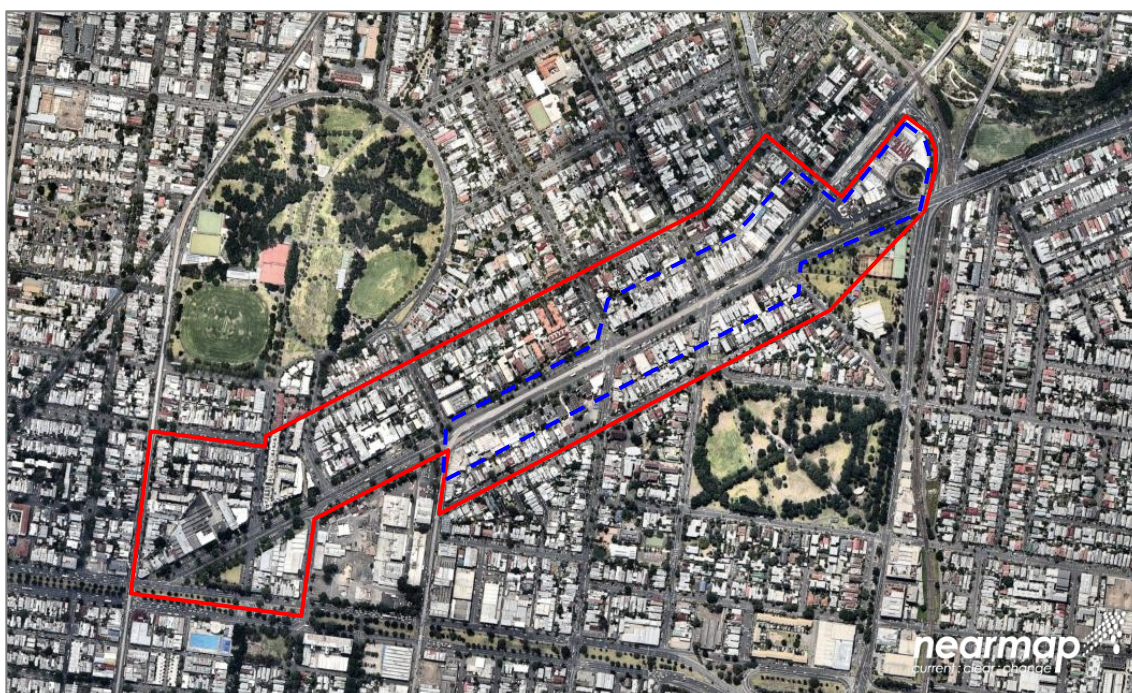


Figure 1. Extent of Study Area shown in red and Neighbourhood Activity Centre dashed in blue (base image ©nearmap, 7 Feb 2017, reproduced from GJM Report)

- [26] The majority of the Study Area is subject to the Heritage Overlay and three places are included on the Victorian Heritage Register (VHR); the former United Kingdom Hotel, 199 Queens Parade, Clifton Hill (H0684), the former Clifton Motors Garage at 205-211 Queens Parade, Clifton Hill (H2380) and the former ANZ Bank, 370 Queens Parade, Fitzroy North (H0892).

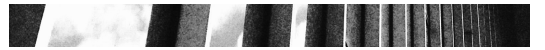


Figure 2. Queens Parade from Alexandra Parade looking north [Precincts 1 and 2]



Figure 3. 472-484 Napier Street [Precinct 2]



Figure 4. 662-652 Smith Street [Precinct 3]



Figure 5. St Johns Church complex [Precinct 3]



Figure 6. East side of Queens Parade [Precinct 4]



Figure 7. West side of Queens Parade looking towards the ANZ Bank [Precinct 4]



Figure 8. Queens Parade looking south from Raines Reserve [Precinct 4]



Figure 9. The former Clifton Motors Garage (left) and the former United Kingdom Hotel (right) [Precinct 5]

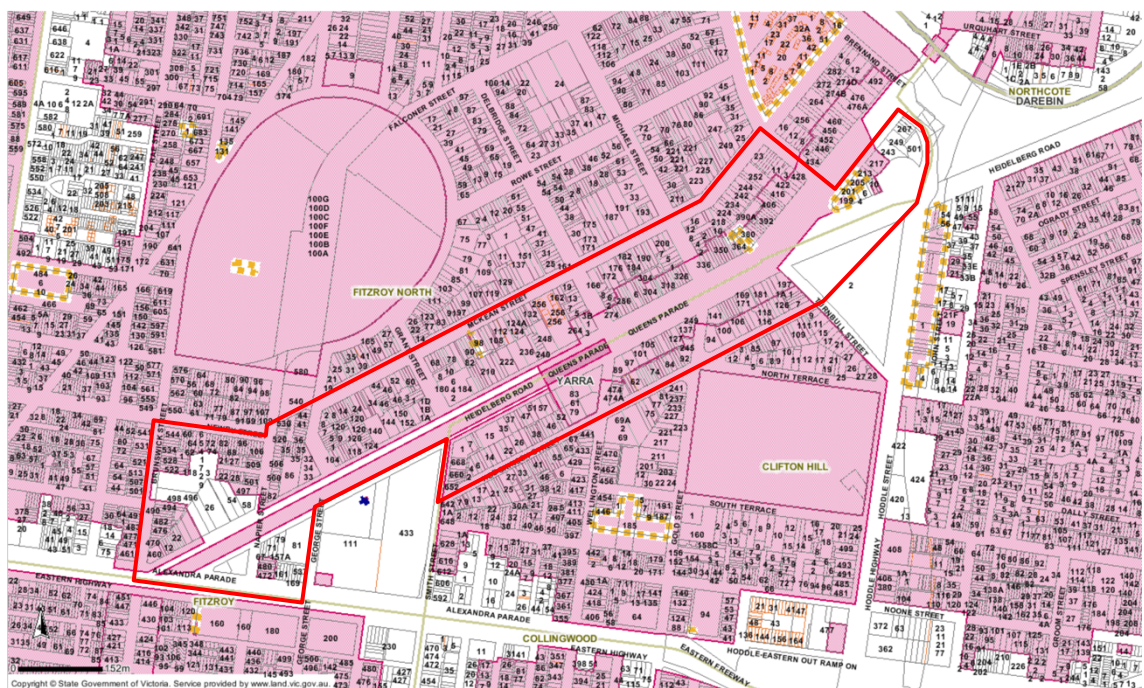


Figure 10. Heritage Overlay shaded in pink, VHR places outlined in yellow, Study Area shown in red (Planning Maps Online, retrieved 29 July 2019)

[27] The purpose of C231 as set out in the explanatory report is:

The scale and density of development approved and currently being proposed along Queens Parade has increased significantly in recent years and Council wants to introduce built form controls to manage change along Queens Parade and guide the scale of future buildings to provide certainty about development outcomes.

The built form controls will be introduced through a Design and Development Overlay DDO16 to be included in the Yarra Planning Scheme. There will be minor changes to the Heritage Overlay including some changes to the heritage grading of some buildings which will be reflected in changes to the incorporated document in the planning scheme (Appendix 8).

Heritage buildings along Queens Parade are an important part of the character of the area and the controls have been designed to protect views to key historic landmarks and protect significant and intact streetscapes. There has been a detailed heritage review of Queens Parade undertaken by GJM Heritage Consultants which is one of the strategic documents that underpins the amendment. The GJM review has resulted in heritage being a significant driver of the planning controls.

[28] In summary, C231 (as exhibited):

- Replaces the interim DDO16 - Queens Parade (West) and DDO20 - Queens Parade with permanent built form controls (DDO16).
- Rezones land at 660-668 Smith Street and 1-41 Queens Parade from Commercial 2 Zone (C2Z) to Commercial 1 Zone (C1Z).
- Applies a site-specific Heritage Overlay (HO496) to 57-87 Queens Parade (the St John's Church complex) to provide for internal heritage controls on the organ.
- Applies a site-specific Heritage Overlay (HO504) to 205-211 Queens Parade (former Clifton Motors Garage).
- Applies the Heritage Overlay (HO498) to 472-484 Napier Street, Fitzroy North.
- Applies Heritage Overlay HO327 to the full extent of the Moderne façade of the former K.G. Luke factory site at 26 Queens Parade.
- Applies Heritage Overlay HO330 to include all of Raines Reserve.
- Deletes 201-217 Queens Parade and 10-12 Dummett Crescent from HO330.
- Deletes 390A Queens Parade and the rear of 304, 312 and 316 Queens Parade from HO327 (North Fitzroy Precinct), includes them in HO330 (Queens Parade Precinct) and gives them a heritage grading.
- Introduces a new reference document into Clause 22.02 of the Yarra Planning Scheme called *Yarra High Streets: Statements of Significance* by GJM Heritage October 2017 (updated November 2017).
- Amends the mapping and/or entry in Appendix 8 of the following properties:
 - Remove 496-500 Brunswick Street from HO327
 - Add 472-484 Napier Street to HO498 and grade individually significant
 - 7-11 Queens Parade from contributory to not contributory
 - Add rear 26-52 Queens Parade to HO327 and grade not contributory
 - Remove the St John's Church complex at 61-87 Queens Parade from HO330 and include in a new, site specific Heritage Overlay HO496
 - Grade 88 Queens Parade and 32, 33 and 34 Jamieson Street not contributory
 - Grade 137 Queen Street not contributory
 - Remove 201-217 Queens Parade and 10-12 Dummett Crescent from HO330
 - Add 205-211 Queens Parade to HO504 and grade individually significant
 - Add rear of 304 Queens Parade and grade contributory

Add rear of 312 Queens Parade and grade contributory

Add rear of 316 Queens Parade and grade not contributory

Add 350 Queens Parade to HO330 and grade contributory

Remove 378-380 Queens Parade from HO327 and add 380 Queens Parade (including land at the rear) to HO330 and grade contributory

Add 390A Queens Parade (two storey building in north-east corner) to HO330 and grade contributory

Add 390A Queens Parade (all other buildings except two storey building in north-east corner) and grade not contributory

Regrade 662 Smith Street (former Fire Station) from contributory to individually significant.

- [29] DDO16 contains precinct design requirements for each precinct within the Queens Parade Study Area, including built form controls relating to building height, street wall height and front setback, upper level setback, and side and rear boundary setbacks. DDO16 also contains general design objectives and general design requirements for all precincts, which are to be read in conjunction with the precinct design requirements. In addition, DDO16 contains heritage design requirements which apply to land affected by a Heritage Overlay or immediately adjacent to a heritage building.

3. Council's 'Preferred' DDO

[30] On 28 May 2019, Council adopted a 'preferred' version of DDO16 in response to submissions received from the public during exhibition of C231. The 'preferred' DDO16 strengthened the language in relation to heritage including adding the following 'Design objectives' at Clause 1.0:

- *To protect the integrity of historical streetscapes and clusters of heritage buildings of a similar scale and materiality by limiting new development.*
- *To ensure new development respects the wide, open boulevard character of Queens Parade where historic trees remain the dominant feature.*

[31] Clause 2.8 provides the following additional 'Heritage design requirements' in relation to upper level setbacks:

Upper level setbacks in excess of a minimum mandatory upper level setback must be provided where:

- *It would facilitate the retention of the roof form of the principal building facing Queens Parade*
- *A building has a prominent roof form clearly visible from the public realm*
- *The relevant Statement of Significance identifies the principal roof or elements to the rear of the building as significant elements of the building to be retained*
- *It would maintain the perception of the three-dimensional form and depth of the building*
- *A smaller setback would detract from the character of the streetscape when viewed directly or obliquely along Queens Parade.*

[32] Character statements have been introduced to each precinct within the Study Area which emphasise the heritage qualities of each. For instance, the preferred character statement for 'Precinct 4 – Activity Centre Precinct' reads:

Buildings and works in Precinct 4 must help deliver the following preferred precinct character:

- *The unique and vibrant Victorian era shopping strip is reinforced as the retail and activity focus of Queens Parade*
- *The distinctive heritage qualities of this Victorian era shopping strip are protected*
- *New development is designed to complement the scale of heritage buildings in this precinct*
- *The consistent street wall height of Queens Parade is continued*
- *Sympathetic upper level infill will reinforce the prevailing street wall and subdivision grain of significant streetscapes and transition down to residential abutments at the rear*
- *The pedestrian experience of this part of Queens Parade as a vibrant retail centre and hub for the local community is enhanced through the design of building frontages and the public realm*
- *The profile of upper level redevelopment acknowledges the importance of significant heritage corner forms and retain key views to local landmarks (former ANZ Building).*

The associated 'Design requirements' for Precinct 4 state that development must:

- *Respect the consistent scale, grain and architectural quality of the highly intact heritage streetscapes and the heritage buildings in the precinct*

- *Retain the visual prominence of heritage buildings, their street wall and heritage streetscapes when viewed from the opposite side of Queens Parade*
- *Facilitate the appropriate low rise infill of the sites located to the rear of commercial properties fronting Queens Parade*
- *Ensure that any upper level development is set back from the heritage façade, is visually recessive and does not detract from the heritage streetscape*
- *Retain the visual prominence of the return facades of buildings that front Queens Parade, Delbridge, Gold and Michael Streets*
- *Ensure that facades at ground floor incorporate verandahs which are consistent with the form and scale of adjoining verandahs*
- *Retain chimneys visible from the public realm*
- *Enhance amenity and safety of laneways that provide pedestrian and vehicular access to buildings*
- *Respect the low scale, fine grain subdivision pattern of existing development on Hodgkinson Street and McKean Street through an appropriate transition in building height and setbacks*
- *Ensure that where sunlight to the secluded private open space of an existing dwelling is reduced at least 75 percent or 40 square metres with a minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours sunlight between 9am and 3pm on 22 September*

If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of the standard the amount of sunlight should not be further reduced.

