

Submitter 401

Amendment C231 Yarra Planning Scheme

Planning and Urban Design Evidence

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1. Preamble

1.1. Introduction

- 1 Planning Panels Victoria (PPV) has been referred proposed Amendment C231 (AmC231) to the Yarra Planning Scheme (the planning scheme) to review its planning merits, consider submissions made to the public exhibition of AmC231 and make recommendations to Yarra City Council about the future form and content of the proposed amendment.

1.2. Instructions

- 2 I have been requested by Best Hooper Lawyers, on behalf of TLC Pty Ltd, submitter 401, to review the planning and urban design merits of the exhibited AmC231 as well as Council's subsequently adopted modification to the exhibited controls. I have been instructed to particularly focus my considerations on how AmC231 affects land known as Sub Precinct 5B for the Queens Parade Activity Centre in North Fitzroy/Clifton Hill. TLC Pty Ltd is the owner and operator of Clifton Views, a 10 storey aged care facility. Clifton Views occupies land at 217 Queens Parade which in turn is located on land nominated by AmC231 as Sub Precinct 5B. A lot plan and an aerial oblique identify the Clifton Views site and triangular Precinct 5 at **Figures 1 and 2**.
- 3 These images depict the irregular configuration of the triangular precinct and its offset alignment to the compass points. For the purpose of this evidence statement I refer to the precinct abutments as follows;
 - West; addressing Queens Parade,
 - East; addressing Dummett Crescent,
 - North; Hoddle Street extension and Queens Parade intersection and
 - South; beyond Raines Reserve located at the apex point of the triangular Precinct 5.



Figure 1 – Lot Plan, Clifton Views (red)



Figure 2 – Aerial Oblique, Precinct 5 (blue), Precinct 5B (green), Clifton Views (red)

1.3. Focus of Investigations

- 4 The triangular parcel known as Precinct 5 comprises 3 sub-precinct, 5A, 5B and 5C. **Figure 3** depicts most of the Queens Parade frontage of Precinct 5. Raines Reserve is located to the south of sub precinct 5A and occupies the apex of the triangle (beyond the photo image). Sub precinct 5A accommodates the art deco 'Former United Kingdom (UK) Hotel' now occupied by a McDonald's restaurant and its at-grade car park and drive through facility.
- 5 The Former UK Hotel is included on Victoria's Heritage Register and is of State Cultural Heritage Significance. Sub precinct 5B is occupied by 3 non-contributory heritage buildings (2 on Queens Parade and the 3rd addressing Dummett Crescent) and the art deco Former Clifton Motors Garage which is now occupied by a restaurant. The Former Clifton Motor Garage is included on Victoria's Heritage Register and is of State Cultural Heritage Significance. To the rear of this property is vacant land comprising 6-12 Dummett Crescent.

