

SJB Planning



Panel Hearing
Amendment C220
Yarra Planning Scheme

Johnston Street

Statement of Evidence

Kel Twite
SJB Planning
80 Dorcas Street
SOUTHBANK VIC
3006

On behalf of Shakespeare Property
Group Pty Ltd

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1.0 INTRODUCTORY REMARKS

1.1 Name Qualifications and Experience

1. My name is Kel Twite and I am a Principal of SJB Planning, which conducts business from premises located at Level 1, Building D, 80 Dorcas Street, Southbank.
2. I hold a Bachelor of Arts (Urban Studies) obtained from Victoria University and have been practising as a Town Planner since 1994. I have an employment history that includes positions with the Shire of Berrigan (NSW) and Baw Baw Shire Council. I have been a planning consultant since 1999, advising clients on a wide range of planning and development matters.
3. I have appeared before the Planning Division of the Victorian Civil and Administrative Tribunal's (the Tribunal) and Independent Panels appointed by the Minister for Planning on many occasions. My area of expertise is urban and regional planning.
4. I have no private relationship with either submitter and have been engaged to prepare this report for an agreed fee.

1.2 Instructions and Background

5. I received a request on 24 August 2018 from Best Hooper Pty Ltd on behalf of Shakespeare Property Group Pty Ltd (SPG) requesting a review of Amendment C220 in light of the submissions made on behalf of SPG regarding its property at 436 Johnston Street and to give town planning evidence at the Panel hearing.
6. Following a review of Amendment C220, I was agreeable to setting out my opinions in regard to the Amendment having particular regard to its impacts on 436 Johnston Street, Abbotsford.

1.3 Facts, Matters and Assumptions

7. In preparing this report I have:
 - Reviewed the existing planning controls and policies applicable to the area;
 - Visited the site and surrounding area;
 - Reviewed the Amendment C220 material including:
 - Exhibited documentation
 - Proposed reference documents
 - Reviewed the relevant Council Meeting Agendas and Minutes;
 - Reviewed the following documents:
 - City of Yarra Built Form Review (Planisphere, 2003);
 - Industrial and Business Land Strategy Review (2004);
 - City of Yarra Urban Design Strategy (City of Yarra, 28 June 2011);

- Yarra Business and Industrial Land Strategy (City of Yarra, 2012);
- Johnston Street LAP 2012;
- Yarra City Council Economic Development Strategy 2015-2020 (City of Yarra);
- Yarra Spatial Economic and Employment Strategy (SGS Economics and Planning, 2018);
- Yarra Housing Strategy (City of Yarra, 4 September 2018); and
- Community Infrastructure Plan (City of Yarra, 2018).
- Reviewed the Johnston Street Local Area Plan 2015 (Yarra City Council, December 2015) – Including appendices A-D);
- Reviewed the Panel Report for C218 and C219;
- Considered Amendment C56 to the Yarra Planning Scheme;
- Considered the Tribunal Order *Investa Properties Ltd v Yarra CC* [2007] VCAT 703 (436-438 Johnston Street, Lot 1 on Plan 752212 and Lots 1 & 2 on Plan 225991, Abbotsford);
- Inspected the built form model prepared by Ethos Urban; and
- Reviewed the submission lodged on behalf of Yarra Central Property Trust, prepared by SJB Planning.

8. I have also considered:

- The Victoria Planning Provisions and, in particular, elements of it with greatest applicability to the amendment;
- The most relevant aspects of the Yarra Local Planning Policy Framework;
- Plan Melbourne 2017-2050 (The State of Victoria Department of Environment, Land, Water and Planning 2017); and
- A variety of Departmental Practice Notes including but not limited to those related to Strategic Assessment Guidelines (Planning Practice Note 46), The Role of Mandatory Provisions in Planning Schemes (Planning Practice Note 59) and Height and Setback Controls for Activity Centres (Planning Practice Note 60).

1.4 Summary of Opinions

9. I am of the opinion that:

- The strategic background documents have inappropriately ‘grouped’ 436-438 Johnston Street, Abbotsford (the site) as part of the heritage or river frontage properties along Trenerry Crescent;
- The site is not identified as an employment precinct in the Yarra Planning Scheme;
- There is no sound strategic planning rationale for excluding the site from Amendment C220;
- Council appears to not turned its mind considerably to this site as it was recently developed as an office, failing to meet the core purpose of the Planning and Environment Act 1987 (the Act), which is ‘...to establish a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians’ (emphasis added);
- The site is devoid of built form guidance due to the absence of the DDO1 (as it does not front the river), a HO (as it is not a heritage property), and is not within the proposed DDO;

- If approved in its current form, it would be an 'island site' in terms of built form controls otherwise surrounded by land affected as such;
- The site should have been included as part of C220, being part of the land to be rezoned from the C2Z to the C1Z to achieve the planning vision sought by Council (i.e. the revitalisation of Johnston Street); and
- Council should commit to undertaking further work to correctly identify the context of the site and include it as part of any future rezoning as per Amendment C220 (C2Z to C1Z).

10. The basis of these opinions is set out in the following sections of my evidence.

2.0 SITE AND CONTEXT

2.1 Amendment C220

11. The Amendment C220 study area includes Johnston Street and the adjacent land generally east of Smith Street, south of the Eastern freeway, west of the Yarra River and north of Vere Street.

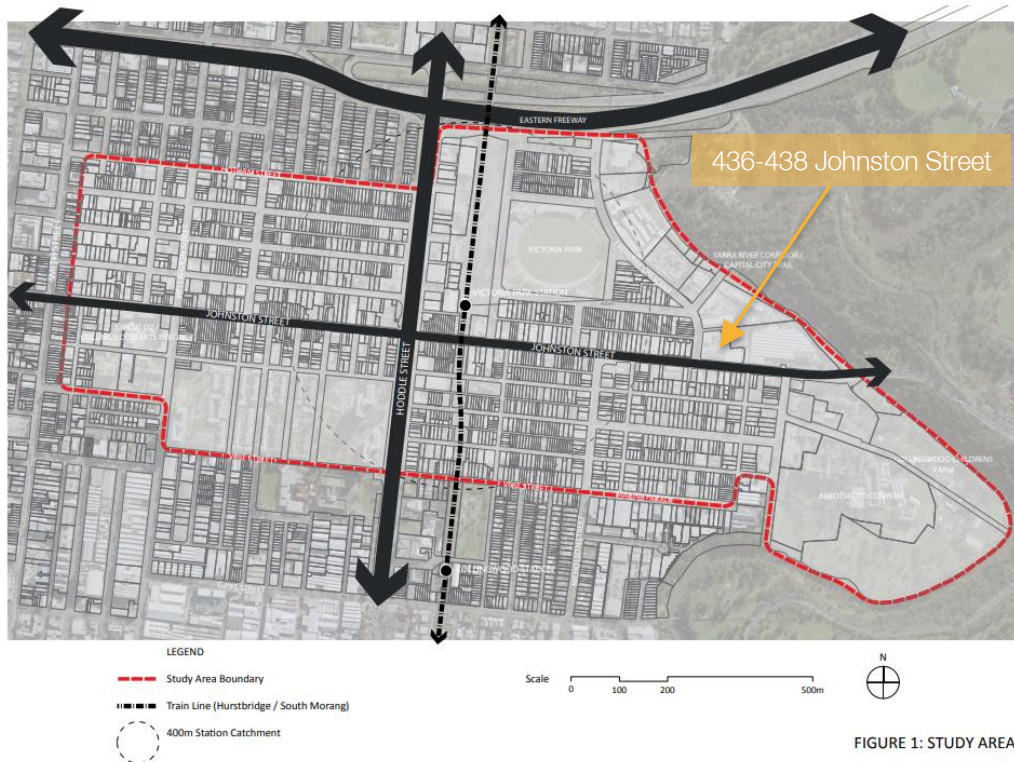


FIGURE 1: STUDY AREA

Figure 1 - Study Area (Johnston Street Local Area Plan, 2015).

12. The site at 436-438 Johnston Street, Abbotsford (the site) is at the eastern end of the study area and while the site has a frontage to Johnston Street and Trenerry Crescent, it has been included as part of Precinct 7 – Trenerry Crescent.

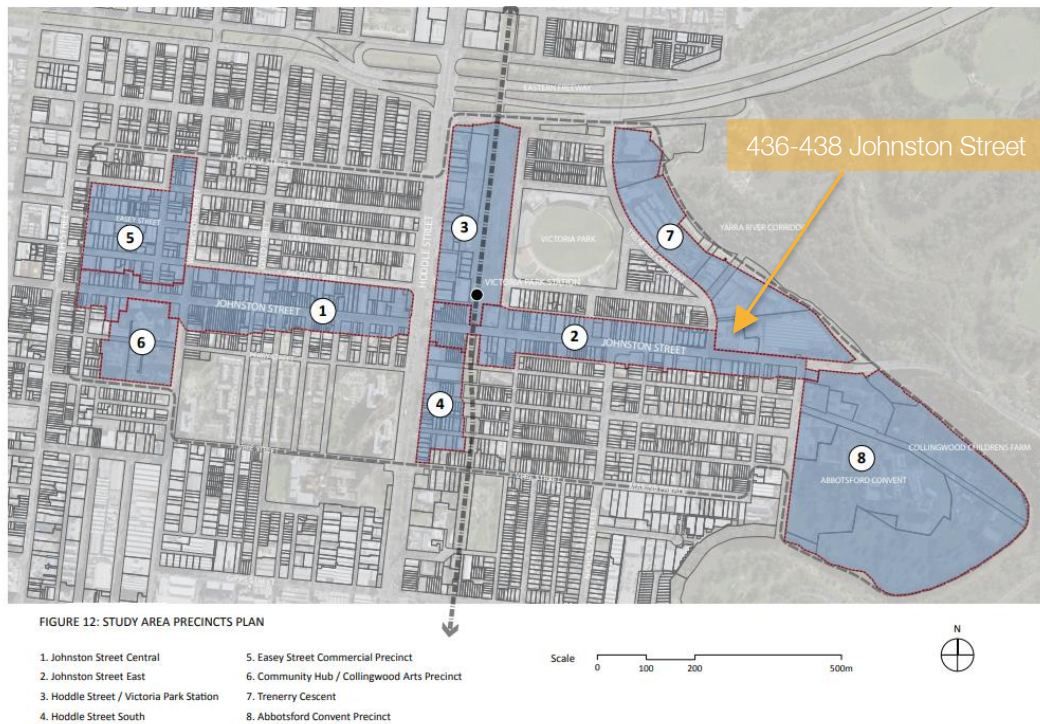


Figure 2 - Johnston Street LAP - Precincts.

13. This Precinct 'grouping' is distinct from the Business and industrial Land Strategy 2012 (BILS), which included the site in Precinct BS6 – Johnston Street East.