[33] Further to the above, at their meeting on 28 May 2019 Council also resolved to, amongst other things:

- Endorse the recommended changes to the amendment including the Preferred Version of DDO16 subject to further changes that included, amongst other matters to revise the fifth requirement under 'Design requirements' under 2.9.4 Precinct 4 – Activity Centre Precinct to read:

Retain the visual prominence and heritage fabric of the return facades of heritage buildings that front Queens Parade, Delbridge, Gold, Michael and Wellington Streets.

[34] Read as a whole, the post-exhibition changes made by Council to DDO16 in response to submissions demonstrate a shift to an outcome that is weighted towards heritage protection, whilst continuing to seek an outcome that balances heritage conservation and development consistent with other planning considerations.

4. The GJM Report and Changes in Policy Settings

4.1 The GJM Report

- [35] At the direction of Council at project inception, the GJM Report was prepared having specific regard to the tension between the planning policy objectives of Activity Centres to increase the intensity of development and the requirements to retain heritage places. The GJM Report describes this on p12:

Activity Centres that are also subject to extensive Heritage Overlay controls (like Queens Parade) are examples of where the tension between competing planning objectives must be resolved in a balanced way. Queens Parade has excellent public transport connections, vibrant retail, commercial and hospitality uses and a high demand for housing choice. It also contains a highly intact, turn of the century commercial precinct containing heritage fabric that is highly valued by the local community. A balance between the demand for more intensive development with the protection of the heritage buildings and precincts is therefore required.

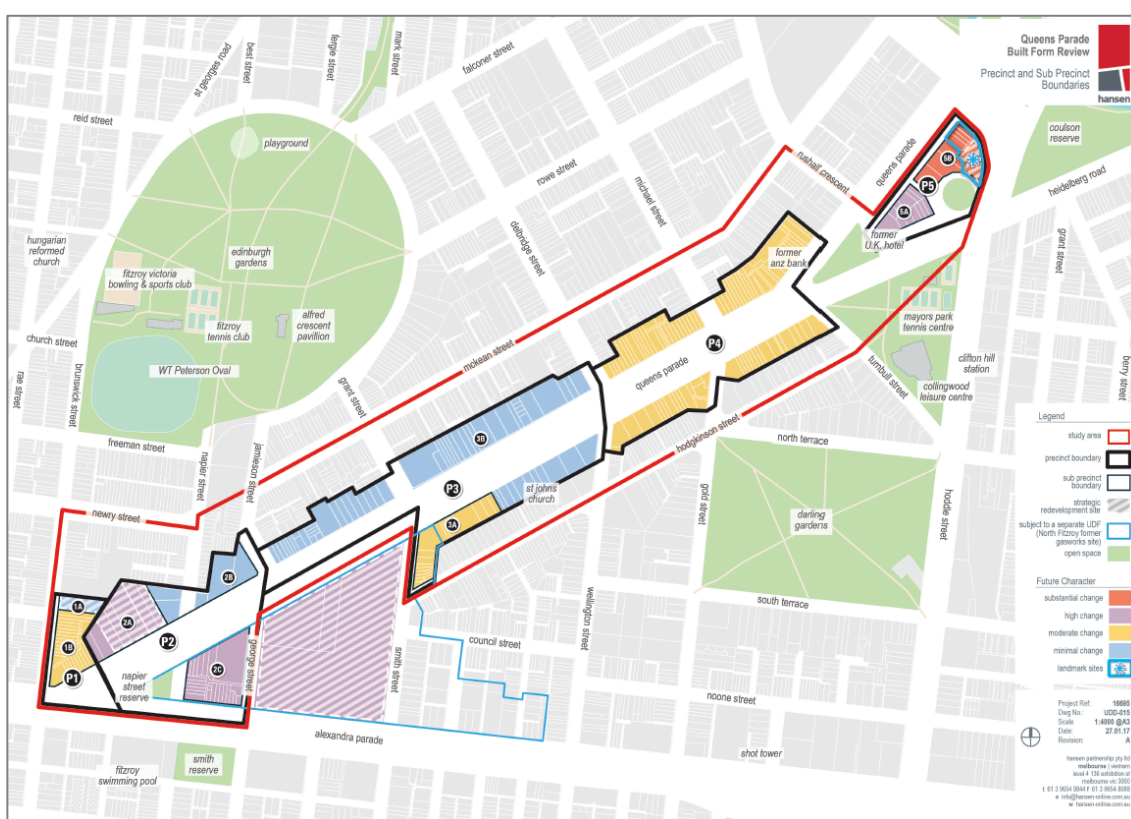


Figure 11. Study Area Precincts (© Hansen Partnership, 2017)

- [36] A number of planning policies and provisions, including the Yarra Housing Strategy, Clause 71.02-3 of the Victorian Planning Provisions (VPPs) (at Clause 10 prior to the introduction of VC148) and *Plan Melbourne 2017-2050*¹ supported this approach.

¹ Plan Melbourne 2017-2050 is listed as a relevant policy document at Clause 11.01-15 – Settlement and is listed as a Background Document at Table 72.08 for Clauses 10 to 19 of the Yarra Planning Scheme.

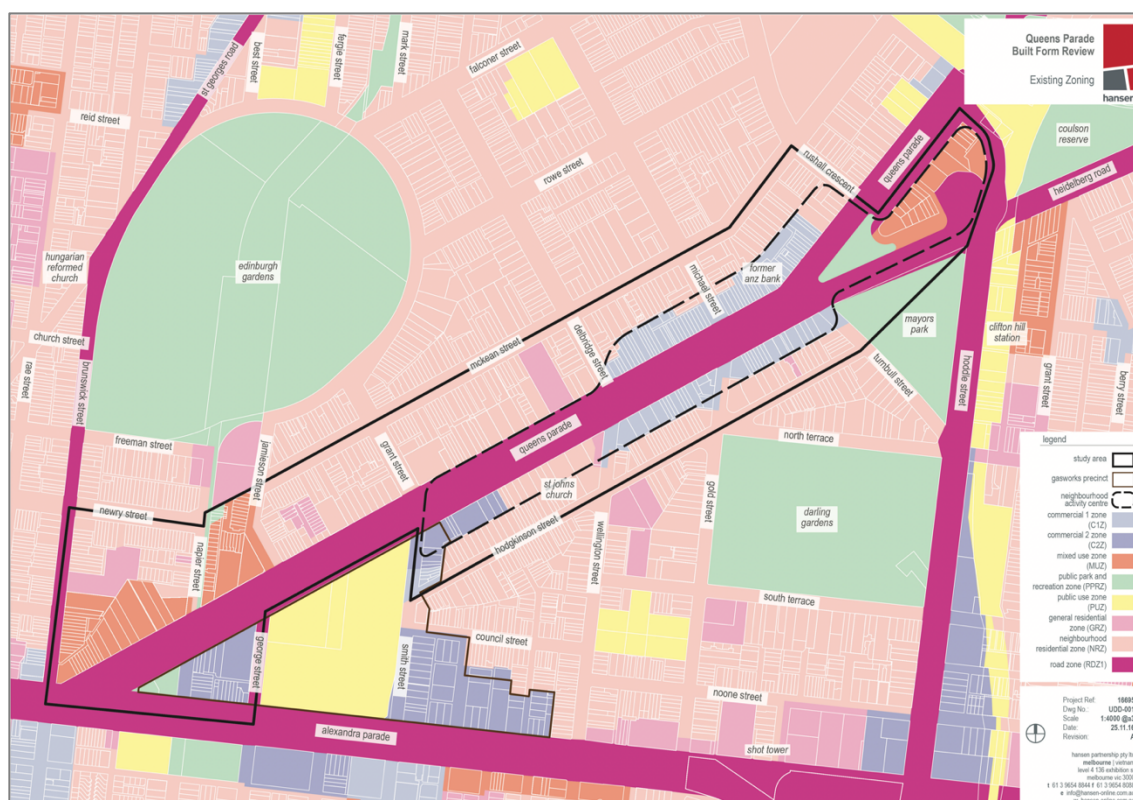


Figure 12. Existing zones covering the Study Area (outlined in black) and surrounds (© Hansen Partnership, 2017)

- [37] The Yarra Housing Strategy variously identifies parts of Queens Parade as areas of ‘Minimal’, ‘Incremental’ ‘Moderate’ and ‘High’ change areas. The commercial part of Queens Parade within Precinct 4 (see Figure 4 above) is zoned Commercial 1 Zone (C1Z), is a designated Neighbourhood Activity Centre (NAC) and is identified as a ‘Moderate’ change area in the Housing Strategy. It also has sections of highly intact heritage buildings and streetscapes.
- [38] Clause 71.02-3 of the VPP addresses ‘integrated decision making’, and states:
- Society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social wellbeing affected by land use and development.*
- Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy consideration.*
- [39] In addition to the above policy context, the GJM Report was also prepared having regard to recent Planning Panel recommendations relating to DDO controls for Activity Centres. At that time, Moreland Planning Scheme Amendment C134 was the most relevant of these given the similarities in historic built form and land uses.

4.2 Changes in policy setting since report completion

[40] Since the completion of the GJM Report in December 2017 there have been a number of key matters that have impacted on the policy settings in which the project was undertaken. These are:

- The Planning Panel Reports into Yarra Amendment C220 (C220) and Melbourne Planning Scheme Amendment C258 (C258);
- The submissions made during and after the exhibition of C231;
- Additional, more detailed modelling prepared by Ethos Urban;
- The amendments made to PPN60;
- The revised objectives for DDO16 as articulated in the position adopted by Council at its meeting on 28 May 2019.

4.2.1 Planning Panel Reports into C220 and C258

[41] The Panel Report into C220 provides guidance of relevance to C231. In particular, the Panel stated:

In urban design terms, the 6 metre setback will retain the 'human scale' of Johnston Street, secure the distinction between the street wall and upper levels and will reduce the potential for overshadowing and adverse wind conditions.

...

The Panel does not agree that less significant sections [of Johnston Street] warrant a different treatment. Less significant areas equally deserve to exhibit the overall urban design outcome: a strong street wall with a distinct setback to the mid level form. (p.66)

[42] Page 56 of the Panel Report includes the following objective which is relevant to Queens Parade:

To preserve the valued heritage character of the streetscape and ensure that the predominantly two storey (heritage scale) street-wall remains the visually prominent built form of Johnston Street west of the railway line bridge, ensuring that upper levels are visually recessive.

[43] Further, the Panel Report into C258 recommends the abandoning of streetscape significance gradings currently included in the City of Melbourne's Heritage Places Inventory (p.40).

[44] In my view, the findings of these Panels remove the need to justify mandatory controls on the basis of the level of significance or 'significant streetscapes' as articulated within the GJM report, and therefore all areas within HO330 (whether graded or not) may be appropriate for mandatory street wall height and setback controls if they are necessary to protect the heritage values of the precinct as a whole.

[45] In addition, it is my view that the same policy objectives and built form controls should apply for places subject to the Heritage Overlay irrespective of their grading in Appendix 8.

4.2.2 Submissions

[46] I have been provided with 408 submissions made either during or after the exhibition of C231. Of these, the overwhelming majority consider that the controls proposed within the exhibited version of DDO16 will not achieve an acceptable heritage outcome. My responses to a number of submissions is provided in section 6 of this statement of evidence.

4.2.3 Modelling

- [47] The modelling prepared by Ethos Urban tested the impact of the exhibited and the ‘preferred’ versions of DDO16 on a more detailed model of the existing form and appearance of the Study Area than had previously been made available to GJM. This modelling with accurate representation of the heritage fabric has enabled a more thorough understanding of the potential impact of development to be gained.

4.2.4 Planning Practice Note 60

- [48] The GJM and Hansen reports were written in the context of the June 2015 version of PPN60: Height and setback controls for activity centre. In September 2018 the Department of Environment, Land, Water and Planning published an updated version of this document following the completion of the pilot project *Better Height Controls in Activity Centres*². Of relevance to this matter, PPN60 now provides an additional justification for the use of mandatory controls based on ‘comprehensive strategic work’, and reads:

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.*

In relation to exceptional circumstances PPN60 states:

Exceptional circumstances may be identified for individual locations or specific and confined precincts, and might include:

- *significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values.*

- [49] The amended version of PPN60 reflects a broader shift within the application of the Victoria Planning Provisions in favour of the use of mandatory controls. The Hansen Built Form Review, the GJM Heritage Analysis & Recommendations, the Yarra Housing Strategy and the more recent Ethos Urban modelling collectively provide a comprehensive strategic basis for height and setback controls within the Study Area. The GJM Report, previous heritage studies, inclusion of individual heritage places and precincts on the VHR and the Heritage Overlay demonstrate the significance of the unique heritage values of the various precincts.

4.2.5 Revised DDO objectives

- [50] As noted in Section 3 above, Council has now revised its expectations for DDO16 and is seeking a response that prioritises the management of heritage fabric in parts of Queens Parade. This is an appropriate use of the DDO, as discussed in Melbourne Planning Scheme Amendment C240 (Bourke Hill), which found that ‘it is not incorrect or inappropriate for the proposed Design and Development

² Refer to the Panel Report to Yarra C220 chapter 1.2 for further discussion on the pilot project and the amendment to PPN60.