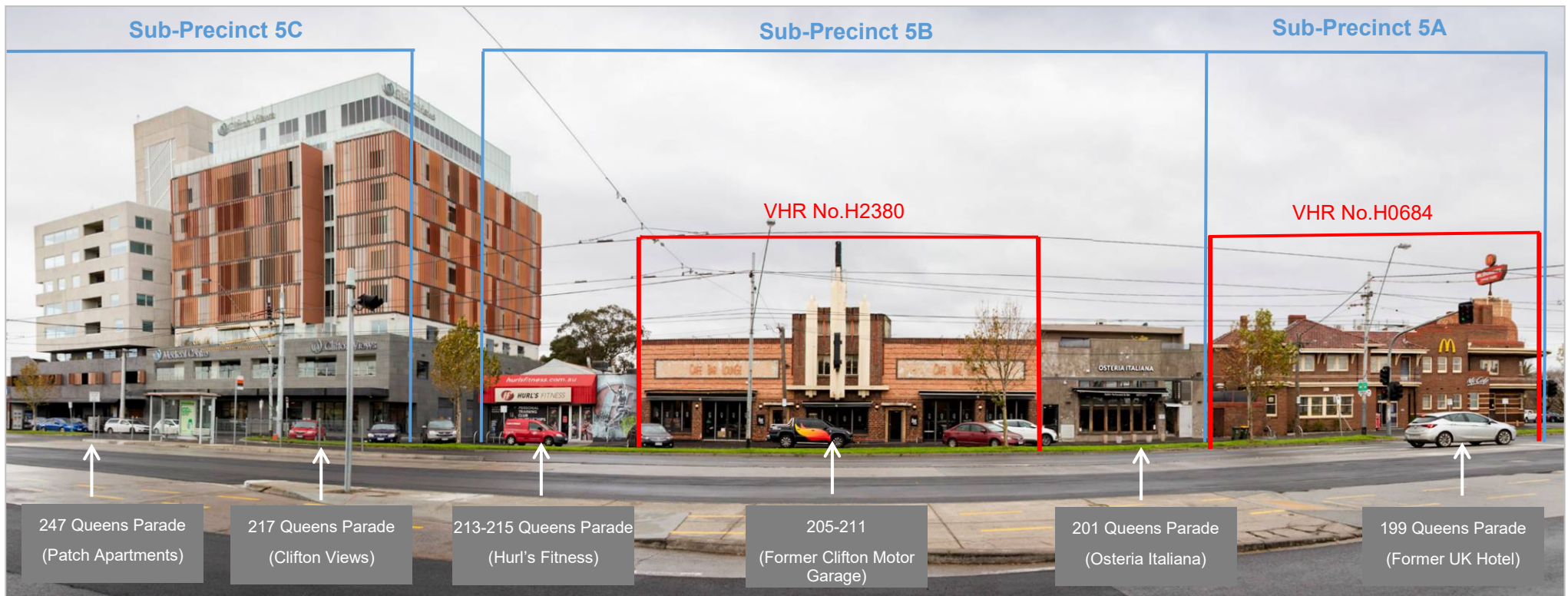


Figure 3 – Streetscape context, Precinct 5

- 6 Land at 201 -215 Queens Parade (including the Former Clifton Motor Garage) and 6-12 Dummett Crescent is the subject of a planning permit application (PLN16/0923) for an 11 storey building. Yarra Council has determined to refuse this application and it is currently before VCAT (No.P2627/2018). At the time of writing this evidence the Tribunal had not made a decision on this Application for Review.

1.4. Background

- 7 The Queens Parade Neighbourhood Activity Centre is an area of Fitzroy North/Clifton Hill undergoing renewal and change.
- 8 In a practical sense the activity centre extends along both sides of Queens Parade between Hoddle Street to the north and Brunswick Street to the south. At the northern end of the activity centre is a triangular precinct zoned Mixed Use (MUZ), whilst at the southern end is the precinct also zoned Mixed Use focused around the three way intersection of Queens Parade, Brunswick Street and Alexandra Parade. These MUZ parcels of land bookend the extended Queens Parade Activity Centre.
- 9 The commercial core of the activity centre comprises 1 and 2 storey 19th century Victorian and Edwardian shop fronts located on both sides of Queens Parade in the northern half of this linear activity centre.

- 10 As a consequence of the pace and scale of change that has recently emerged within the Queens Parade activity centre, Council engaged Hansen Partnership and GJM Heritage to undertake a built form and heritage review of the activity centre. The purpose of this review was to establish a preferred built form framework underpinned by urban design and heritage assessments.

- 11 The outcome of this work is set down in the report entitled “Queens Parade, Clifton Hill Built Form Review” dated 15 December 2017 (the Built Form Review). The Built Form Review nominates 5 different precincts along the Queens Parade study area namely:

Precinct 1: Brunswick Street Precinct

Precinct 2: Boulevard Precinct

Precinct 3: St John’s Precinct

Precinct 4: Activity Centre Precinct

Precinct 5: North Eastern Precinct

The extent of the study area is depicted on **Figure 4**.

- 12 The study area includes land currently zoned Commercial Schedule 1 (C1Z), MUZ and Neighbourhood Residential Schedule 1 (NRZ1). As well, the study area includes a number of existing individual and precinct based heritage overlays.

- 13 **Appendix A** includes photographs of Precinct 5.