Precinct Name: BS 6 – Johnston Street East Strip

Land Audit Summary

A summary of land area by zone for this precinct is as follows:

Land Area (Ha) by Zone	
B2Z	-
B3Z	4.6
B4Z	-
B5Z	-
IN1Z	-
IN3Z	-
TOTAL	4.6

Zoning Map (Existing)

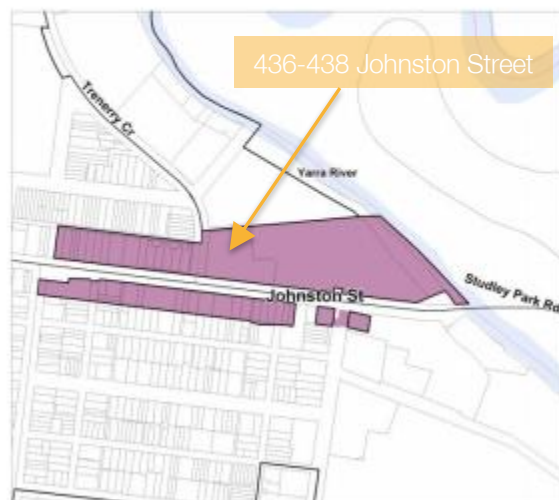


Figure 3 - Johnston Street LAP – 2012 BILS Precincts.

14. This scratches the surface of varied or contradictory 'groupings' of this site in various Council policy documents.
15. In my opinion, the failure to appropriately classify the site will lead to future built form and land use uncertainty and does not ensure an orderly planning outcome for the long-term interests of all.
16. The policy progression to Amendment C220 is summarised as follows.

2.1.1 Johnston Street Issues and Opportunities Paper - 2011

17. Work on the Johnston Street Local Area Plan (LAP) commenced in 2011 with the preparation of an Issues and Opportunities Paper (the Paper). As summarised in the 16 December 2014 Council Meeting Agenda, Council sought to improve the economic role and function of the Neighbourhood Activity Centre, as it was identified as being in a state of decline, with many vacant properties.
18. The Paper suggested there was an opportunity to address these issues with land use changes to encourage active frontages and new mixed-use buildings.
19. Council then proceeded to draft a LAP.

2.1.2 Public exhibition of the draft LAP (dated May 2012) – June 2012

20. In June 2012, Council endorsed the public exhibition of the LAP. In this plan 436-438 Johnston Street was included in the Johnston Street Activity Centre Boundary and 'Precinct 2', being the eastern end of Johnston Street.

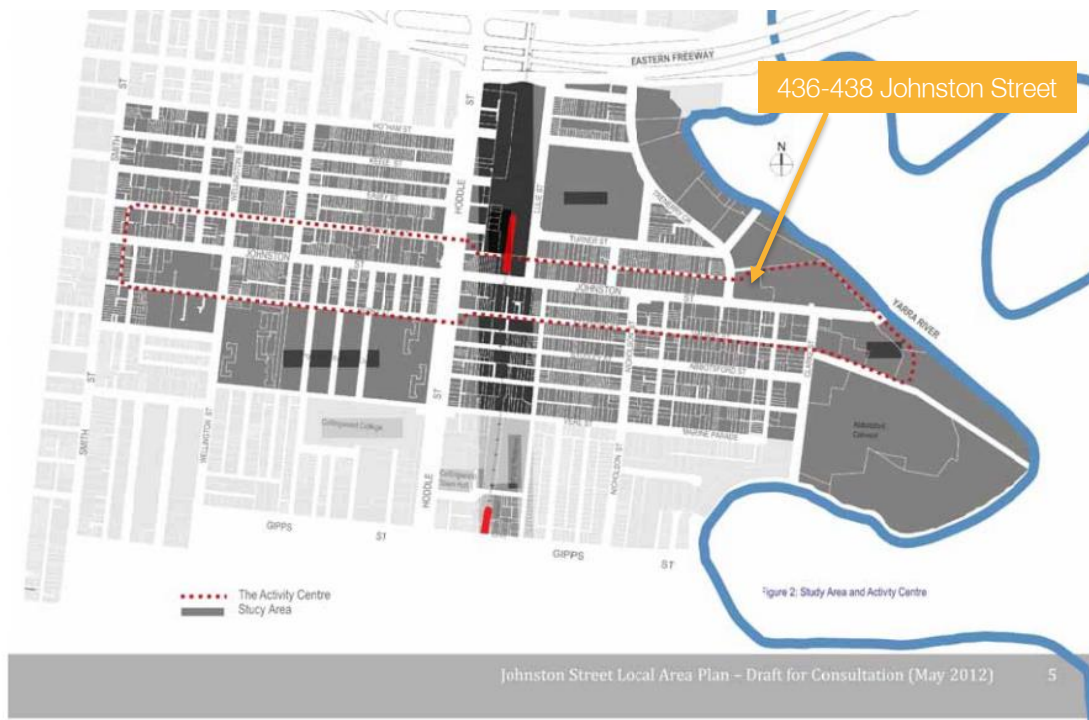


Figure 4 - Extract of draft, exhibited LAP (May 2012) – showing the site within the NAC.



Figure 5 - Extract of draft, exhibited LAP (May 2012) – showing the site within Precinct 2 (Johnston Street East).

2.1.3 Council Meeting - 16 December 2014

21. Following exhibition of the 2012 draft LAP, Council considered submissions at a Council meeting on 16 December 2014.
22. The Council report considered the implications of Plan Melbourne, the C140 Panel Report (recommending the Smith Street Structure Plan Amendment be abandoned) and a number of recent VCAT decisions in the area.
23. In the officer report to Council, the draft LAP was subsequently amended, including the following changes:
 - Inclusion of the property east of Clarke Street (south side of Johnston Street) in Precinct 2 to form part of the C2Z to C1Z rezoning; and
 - Exclusion of the property east of Trenerry Crescent (north side of Johnston Street) from Precinct 2 to no longer form part of the C2Z to C1Z rezoning as '*This site has been developed recently as an office building*'.
24. Council determined at this meeting to defer from deciding on the plan due to the number of amendments sought to enable further community consultation. I note that the decision to exclude the land at 436 Johnston Street as outlined above, was made prior to the economic analysis prepared by SGS Economics and Planning on behalf of Council.

2.1.4 Council meeting – 1 December 2015

25. Following additional community consultation and strategic work (including an Urban Design Analysis, Trenerry Crescent Analysis and Economic advice prepared by SGS Economic and Planning), Council considered the LAP.

26. Council resolved to adopt the LAP and (amongst others), instructed officers to prepare a local planning policy for the Johnston Street Activity Centre and draft a Design and Development Overlay '*...which would include mandatory height limits in Johnston St, all precincts*'.
27. Council also noted '*...that Johnston Street is a local activity centre and records its intent to maintain an economic and employment focus with a range of business uses contained in at least the ground floor of buildings rezoned to C1*'.
28. Commentary from Officer's in the Agenda included:
 27. *Advice has been sought from SGS Economics and Planning regarding the land use recommendations made within the plan. Commentary from SGS suggests that there will be minimal investment in properties in the Commercial 2 Zone, as Johnston Street is not considered to be a core commercial precinct (like the Gipps Precinct or Easey Street Precinct).*
 28. *SGS highlights that, with investment going into both the Abbotsford Convent and the Collingwood Arts Precinct (and Circus Oz site), rezoning to a Commercial 1 Zone would increase the development/investment potential for the local area and further support the role of these sites in terms of new activity along Johnston Street.*
 29. *SGS also suggest that rezoning to the Commercial 1 Zone would support population growth which would in turn support local business activity and services through increased demand and activity along Johnston Street.*
29. As is further outlined in this Statement of Evidence, the terms of reference provided to SGS Economics and Planning was confined to Precincts 1 and 2 only (i.e. they were not asked to consider the economic implications of rezoning any other C2Z land in the study area).
30. The Agenda also acknowledges that while Johnston Street has limited built form control, Trenerry Crescent is in a DDO. The recommendation is:

Economic Implications

60. *The Local Area Plan would have positive economic effects for the Johnston Street activity centre through land use change that encourages investment in sites and new land use that activates the street environment.*
68. *If the Plan is not adopted, there will be little guidance for the future of Johnston Street, from a planning and built form perspective.*
31. By grouping the site in Precinct 7 (with Trenerry Crescent properties), the adopted version of the LAP does not include any relevant land use or built form guidance for this site. This is due to Precinct 7 relying heavily on the Heritage Overlay and Design and Development Overlay (Schedule 1 – river control), neither of which apply to the site.
32. The exclusion of this site from the Johnston Street East Precinct (Precinct 2) because it was recently developed as an office building has no sound planning rationale, particularly in light of the subsequent economic advice provided to Council. This lack of future planning leaves a 'gap' in the built form controls for the activity centre and could compromise the site's contribution and role in the ongoing revitalisation and adaptivity of the Johnston Street Activity Centre from both a land use and built form perspective.

2.1.5 May 2016 onwards

33. In terms of more recent history and following from this more detailed strategic planning work, Council resolved at its May 2016 meeting to seek authorisation to prepare and exhibit the amendment. The Minister responded in March 2017, raising concerns with the extent of mandatory provisions.
34. Council undertook further built form analysis to review the mandatory height controls and in October 2017, authorised officers to exhibit a revised version of the amendment. At the same time, Council requested interim planning controls. On 2 March these controls were approved by the Minister on an interim basis for 2 years.
35. Following the exhibition of this version of the amendment, Council considered submissions at its meeting on 21 August 2018.
36. This more recent history is discussed in detail in Section 3.0 of this Statement of Evidence.

2.2 Other policy documents and amendments

37. The following documents and amendments have also been prepared and/or adopted before or during this time and form part of the intertwined policy framework.

2.2.1 City of Yarra Built Form Review (Planisphere, 2003)

38. This plan identified sites into 4 main precincts:
 - Yarra River - YR
 - Residential - R
 - Non-residential - IC
 - Main Roads - MR
39. The site was classed as YR4 (Yarra River) – Johnston Street River Interface, or current and ex-industrial river edge. West of the site, along Johnston Street is defined as a Main Road Strip (MR3) within this document.
40. Section 5.2 outlines policy objectives for the Current and Ex-Industrial River Edge Precincts. Guidance is limited in respect to the subject site, given it refers to heights and setbacks from the river and crest line.
41. The Built Form Review (page 111) recommended the DDO1 be applied to the subject site.
42. Council sought to implement the Built Form Review through Amendment C66. Following exhibition, a Panel was appointed to consider the amendment.
43. The Panel found (page 27):

... The Panel's review of the Design Development Overlay provisions for the Yarra River corridor confirms the emphasis of the provisions on river frontages of the adjoining properties. The DDO provides only general and limited guidance in regard to the street frontages of these properties. While the Panel acknowledges the significance of the Yarra River corridor, it shares Ms Hansen's concerns and considers that attention to the Yarra River frontages should not occur at the expense of, or be pursued in isolation from, other locations.