Overlay (Schedule 62) to incorporate objectives which recognise and manage the heritage values of the area’.

- [51] It is within this context of Council’s desire to provide increased weight to heritage conservation in the balancing of broader planning considerations that my evidence is provided.

5. Review of DDO16 ('Preferred' Version)

- [52] A review of Council's 'preferred' version of DDO16 has been undertaken in two parts. Firstly, the planning controls in the form of mandatory and preferred requirements are reviewed in Table 1 below. My opinion in relation to the design objectives, general, heritage and precinct specific requirements is provided in section 5.2 below.

5.1 Review of the controls in the 'preferred' version of DDO16

- [53] The following table contains my review of DDO16 as per the Council resolution of 28 May 2019.

Table 1: Opinion on the 'Preferred' Version of DDO16

| | 'Preferred' Version of DDO16 | Opinion |
|-------------------|--|---|
| Precinct 1 | Maximum building height 460 Brunswick Street and Lot 1 on Title Plan TP806921 - 9 metres (mandatory) Elsewhere – 9 metres (preferred) | It is unclear why some properties have mandatory controls applied while others have preferred. The GJM Report recommended rezoning the residential properties in this Precinct to NRZ or GRZ, which would apply the guidance on new rear development in Figures 2 and 3 of Clause 22.02-5.7.1 – this remains my view. If rezoning of the residential buildings is not to be progressed, it is my view that a similar mandatory control, which equates to the default height limit within the NRZ or GRZ, should apply. |
| | Maximum street wall height 460 Brunswick Street - match the parapet height existing heritage building (mandatory) Elsewhere - retain existing street wall (mandatory) Match the parapet or eaves height of the taller adjacent heritage building (preferred) | 460 Brunswick Street - In my view there is no need for a mandatory control for new development to match the parapet height of 460 Brunswick Street, however it must not exceed this height. A lower height than the existing parapet height of 460 Brunswick Street would likely be acceptable. Elsewhere - The 'retain existing' recommendation within the GJM Report was in reference to the retention of existing heritage fabric – this should not be included within DDO16 as demolition is dealt with through Clause 43.01 and Council's policy at Clause 22.02. The discretionary street wall height control is supported elsewhere. |
| | Maximum street setback 460 Brunswick Street – match the setback of the existing heritage building (mandatory) Elsewhere - Built to boundary at ground level (preferred) | 460 Brunswick Street - A mandatory ground floor setback to 460 Brunswick Street is <u>not</u> supported. This should be a discretionary control as it may be appropriate to provide new built form that is recessed to provide a distinction between historic and new fabric. Elsewhere - The control is <u>not</u> supported. I remain of the view that the preferred control |

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| | | should be to match the lesser setback of the adjacent heritage building. |
| | Minimum upper level setback 460 Brunswick Street - 6 metres (mandatory) Elsewhere – 6 metres (preferred) | In light of C220 it is my view that the same mandatory control should apply consistently and not vary by heritage grading. |
| | Minimum setbacks from side and rear boundary ResCode B17 (preferred) | The discretionary application of ResCode B17 is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm. |
| Precinct 2A | Maximum building height Maximum of 31m (mandatory) | This height is consistent with the outcome sought in the GJM Report. |
| | Maximum street wall height Retain height of existing heritage façade (mandatory) Maximum of 10 metres where no heritage façade exists (mandatory) Street wall of development adjoining the individually significant building must not exceed the parapet height of the taller adjoining heritage building (discretionary) | The retention of the existing heritage facade should not be included within DDO16 as demolition is dealt with through Clause 43.01 and Council's policy at Clause 22.02. The application of, or need for, the 10m maximum height is unclear in relation to the discretionary control that follows. The discretionary matching of the existing heritage façade is supported and is consistent with the GJM Report, however, the use of 'must' in a discretionary control is queried. |
| | Minimum & maximum setback to Queens Parade 0 metres to a maximum of 10 metres (preferred) | Supported |
| | Minimum upper level setback Above existing heritage façade: <ul style="list-style-type: none"> 8 metre setback from 10 metres to 16 metres 10 metre setback from 16 metres (preferred) Above new street wall (where no existing heritage façade): <ul style="list-style-type: none"> 5 metre setback from 10 metres to 16 metres 8 metres setback from 16 metres (preferred) | The lower level setbacks are consistent with the GJM Report and are supported. The increased setbacks above 16m are consistent with Clause 22.02-5.7.2 and are supported. |

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| | Minimum setback(s) from rear boundaries -north and west adjacent to NRZ and GRZ ResCode B17 from rear boundary of adjoining properties to 10 metres (preferred) Setback within 45-degree angle measured from 10-25 metres (preferred) | <p>The discretionary application of ResCode B17 is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm.</p> <p>The 45-degree angle guidance is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm.</p> |
| | Minimum setbacks from side boundary – east adjacent to NRZ 0 metre setback to match party wall of existing adjoining development to 10 metres (preferred) Setback within 45-degree angle measured from 10-25 metres (preferred) | <p>No heritage impacts of party wall control.</p> <p>The 45-degree angle guidance is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm.</p> |
| | Minimum setbacks from side boundary east adjacent to MUZ | <p>No heritage issues – no comment</p> |
| | Minimum setbacks from side and rear boundaries west and north-west adjacent to MUZ | <p>No heritage issues – no comment</p> |
| Precinct 2B (formerly 2D) | Maximum building height 18 metres (preferred) | <p>The GJM Report recommended rezoning the residential properties in this Precinct to NRZ or GRZ, which would apply the guidance on new rear development in Figures 2 and 3 of Clause 22.02-5.7.1 – this remains my view.</p> <p>The GJM Report asserts that the application of the sightline test at Figure 3 of Clause 22.02 is likely to be achieved with a maximum 18m height and a 6m setback. However, this is not supported by the more detailed modelling provided by Ethos Urban – refer figure 13.</p> <p>If this sub-precinct is not rezoned to NRZ or GRZ a lower maximum height should be applied to achieve a similar level of concealment to that sought by Clause 22.02-5.7.1 e.g. 14m (4 storeys)</p> |
| | Maximum street wall height Napier Street - Retain existing parapet height (mandatory) | <p>Consistent with GJM report. Supported.</p> |
| | Minimum upper level setback 6 metres (mandatory) | <p>The Ethos Urban modelling demonstrates that the 6m setback does not retain front chimneys of these properties; therefore a deeper setback</p> |

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| | | is required and a mandatory 8m minimum is supported. |
| | Minimum rear setback 4.5m from centreline of laneway for height of the entire building | Not a heritage matter – no comment. |
| Precinct 2C | Maximum building height 28 metres (preferred) | Ethos Urban modelling suggests that this will achieve an acceptable outcome at the rear of Elizabeth Terrace – supported. |
| | Maximum street wall height Napier Street – 10 metres (mandatory) Queens Parade, George Street and Alexandra Parade - 18 metres (preferred) | A 10m mandatory street wall height on Napier Street will achieve an outcome consistent with the GJM Report – supported. Queens Parade, George Street and Alexandra Parade not heritage interfaces – no comment |
| | Minimum upper level setback Napier Street – 6 metres (mandatory) Elsewhere – 5 metres (preferred) | Consistent with GJM Report – supported. A mandatory control will provide more certainty than a discretionary control. |
| | Minimum side and rear setbacks Rear setback: 4.5m from centreline of laneway for height of the entire building Side setbacks: For upper levels, where a habitable room window is proposed: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 3 metres from the common boundary or the centre line of the laneway (where the laneway is less than 6 metres wide) (preferred) | Ethos Urban modelling suggests that this will help achieve an acceptable heritage outcome at the rear of Elizabeth Terrace – supported. |
| Precinct 3A | Maximum building height 18 metres (mandatory) | The GJM Report recommends a height of approximately 18m, 5 storeys. The Ethos Urban modelling demonstrates that development that exceeds this limit is likely to have a unacceptable impact on the prominence of the tower and spire of St Johns Church which is a significant physical feature (and heritage place) within the Queens Parade streetscape. A mandatory control is therefore supported as it meets the criteria within PPN59 and PPN60. |

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| | Maximum street wall height 15-33 & 41 Queens Parade - 11 metres 35-37 Queens Parade - retain height of existing heritage façade Development adjoining a heritage building must match the parapet height of an adjacent taller heritage building. 14 metres elsewhere (all mandatory) | <p>The GJM Report recommends an 11m street wall height where heritage interface and is supported.</p> <p>It is recommended that the requirement “Development adjoining a heritage building must match the parapet height of an adjacent taller heritage building” be amended to say “...must not exceed the parapet height of an adjacent taller heritage building”.</p> <p>The retention of the existing heritage facade should not be included within DDO16 as demolition is dealt with through Clause 43.01 and Council’s policy at Clause 22.02.</p> |
| | Minimum upper level setback 6 metres at 15-41 Queens Parade (mandatory) 6 metres elsewhere (preferred) | <p>The GJM Report recommends 6m upper level setbacks - supported.</p> <p>In light of C220 it is my view that the same mandatory control should apply consistently and not vary by heritage grading and the mandatory control is therefore supported.</p> |
| | Minimum street wall setback 0 metres – built to front boundary at ground level (preferred) | <p>Consistent with GJM Report - supported</p> |
| | Minimum rear setback Where there is a laneway: <ul style="list-style-type: none"> Modified ResCode Standard B17 (See Figure 1) Where there is no laneway: <ul style="list-style-type: none"> Modified ResCode Standard B17. (See Figure 2) (preferred) | <p>The discretionary application of ResCode B17 (as modified) is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm.</p> |
| | Minimum side setback If side boundary adjoins NRZ, ResCode Standard B17 0 metres elsewhere (preferred) | <p>The discretionary application of ResCode B17 is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm.</p> |
| Precinct 3B (formerly part of 3A) | Maximum building height 14 metres (mandatory) | <p>The GJM Report recommends approximately 18m (5 storey) maximum height. However, a 14m (4 storey) mandatory height limit will provide an improved heritage outcome that retains the primacy of the heritage buildings to Smith Street. The Ethos Urban modelling demonstrates that development on these 30m deep lots that exceeds this limit is likely to have a unacceptable impact on the prominence and visual setting of the heritage street wall to</p> |

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| | | Smith Street. A mandatory control is therefore supported as it meets the criteria within PPN59 and PPN60. |
| | Maximum street wall height Retain existing building height (mandatory) | Consistent with GJM Report - supported |
| | Minimum upper level setback 6 metres (mandatory) | The GJM Report recommends 6m upper level setbacks - supported. In light of C220 it is my view that the same mandatory control should apply consistently and not vary by heritage grading and the mandatory control is therefore supported. |
| | Minimum street wall setback 0 metres – built to front boundary at ground level (preferred) | Consistent with GJM Report - supported |
| | Minimum rear setback Where there is a laneway: <ul style="list-style-type: none"> Modified ResCode Standard B17 (See Figure 1) Where there is no laneway: <ul style="list-style-type: none"> Modified ResCode Standard B17. (See Figure 2) (preferred) | The discretionary application of ResCode B17 (as modified) is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm. |
| | Minimum side setback If side boundary adjoins NRZ, ResCode Standard B17 0 metres elsewhere (preferred) | The discretionary application of ResCode B17 is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm. |
| Precinct 4 | Maximum building height 14 metres (mandatory) | Supported. A four-storey height limit will provide a better heritage outcome than either the 18m (5 storey) maximum recommended in the GJM Report or the 21.5m (6 storey) included in the exhibited version of DDO16. The Ethos Urban modelling demonstrates that development on the majority of lots that exceeds this limit is likely to have an unacceptable impact on the prominence and visual setting of the heritage street wall to Queens Parade. A mandatory control is therefore supported as it meets the criteria within PPN59 and PPN60 Noting this, there are a small number of deeper sites (> approx.40m) within Precinct 4 where an additional roof-top or penthouse level (above four floors) set further back from the main |

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| | | form of the new development in accordance with the guidance in Clause 22.02-5.7.2 might be accommodated with little additional visual impact, which is consistent with the recommendation in the GJM Report. However, a mandatory approach to the building height and upper level setback throughout the precinct will provide certainty and consistency in the heritage outcome. |
| | Maximum and minimum street wall height on Queens Parade Retain height of existing heritage façade Where no heritage façade exists, development must be: <ul style="list-style-type: none"> • Minimum - 8 metres • Maximum - 11 metres or where there is an adjacent heritage building, the parapet height of that building if taller than 11 metres (mandatory) | The retention of the existing heritage facade should not be included within DDO16 as demolition is dealt with through Clause 43.01 and Council's policy at Clause 22.02. The GJM Report recommended: <i>Match the parapet height of the adjacent taller heritage building (mandatory)</i> <i>Where there is no adjoining heritage fabric 8m minimum and 11m maximum (mandatory)</i> As drafted, DDO16 allows for any height between 8m and 11m without reference to adjacent heritage buildings. |
| | Maximum and minimum street wall height in side streets Retain height of existing heritage façade Where no heritage façade exists, development must be: <ul style="list-style-type: none"> • Minimum - 8 metres • Maximum - 11 metres or where there is an adjacent heritage building, the parapet height of that building if taller than 11 metres (preferred) | The retention of the existing heritage facade should not be included within DDO16 as demolition is dealt with through Clause 43.01 and Council's policy at Clause 22.02. The GJM Report recommended: <i>Match the parapet height of the adjacent taller heritage building (mandatory)</i> <i>Where there is no adjoining heritage fabric 8m minimum and 11m maximum (mandatory)</i> As drafted, DDO16 allows for any height between 8m and 11m without reference to adjacent heritage buildings. |
| | Minimum upper level setback to Queens Parade 8 metres (mandatory) | The proposed 8m setback in the preferred DDO16 achieves a better heritage outcome than the 6m and 8m upper level setbacks recommended in the GJM Report. The Ethos Urban modelling demonstrates that development set back less than 8m from the street wall will reduce the legibility of the three-dimensional form of retained buildings. Lesser distances are likely have an unacceptable impact on the visual prominence of key heritage landmarks such as the VHR-listed former ANZ Bank. The highly intact and consistent form of the shop / residence buildings within Queens Parade is recognised as a significant heritage |