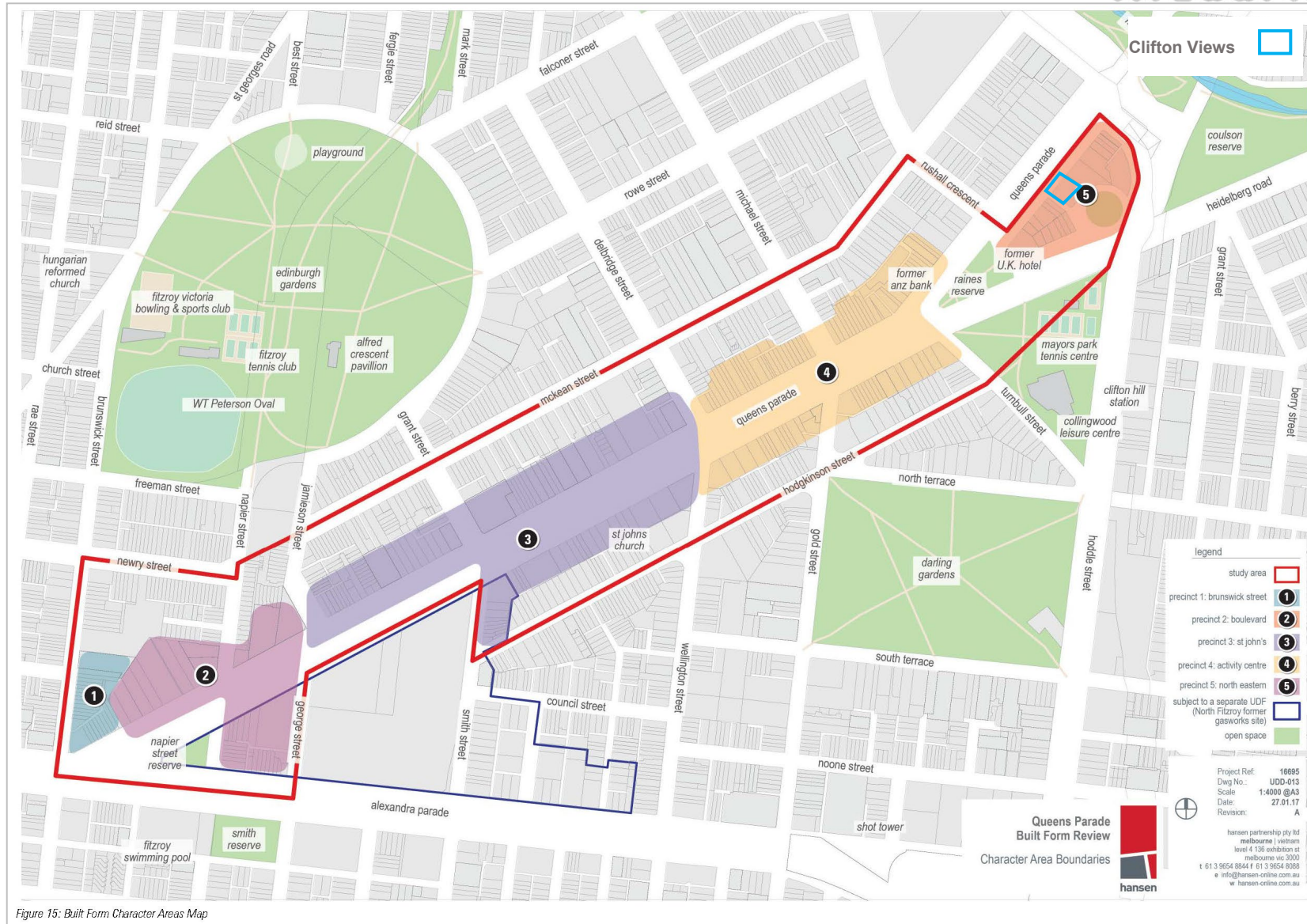


Figure 15: Built Form Character Areas Map

Figure 4 – Queens Parade Built Form Review – precincts, prepared by Hansen- Partnership, page 38, Clifton Views (blue).

- 14 An interim Design and Development Overlay 16 (DDO16) was introduced on 28 March 2017 over part of the Mixed Use zone at the southern end of the study area. This planning scheme amendment is known as AmC229 and applied to Precinct 1 and part of Precinct 2.
- 15 Following the completion of the Built Form Review, an interim DDO20 as well as amended heritage controls were introduced via AmC241 on 23 August 2018. DDO20 now applies to Precincts 2 (part), 3, 4 and 5 nominated in the Built Form Review.
- 16 In terms of built form management AmC231 envisages a DDO16 that will replace the existing interim DDO16 as well as the interim DDO20 provisions. A summary of all the planning scheme changes proposed by AmC231 is set down in **Figure 5**.
- 17 In essence, the existing interim DDO20 (see map extract at **Figure 6, overleaf**) and interim DDO16 and the permanent DDO16 all apply a mix of discretionary and mandatory provisions for overall building height, street wall height and setbacks. The interim DDO20 and interim DDO16 controls contain the same quantitative provisions regarding overall building height, street wall height and setbacks as those envisaged by the DDO16 under AmC231 for Precinct 5B. A comparison of quantitative provisions between AmC241 and C231 for Sub Precinct 5B is contained in **Appendix C**.
- 18 Following the public exhibition of AmC231, Council further refined the permanent DDO16 provisions and resolved at its meeting on 28 May 2019 to present this modified DDO16 to the Ministerial Panel. The Council adopted DDO16 (May 2019) for Sub Precinct 5B is contained in **Appendix D**.