44. The exhibited version of Amendment C66 (30 June 2005) did not include the site within the DDO1, noting the remainder of the YR4 Precinct was already affected by the DDO1.

2.2.2 Industrial and Business Activity: Trends and Opportunities Analysis (Charter Keck and Cramer, July 2004)

45. This report includes the site in Precinct TDZ 108 and noted that in 2001 the precinct accounted for 14% of all employment in Yarra. Business services was identified as the largest growth industry, with food, beverages and tobacco, textile, clothing, footwear and leather and machinery and motor vehicle wholesaling being the 3 largest declining industries (from 9 to 60% reductions).

2.2.3 Yarra Industrial and Business Land Activity Study (Hansen Partnership and Charter Keck Cramer, 2004)

46. Following from the trends and opportunities analysis, this report refers to Amendment C56, referring to the site as the 'Davenport Site'. It was acknowledged that:

Owner has enquired with Council about developing part of the site for an additional car park for Computer Share. Remainder of the site would be likely to be developed for commercial / residential use given the existing Business 5 Zoning.

47. The site is within Precinct TDZ 108: CUB – Johnston / Hoddle – Victoria Crescent / Harper Street Precincts. It was recommended that there be no change to existing zoning.

Figure 25 – TDZ108 CUB, Victoria Crescent/Harper Street & Johnston/Hoddle Precincts Map

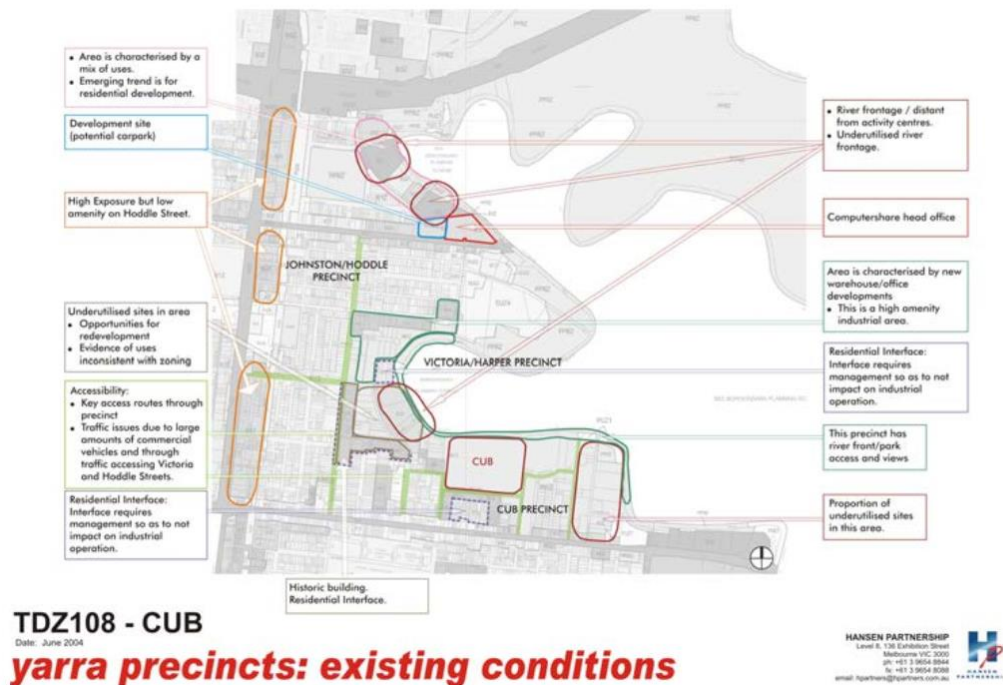


Figure 6 - Extract of Yarra Industrial and Business Activity Study (2004).

2.2.4 Amendment C56

48. It is my opinion that the rationale to include the site within the Johnston Street Precinct in the BILS follows from Amendment C56.
49. This amendment rezoned the site at 436-438 Johnston Street from the Business 5 to the Business 3 Zone, continuing the 'strip' of B3Z land along the eastern end of Johnston Street.

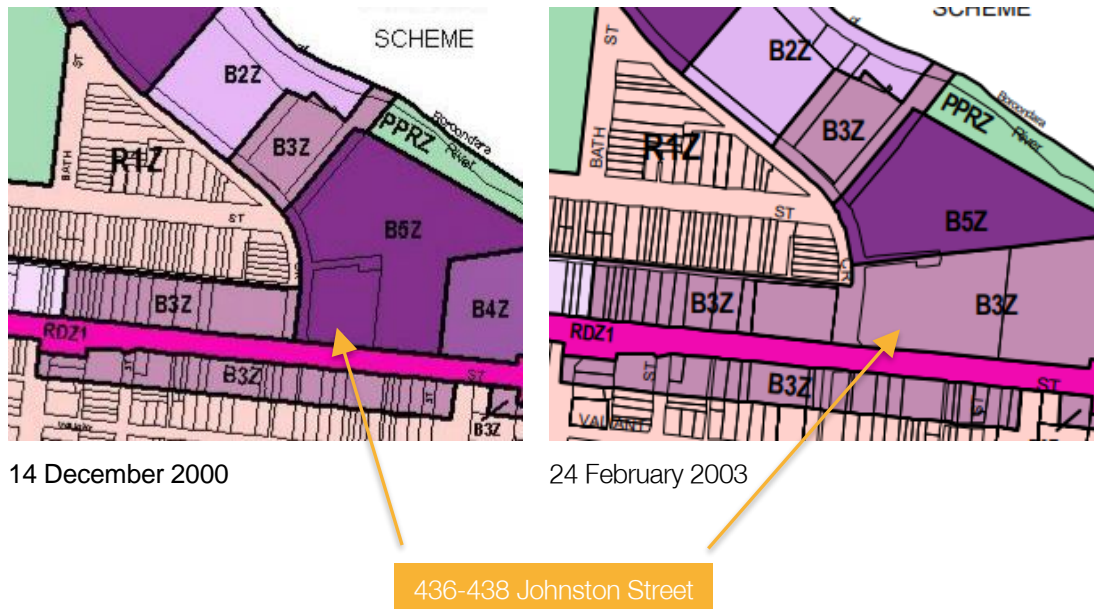


Figure 7 - Planning Scheme Histories (www.planning.vic.gov.au).

50. The amendment rezoned Lots 1 and 2 on PS433628L (436 and 452 Johnston Street, Abbotsford) from the Business 5 and Business 4 Zones respectively (B5Z and B4Z), to the Business 3 Zone (B3Z) and introduces a specific site and exclusion with an incorporated document'.
51. I note the B5Z allowed dwellings, an as-of-right use when not in same building as an office, or a section 2 use if otherwise. The purpose of the zone included '*To encourage the development of offices or multi-dwelling units with common access from the street*'.
52. The amendment also introduced an incorporated document into the Scheme: Specific Site and Exclusion – Lot 2 on PS433628L (452 Johnston Street, Abbotsford). While the amendment rezoned the site at 436-438 Johnston Street, the incorporated document only related to 452 Johnston Street.

2.2.5 City of Yarra Urban Design Strategy (City of Yarra, 28 June 2011)

53. This document does not include site in Johnston Street NAC on page 8, however it is included on page 13 (extract below - Figure 8).

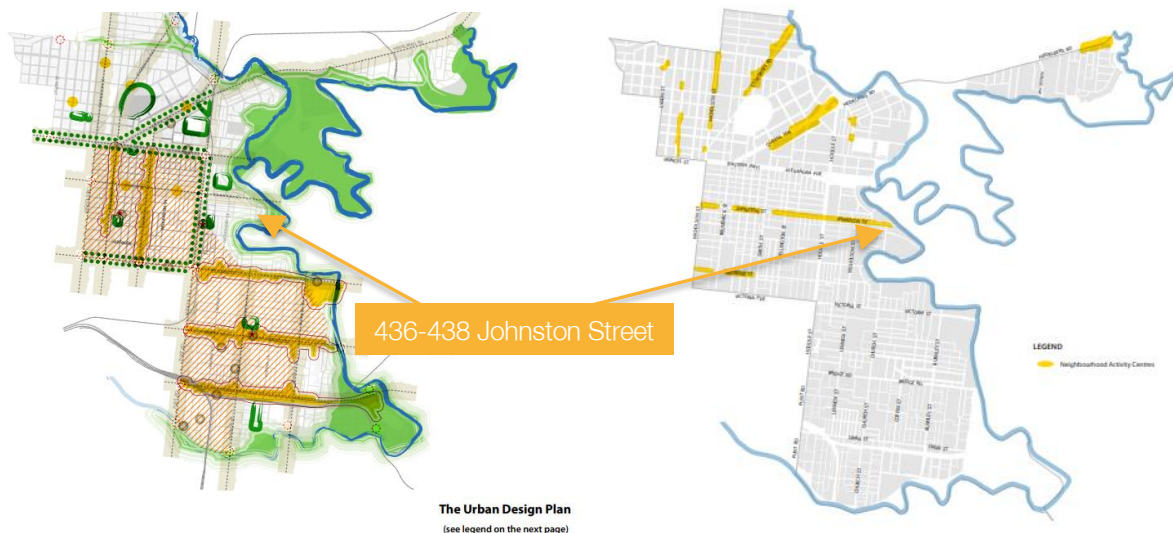


Figure 8 - Pages 8 and 13 of the Urban Design Strategy (contradictory indications if the site is within the Johnston Street Activity Centre).

2.2.6 Yarra Business and Industrial Land Strategy (City of Yarra, 2012)

54. This document incorrectly identified that Yarra would not likely be attractive to a large cluster of office complexes, the very demand currently occurring in Cremorne and Collingwood.

1. *Large scale commercial office towers – Large office complexes are generally clustered in recognisable office markets, such as the CBD, St Kilda Road and more recently Docklands.*

These established office markets provide firms with a recognisable address and prestige, the opportunity for face-to-face business contact and high quality road, public transport and information technology infrastructure.

The established markets also have large sites for major office developments. Yarra has had some recent large scale office investments – at the Botanicca Corporate Park and near Punt Road Burnley. However, Yarra is not an established prime corporate office market and is unlikely to achieve this status due to a lack of opportunity to establish a large cluster of office complexes in a precinct that offers high quality (and uncongested) road and public transport provision.

55. This Strategy adopts the BILS precinct boundaries, grouping 436-438 Johnston Street with the land west along Johnston Street (BS6 – Johnston Street East).
56. The Strategy identifies a need to adapt and facilitate '*greater employment diversity across many of its business and industrial areas*'.
57. For Business Strip Precincts (such as BS6, which the site was identified within), the focus is:

Activity Centre Interface:

Examples include Johnston Street, Victoria Street, Church Street, Burnley Street, Bridge Road and Swan Street. Dominant uses tend to be retail showrooms, small office complexes and fringe service industry. Mixed use developments could play a greater role in these areas as a means of precinct reinvigoration and to stimulate business development.