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| | | place through HO330. The application of the heritage provisions within the Yarra Planning Scheme are in the absence of a mandatory upper level control is unlikely to protect the unique heritage values of the precinct. A mandatory control is therefore supported as it meets the criteria within PPN59 and PPN60. |
| | Minimum upper level setback in side streets 6 metres (preferred) | Consistent with the GJM Report - supported |
| | Street wall setback 0 metres – built to front boundary at ground level (mandatory) | Consistent with the GJM Report - supported |
| | Rear setback (NRZ interface) Where there is a laneway: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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) (preferred) | The discretionary application of ResCode B17 (as modified) is likely to moderate the impact of new development on the setting of neighbouring heritage properties when they are viewed from the public realm. |
| | Rear setback (C1Z interface) 3 metres above 11 metres (preferred) | No heritage interface / impacts |
| Precinct 5A³ | Maximum building height 11 metres (mandatory) | This should only apply to the land within the lot at 199 Queens Parade that is outside the extent of the VHR. The GJM Report recommended a 18m height limit. An 11m height limit would provide a better heritage outcome that would not be higher than the United Kingdom Hotel. A |

³ Precinct 5A in exhibited DDO16 and the Queens Parade study only included the former United Kingdom Hotel and associated land included on the VHR H0684. The preferred DDO16 includes the part of the site outside the extent of the VHR occupied by the McDonald's car park and drive through – this version of Precinct 5A is supported.

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| | | mandatory control is warranted to protect the immediate context and visual prominence of the VHR-listed former United Kingdom Hotel. |
| | Maximum street wall height Match existing parapet or eaves height | This should only apply to the land within the lot at 199 Queens Parade that is outside the extent of the VHR. Supported but this should relate to the eaves height only as the eaves and parapet height of this building differ. |
| | Minimum upper level setback 6 metres (discretionary) | Supported |
| Precinct 5B⁴ | Maximum building height 201-215 Queens Parade 18 metres (mandatory) 28 metres elsewhere (preferred) | This should only apply to the land at 201 and 213-215 Queens Parade and along Dummett Crescent i.e. that is outside the extent of the VHR H2380 – Former Clifton Motors Garage. |
| | Maximum street wall height 201-215 Queens Parade - Match parapet height of the former Clifton Motor Garage and eaves line of the former UK Hotel (mandatory) 4-10 Dummett Crescent - 11 metres (preferred) | This should only apply to the land at 201 and 213-215 Queens Parade and along Dummett Crescent i.e. that is outside the extent of the VHR H2380 – Former Clifton Motors Garage. Rather than requiring that new development at 201 or 213-215 Queens Parade “... match the parapet height of former Clifton Motor Garage and eaves line of former UK Hotel” it is recommended that the height should “...be no higher than the parapet height of former Clifton Motor Garage or eaves line the former UK Hotel”. A lower height than the existing parapet height of the former Clifton Motor Garage and eaves line of the former UK Hotel is likely be acceptable. |
| | Street wall setback 0 metres – built to the boundary (mandatory) | Consistent with the GJM Report - supported |
| | Minimum upper level setback 201-215 Queens Parade – 8 metres (mandatory) Elsewhere - 6 metres (preferred) | The 6m recommended setback in the GJM report should be applied consistently within Precincts 5A and 5B noting that the former Clifton Motors Garage is now included on the VHR. |
| | Minimum side and rear setbacks For upper levels, where a habitable room window is proposed: | Amenity issues with no heritage impacts. |

⁴ Note: The former Clifton Motors Garage was not included on the VHR at the time of the preparation of the GJM report.

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| | <ul style="list-style-type: none"> 4.5 metres from the common boundary or from the centre line of the laneway; <p>For upper levels, where a non-habitable room window or commercial window is proposed:</p> <ul style="list-style-type: none"> 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) <p>(preferred)</p> | |
| Precinct 5C | No heritage fabric or sensitive interfaces | The GJM Report does not recommend any controls. |

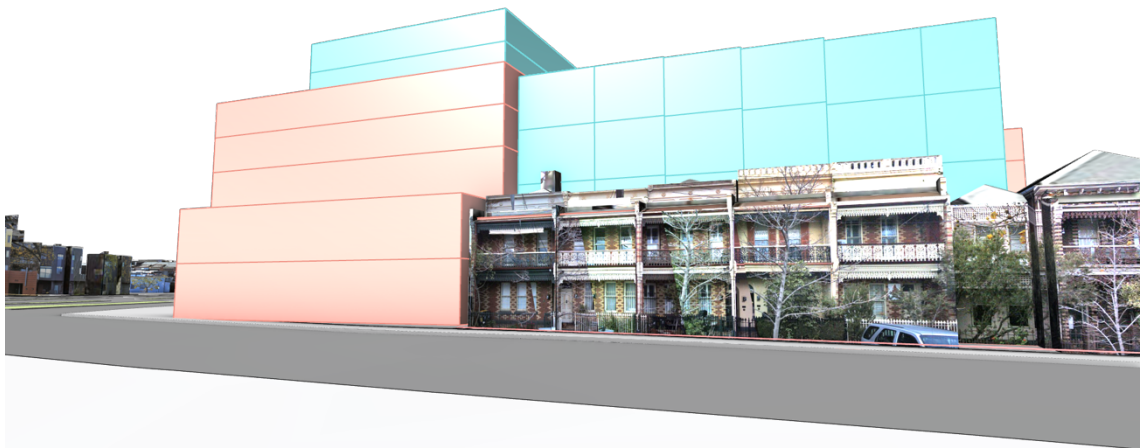


Figure 13. 3D study ‘preferred’ version DDO16 - Precinct 2B from the western side of Napier Street (©Ethos Urban, July 2019)

5.2 Review of the objectives and requirements in the ‘preferred’ version of DDO16

- [54] I have undertaken a review of the design objectives, the preferred character statements and the general, heritage, and precinct specific design requirements. These generally conform with the intent of the existing heritage policy at Clause 22.02 and are consistent with the recommendations of the GJM Report, particularly section 12.6 (Additional guidance) of that report. As discussed in chapter 4.2.5 above, Melbourne C240 which found that it was appropriate to “...incorporate objectives which recognise and manage the heritage values of the area”. These objectives can, in my view, include those that augment the decision guidelines provided at Clause 43.01-8, the strategies within Clause 15.03-15 or the policy provided within Clause 22.02 where the existing provisions do not provide satisfactory guidance to inform the redevelopment of heritage places such as those within the Queens Parade Study Area. Care, should however be taken to avoid duplicating or conflicting with those existing provisions.

- [55] Design requirements are provided where ‘design guidelines’ might otherwise be applied. These design requirements appear – in a plain English reading - to be generally written as mandatory controls and extensive use of the modal verb ‘must’ rather than ‘should’ suggests this is the intent. This sets up a higher standard than is sought within the decision guidelines at Clause 43.01-8, many of the strategies within Clause 15.03-1S and is inconsistent with the language within Clause 22.02, which generally uses the term ‘encourage’ within its policies. Two design requirements (those for Precinct 3A and 4) specifically assert mandatory status by adding the sentence “A permit cannot be granted to vary this requirement”. It is my view that the design requirements should be drafted as discretionary design guidelines to provide greater flexibility of design response which, with the proposed mandatory controls provided in the Tables to DDO16, should achieve satisfactory heritage outcomes.
- [56] It is my view that the majority of the design requirements within Section 2.8 under the heading ‘Upper level setbacks’ are not required. While I support the second dot point, the first and third dot points appear to seek the retention of heritage fabric, which in my view is not a matter for this DDO as these considerations are already addressed at Clauses 15.03-1S, 22.02 and 43.01 of the Yarra Planning Scheme⁵. The fourth and fifth dot points appear to duplicate the upper level setback requirements established within the precinct tables themselves and are unnecessary. The Ethos Urban modelling was intended to identify the necessary upper level setbacks required to achieve an acceptable heritage outcome and the use of these subjective, but mandatory, design requirements is likely to be confusing.
- [57] Reference is made within the ‘preferred’ version of DDO16 to ‘high quality development’ and ‘design excellence’ and this is commended. The requirement for high quality design is consistent with similar requirements at Clause 15 and Clause 21.05-2 of the Yarra Planning Scheme. I note that the Panel into Melbourne Amendment C308 recommended that development abutting significant architecture (heritage or contemporary) should demonstrate ‘design excellence’, and it is my view that design excellence should be an objective within DDO18.
- [58] Further I have the following specific comments on the text within DDO16:
- Section 1.0 – dot point 4: The extent of HO93 – Queens Parade Street Trees does not cover the entire width of the carriageway and only extends between Delbridge Street to the north and Alexandra Parade to the south; it also partially overlaps with HO330 at the northern end. HO93 will need to be remapped to ensure that the heritage values of the street tree planting are suitably recognised and protected.
 - Section 2.1 – Definitions: The definition for ‘Heritage building’ should be extended to include places on the VHR.
 - Section 2.3 – Street wall requirements: This section needs redrafting to clarify if it applies to infill development or all development adjacent to a heritage place etc.
 - Section 2.9.2 – Precinct 2, Development in Precincts 2B and 2C, dot point 4: This dot point seeks to provide an appropriate transition in scale from the heritage buildings along Napier Street and Alexandra Parade. While the GJM Report recommended including the highly intact Napier Street terraced houses on the Heritage Overlay the more heavily altered houses at 159-173 Alexandra Parade were considered to be too low in integrity to warrant inclusion in the overlay. Although dating from the later part of the nineteenth and early

⁵ The guidance within A Practitioner’s Guide to Victorian Planning Schemes (Version 1.1, October 2018) states that a planning provision should not duplicate other planning scheme provisions (4.2.3 Rule 3, p. 24).

twentieth centuries, the Alexandra Parade houses are not considered to meet the threshold of 'locally significant' and therefore should not be identified as 'heritage buildings' within DDO16.



Figure 14. Recently constructed development at 137 Queens Parade (Precinct 4) viewed from the pedestrian refuge in the centre of Queens Parade looking south. Note: this development is 4 storeys in height (13m excluding plant screening) with a 6m upper level setback from the Queens Parade boundary.

6. Review of Selected Submissions

- [59] I have been instructed to provide a specific response to the following submissions. Only the matters directly relating to heritage considerations or the recommendations of the GJM Report are specifically addressed.
- [60] A common matter addressed within a number of submissions is the desire to protect the silhouette of parapets and roof forms of existing buildings within Precinct 4 against a clear sky backdrop. This characteristic is described in the Statement of Significance for HO330 under 'Why is it significant?', which reads:
- *For the picturesque shop-row skyline, visible from across Queens Parade, with its gabled or hipped roof forms and many original chimneys.*

I acknowledge that the consistent parapet line, which is defined by architectural features such as pediments, urns and balustrade with chimneys behind, is a distinctive element of the shop / residence form of Precinct 4. While more expansive views of these features are provided along Queens Parade than comparable, but narrower, commercial high streets such as Brunswick, Smith, Swan or Victoria Streets or Bridge Road, these elements and the silhouette they create is common to the commercial high street typology. It is my opinion, that the retention of the clear sky silhouette of the parapet line of the shop rows is not critical to retaining the significance of HO330, which will be maintained if new upper level built form provides a suitably recessive backdrop.



Figure 15. 3D study 'preferred' version DDO16 - Precinct 4 from the eastern side of the intersection of Queens Parade and Wellington Street (©Ethos Urban, July 2019)



Figure 16. 3D study 'preferred' version DDO16 - Precinct 4 from the eastern side of the intersection of Queens Parade and Delbridge Street (©Ethos Urban, July 2019)



Figure 17. 3D study 'preferred' version DDO16 – 276-312 Queens Parade (within Precinct 4) from the opposite (southern) side of the Queens Parade (©Ethos Urban, July 2019)

6.1 Submission 11

- [61] This submission addresses the interface between commercial and residential zoned land, laneway safety, vegetation and landscaping, height and setback controls and transportation. The submitter asserts that a sightline test from adjoining residential areas should be applied to new development within Precinct 4 and that the exhibited version of DDO16 conflicts with the following strategies at Clause 21.05 of the Municipal Strategic Statement (MSS):

Strategy 14.3 – Protect the heritage skyline of heritage properties.

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.