Summary of changes proposed by AmC231

In summary the AmC231 proposes to:

- Introduce a DDO16 to provide permanent built form controls along Queens Parade. This DDO16 will replace the two interim controls that are currently in place along Queens Parade (DDO16 and DDO20). This change affects Precinct 5;
- Make some changes to the commercial zones within the amendment area, these changes are not relevant to Precinct 5;
- Apply the Environmental Audit Overlay to specific areas within the amendment area, this change is not relevant to Precinct 5;
- Incorporate *Yarra High Streets: Statements of Significance* by GJM Heritage October 2017 (updated November 2017) as a reference document in the Yarra Planning Scheme. This change affects Precinct 5 as it proposes to include a Statement of Significance for the Former Clifton Motor Garage;
- Make a number of updates to the Heritage Overlay. This change affects Precinct 5 by introducing a site specific HO504 to apply to the Former Clifton Motor Garage; and,
- Update the Incorporated Document called Appendix 8 to reflect the changes made to the heritage overlay. This

Figure 5 – Summary of planning scheme changes proposed by AmC231

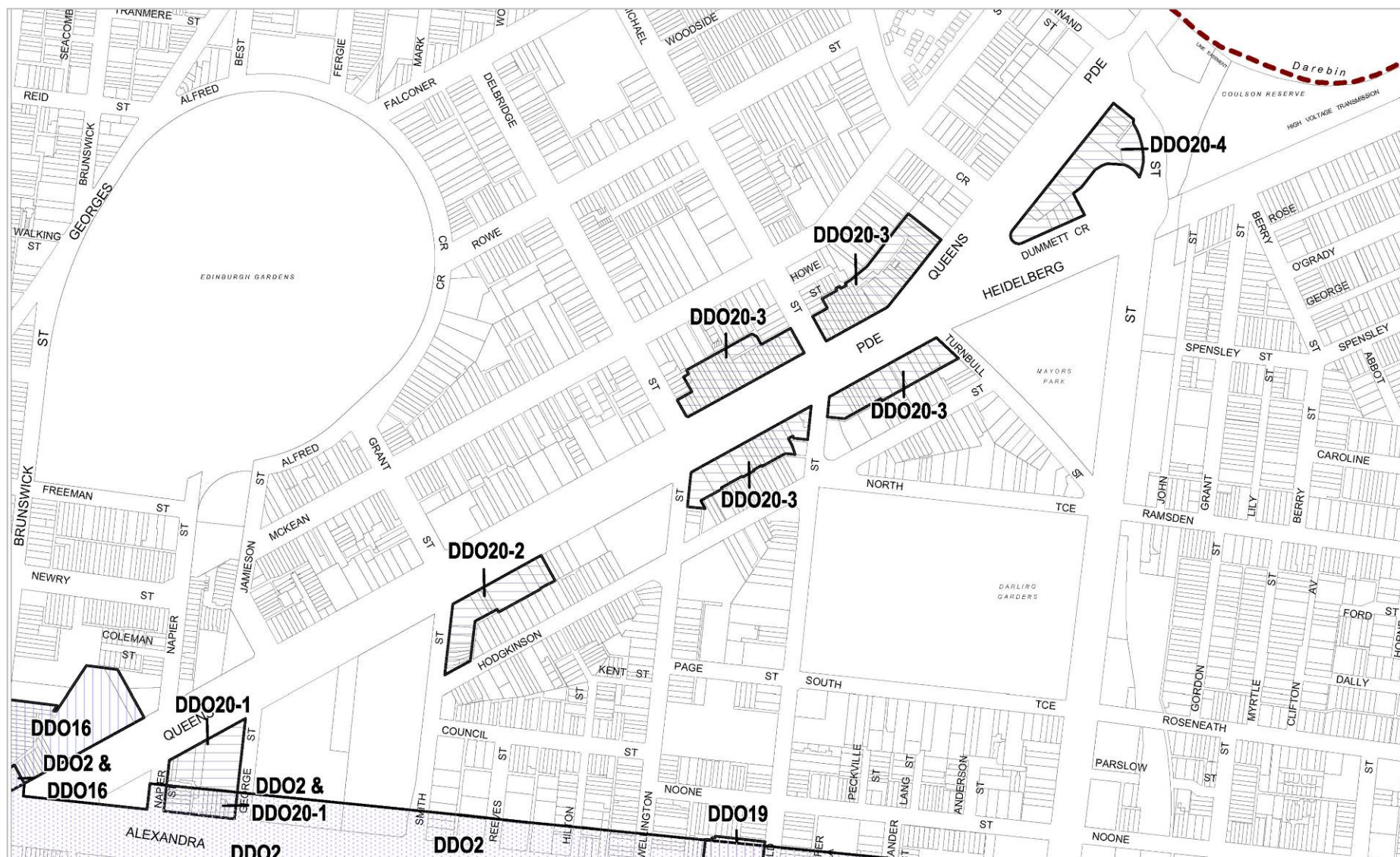


Figure 6 – Extent of existing DDO20 (AmC241)