58. Strategic directions include:

2. *Investigate the integration of mixed use development within those Main Road Business Strips which have an activity centre interface including Johnston Street, Victoria Street, Church Street, Burnley Street, Bridge Road and Swan Street.*

59. The draft version of this document considered by Council at its meeting on 5 June 2012 recommended the BS6 Precinct be rezoned to the B5Z (allowing dwellings). Officer's recommended that (amongst others) Council only adopt the strategy with:

(b) *a change in relation to BS6 - Johnston Street East Strip to remove any reference to a proposed Business 5 Zone;*

60. Council resolved to adopt the Strategy if this Precinct (and a further 7 Precincts) are amended to not change their zoning to exclude the potential for residential land use. The Strategy was therefore amended and adopted by Council.

2.2.7 Yarra City Council Economic Development Strategy 2015-2020 (City of Yarra)

61. Johnston Street is not identified as an employment precinct or cluster within this strategy.

2.2.8 Plan Melbourne 2017-2050 (The State of Victoria Department of Environment, Land, Water and Planning 2017)

62. Continuing from Melbourne 2030, the State Government Plan continues to support activity centre policy, with principles 3 and 5 aiming for 'A city of centres linked to regional Victoria' and 'Living locally – 20-minute neighbourhoods'.

63. This policy alters the activity centre hierarchy, deferring more to Local Policy direction for what is appropriate growth of smaller centres or what were 'Neighbourhood Activity Centres'. Policy 5.1.2 specifically calls for Local government to be supported when preparing structure plans for their neighbourhood activity centres.

64. Interestingly, being zoned Commercial 2, the Inner Metro Region Map identifies the site as being an existing industrial area (along with the other C2Z land to the west along Johnston Street).



Inner Metro Region

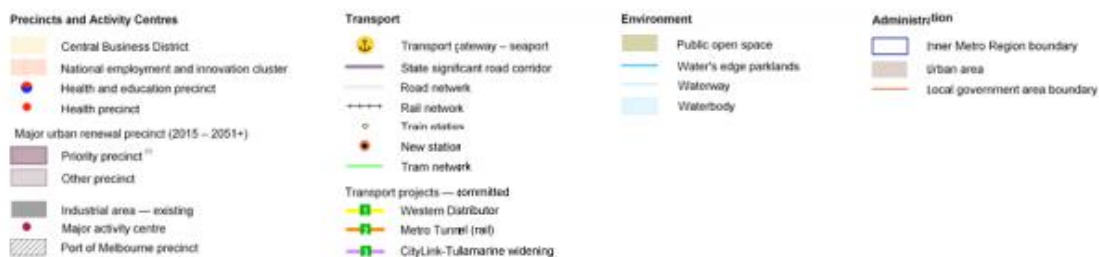


Figure 9 - Extract of Plan Melbourne 2017-2050 (Inner Metro Region).

2.2.9 Yarra Spatial Economic and Employment Strategy (SGS Economics and Planning, 2018)

65. This report identifies the following risk to Council:

Demand for housing is also significant in accessible high amenity areas like Yarra. In this context it is important that demand for housing is managed (or appropriately calibrated) so as to limit 'ad hoc' conversion of employment land for residential purposes, or speculative land trading, both of which can undermine the ongoing viability of existing employment precincts.

66. The site at 436-438 Johnston Street is not shown as an industrial area, but part of the Johnston Street retail, hospitality, commercial Activity Centre).

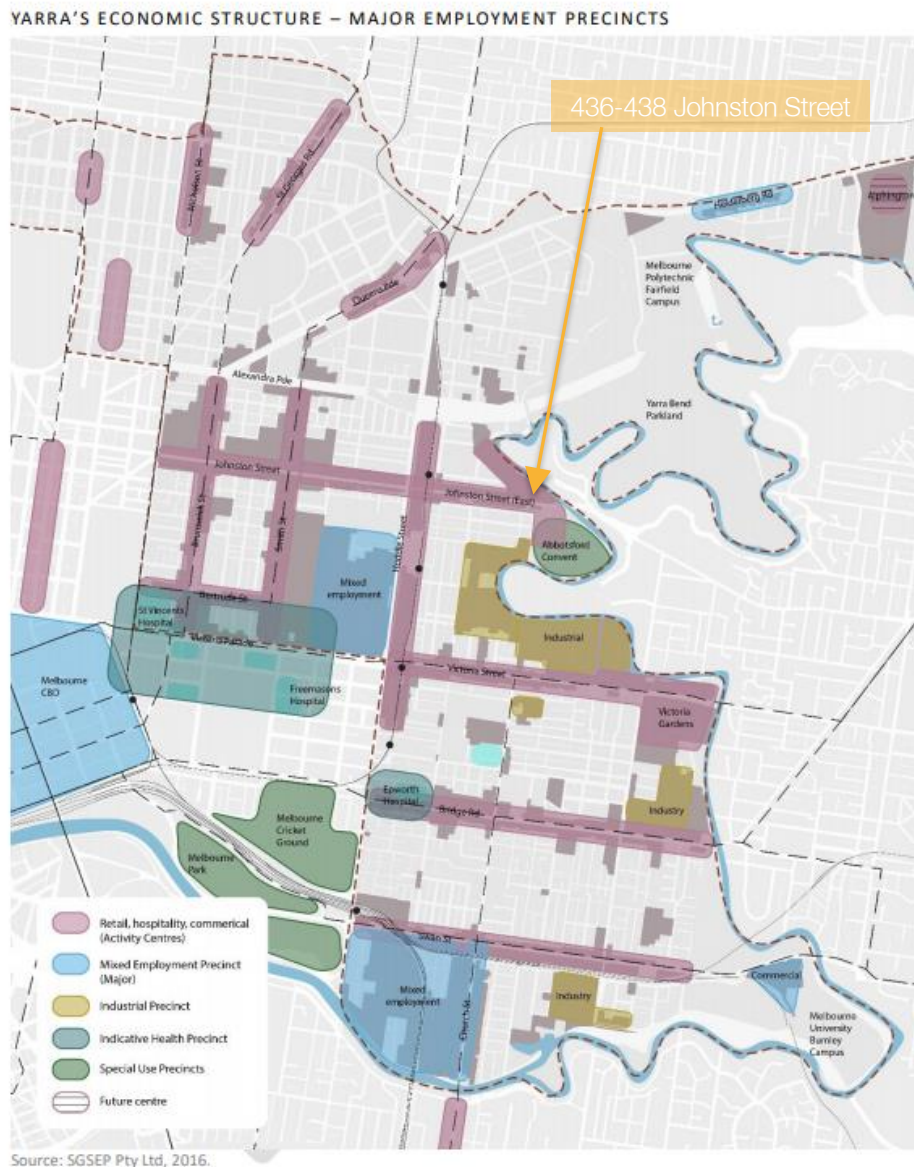


Figure 10 - Yarra Spatial Economic and Employment Strategy 2018 - Identified as a major employment precinct.

67. While the site is shown above as being within a major employment precinct, terminology in the report separates 'activity centres' and other 'employment precincts'.
68. The site is part of the Johnston Street East Precinct:

Johnston Street East Emerging Activity Centre

Council has recently prepared and adopted the Johnston Street Local Area Plan (JLAP) for the section of the Johnston Street east of Smith Street, and adjoining areas to the north and south of Johnston Street. The plan sets out a land use framework that separates the centre into eight distinct precincts. Among these, two community based arts and education precincts are identified: The Abbotsford Convent and the Collingwood Arts Precinct. Rezoning of C2-zoned land in most other precincts has been recommended to encourage investment and to permit limited residential development away from ground levels. Land adjacent to Hoddle Street and the rail line is identified as an opportunity for substantial change, whereas moderate or minimal change is suggested for the other precincts. C2 zoning is to be retained in the Easey Street precinct to support the retention and intensification of existing employment uses.

The figure below suggests that the Johnston Street East Precinct is already somewhat constrained, with increasing demand for commercial floor space in particular. The Gipps Street precinct is likely to emerge as an obvious candidate for forecast demand that cannot be easily accommodated in the Johnston East precinct.

69. In terms of the existing economic role of Yarra:

Yarra plays a vital role in the economy of Metropolitan Melbourne. It sustains a diverse range of businesses that contributed \$10,085 million Gross Value Add (GVA) – equivalent to 4.3% of the Melbourne's total economic output – over 2015. As a measure of the density of Yarra's population, it accounts for just 0.2% of Greater Melbourne's land area, yet accommodates 2% of its population.

70. The SGS summary states (Section 3.6):

Employment growth and floor space demand forecasts suggest that, in aggregate terms, Yarra will not need significant additional floor space to accommodate future employment growth. However, there will be significant changes in the mix and type of floor space that is required, necessitating redevelopment and renewal in existing employment precincts. Accompanied with this structural shift is a strengthening of the locational drivers for new businesses seeking well connected, high amenity areas. Yarra's ability to continually evolve and adapt to change, while leveraging its existing infrastructure and rich culture has been key to its past economic success and will be similarly critical to its future.

71. Section 5.7 of Strategy 5 (Retain other C2 zoned precincts) aims to retain strategic C2Z land in larger employment precincts (identified as including the Carlton United Brewery [CUB], Richmond East [Palmer Street], Burnley South and Church Street North areas). Other C2Z land is further identified, again, not highlighting 436-438 Johnston Street. A recommendation is then included (mirroring Amendment C220) to rezone the Johnston Street East area (not including the eastern end of the precinct).

72. There is no explanation for either retaining the site at 436-438 Johnston Street as a C2Z or excluding it from the amendment.

2.2.10 Yarra Housing Strategy (City of Yarra, 4 September 2018)

73. The strategy identifies:

Yarra's activity centres however are appropriate locations for new housing, given their proximity to services, facilities and public transport. Council recognises that there are economic benefits that flow on from additional housing in activity centres, including increased local expenditure, and supporting the generation of new land uses and commercial formats. Separate strategic work - structure plans and local area plans - will identify any rezoning potential.