- [62] The use of ResCode B17 or a modified version of this standard as proposed within the 'preferred' version of DDO16 will help ensure that adjoining development on commercial zoned land does not visually dominate the low scale Heritage Overlay residential areas when viewed from the public realm. While the silhouette of the parapets of the commercial buildings within Queens Parade and

the roof forms of the houses along Hodgkinson and McKean Streets are currently seen against a clear sky background, it is my view that this does not preclude new development that is visible above the form of the heritage building. The varied roof forms of the residential buildings within the NRZ and the fairly uniform parapets of the shop/residences within Queens Parade activity centre will remain legible and their heritage values maintained if the new development is adequately setback, appropriately scaled and massed and designed to create a recessive backdrop.

6.2 Submission 90

- [63] This submission is in relation to the electricity substation located on the northern side of Alexandra Parade near the intersection with Queens Parade. This is a small single-storey bi-chromatic brick building with a corrugated steel roof. It is not included within the Schedule to the Heritage Overlay. The submitter asserts that the electricity substation should be individually significant and is comparable to other substations assessed in the Canterbury Heritage Gap Study (2017, Boroondara) as being of individual significance.
- [64] The substation was identified through the fieldwork undertaken to inform the GJM Report. Historical research and comparative analysis identified that similar and comparable examples of electricity substations within the City of Yarra are, at most, graded contributory within a heritage precinct. GJM Heritage did not consider that this building met any of the heritage criteria within PPN1 at a local level and therefore did not warrant inclusion on the Heritage Overlay as a heritage place in its own right. As the building does not exist within a cohesive heritage precinct, the recommendation not to include this building within the Heritage Overlay is considered reasonable and appropriate.



Figure 18. Electrical substation on Alexandra Parade

6.3 Submission 95

- [65] The submitter asserts that the controls within DDO16, as exhibited, are "... unacceptable and will destroy the heritage of the area". In relation to Precinct 4, the submitter articulates a number of built form controls they consider necessary to protect its heritage values. While these recommended controls would minimise change within the precinct they require that new development behind retained heritage buildings or infill façades be concealed when viewed from either side of Queens Parade and Michael, McKean, Delbridge, Wellington, Gold, Hodgkinson and Turnbull Streets and Rushall Crescent.
- [66] It is my view that this level of concealment is in excess of that reasonably sought through the application of the Heritage Overlay at Clause 43.01, State Policy at Clause 15.03-1S or Council's Heritage Policy at Clause 22.02.

- [67] The submitter makes submissions in relation to a number of individual properties. These are addressed in turn:

324 Queens Parade

324 Queens Parade is a late nineteenth building that has undergone extensive alteration to its Queens Parade façade. It is currently graded 'Not-contributory' within Appendix 8. The submitter notes documentary evidence that this shop/residence forms part of the strip constructed for Mr Jeremiah Ryan between 1883 and 1886, which is supported by the roof form which largely matches its neighbours at numbers 308-322. The alterations made to number 324 have, in my view, so diminished its intactness when viewed from Queens Parade that it no longer makes a contribution to HO330. It is my view that the 'Not-contributory' grading is not an error, but instead reflects the lack of integrity of this building and that no change is required to Appendix 8.

308-324 Queens Parade

Although constructed for Mr Ryan over a comparably short period of time the row of shops at 308-324 Queens Parade do not read as a group of shops of the same design and are not considered to warrant individual significance, either as individual places or as a grouping. With the exception of number 314 (which is graded 'Individually Significant' within Appendix 8), each shop is comparable to other contributory shop fronts along Queens Parade.

In comparison, the individually significant Campi's Buildings on the opposite side of Queens Parade are a highly intact and cohesive row of shops designed by architects Twentyman & Askew.

It is my view that the current gradings of 308-324 Queens Parade is appropriate.

245 Gold Street

This double-fronted Boom Style house is residential in form, character, historical use and current function and was recommended to be rezoned to NRZ in the GJM Report. The submission supports this position and it remains my view that the heritage values of 245 Gold Street would be most appropriately managed through its inclusion in a residential zone which would apply a mandatory height limit and encourage the application of the sightline tests within Clause 22.02-5.7.1.

330A Queens Parade

The submitter notes that this building, which is currently occupied by Baker's Delight, is not identified in the Hansen Report as having a 'heritage corner'. While this property is located at the intersection of Michael Street and Queens Parade it has an end-of-terrace form that does not have a return façade that turns the corner as, for instance, 336 Queens Parade does on the opposite side of Michael Street.

390A Queens Parade

This building is located behind 380-398 Queen Street and is made up of a group of brick industrial and outbuildings constructed over the past 150 years. The property is included within the extent of HO327 but does not have a corresponding reference within Appendix 8. The GJM Report recommends that this property be removed from the extent of HO327 and be included within HO330 to recognise the industrial character of this group of buildings. Of the structures that occupy 390A Queens Parade it is only the former stables at the northeast corner of the site that is recommended to be identified as 'Contributory'. While the submission asserts that the bakery operated by Mr James Willmott until c.1932 is intact, it is my view that it lacks the integrity necessary to warrant the grading of the whole site within Appendix 8.

6.4 Submission 147

- [68] This submission raises a number of issues in relation to the proposed built form controls and notes that, in its opinion, they do not implement the precinct guidelines provided in the built form analysis. In particular, the submitter asserts that:
- The six storey heights within Precinct 4 (and higher in Precinct 5) will “...completely overwhelm the present heritage shopfronts.”
 - That upper level setbacks need to be greater than 6m “...to ensure shopfronts are not overwhelmed and that from a pedestrians view point the skyline is not filled with a tall building”
 - The parapets and rooflines must remain outlined against the sky
 - The proposed heights to laneway and residential area interfaces are too great
 - The proposed controls will adversely impact on the prominent buildings including the former United Kingdom Hotel (VHR H0684), former Clifton Motors Garage (VHR H2380) and the former ANZ Bank (VHR H0892), all of which are included on the VHR.
- [69] The GJM Report recommends building heights of up to five storeys in height. Having considered the Ethos Urban modelling and the ‘preferred’ version of DDO16, it is my view that a four storey height limit is necessary on the majority of sites within Precinct 4 to provide a satisfactory heritage outcome. Having said that, and consistent with the GJM Report, I note that there are a smaller number of deep sites on the western side of Queens Parade where a further penthouse or roof top level may be able to be largely concealed from public realm views if it was set further back in accordance with the guidance at Clause 22.02-5.7.2 of the Yarra Planning Scheme. In relation to upper level setbacks, the GJM Report generally identified a 6m setback for upper level development as being the minimum necessary to protect the three-dimensional form of the heritage streetscape. This increased to 8m to protect the prominence of, and views to, the former ANZ Bank at 370 Queens Parade. The 8m setback modelled by Ethos Urban demonstrates an improved heritage outcome in terms of retaining the visual prominence of the heritage street wall and views to the ANZ Bank, and this increased setback is supported.
- [70] The ‘preferred’ version of DDO16 has been amended in relation to the heights and setbacks in respect of the three places included on the VHR, which will help retain their visual prominence and distinctive architectural forms. Likewise, laneway and residential interfaces within DDO16 either use the ResCode B17 standard or a modified version of this which should achieve an acceptable transition to protect the heritage values of HO317 and HO327 when viewed from the public realm, that is from the northern side of McKean Street and the southern side of Hodgkinson Street.
- [71] The Statement of Significance for HO330 was amended to comply with the form required by PPN1 (July 2015 at the time of finalising the GJM Report), to articulate its significance against specific heritage criteria, and to provide better guidance to owners and Council on the elements that contribute to the significance of the precinct. The previous Statement of Significance prepared by Graeme Butler & Associates as part of the *City of Yarra Review of Heritage Overlay Areas 2007* included a dot point under ‘Why Is It Significant?’ that reads:
- *For the picturesque shop-row skyline, visible from across Queens Parade, with its gabled or hipped roof forms and many original chimneys*

While a feature of the Queens Parade commercial high street parapet skyline is applicable to the majority of nineteenth century commercial high streets within the City of Yarra and is not, in my view, unique to Queens Parade. While Yarra’s heritage policy encourages upper level development

to be recessive and to not visually dominate heritage places, it does not require that parapets and rooflines must remain outlined against clear sky, and it is my view that the heritage values of Precinct 4 will be retained if new upper level built form provides a suitably recessive backdrop.

6.5 Submission 160 –Collingwood Historical Society, Inc.

[72] The Collingwood Historical Society, Inc. (CHS) has provided a detailed submission that addresses a number of heritage and built form matters including:

- The streetscape and skyline
- Development capacity
- Use of a 1:1 sightline test
- The grading of 15-33 Queens Parade
- The proposed redevelopment of the former Clifton Motor Garage.

These are responded to in turn.

6.5.1 The streetscape and skyline

[73] The CHS has reproduced sections from the 2007 Statement of Significance that discuss the 'exceptional vistas to fine commercial rows' and 'the picturesque shop-row skyline, visible from across Queens Parade' and notes the references in Yarra's MSS to 'Protect the heritage skyline of heritage precincts' (Strategy 14.3) within Clause 21.05-1.

[74] As noted response to Submission 147 above, it is my opinion that the reference to the retention of the skyline should not preclude appropriately scaled and recessively detailed development behind the retained parapets, chimneys and roof forms of the heritage streetscape. For the profile of the buildings to Queens Parade (or any other precinct within the City of Yarra) to retain a clear skyline it would require all rear alterations or additions to be fully concealed from public realm views (particularly when viewed from the opposite side of the street), which is inconsistent with the specific requirements of the Heritage Policy at Clause 22.02-5.7.2. This clause – appropriately in my view – states that new built form in relation to industrial, commercial and retail places should:

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

[75] In addition, the general policy within Clause 22.02-5.7.1 should apply (where it does not conflict with that of Clause 22.02-5.7.2) including to encourage the design of new development, alterations and additions to:

- *Be visually recessive and not dominate the heritage place*
- *Be distinguishable from the original fabric*
- *Not obscure views of principle façades*

etc.

6.5.2 Development Capacity

- [76] CHS asserts that the maximum height and minimum upper level setback controls have been progressively amended to allow a greater capacity for development over the course of the preparation of the exhibited amendment. As discussed in paragraphs 17-19, GJM provided only high-level ad hoc advice in January 2017 which informed Council's drafting of Interim DDO16 and DDO20. Following more detailed work throughout 2017, including reviewing modelling prepared by Hansen Partnership, GJM Heritage provided advice in relation to Precinct 4 that development up to a maximum height of 5 storeys could be accommodated on deeper lots and upper level setbacks that varied between 6m and 8m from the Queens Parade street frontage were required to protect the primacy of the heritage street wall. CHS notes that the exhibited DDO16 allowed for greater maximum heights (6 storeys) and a minimum upper level setback of 6m. While, I remain of the view that a 6m setback in parts of Precinct 4 represents the minimum acceptable to achieve a satisfactory heritage outcome, I do not support the 6 storey height limit within exhibited DDO16, which I consider to generally be two storeys too high in the majority of cases.
- [77] CHS's discussion on development capacity identifies the potential conflict between planning objectives to increase housing density and commercial uses within a activity centre. The need to strike an appropriate balance between enabling new development in an inner suburb well connected to public transport and protecting the heritage values of the place was identified as a key driver for the GJM Report. I consider that the Neighbourhood Activity Centre status of Precincts 3 and 4 is appropriately reflected in the GJM Report, along with an understanding of the heritage values of HO330.

6.5.3 Sightline test

- [78] The adoption of a sightline test was informed by a number of matters including:
- The use of similar tests within Clause 22.02 of the Yarra Planning Scheme and other local heritage policies
 - The use of a 1/3:2/3 ratio of new built form visible above heritage façades within the Swan Street Structure Plan (David Lock Associates, January 2014, p.19)
 - Schedule 18 to the Design and Development Overlay (DDO18) in the Moreland Planning Scheme which applied a 1/4:3/4 ratio of new built form visible above heritage façade within the Brunswick Activity Centre – Sydney Road.
- [79] For the same scale of rear development, the amount of visibility above (or concealment behind) an existing heritage building will vary depending on a number of factors including topography, ground level setbacks and street width. The same scale of development viewed across a wider street will inherently be more visible than when viewed across a narrower street. The 1:1 sightline was adopted to recognise that the Queens Parade's carriageway – at 60m wide – is approximately three times the width of similar commercial high streets in Yarra and other inner suburbs, meaning that any upper level addition will have a much higher degree of visibility. The 1:1 ratio of new built form to historic street wall was considered to represent the absolute maximum for new development, beyond which the heritage street wall would be visually dominated considering the width of the Queens Parade boulevard and the modelling undertaken by Hansen Partnership.
- [80] Since the preparation of the GJM Report, Planning Panels have considered C220 – Johnston Street Built Form Controls, which proposed sightline tests for determining the height of new upper level development. The Panel Report identified that ratio-based sight line tests were potentially

inequitable and difficult to apply⁶. It recommended instead that a combination of upper level setbacks, height controls and a 45° upper level setback be used to inform the scale of new built form. The approach recommended by the Panel for C220 can provide clearer setback and height-based controls and I support the application of clearer controls that provide an improved heritage outcome.