74. The site at 436-438 Johnston Street is shown as part of the NAC:

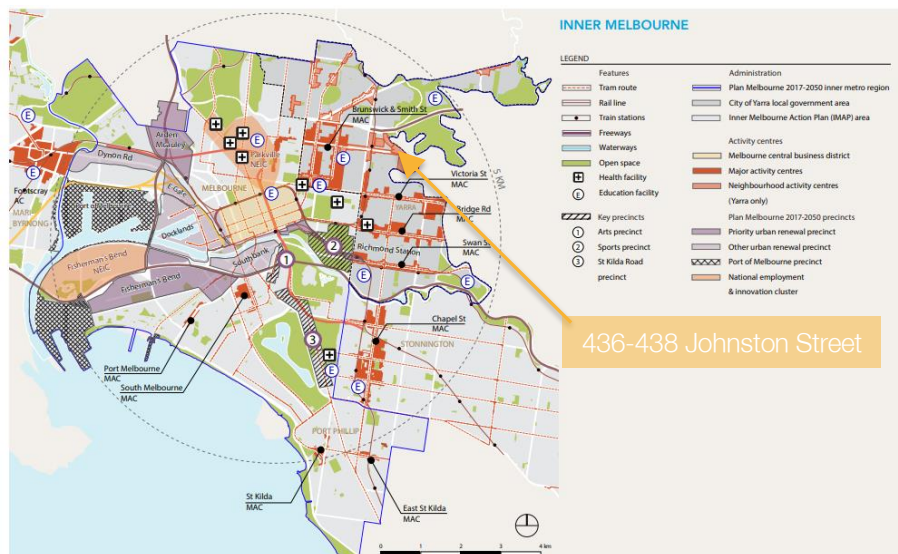


Figure 11 - Extract of Yarra Housing Strategy (Inner Melbourne map).

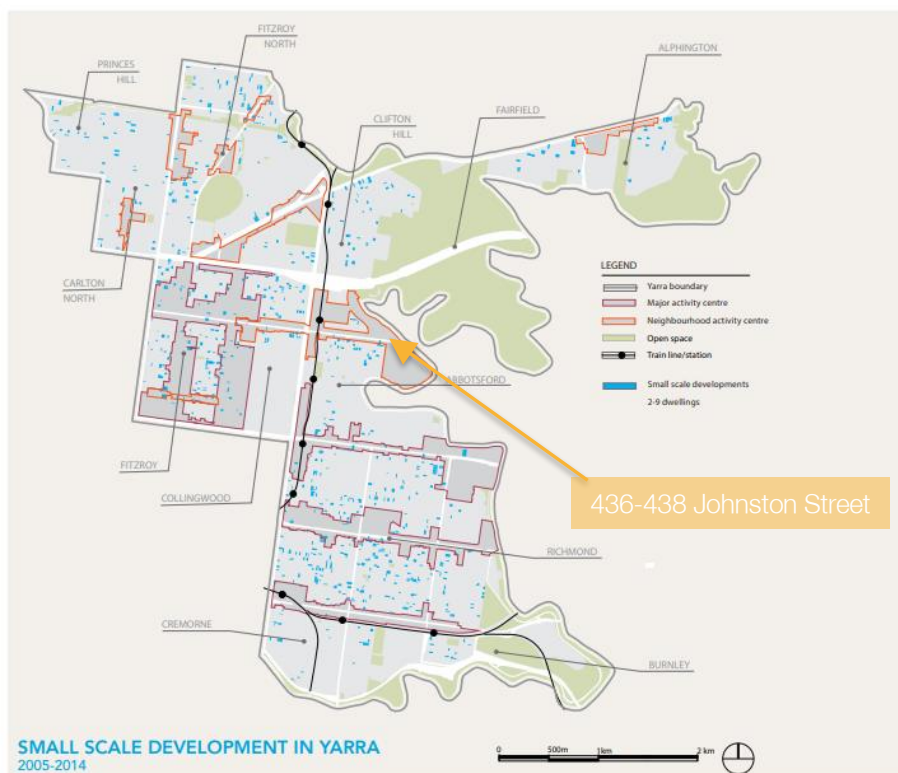


Figure 12 - Extract of Yarra Housing Strategy (Small scale development in Yarra) – showing the site as being within the NAC.

75. Employment areas are broken into the following:

- Major and neighbourhood activity centres;
- Major employment precincts – Cremorne (Church Street) and Gipps Street, Collingwood;
- Commercial and industrial land outside activity centres; and

- Health and education precincts.

76. Johnston Street is therefore not a 'major employment precinct', but within a NAC.
77. There is a mapping area within this document, with the area to be rezoned at part of C220 extending further east than shown in the following map.

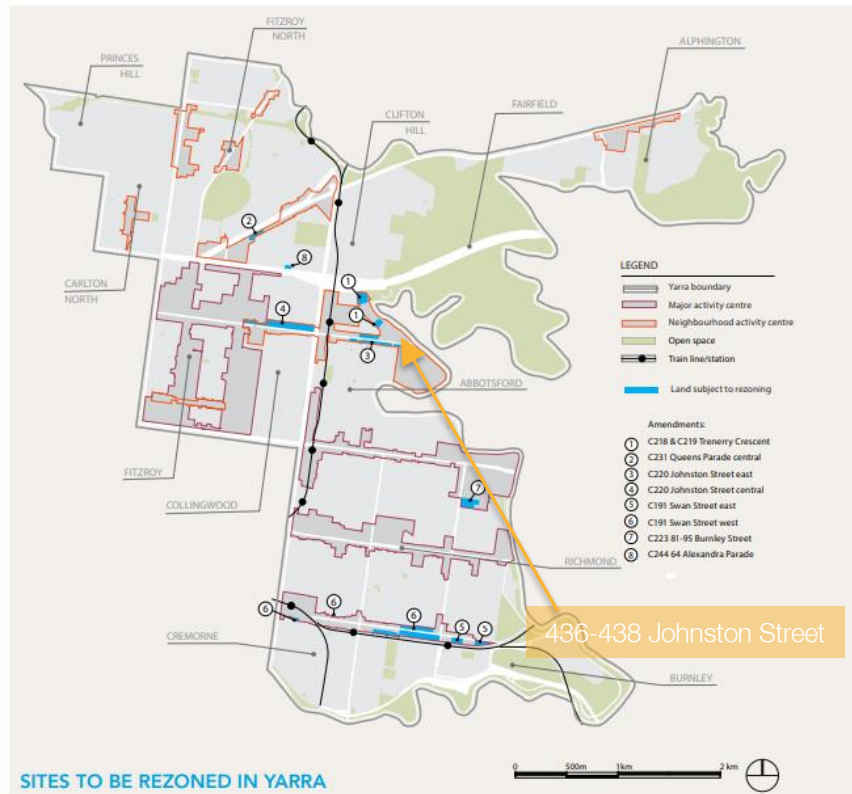


Figure 13 - Extract of Yarra Housing Strategy (Sites to be Rezoned in Yarra).

78. The report concludes the following for further investigation areas:

Yarra has a substantial amount (805 ha) of land zoned for residential use. To accommodate the additional 13,341 dwellings required by 203126, Yarra does not need to rezone employment land (apart from zoning proposals already approved or proposed by Council) at this time to provide additional housing supply.

79. Johnston Street and Trenerry Crescent are identified as a development pressure area on page 20.

2.2.11 Community Infrastructure Plan (City of Yarra, 2018)

80. The plan outlines the following vision for Abbotsford and Johnston Street in particular:

- *Abbotsford is expecting an additional 1,301 dwellings or 10% increase in total dwellings in the next 10 years. There is a cluster of major residential developments proposed along Johnston Street and additional developments proposed on Trenerry Crescent, close to Hoddle Street and along Victoria Street.*

- *The future of CUB site, which is expected to be a major redevelopment site in the future, will be a key catalyst for further planning in the area.*
- *Concentrated forms of development along and surrounding Johnston Street and Victoria Park Station. The Johnston Street Local Area Plan guides change in this area.*
- *Johnston Street and Victoria Street have the potential to become a more vibrant, liveable and accessible place with commercial activity occurring at street level and commercial and residential uses occurring at upper levels.*

2.2.12 VCAT decision for 436-438 Johnston Street, Abbotsford (*Investa Properties Ltd v Yarra CC* [2007] VCAT 703)

81. The decision does not provide commentary on whether the site is within the Activity Centre, however the 'site context' was discussed.
82. In paragraph 31, the site was considered to be reasonably removed from the Victoria Park Heritage Precinct, the east side of Trenerry Crescent and both sides of Johnston Street:

31 There was much debate during the hearing about whether the design of the proposed building is respectful of the heritage significance of the Byfas and Yarra Falls buildings, as well as the Victoria Park heritage precinct, which is situated to the northwest of this site. We are not concerned with the Victoria Park heritage precinct, which includes the residential area on the west side of Trenerry Crescent surrounding the former football ground, Victoria Park. The character and context of this precinct is distinct from Victoria Park and, further, separated from the 'business' character and context of the east side of Trenerry Crescent and both sides of Johnston Street.

2.2.13 Planning Panels Victoria Report – Amendment C218 and C219

83. The panel considered both amendments at once:
- 18-62 Trenerry Crescent, Abbotsford (C218); and
 - 112-124 and 126-142 Trenerry Crescent, Abbotsford (C219).
84. The following elements are relevant to this Statement of Evidence:

Amendment C218 – Commercial 1 Zone

Rezoning the C218 site from C2Z to C1Z would allow its redevelopment to include residential use which Council considered to be appropriate and not contested.

The purpose of the C1Z includes:

- *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

Council submitted that the outcome of Amendment C218 will be to create consistency of zoning with the adjoining sites to the north and south.

Council submitted that the application of C1Z along the eastern side of Trenerry Crescent is appropriate having regard to the size of the sites and their excellent access to:

- *public transport, including the Victoria Park train station and bus routes along Johnston Street;*

- open space, including adjacency to the Yarra River parkland and Capital City Trail and proximity to Victoria Park; and
- the Johnston Street Neighbourhood Activity Centre.

The C218 Proponent's town planning expert Mr McGurn concluded that the proposed rezoning to C1Z is appropriate.^[16]

85. To summarise, the proximity to public transport, open space and the Johnston Street NAC was seen by Council as supporting the amendment from the C2Z to C1Z, introducing dwellings.
86. The following was outlined in the Panel report in relation to C219:

Amendment C219 – Mixed Use Zone

Council supported the proposal by the C219 Proponent to rezone the land from C2Z to MUZ as it would allow the continuation of the proponent's business activities at 126-142 Trenerry Crescent, as well as a mix of uses on both sites including dwellings.

The purpose of the MUZ includes:

- *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
- *To provide for housing at higher densities.*
- *To encourage development that responds to the existing or preferred neighbourhood character of the area.*

Under the MUZ, 'Dwelling (other than Bed and breakfast)' is a [section 1](#) (permit not required) use. Council submitted that rezoning the C219 site from C2Z to MUZ would allow its redevelopment to include residential use which Council considers to be appropriate and not contested. Council stated that it was satisfied that the purpose provisions within the MUZ are appropriate for this site and reflect the outcomes sought through application of the DPO and proposed schedule. The MUZ is the zone specifically proposed for this site in the JSLAP.

It submitted that the application of a residential zone in this location constitutes an appropriate response to the adjacent C1Z while achieving a sensible zoning transition at the end of the parcels to the east of Trenerry Crescent.

The report of the C219 Proponent's town planning expert, Mr Glossop, concludes that the proposed rezoning is appropriate.^[17] Mr Glossop acknowledges that the 'intended mix of uses' proposed for this site could also be achieved within the C1Z, but he prefers the MUZ due to the condition that attaches to dwellings as a [section 1](#) use in the C1Z.

3.5.2 Nature of the controls

The Panel has assessed the appropriateness of the overlays and zones and whether the same zones and overlay controls should apply to the whole of Trenerry Crescent. The urban design evidence, JSLAP and DDO1 suggest that Council should treat all of Trenerry Crescent as one unit, with a single mixed use zone and one overlay. However, the circumstances for the proposed uses for each site and the nature of the development proposals favour particular controls.

87. While the Johnston Street LAP treat the east side of Trenerry Crescent as one unit, the DDO does not extend to this site. The office development on this site would also be facilitated by either the MUZ or C1Z (allowing office, retail and food and drinks premises), i.e. if the site was rezoned to either, then the existing land uses and development would not be prohibited.

3.0 PROPOSED AMENDMENT C220

88. I do not seek to reproduce the amendment in its entirety in this report; however, I provide the following summary of the proposed Amendment, with a particular focus on its relationship to the site at 436-438 Johnston Street, Abbotsford.

3.1 Johnston Street LAP

89. The LAP makes land use, public space, access and movement and built form recommendations.
90. The LAP reproduces the BILS Precincts, where the site at 436-438 Johnston Street is within Precinct BS6 (Johnston Street East), along with adjacent Johnston Street properties to the west:

The BILS recommends retaining the current zoning pending a master-planning exercise (in this case, a Local Area Plan) to consider the interface with the Yarra River Corridor. Properties that front onto Johnston Street do not have an interface with the Yarra River corridor, and opportunities exist to encourage the redevelopment of sites with a mix of ground floor retail, offices and upper levels of apartments. Commercial uses should be retained at the far eastern end (on the north side) of Johnston Street.

Many sites along Johnston Street are under-utilised with dated building stock that was built for a particular purpose, such as manufacturing or warehousing. The redevelopment of some sites could potentially provide new opportunities to increase commercial floor space whilst accommodating population growth (at upper levels) within the area. The sites that are located east of Trenerry Crescent on the northern side of Johnston Street are well utilised in terms of commercial uses and should remain as Commercial 2 Zone to maintain their commercial and employment focus. Sites on the southern side of Johnston Street should be considered for rezoning to allow a mix of residential and commercial uses.

91. Section 2.10 outlines a new Precinct Plan, including the site in Precinct 7 (Trenerry Crescent).

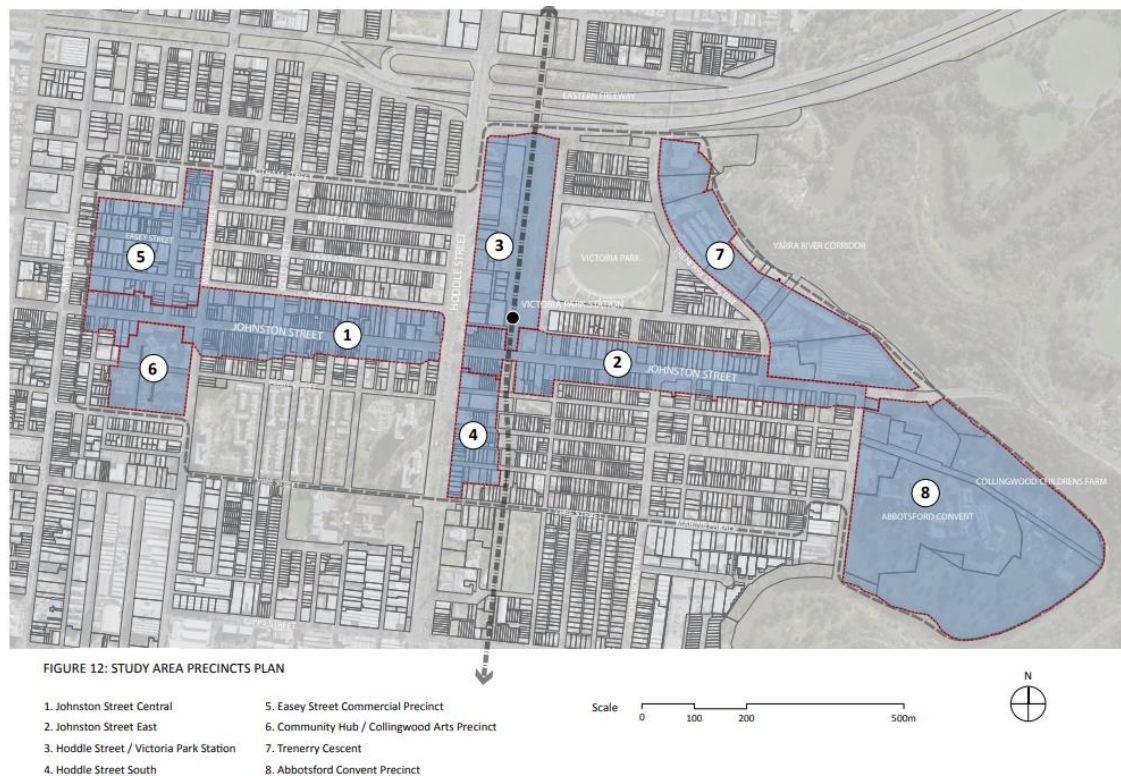


Figure 14 - Study area (Precinct plan).

92. The Trenerry Crescent precinct is described as:

A mix of former industrial and newer contemporary buildings sit prominently along the edge of the River corridor. Grassed banks are set below a steep and often tall escarpment that leads up to the building edge. The skyline includes saw tooth and gable roof forms and some prominent new taller buildings punctuate the skyline. The urban edge to the curving alignment of Trenerry Crescent offers little evidence of the nearby River corridor. Breaks in the street wall façade offer a glimpse of tree canopies that are a reference to the river corridor below. The red brick and concrete buildings range in height from 3-7 storeys.

93. Section 3.1 identifies a development and planning permit activity opportunity for:

Encouraging a diverse mix of land uses along Johnston Street will contribute to rejuvenation of the street environment through increased levels of commercial and residential activity. There are a number of sites within the existing Commercial 2 Zone that can accommodate new business opportunities if redeveloped in accordance with a zone that also allows residential uses.

94. In terms of housing and population growth opportunities:

Future housing growth will predominantly occur in underutilised commercial areas along Johnston Street and Hoddle Street where there are opportunities to accommodate a broader mix of land uses including higher density residential apartments that integrate commercial uses at the lower levels of new buildings. There are many sites within existing commercial areas, currently zoned only for commercial uses, that have the capacity to accommodate a mix of compact, higher density land uses that take advantage of the close proximity to the existing public transport network, as well as shops, restaurants, cafes and other services within the activity centre.

95. In terms of future business activity opportunities:

The Yarra Economic Development Strategy suggests that there will be growth in employment in the creative and knowledge sectors and there will potentially be increased demand for commercial floorspace to accommodate this growth. The Johnston Street activity centre along with the other precincts within the study area, has the capacity to accommodate a greater mix of activity and to integrate commercial and residential uses. Shifting patterns in the way that people work means that being able to live and work in the same location is an advantage to people in some professions, such as artists and designers.

96. The land use framework plan (Figure 15) again includes the site in Precinct 7, however the following is suggested for this precinct '*Mix of offices and residential uses, sensitive to the river corridor*'.

97. Section 4.8 refers to built form precincts and the preferred future character, stating an objective is:

The eclectic mix of existing heritage buildings and well-designed newer buildings respond to the unique environment of this riverside location providing an attractive place to live or work. Walkways provide visual and pedestrian links from Trenerry Crescent to the River. The mix of offices and residential apartments brings life to the street.

98. This cannot be achieved with the current Commercial 2 Zoning of 436-438 Johnston Street.

99. As a site within the Johnson Street Activity Centre, the LAP does not make it clear how 436-438 Johnston Street should be used or developed into the future.

100. I also note that the exhibited version of the DDO15 is different to the version adopted by Council at its meeting on 21 August 2018 (and being considered by this Panel).

101. The 21 August Council Agenda noted:

5. In March 2017, the Minister for Planning provided conditional authorisation (Attachment 1) which advised that the amendment could be prepared and exhibited if particular conditions were met. These conditions included a requirement for Council to "limit the application of mandatory controls to confined locations where there are exceptional circumstances as outlined in Practice Note 60 – Height and Setback controls for Activity Centres."

102. The Amendment was modified considering this conditional authorisation, with the documents exhibited in November-December 2017.

103. On 21 August 2017 Council considered the submissions to the exhibited version of the Amendment, along with several changes suggested by Council officers. Changes included:

- prescriptive preferred upper level setbacks, using a 45 degree hinged point, with a statement that '*In complying with the 45-degree envelope requirement development should provide incremental setbacks of at least two storeys to avoid repetitive stepped form and 'wedding cake' outcomes;*
- the preferred minimum setback (for upper levels from street wall façade) was increased from 3 metres to 6 metres;
- introduction of a mandatory maximum rear interface height (on boundary) requirement;
- additional decision guidelines were included to allow a development above the preferred maximum building and/or street wall heights (including a minimum 70% BESS project score or 5 Star Green Standard, greater building separation than the minimum requirement in the schedule and no additional amenity impacts to residentially zoned properties beyond any impact of a preferred maximum height compliant building; and

- the addition of 'corner site requirements'.

3.1.1.1 Appendix A – Policy Basis

104. Section 4.7 (conclusions) draws from the VCAT decisions, it is incorrectly stated that '*The Business 1 Zone (now Commercial 1 Zone) affects all of the sites considered in this report. The zone encourages the intensive development of land for business and associated uses*'.