6.5.4 Grading of 15-33 Queens Parade

[81] 15-33 Queens Parade is a single industrial building that is located within HO317 – Clifton Hill Western Precinct and identified in Appendix 8 as ‘Not-contributory’. The CHS asserts that this property had previously been listed as being of contributory significance by the City of Yarra. They also note that the Northern Suburbs Factory Study (Gary Vines and Matthew Churchward, 1992) assessed the building as being of state significance. This building, which was until recently occupied by a hardware store, has undergone extensive change since the photograph from the Northern Suburbs Factory Study was taken (reproduced on page 8 of the CHS submission). These changes include:

- Complete re-cladding of the façade
- Amendment to most – if not all – original openings
- The introduction of new openings
- Addition of gable-end like parapet elements.

The building now demonstrates a very low level of intactness, notwithstanding the retention of some earlier roof trusses. Its early factory origins are not legible or evident from any public realm view, and it is my view that the current ‘not-contributory’ grading is appropriate. The roof structure noted in the CHS submission would not enjoy protection under the existing Heritage Overlay as internal alteration controls do not apply to HO317. The asserted state significance of the property has not been tested, but given the lack of integrity of extant fabric I consider it highly unlikely that such a nomination to the VHR would succeed.



Figure 19. 15-33 Queen Street [Precinct 3]

⁶ *The issue the Panel has with the use of a street wall to upper level visibility ratio of upper level visibility to street wall is that the quantum of upper level development that is possible is highly dependent on the height of the street wall. In Johnston Street where a lower scale heritage street wall may be retained the approach is unlikely to deliver an equitable outcome. (page 70)*

6.5.5 Clifton Motor Garage

- [82] The CHS assets that the proposed 8 storey height limit for 205-211 is inappropriate. I note that the former Clifton Motors Garage has recently been included on the VHR and therefore decisions relating to the management of heritage values for this place is now primarily a matter for the Executive Director, Heritage Victoria.

6.6 Submission 199

- [83] This submission asserts that the redevelopment within Precinct 3 should have a mandatory maximum street wall of 11m, not 14m as included within the exhibited DDO16. The Built Form Review considered a range of potential street wall conditions within Precinct 3 including two, three and four storey options. The impact on the key views of the tower and spire of St John's Church were also considered in the establishment of accepted maximum street wall heights (refer Section 8.4, p. 44-45 of the GJM Report). I consider that a four storey street wall height within this precinct is the maximum that will achieve an acceptable heritage outcome, and that this height should be moderated down to a three storey (11m) scale at 15-33 and 41 Queens Parade to enable a transition to retained heritage buildings.
- [84] The submitters also suggest that the single storey commercial building at 7 Queens Parade and the two shop/residences at 9 and 11 Queens Parade should retain their current 'contributory' grading within HO317. The GJM Report recommends that these buildings be regraded to 'Not-contributory'. The rationale for this is provided at Appendix G of that report, which in summary concludes:
- That the 1930s building at 7 Queens Parade does not readily accord with the identified key period of significance (Victorian to Edwardian-era), nor does it represent a "well preserved" example of an Inter-War building.
 - The pair of simple two storey late-Victorian shop/residences at 9 and 11 Queens Parade, while reflecting the key development period and architectural form of HO317, are isolated from any meaningful context and therefore their contribution to the precinct is very marginal and they do not read as part of a heritage precinct.
- [85] Having, reviewed these properties further I remain of the view that their re-grading from 'contributory' to 'Not-contributory' is appropriate. 7 Queens Parade is heavily altered with the ground floor shopfront having been blocked in, leaving the parapet as the only legible heritage fabric. While 9 and 11 Queens Parade would - if they were located within a cohesive heritage context – warrant a 'contributory' grading, it is my view that these two buildings are devoid of a cohesive context by dint of the large adjacent ungraded buildings and they do not have a strong visual connection to any other part of HO317 or HO330.

6.7 Submission 209

- [86] This submission asserts that development within Precincts 1, 2, 3 and 4 should not exceed three storeys in height to retain views to heritage buildings, the character of the low-rise stopping strip and transition to residential areas including McKean and Hodgkinson Streets. In particular the submission expresses concerns that the impact of new development on the scale and landmark qualities of the former ANZ Bank building at 370 Queens Parade.
- [87] It is my view that imposing a three storey height limit is not necessary to achieve an good heritage outcome for upper level development within Precinct 4.
- [88] The modelling undertaken of potential development envelopes on the western side of Queens Parade within Precinct 4 specifically considered the views and vistas towards the former ANZ Bank

from the intersections of Queens Parade and Gold Street, and Queens Parade and Turnbull Street. This resulted in an increased – 8m – upper level setback being recommended in the GJM Report for development at 364 Queens Parade to protect views of the former ANZ Bank including its upper floor, roof form and chimneys. The ‘preferred’ version of DDO16 provides for an 8m upper level setback and a 14m (4 storey) maximum building height to the western side of Queens Parade, which will retain key views to the former ANZ Bank building.

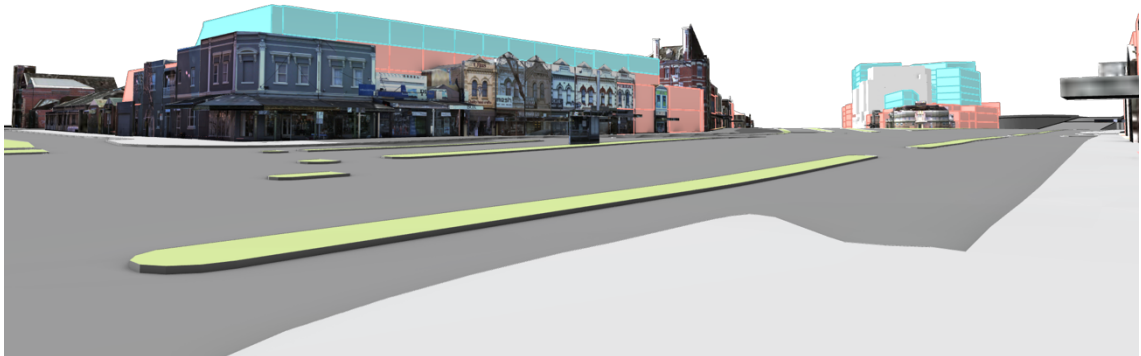


Figure 20. 3D study ‘preferred’ version DDO16 - Precinct 4 looking north towards the former ANZ Bank and the former United Kingdom Hotel and spire from the eastern side of the intersection of Queens Parade and Gold Street (©Ethos Urban, July 2019)

6.8 Submission 222 – National Trust of Australia (Victoria)

- [89] The National Trust submission objects to the introduction of DDO16 as exhibited and contends that the 6m upper level setback will result in facadism. Their submission states that the implementation of DDO16 would result in the loss of the ‘picturesque shop-row skyline’ identified in the Statement of Significance for HO330. The National Trust expresses concern at the impact on views towards the former ANZ Bank and that the proposed 6 storey maximum height will result in development that is out of scale with the historic streetscape. It asserts that the application of DDO16 as exhibited would discourage the preservation, maintenance and restoration of heritage places and would not comply with the provisions of Clause 22.02-5.1 in relation to demolition. The National Trust seeks that amendment C231 is either abandoned or significantly revised.
- [90] In relation to the assertion that a 6m setback will result in facadism, I note that the proposed setbacks will ensure that a legible three-dimensional form will be retained behind the street frontage, which will specifically avoid facadism. It is my view that facadism can be described as retaining only the principal façade (or facades) of a building while constructing a completely new building behind. The retention of a 6m (or 8m) depth behind the front of the building will in the majority of cases avoid ‘facadism’ as it is commonly defined and retain the legibility of the façade as being part of a three-dimensional form.
- [91] Other matters raised in the National Trust submissions are addressed in my response to Submissions 147 and 209.



Figure 21. 3D study ‘preferred’ version DDO16 - Precinct 4 looking south from Raines Reserve
(©Ethos Urban, July 2019)

6.9 Submission 227 – Fitzroy Residents’ Association

- [92] The Fitzroy Residents’ Association seek that the new building heights be “in keeping” with the existing heights and rooflines in the Queens Parade shopping precinct and refer to the height limits in Lygon Street, Carlton – insofar as they are subject to Schedule 48 of the Design and Development Overlay of the Melbourne Planning Scheme (Melbourne DDO48). Melbourne DDO48 covers the area of land generally bounded by Elgin Street to the north, Rathdowne Street to the east, Grattan Street to the south and Cardigan Street to the west. As well as covering part of the Lygon Street MAC, DDO48 applies to GRZ land (GRZ1) with smaller pockets of Public Use (PUZ3) and Mixed Use (MUZ) zoned land. Of particular relevance to the consideration of C231 is that Melbourne DDO48 does not have any specific heritage objectives; instead its design objectives seek:
- *To maintain the predominant low scale nature of the area.*
 - *To ensure development supports high levels of pedestrian amenity related to access to sunlight and sky views and a pedestrian friendly scale.*
- [93] I do however note that Table 1 of Melbourne DDO48 includes the following objectives:
- *New development respects and is consistent with the built form especially low scale of the existing older building stock in the street.*
 - *Development that creates an environment with high pedestrian amenity along Lygon Street and Faraday Street.*
- [94] These objectives, while moderating the height of new built form and effectively limiting development to no taller than the existing two-storey street wall height along this part of Lygon Street, primarily address amenity issues, noting that “existing older building” stock could be read to infer buildings that contribute to the heritage values of Melbourne HO1 – Carlton Precinct.
- [95] Schedule 6 to the Design and Development Overlay of the Melbourne Planning Scheme (Melbourne DDO6) does include a number of height controls of between 8m and 16m and design objectives that specifically reference heritage. The DDO was introduced to implement the World Heritage Environs Area Strategy Plan: Royal Exhibition Building and Carlton Gardens (Department of Planning and Community Development, 2009), the intent of which is to protect the setting and urban context of the Royal Exhibition Building and Carlton Gardens World Heritage Site.

- [96] The Fitzroy Residents' Association assert that mandatory height controls should be applied, and this is a position I agree with in part as noted in my commentary on the proposed controls within the 'preferred' version of DDO16 in Table 1.
- [97] The other matters that the Fitzroy Residents' Association address in relation to laneways are primarily amenity and traffic based and I make no comment on these matters. My views on the issue of the appropriate weight given to heritage conservation and new development are discussed in paragraphs 34-39.

6.10 Submission 258

- [98] This submission seeks the retention of the Victorian streetscape on Queens Parade and considers that the exhibited version of DDO16 may result in "...the destruction of the Heritage streetscape with development above the shops/businesses". It asserts that the common approach of setting new development back behind the retained heritage streetscape is rarely successful and "mostly looks dreadful". The submitter recommends an alternative approach that would increase the height of existing Victorian-era buildings with an additional level in the same style or replacing later buildings or infill sites with replicas of Victorian buildings. The introduction of new infill in Edinburgh is also noted by the submitter, who also encourages Council to fund the reinstatement of cast iron verandahs.
- [99] The 'preferred' version of DDO16 will limit the impact of new built form on the heritage streetscape by increasing minimum upper level setbacks and limiting new building heights within Precinct 4 to 4 storeys.
- [100] The submitter's recommendation to allow for an additional storey to a Victorian building in the same style or encouraging new development to replicate the facades of heritage buildings is contrary to heritage practice in Australia as informed by the Australia ICOMOS Burra Charter that encourages the use of recessive but contemporary architectural design⁷. Such an approach would not conform to the policy at Clause 22.02 for new developments, alterations and additions to "be distinguishable from the original historic fabric" and is likely to lead to a lack of clarity as to the extent of genuine heritage fabric and latter historicist-style copies or additions.

6.11 Submissions 259 and 259B – Royal Historical Society of Victoria Inc.

- [101] The Royal Historical Society of Victoria Inc. (RHSV) made their original submission (#259) on 30 November 2018 and provided an amended submission (#259B) on 15 July 2019. I have considered these submissions together noting that Submission 259 considered the exhibited version of DDO16 while Submission 259B was prepared following Council's adoption of the 'preferred' version of DDO16. While no longer calling for C231 to be abandoned the RHSV seek increased upper level setbacks of 10m between Delbridge Street in the south and 370 Queens Parade, 12m from 370 Queens Parade and 410 Queens Parade and the retention of the principal roof form (or 10m, whichever is greater) on the southern side of Queens Parade within Precinct 4. The RHSV asserts that the proposed 6m upper level setback within Precinct 4 will result in facadism and "destroy the skyline identified in the statement of significance". While commending the City of Yarra's property-by-property assessment of properties within the Heritage Overlay (as incorporated in the Yarra

⁷ Article 22.1 New work such as additions or other changes to the *place* may be acceptable where it respects and does not distort or obscure the *cultural significance* of the place, or detract from its *interpretation* and appreciation.

Article 22.2 New work should be readily identifiable as such, but must respect and have minimal impact on the *cultural significance* of the *place*. (The Australia ICOMOS Charter for Places of Cultural Significance, 2013).

Planning Scheme as Appendix 8), the RHSV asserts that the provisions of DDO16 are inconsistent with the local policy at Clause 22.02 and the practice articulated in the draft *Heritage Victoria model guidelines for local governments*⁸. The RHSV question the controls within DDO16 and denotes the sightline test that informed the GJM Report as being arbitrary. The RHSV submission concludes by requesting that the City of Yarra halt planning scheme amendment processes to implement built form controls on other historic strip centres, asserting that C231 “is ill-founded and will destroy everything that is good about the Queens Parade shopping strip”.