3.1.1.2 Appendix B – Johnston Street Local Area Plan – Built Form Analysis and Recommendations (December 2015)

105. The analysis includes the site in Precinct 7 – Trenerry Crescent.

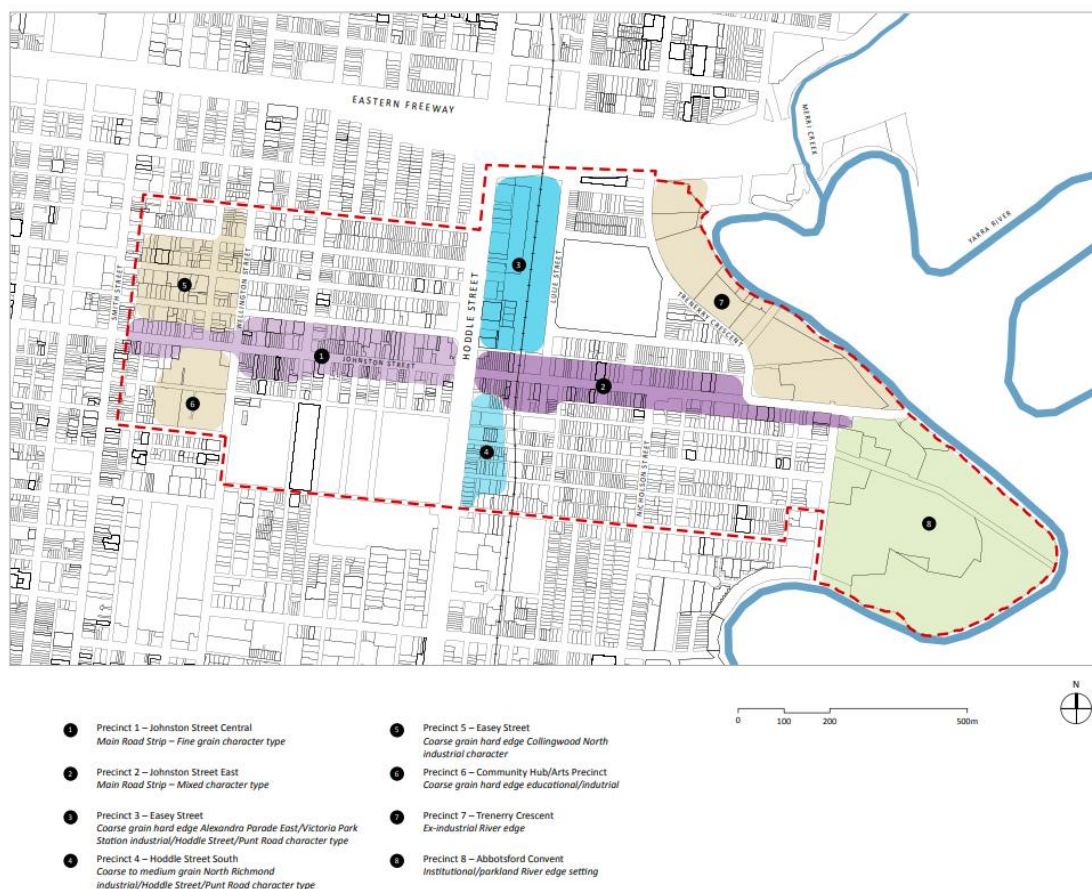


Figure 15 - Extract of Appendix B (Precincts).

106. Precinct 7 is described as:

"Heritage buildings provide meeting places and venues for art, cultural and entertainment uses"

A mix of former industrial and newer contemporary buildings sit prominently and sometimes intrusively along the edge of the River corridor. Grassed banks are set below a steep and often tall escarpment that leads up to the building edge. The skyline includes saw tooth and gable roof forms and some prominent new taller buildings punctuate the skyline. The precinct presents an urban edge to the curving alignment of Trenerry Crescent which offers little evidence of the nearby river corridor.

Breaks in the street wall façade offer a glimpse of tree canopies that are a reference to the river corridor below. The red brick and concrete buildings range in height from 3-7 storeys.

107. The issue with including the site at 436-438 Johnston Street in this Precinct is that the urban design guidance refers to Trenerry Crescent, heritage properties and the river interface. While 436-438 Johnston Street also fronts Trenerry Crescent, it is not affected by a Heritage Overlay, is not a former industrial building and does not front the river (hence it is not affected by the HO or DDO1).
108. The built form recommendations offer little relevant guidance for any future development at 436-438 Johnston Street.
109. The Appendix to this report outlines built form testing of the proposed controls. The site at 436-438 Johnston Street has not been 'tested' against the proposed built form controls, with a note that the site has been subject to a VCAT approval and has since been developed as a 5-storey building containing offices, retail and a café.

3.1.1.3 Appendix C – Trenerry Crescent – Urban Design Analysis and Master Plan (City of Yarra, September 2015)

110. The site at 436-438 Johnston Street is included in this study area.



Figure 16 - Remaining C2Z properties within study area.

111. The introduction to this document however, refers to the '*natural characteristics of the river corridor*' and the '*existing DDO1*' which does not apply to the site at 436-438 Johnston Street given it's physically removed from the river corridor.
112. The plan at point 3.2 identifies 436-438 Johnston Street as one of '*recently constructed buildings (not likely to develop further)*', assuming the status quo for this site.

113. Without further analysis or discussion as to why 436-438 Johnston Street should not be rezoned, one of the recommendations is:

5. *Rezone the remaining C2Z properties along Trenerry Crescent (not Johnston Street) to facilitate Mixed Use opportunities that respect the river corridor and contribute to the enhancement of the public realm and pedestrian/cycle connections.*

3.1.1.4 Appendix D – Johnston Street Economic Advice – SGS Economics and Planning

114. Terms of reference in the introduction of the Advice are '*Specifically this document provides specific advice to council on the role of properties within precincts 1 (Johnston Street Central) and 2 (Johnston Street East) of the Johnston Street Structure Plan area (Figure 1)*'. In other words, the authors have not been asked to consider the economic impacts of rezoning any other Precinct in the study area.

115. I note that the report recognises that there are more ground floor dwellings in the C2Z within the study area than in the C1Z:

FIGURE 4 LAND USE FLOORSPACE (SQM) – GROUND FLOOR

Use category	C1Z	C1Z %	C2Z	C2Z %	Total	Total %
Dwellings	222	0.8%	1,181	3.1%	1,403	2.1%
Service industry	1,952	6.4%	4,629	12.3%	6,581	9.6%
Clothing/accessories	3,508	11.4%	1,063	2.8%	4,571	6.6%
Electrical	1,058	3.5%	-	0%	1,058	1.6%
Hospitality	6,399	20.6%	2,074	5.4%	8,473	12.2%
Gallery/studio	4,556	14.7%	1,826	4.8%	6,382	9.3%
Household goods	2,800	9%	6,778	18.1%	9,578	13.9%
Medical/cosmetic	1,536	5%	1,450	3.8%	2,986	4.4%
Office	4,271	13.8%	16,179	43.1%	20,450	29.8%
Vacant	4,601	14.8%	2,540	6.6%	7,141	10.5%
Total	31,231	100%	37,393	100%	68,624	100%

Source: City of Yarra 2015 Rates database, City of Yarra 2015 Land Use Survey

Figure 17 - Extract of economic advice (existing land use floor space).

The Commercial 2 Zoned lands contain hospitality uses along with bulky goods and offices. Collectively they contribute to the local economy by providing a moderate level of local employment opportunities, but not to the extent of constituting a core employment precinct.

116. The advice then reviews a number of options, including 'retain the C2Z' and 'Rezoning the C2Z':

Base case – Retain Commercial 2 Zone

This is not a core employment precinct of the City of Yarra. It also contains many small lots which prevent larger developments from establishing in the area unless there is any reason for large scale investment to fund site amalgamations.

As discussed in Section 2, there would be significant benefits to the community if public sector investments in nearby arts and cultural facilities were leveraged to enhance land use in the broader Johnston Street Activity Centre.

The Commercial 2 Zone has largely proven to be an impediment for private sector investment, and has essentially prevented reinvestment on sites where buildings and frontages are largely outdated.

Retaining the Commercial 2 Zone would likely result in an underutilisation of sites and could become a barrier to optimising benefits which would be provided by investments to the arts and cultural facilities.

Rezoning to Commercial 1 Zone/ Activity Centre Zone

Given that this precinct is not a core employment area, there may be little net economic loss if those office based businesses relocated to core employment areas such as the Gipps Street Precinct in Collingwood. Service industries such as car mechanics and similar businesses, generally represent an underutilisation of Activity Centre sites both in terms of economic output as well as employment yields and are once again more suited to locations with clusters of similar light industrial and commercial activity, which can also be observed in the Easey Street Precinct north of Johnston Street.

Recent planning permit applications received by the City of Yarra in this precinct suggest that on most redeveloped sites we can eventually expect a combination of ground floor retailing along with dwellings on the upper floors. The development of employment floorspace on upper floors is unlikely in the prevailing economic climate, and would require elements of vertical zoning to be mandated (through perhaps an Activity Centre Zone).

Applying a general retail floorspace to employment ratio of 30sqm per job, we can expect that this would yield approximately 1,000 to 1,100 jobs – a slight increase on the existing level of employment (995 jobs in C2Z lands) due to greater levels of employment density that can be achieved on core retail floorspace compared to some other uses such as service industry and household goods. This scenario however, assumes that there would be sufficient retail floorspace demand to avoid vacancies.

We have applied a sensitivity analysis to demonstrate the level of employment which would be achieved under various vacancy scenarios:

FIGURE 6 RETAIL EMPLOYMENT SENSITIVITIES UNDER VARIOUS VACANCY SCENARIOS

Existing C2Z	C1Z 0% vacancy	C1Z 5% vacancy	C1Z 10% vacancy	C1Z 15% vacancy
995 jobs	1,059	1,006	954	901

Figure 18 - Extract of Economic Advice (Impact of rezoning from C2Z to C1Z and various vacancy rates).

These vacancy rates would be dependent upon the volume of residential development which can be accommodated in the area. Significant expansion of the local residential population in combination with an expanding arts and culture scene should see sufficient demand for retail and hospitality services leading to less than 5% retail vacancy. However if residential development is not achieved (with site amalgamation likely to be a potential impediment), 10% or 15% vacancies are possible. However even in this case, the employment outcome would be similar when compared against the existing employment yield. As mentioned earlier however, the nature of recent planning permit applications along Johnston Street suggest there is strong market demand for mixed use development that comprises ground floor retail (generally two shops) with a significant residential component in the upper floors.

Conclusion

Zoning recommendation: Rezone Commercial 2 Zoned properties along Johnston Street to Commercial 1 Zone. Given the analysis above, the C1Z would appear to be the most appropriate option because it is likely to be sufficient in delivering on the rationale supporting the policy

recommendation. We also note that mandated ground floor retail employment activities alone would likely deliver an employment neutral outcome compared to persisting with the existing C2Z.

117. Again, while only addressing Precincts 6 and 7 of the study area, the conclusion was that rezoning from C2Z to C1Z would not unreasonably impact the employment activity of the Activity Centre.