- [102] The matter of the impact of upper level development is discussed above in relation to Submissions 157 and 164. As noted above, the GJM Report generally identified a 6m setback for upper level development as being the minimum necessary to protect the primacy of the three-dimensional form of the heritage streetscape to avoid facadism. The 6m upper level setback identified within the GJM Report was not arbitrary as suggested but was informed by 3D modelling prepared by Hansen Partnership, an understanding of DDO controls developed for similar centres and an analysis of recent and proposed developments within the activity centre. More detailed modelling undertaken by Ethos Urban demonstrates, in my view, that an 8m upper level setback achieves an improved heritage outcome that provides for more recessive new development and preferences the retention of the visual prominence of the heritage streetscape.
- [103] The RHSV suggest that it is a fundamental heritage principle that individually significant buildings should be retained as a whole and not be subject to the type of redevelopment envisaged by DDO16. The retention of heritage fabric is a matter appropriately addressed through the application of the heritage provisions of the Yarra Planning Scheme (i.e. Clauses 15.03-1S, 22.02 and 43.01), not through a DDO. Notwithstanding the above, I note that the suggestion that individually significant graded buildings should be retained in full is contrary to Clauses 15.03-1S, 22.02 and 43.01, which envisage some level of redevelopment to these places.

6.12 Submission 259A – Chair, Heritage Committee, RHSV

- [104] Submission 259A is made by the Chair of the Heritage Committee, RHSV and includes the original submission made by that organisation with an accompanying introduction that reiterates the inherent tension between development within Melbourne’s historic shopping strips and the heritage values attributed to these. The Chair asserts that 6 storey development set back 6m from the street wall will result in “virtual facadism” and if implemented, C231 “will destroy everything that is good about the Queens Parade shopping strip”. I disagree that a 6m setback will necessarily result in ‘virtual facadism’ in all cases, however, the 8m setback proposed within the ‘preferred’ version of DDO16 will materially improve the visual separation of new built from the retained heritage frontage and will allow for the three dimensional form of the heritage building to be more readily appreciated. In my view the 8m setback reasonably addresses this concern raised by the RHSV.

6.13 Submission 262

- [105] Submission 262 asserts that the built form controls recommended within the GJM and the Hansen reports will result in poor heritage outcomes, will not retain the three-dimensional form of the heritage place and is contrary to state policy at Clause 15.03-1S to “ensure the conservation of places of heritage significance”. While I note the submitter’s observation that the front room of many Victorian buildings exceeds 6m, this distance is not atypical of half the 8-14m depth of the

⁸ This is assumed to be a reference to the draft *Guidelines for the Assessment of Heritage Planning Applications* (Heritage Victoria, 2000)

primary front form of heritage buildings which equates to the approximate depth of the front room⁹. The 8m setback proposed in the 'preferred' version of DDO16 will ensure that new development is set back behind the front room of approximately 90% of the graded buildings within Precinct 4, which will provide an improved heritage outcome over the exhibited DDO. The upper level setback identified in the GJM Report also considered the minimum distance necessary to enable the retention of the front chimneys as freestanding elements, which are generally set back between 2.5m – 3.5m to their rear face from the street boundary¹⁰.

- [106] The submitter seeks an outcome that achieves no visible built form above an existing (or new) two-storey parapet which is discussed in my response to Submissions 95, 147, 160 and 222. The submission goes on to make comment on lane amenity and safety issues about which I make no comment.

6.14 Submission 265

- [107] Submission 265 requests that the maximum height within Precinct 4 be reduced to 4 storeys (14.5m) and applied as a mandatory control within Precinct 4. The submitter considers a 6 storey development to be inappropriate and seeks a 10m upper level setback.
- [108] These matters are addressed in in my response to Submissions 95, 147, 160 and 222. The submission also makes comment on laneway safety and fire appliance access and the level of community consultation undertaken, about which I do not provide comment.

6.15 Submission 266

- [109] This submission asserts that Precinct 4 of Queens Parade is a unique urban form and the proposed controls will result in the parapets, roofs and chimneys of the late nineteenth and early twentieth century buildings being dominated by new development. It states that the exhibited version of DDO16 would "overwhelm the streetscape and destroy the clear skyline of the two storey Victorian, Edwardian and Art Deco buildings". Through the annotated diagrams from the Hansen Report, the submitters assert that new development behind heritage street frontages should be concealed from view. These matters are addressed in my response to Submissions 95, 147, 160, 222 and 262.
- [110] Concern is also expressed about the impact of new development on existing shopfronts, design quality and mapped extent of Precinct 4 which the submission asserts should extend northeast to include other commercial and residential buildings.
- [111] Rear development, should not – in itself - require the alteration to shopfronts. The retention of, or alteration to, this fabric, is appropriately managed through Clauses 43.01, 15.03-1S and 22.02 of the Yarra Planning Scheme.
- [112] While the Study Area considered within the GJM and Hansen reports extends northeast to Rushall Crescent Precinct 4 extends only as far as the C1Z zoned land. Numbers 416, 420-422, 424, 426 and

⁹ An analysis using NearmapTM imagery shows that within Precinct 4 the principal roof form of the heritage building (building that were graded 'not-contributory' or had lost their original roof form were discounted) ranges between approx. 5.5m and 18m with the majority lying within the range of 8m-14m. The mean depth of the main form of the building across the 70 buildings considered was 11.7m.

¹⁰ An analysis using NearmapTM imagery shows that within Precinct 4 the distance between the front boundary and the rear face of the 40 extant front chimneys range from between approx. 2m and 5.5m. 33 of the 40 chimneys are set back between 2.5m and 3.5m meaning that a 6m setback would provide clear space of 2.5m between the chimney new built form, and an 8m setback would provide a 4.5m gap.

428 Queens Parade which fall within the Study Area but are north of Precinct 4 are all of residential form and use. I note that their NRZ1 zoning will control any development through the mandatory height limit applied by this zone. The residential character and zoning of these properties will also necessitate consideration of the sightline tests at Clause 22.02-5.7.1 for any new development. Therefore, it is my view that there is no need for a DDO to be applied to these properties. The commercial properties on Queens Parade at the northern end of HO330 (numbers 470-492) fall outside the Study Area and neither the GJM Report nor I independently have considered potential built form controls for these properties.

6.16 Submission 280 – Protect Fitzroy North Inc.

- [113] Protect Fitzroy North Inc. made a comprehensive submission that addresses integrated decision making in terms of *Icon Co (Jessamine Avenue) Land Pty Ltd v Stonnington CC (Red Dot)* [2018] VCAT 1134 (30 July 2018). In this regard I note that the Tribunal’s consideration related to the proposed complete demolition of two graded heritage buildings rather than development of policy to guide appropriate redevelopment of retained heritage fabric within a planning framework that supports increased development.
- [114] Specific comments in relation to the controls proposed for each precinct is made in turn below. The correction sought in relation to the Statement of Significance for HO327 reproduced in the Hansen Report is noted and supported.
- [115] In relation to Precincts 1 and 2, Protect Fitzroy North assert that the interim version of DDO16 should be applied rather than the exhibited document. The ‘preferred’ version of DDO16 reverts to the 4 storey maximum height and would address much of Protect Fitzroy North’s concerns. My opinion on the controls proposed in the ‘preferred’ version of DDO16 within Precincts 1 and 2 is provided at Table 1.
- [116] Protect Fitzroy North considers the maximum proposed street wall and building heights within Precinct 3 to be too tall on the basis that they will diminish vistas of St John’s Church. The modelling undertaken by Hansen Partnership to inform the GJM and Hansen Reports, as well as that prepared by Ethos Urban, demonstrate that the proposed street wall height and upper level setbacks will ensure that the visual prominence of the tower and spire of St John’s Church will be maintained.
- [117] In respect of Precinct 4 and Melbourne DD048, I have addressed these matters in response to submissions 95, 147, 160, 222 and 227.
- [118] I consider that no heritage-related controls are required within Precinct 5C as this sub-precinct is not subject to the Heritage Overlay.

6.17 Submission 281

[119] Submission 281 seeks – amongst other things to:

- Conceal new upper level development using the sight line test at Clause 22.02-5.7.1;
- Identify Precinct 4 as an area of ‘low change’; and
- Apply the interim form of DDO16 rather than the exhibited version.

The submission provides detailed suggested edits to the exhibited version of DDO16 and the associated amendment documentation, it also addresses laneway safety, local amenity, active transport and strip shop businesses that do not present heritage issues and therefore no comment is provided on those matters. It makes submissions on the height limits within the former gasworks

site which is outside the Study Area and not generally subject to the Heritage Overlay. The former gasworks site has not been considered as either part of the GJM Report or this evidence.

- [120] The applicability of the sight line test described at Figures 2 and 3 of Clause 22.02-5.7.1 has been discussed above in relation to Submissions 95, 147, 160, 222 and 262. Precinct 4 is identified as an area of 'moderate' change within the Hansen report, and this is considered to be appropriate within the scale of 'minimal', 'moderate', 'high' and 'substantial' change when, within that document, minimal change areas are limited to those within the Neighbourhood and General Residential zones. It is however my view that Precinct 1 and the parts of Precinct 2 that are subject to Interim HO498 should be identified as areas of 'minimal change' due to their single and two-storey residential form and character.

6.18 Submission 283

- [121] The submitter notes the height limits applied through Melbourne DDO48 to parts of Lygon Street, Carlton which is discussed in response to Submission 227 above.
- [122] The submitter asserts that the heritage values of the rear of properties will be lost as a result of C231. In this regard I note that the retention of heritage fabric is dealt with through Clause 43.01, State policy at Clause 15.03-1S and Council's policy at Clause 22.02. The significance of HO330 primarily resides in the presentation the predominantly commercial buildings to Queens Parade and the heritage value of the rear wings is secondary to their primary street frontage. The loss of the rear wings, where this is supported by heritage policy, is a widely accepted part of the redevelopment of tradition commercial high streets and will not substantially compromise the heritage significance of the precinct.
- [123] The submitter makes comment on the application of net community benefit, which I discuss at paragraphs 34-39 and rezoning, which I have addressed in relation to Precincts 1 and 2 but I have no comment to make on the submitters assertions in relation to the rezoning of land from C1Z to C2Z as this will have no impact on the management of heritage places.

6.19 Submission 284 – Ursula Chandler Architects

- [124] Submission 284 asserts that Yarra C231 will:

- Undermine the contributory elements of Queens Parade
- Result in development that will not acknowledge the pattern of existing built form
- Loss of amenity and adverse impacts on laneways behind Queens Parade
- Create ambiguity through limited mandatory height limits and setbacks.

Ursula Chandler Architects considers that new development behind Precinct 4 should be limited to 4 storeys not the 6 storeys provide for within the exhibited version of DDO16 and that to avoid facadism controls should be applied to the interior of ground floor shops to retain the 4m to 6m width of the individual lot sizes. The submission notes the importance of the roof line of the former ANZ Bank (370 Queens Parade) and requests a 'higher level of protection' for 330 and 336 Queens Parade that have return facades to Michael Street. It also seeks the application of mandatory rather than preferred controls. The submitter also comments on development within Precinct 6 (by which I assume the submitter means Precinct 5C) and impact of traffic on laneways, both of which are not heritage issues and I therefore provide no comment.

- [125] The preferred version of DDO16 will introduce a mandatory height limit within Precinct 4 that will achieve the outcome sought by this submission. While Clause 22.02 will require that the impact of

changes to shopfronts to be considered, internal alteration controls do not apply to HO330 and therefore it is not appropriate to require the retention of internal fabric.

- [126] The GJM Report acknowledges the importance of views to the roof form of 370 Queens Parade, and additional setbacks were recommended at 364 Queens Parade to protect the key view from the south. The 'preferred' version of DDO18 will, through the 4 storey height limit and 8m upper level setback, retain the prominence of the former ANZ Bank in the streetscape. In relation to 330 and 336 Queens Parade I note that number 330 is graded 'contributory' within Appendix 8 while 336 is graded 'individually significant' and both make an equal contribution to the heritage values of HO330. The heritage provisions of the Yarra Planning Scheme will equally apply to the Michael Street elevations as they do to the Queens Parade façades and the GJM Report recommended 6m setbacks from Michael Street and this has been included as a preferred control within the exhibited and council 'preferred' versions of DDO16. I consider that the proposed controls affecting 330 and 336 Queens Parade are satisfactory and these buildings do not require addition heritage or built form controls.

6.20 Submission 295

- [127] This submission notes uniformity of built form within Precinct 4 and the qualities of the silhouette of the parapet against open skies. It considers that 5 storey high development would "irrevocably diminish [Queens Parade's] integrity and accordingly its [heritage] significance".
- [128] I have previously addressed the issue of the sky silhouette in my responses to Submissions 11, 147, 160, 259 and 262 and I have addressed the question of the preferred height recommended in the GJM Report in Table 1 and Submission 147.

6.21 Submission 338 and 338 (Part B) – The 3068 Group

- [129] The 3068 Group has prepared a comprehensive submission which considers strategic context for the amendment, the existing and proposed heritage gradings, the proposed controls in the exhibited version of DDO16, urban design issues, and residential amenity. Of particular note, the 3068 Group assert that the Study Area should have included Mayors Park and that this parkland should be subject to the Heritage Overlay. Their submission includes extensive historical information on individual buildings which is noted.
- [130] Under the heading of urban design the 3068 Group asserts that detailed assessment and advice should be provided for a number of the larger and corner sites or those occupied by the tallest of the existing buildings. While some key individual buildings – including the St John's Church complex, former ANZ Bank, the former United Kingdom Hotel and the former Clifton Motors Garage – and the views to these local landmarks was considered in the heritage analysis, the purpose of the GJM Report was to provide a strategic basis for generally broad-based built form controls rather than site by site design guidance. I consider the controls proposed within the 'preferred' version of DDO16 and the new and amended statements of significance satisfactorily address and inform the future development of the sites noted in the 3068 Group submission. It is not, in my view, the role of the design and development overlay to determine the built form envelope and design objectives on a site by site basis, but rather to apply parameters for future decision making across the broader precincts.
- [131] The 3068 Group assert that a number of buildings require a higher level of significance and/or a greater level of protection be applied. Firstly, it is noted that the former ANZ Bank, the former United Kingdom Hotel and the former Clifton Motors Garage are included on the VHR and therefore heritage decision making in relation to these properties is primarily a matter for the Executive

Director under the *Heritage Act 2017*. Of the other properties identified in the 3068 Group's submission I make the following comments:

- 89 Queens Parade - is located within Precinct 4 and is graded 'individually significant' within HO330. The controls proposed within the Preferred Version of DDO16 will in my opinion appropriately manage the further development on this site.
- 127-129 Queens Parade – is located within Precinct 4 and is graded 'individually significant' within HO330. The controls proposed within the Preferred Version of DDO16 will in my opinion appropriately manage the further development on this site.
- 141 Queens Parade – this property is located within Precinct 4 and is graded 'individually significant' within HO330. The controls proposed within the Preferred Version of DDO16 will in my opinion appropriately manage the further development on this site.
- 274 Queens Parade – this property is located within Precinct 4 and is graded 'individually significant' within HO330. The controls proposed within the Preferred Version of DDO16 will in my opinion appropriately manage the further development on this site.
- 280-356 Queens Parade – these properties are located within Precinct 4 and are variously graded 'individually significant', 'contributory' or 'not-contributory' within HO330. The controls proposed within the Preferred Version of DDO16 will in my opinion appropriately manage the further development on this site. The original or early shop fronts, awnings or verandahs would be managed through the heritage provisions of the Yarra Planning Scheme and it is unnecessary for DDO16 to specifically address these elements.
- 330 Queens Parade - this property is located within Precinct 4 and is graded 'contributory' within HO330. The controls proposed within the Preferred Version of DDO16 will in my opinion appropriately manage the further development on this site.
- 336-338 Queens Parade – these two properties are located within Precinct 4 and are graded 'individually significant' within HO330. The controls proposed within the Preferred Version of DDO16 will in my opinion appropriately manage the further development on this site.
- 434-438 Queens Parade – this property is outside the Study Area and is zoned NRZ1 and is graded 'individually significant' within HO330. I do not consider that any additional heritage or built form controls are required for this site.
- 492 Queens Parade – this property is outside the Study Area and is zoned C1Z and is graded 'individually significant' within HO330. Its zoning may warrant the application of built form controls but this has not been considered as part of the GJM Report or this evidence.
- 189, 193 and 197 Heidelberg Road – I have been unable to identify these properties within the City of Yarra and therefore I make no comment.

[132] The 3068 Group assert that internal alteration controls should apply to 127-129 Queens Parade, fireplaces, pressed metal ceilings and internal stair cases to numbers 149, 151, 153, 157, 159-161, 167, 314, 370 and 398 Queens Parade. I note that internal alteration controls do not – and should not in my opinion – apply to HO330. The other buildings and elements for which the 3068 Group seek internal alteration controls would need to be fully assessed to determine if such controls were

warranted, but on the face of it, the threshold for applying these controls to these buildings as defined in PPN1 is highly unlikely to be met¹¹.

- [133] Mayors Park is a triangular park that is zoned Public Park and Recreation Zone (PPRZ) and is bounded by Heidelberg Road to the northwest, Hoddle Street to the east and Turnbull Street to the southwest. The 3068 Group assert that the park warrants inclusion with the Heritage Overlay. Located at the northern end of Precinct 4 only part of this park was included within the Study Area, and unlike Raines Reserve it does not form part of the Queens Parade boulevard. The GJM Report did not undertake a heritage assessment of Mayors Park and although this park is referenced in the 1989 Collingwood Conservation Study (Andrew Ward & Associates) it is my view that a full assessment with comparative analysis in accordance with PPN1 would need to be undertaken to determine whether Mayors Parks warrants inclusion on the Heritage Overlay.
- [134] The 3068 Group submission makes comment on the exhibited version of DDO16 and includes case studies in relation to development at 139 and 141-147 Queens Parade. The use of the 1:1 sight line test is addressed in my response to Submissions 160 and 259 and I note the approved or constructed developments on these two sites. I make no comment on the amenity issues raised by the 3068 Group.

6.22 Submission 401 – Ratio Consultants on behalf of TLC Aged Care

- [135] TLC Aged Care own and operate the recently constructed building at 217-241 Queens Parade which is located within Precinct 5C. Only one parcel of land within Precinct 5C is subject to the heritage overlay (217 Queens Parade) which appears to be an anomaly. The GJM Report recommend that this property be excluded from HO330 and concluded that no built form controls are necessary to protect heritage values in this precinct; I share this view.
- [136] Ratio Consultants also make comment on precinct 5B and support the application of built form controls recommended within the GJM Report to protect the setting of the former Clifton Motors Garage and the former United Kingdom Hotel. Their submission specifically supports the application of a 18m mandatory height limit for buildings facing Queens Parade within Precinct 5B. I support this position noting that I do not consider that a height limit should be applied to the sites on the VHR to protect the values of these places as that is a matter for the Executive Director to consider under the Heritage Act. Having said that, it is my view that it is appropriate for a DDO to apply built form controls to land on the VHR where the intent of those controls is to manage broader heritage and urban design issues rather than protect the heritage values of the specific VHR-listed place.

¹¹ This provision should be applied sparingly and on a selective basis to special interiors of high significance. The Statement of Significance for the heritage place should explain what is significant about the interior and why it is important. (PPN1, August 2018, p. 4)



Figure 22. 3D study ‘preferred’ version DDO16 - Precinct 5 looking northeast from near the pedestrian crossing at the laneway between numbers 388 and 392 Queens Parade (©Ethos Urban, July 2019)



Figure 23. 3D study ‘preferred’ version DDO16 - Precinct 5 looking east towards the former Clifton Motors Garage and the former United Kingdom Hotel from the opposite side of Queens Parade (©Ethos Urban, July 2019)

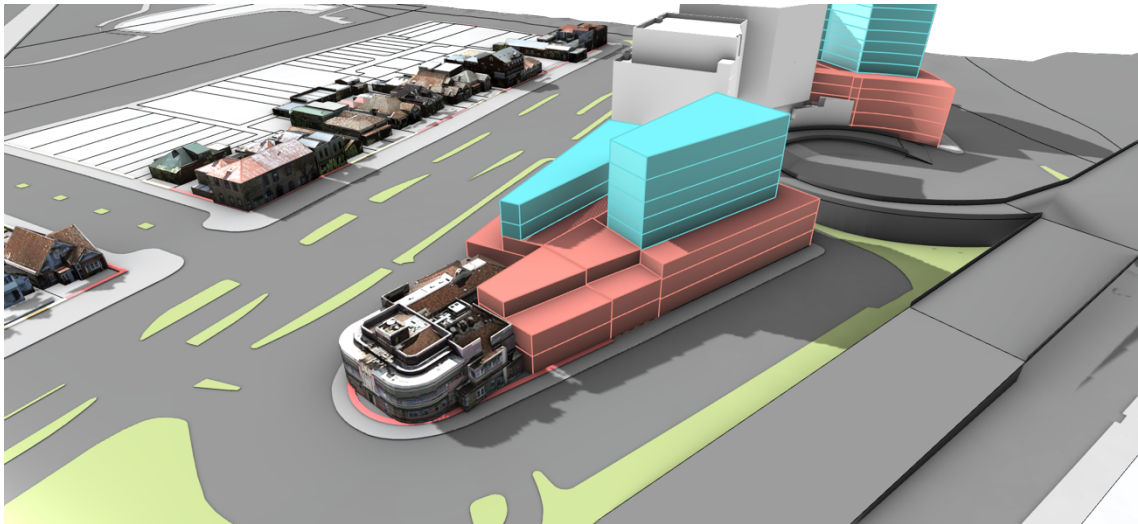


Figure 24. 3D study 'preferred' version DDO16 – Aerial view of Precinct 5 (©Ethos Urban, July 2019)

6.23 Submission 402 – JLP Melbourne on behalf of A & F Pace Investments Pty Ltd and Opportunity Three Pty Ltd

- [137] The owners of 201-203 and 205-215 Queens Parade and 6-12 Dummett Crescent submit that the proposed controls within DDO16 (both as exhibited and the Council 'preferred' version) are too restrictive and do not correspond with existing buildings in the area. These properties are located within Precinct 5B and are zoned MUZ.
- [138] 201-203 and 213-215 Queens Parade and 10-12 Dummett Crescent are located within HO330, 205-211 is occupied by the former Clifton Motors Garage, which is included on the VHR (H2380). 4-8 Dummett Crescent is not subject to the Heritage Overlay. As identified in the GJM Report, it is my view that built form controls are required for the land adjoining both the former United Kingdom Hotel and the former Clifton Motors Garage to ensure the prominence of these local landmarks is retained and new development is moderated in height to protect the setting of these state significant buildings. As noted in Table 1 it is my view that the mandatory 18m maximum building height proposed to the properties along Queens Parade is an appropriate control that will achieve the outcomes noted above.

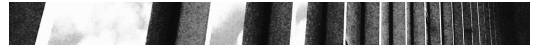
6.24 Submission 405 and 405A – Queens Parade Heritage and Planning Groups

- [139] The Queens Parade Heritage and Planning Groups is made up of as number of local and statewide groups and organisations, the majority of which have made submissions into Yarra C231 including a number of those I have provided a response to in this evidence. Submission 405 proposes revisions to DDO16 to achieve the following for Precinct 4:
1. *New development should not be visible from the other side of Queens Parade*
 2. *New development should be setback from the shop front by the extent of the principal roof or by 10 metres, whichever is greater*
 3. *Contributory buildings (including walls, roofs and chimneys) must be retained by the extent of the principal roof or 10 metres, whichever is greater*
 4. *Individually significant buildings (including walls, roofs and chimneys) must be retained as complete buildings*
 5. *Heritage fabric on the return frontages at intersections must be retained*

6. *Setbacks from rear laneways must be based on ResCode B17 with setbacks applying from both sides of laneways as if both side are zoned residential*
7. *New development must maintain service access to shops from the rear laneways*
8. *The impact of MFB guideline GL-27 on accessibility of the laneways for emergency services must be considered.*
9. *Detailed provisions will be required to:*
 - *Identify sites with potential for development that complies with these provisions;*
 - *Manage new development behind contributory single storey shops;*
 - *Protect views to important landmarks (as poorly proposed in the current DDO);*
 - *Develop setback requirements behind heritage buildings on return frontages.*
10. *Redevelopment of non-contributory buildings should build to the street frontage, have a maximum parapet height of the adjacent heritage parapets, and have development set back so that it is not visible from Queens Parade (as in 1 above).*

The submission notes that through applying their proposed controls development of up to 4 stories is possible on some sites, which equates to the mandatory height limit proposed within the 'preferred' version of DDO16.

- [140] Of the matters raised in the proposed revisions I have addressed items 1 and 10 in Submissions 95, 147, 160, 222 and 262 and I am of the view that full concealment of new development is unnecessary to protect the heritage values of HO330 and is not supported by the heritage policy at Clause 22.02-5.7.2.
- [141] Item 2 is discussed in relation to Submission 262 and it is my view that the 8m setback proposed within the 'preferred' version of DDO16 is sufficient to protect the heritage values of HO330.
- [142] Items 3, 4 and 5 relate to the retention of heritage fabric and is not a matter that should be included within a design and development overlay as the heritage provisions at Clauses 15.03-15, 22.02-5.1 and 43.01-8 address demolition.
- [143] Items 6, 7, 8 are amenity or public safety related and I make not comment on these.
- [144] It is my view that it is generally unnecessary to provide site by site guidance as proposed by item 9 dot point 1 as this will unreasonably seek to prejudice possible design outcomes. It is also my view that the other matters under item 9 are adequately dealt with by the 'preferred' version of DDO16 noting my comments provided in Table 1.
- [145] The matters raised by the Queens Parade Heritage and Planning Groups' submission in relation to Precinct 5 are addressed in my responses to Submissions 401 and 402.
- [146] Submission 405A is a copy of the nomination of the Queens Parade Shopping Precinct, Clifton Hill and North Fitzroy to the VHR made under Part 3, Division 2 of the Heritage Act. I do not intend to comment on the merits of this nomination beyond noting that the nominated extent largely accords to Precinct 4 but with the additional inclusion of 83-87 and 268-270 Queens Parade on the western sides of Wellington and Delbridge Streets respectively.
- [147] The assessment and recommendation by the Executive Director and ultimate determination of the Heritage Council on whether or not to include this part of Queens Parade on the VHR will proceed



through a separate statutory process under the Heritage Act. If the nomination was successful heritage decision making in relation to the registered land would (with the exception of subdivision) fall to the Executive Director, Heritage Victoria. The nomination is not relevant to the opinions I have provided in relation to Yarra C231.