4.0 Relevant Planning Considerations

4.1 Victoria Planning Provisions (VPPs)

118. The relevant VPPs are:
- Clause 11 (Settlement);
 - Clause 15 (Built Environment and Heritage);
 - Clause 16 (Housing); and
 - Clause 17 (Economic Development).
119. Clause 11.02-1S (Supply of urban land) aims '*To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses*'.
120. Structure planning is to be undertaken as per Clause 11.02-2S '*To facilitate the orderly development of urban areas*'.
121. The role of Activity Centres in Clause 11.03-1S is '*To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community*'. Strategies include:
- *Undertake strategic planning for the use and development of land in and around activity centres.*
 - *Encourage a diversity of housing types at higher densities in and around activity centres.*
122. The 20-minute neighbourhood is outlined at Clause 15.01-4R, with a network of activity centres to '...give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home'.
123. Housing policy at Clauses 16 and 16.01-1S aim to provide housing diversity and long-term sustainability of new housing, specifically aiming '*To promote a housing market that meets community needs*'. Housing opportunity areas are specifically identified or defined at Clause 16.01-2R with strategies to:
- *Identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne.*
 - *Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are:*
 - *Neighbourhood activity centres - especially those with good public transport connections.*
 - *Areas near existing and proposed railway stations that can support transit-oriented development.*
 - *Facilitate increased housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport.*
 - *Direct new housing to areas with appropriate infrastructure.*

124. Clause 16.01-2S relates to the location of residential development, aiming ‘*To locate new housing in designated locations that offer good access to jobs, services and transport*’. Strategies include:
- *Increase the proportion of new housing in designated locations within established urban areas and reduce the share of new dwellings in greenfield and dispersed development areas.*
 - *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport. Ensure an adequate supply of redevelopment opportunities within established urban areas to reduce the pressure for fringe development.*
 - *Facilitate residential development that is cost effective in infrastructure provision and use, energy efficient, water efficient and encourages public transport use.*
 - *Identify opportunities for increased residential densities to help consolidate urban areas.*
125. Clause 17.01-1S aims ‘*To strengthen and diversify the economy*’, with strategy aiming to ‘*Protect and strengthen existing and planned employment areas and plan for new employment areas*’. Notably, the site is not within an identified employment area in local policy.
126. Clause 17.02-1S (Business) aims ‘*To encourage development that meets the community’s needs for retail, entertainment, office and other commercial services*’.

4.2 Local Planning Policy

4.2.1 Municipal Strategic Statement (MSS)

127. The Municipal Profile acknowledges that Yarra hosts ‘*Business activities and employment hubs with a regional catchment*’.
128. The land use vision includes priorities for a diverse range of people, increased employment opportunities and that ‘*The complex land use mix characteristic of the inner City will provide for a range of activities to meet the needs of the community*’.
129. Clause 21.04-1 (Accommodation and housing) directs new development to be accommodated on strategic redevelopment sites to protect the Municipalities low-rise, heritage character areas. It is acknowledged that many of these sites are in or abutting or close to Activity Centres or ‘*...in locations that offer good access to services and transport as required under Melbourne 2030*’.
130. Clause 21.04-2 (Activity centres) acknowledges that:
- The Business 1 Zone footprint of existing activity centres should remain unchanged as there is scope for further development of the centres to meet projected demand. For example, some centres have discontinuities in their retail or service frontages and there may be existing built stock and land parcels which are underutilised.*
131. It is acknowledged that Council may consider rezonings in special circumstances, but only when compliance with the following criteria is clearly demonstrated:
- The proposal includes a significant opportunity for improved public gathering spaces;
 - The proposal would facilitate correction of known retail gaps and shortfalls, principally plugging deficiencies in Yarra’s network of local food and grocery facilities; and
 - Offers the opportunity for advantageous re-use of a heritage building or the creation of a built form which will support a better interface between the existing retail area and surrounding fabric.

132. This is clearly outlined at clause 21.04-2 with an objective and strategies:

- *Objective 5 To maintain the long term viability of activity centres.*
 - *Strategy 5.1 Limit expansion of the Business 1 Zone and new parcels of Business 1 zoning.*
 - *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*
 - *Strategy 5.3 Discourage uses at street level in activity centres which create dead frontages during the day.*
 - *Strategy 5.4 Permit residential development that does not compromise the business function of activity centres.*

133. Clause 21.08-1 (Abbotsford) does not identify the site as being within the NAC 'bubble'. However, the bubble is generally indicative and does not appear to correlate with the built form character map on page 5. On this map, the site is within the 'Current and Ex-Industrial River Edge' area as per the 2003 Built Form Review.

5.0 ASSESSMENT OF PROPOSED C220

134. Council has identified that Johnston Street (particularly the eastern end) is in decline (2011 Johnston Street Issues and Opportunities Paper).
135. In the background, Council has historically been concerned with losing its employment base. This is evident in many Council decisions over the years, including with Amendment C66 (removing the recommendation to rezone the site to the B5Z, which allowed dwellings) and abandoning Amendment C97 in February 2010 (the Cremorne Urban Design Framework).
136. Council's employment base has transformed over the years from industrial to a more knowledge-based economy. Council has been actively supporting this shift and clearly perceives the Commercial 1 Zone as a risk of becoming a default residential zone due to the Municipalities' desirability as a place to live.
137. However, Council's employment and business reports (including the Yarra City Council Economic Development Strategy 2015-2020 [City of Yarra] and the Yarra Spatial Economic and Employment Strategy [SGS Economics and Planning, 2018]) do not acknowledge the site as being located in a core employment area.
138. While not an identified employment area, the retention of a strong employment base has been investigated through business and industrial land strategies (2002, 2004 and 2012). The most recent strategy was prepared by SGS Economics and Planning. However, the adopted Council version was amended at the direction of Council to remove the recommendation to rezone 8 of the identified Precincts to allow for residential land use (including the site at 436-438 Johnston Street).
139. The issue of the decline of Johnston Street has been pursued through the Johnston Street LAP and Amendment C220, including recommendations for a Design and Development Overlay to guide built form and land use rezoning within all or part of Precincts 1, 2, 3, 4 and 7.
140. The Johnston Street LAP identifies that there have been some signs of revitalisation over last 5-10 years, with further retail and commercial activity desired along the street to create '*...a vibrant, eclectic activity centre*'. It then follows that commercial ground floor activity with upper level dwellings could further activate this declining Neighbourhood Activity Centre.
141. While 436-438 Johnston Street is included in the study area, there is no rationale as to why it is not included in the C2Z to C1Z rezoning parcel. It was included in the draft exhibited for comment prior to the preparation of the planning scheme amendment.
142. Council commissioned an economic study (prepared by SGS Economics and planning) to specifically consider the economic impact of rezoning parts of Precincts 1 and 2, however the authors were not asked to investigate the economic impact of rezoning any other Precincts. I see this as a lost opportunity and does not result in an orderly planning outcome. It would seem logical to me that the conclusions reached by SGS for the exhibited Precincts 1 & 2 would be equally applicable to the subject site and its neighbour to the east.

143. As outlined in the preceding sections of the statement, there has been inconsistency and a lack of clarity in classifying or identifying the site at 436-438 Johnston Street over the years, including within the BILSs and built form strategies.
144. However, a clear theme has developed. Except for the 2003 Built Form Review and subsequent Planning Scheme characterisation within Clause 21.08, the only other policy documents to either not include the site in Precinct 6 or include the site in the 'Trenerry Crescent Precinct – 7' are:
- Johnston Street LAP (2015 version, noting the initial 2012 draft included the site in Precinct 6);
 - Johnston Street Built Form Analysis (Appendix B to the LAP), as directed by the 2015 LAP;
 - Trenerry Crescent – Urban Design Analysis and Master Plan (Appendix C to the LAP), again with the classification as directed by the 2015 LAP;
 - Johnston Street Economic Advice (Appendix D to the LAP), noting the authors were only asked to consider the economic implications of rezoning precincts 1 and 2.
145. I note that in the Panel Report for Amendment C66 (pursued under the 2003 Built Form Review) questioned the proposed DDO guidance for river precinct areas as they focused heavily on the river interface and not street frontages.
146. Since then, the site has again reverted to being included in the Johnston Street Precinct 6 area for the Yarra Spatial Economic and Employment Strategy (2018) and even the Yarra Housing Strategy (2018).
147. There are also inconsistencies as to whether the site is considered by Council as being within the NAC or not. This is highlighted at **Error! Reference source not found..**
148. I am of the view that that Council has made decision to not to rezone the site at 436-438 Johnston Street, following its inclusion in the early draft of the LAP on the basis that the site had recently been developed for an office building and in the absence of detailed economic advice. This has resulted in the site being grouped in the 'Trenerry Crescent Precinct', either as the site is seen as 'no risk' given its recently been developed or because it was easier to retain the existing zoning by relocating or reclassifying the site as being within the adjacent Precinct.
149. Should Amendment C220 be approved in its exhibited form the site at 436-438 Johnston Street would be in a built form control sense an island site.
150. The sites to the north-east along Trenerry Crescent would be afforded built form controls in the form of the Design and Development Overlay (Schedule 1) and in some instances, Heritage Overlays.
151. The sites to the west and south-west along Johnston Street would be affected by the new DDO and Local Policy.
152. That would leave the site with built form controls limited to the C2Z and clause 22.10 in a local policy sense (i.e. not an area specific control that provides a clear vision should this site be further developed).
153. This is an undesirable planning outcome for a site within a Neighbourhood Activity Centre. Especially with the findings of the Johnston Street Economic Advice (SGS Economics and Planning, 2015) stating (albeit with limited terms of reference or permitted geographical study scope):

Zoning recommendation: Rezone Commercial 2 Zoned properties along Johnston Street to Commercial 1 Zone. Given the analysis above, the C1Z would appear to be the most appropriate option because it is likely to be sufficient in delivering on the rationale supporting the policy

recommendation. We also note that mandated ground floor retail employment activities alone would likely deliver an employment neutral outcome compared to persisting with the existing C2Z.

154. In my opinion the proper strategic planning outcome would be for the site and its eastern neighbour to be included in Precinct 2 and rezone the sites to Commercial 1 (also applying the DDO15 (Johnston Street Activity Centre) and local policy 21.12) for the following reasons:

- the site is not an employment centre;
- site specific rezoning of land in Precinct 7 have previously been approved;
- there is no guarantee the sites will stay as office use in perpetuity; and
- economic work has been undertaken by Council concludes that rezoning does not undermine the employment contribution of the land.

The purpose of the LAP which forms the strategic basis for the amendment is to provide the community with a clear framework for the future use and development of the activity centre. The decision to remove the land fronting Johnston Street east of Trenerry on the basis of existing land use and development is not a strategic approach.

6.0 CONCLUSION

155. In summary, based upon my review of the proposed Planning Scheme Amendment documentation, site and its context and the relevant planning considerations to the site:

- The site at 436-438 Johnston Street should have been included in Precinct 2 of the Johnston Street LAP, with the rezoning and policy application (DDO15 and local policy) considered holistically as part of Precinct 2;
- There is not sound planning rationale for including the site in Precinct 7 as opposed to Precinct 2, particularly as the site fronts Johnston Street and does not have a river interface; and
- The result of excluding the site from Precinct 2 and including it in the Trenerry Crescent Precinct 7 will offer limited built form and land use guidance for a site within the Neighbourhood Activity Centre and would be a poor planning outcome.



Kel Twite

I have made all the enquiries that I believe are desirable and appropriate and that not matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.