1.5. Existing and Proposed Planning Controls

- 19 The existing planning controls that apply to Precinct 5 are summarised in **Appendix B**. In summary all the land in Precinct 5 is zoned Mixed Use (MUZ) and is affected by an Environmental Audit Overlay (EAO). Part of Precinct 5 is included in HO330 and the Former UK Hotel is affected by a site specific HO92.
- 20 Whilst the Former Clifton Motor Garage is included on Victoria's Heritage Register it is not affected by a heritage overlay pursuant to the planning scheme. The land is also included in the interim DDO20.
- 21 The proposed planning scheme changes envisaged by Am C231 are;
- Introduce a permanent DDO16 control, and
 - Apply a site specific HO504 to the Former Clifton Motor Garage.

1.6. Key Considerations

- 22 I have approached my assessment of AmC231 generally and the proposed Sub Precinct 5B controls specifically by addressing the Practice Note 46 "Strategic Assessment Guidelines" as follows;
- Why is an amendment required?
 - Does the amendment implement the objectives of planning and address any environmental, social and economic effects?
 - Does the amendment support or implement the State and Local Planning Policy Framework (LPPF and SPPF)

including the Municipal Strategic Statement (MMS)?

- Does the amendment make proper use of the Victoria Planning Provisions?

1.7. Summary of Conclusions

23 A summary of conclusions is that:

- AmC231 successfully addresses the relevant strategic assessment guidelines as set down in Practice Note 46
- The thrust of the exhibited DDO16 General Design Requirements and Precinct 5 Design Requirements have strong strategic merit and urban design logic.
- The quantitative provisions for Precinct 5B in the exhibited DDO16 provides for an incoherent new built form outcome.
- The subsequent Council modified DDO16 provisions for Sub Precinct 5B resolve and clarify the built form inconsistencies.
- The adoption of mandatory provisions for an 18m overall building height and an 8m setback above the street wall is justified and has strategic merit. Moreover these quantitative provisions will ensure a meaningful transition between Sub Precinct 5C and Sub Precinct 5A.

24 I recommend that should the Am C231 proceed, that a definition for a laneway street wall be included in the DDO16 provisions.

2. Assessment

2.1. Is an Amendment Required?

- 25 The potential for ongoing built form change within the Queens Parade study area generally and the activity centre in particular underscores the strategic merit for built form controls as well as improved and clarified heritage overlay provisions.
- 26 Am C231 is based on the comprehensive strategic analysis and built form assessment prepared by Hansen Partnership together with GJM Heritage Consultants and set down in the Built Form Review.
- 27 I consider that the degree of change that has already occurred as well as the potential for more significant change to emerge within the study area, justifies an amendment to the planning scheme to give effect to built form controls and clarified heritage overlay provisions.

2.2. Does the amendment implement the objectives of planning and address any environmental, social and economic effects?

- 28 This question is a high level one and is answered by my subsequent analysis of the proposed AmC231. However, in summary the amendment seeks to shape new built form outcomes in a neighbourhood activity centre that hosts a number of heritage places of local and state significance and which is currently experiencing significant change pressures.

- 29 The overarching endeavour of AmC231 is to balance activity centre policy with urban design and heritage policies. I consider AmC231 implements the relevant objectives of planning, including as follows;

- to provide for the fair, orderly, economic and sustainable use and development of land;
- to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria,
- to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value,
- To balance the present and future interests of all Victorians.

2.3. Does the amendment implement the State and Local Policy Frameworks?

- 30 Before I consider whether AmC231 successfully answers this question, I have firstly summarised what the relevant aspects of the State and Local Policy Frameworks are.
- 31 The key aspects of AmC231 seek new built form controls through the application of a new DDO16 and to introduce new and updated statements of heritage significance. As well, the extent of existing heritage overlays are updated and individual heritage overlays are sought to be introduced.

2.3.1. Strategic Policy

- 32 In broad terms, State planning policies encourage a mix of uses and higher densities to locate in and around activity centres that are well served by public transport.
- 33 **Figure 7 (overleaf)** illustrates the strategic and statutory urban context of the activity centre.
- 34 This increase in density and mix of uses reflects State and Local strategic policy on the location of growth, housing and urban consolidation. At the **State level**, key policy directions comprise:
- 35 Clause 11.03-1S (Activity Centres) seeks to build up activity centres as a focus for high-quality development, activity and living and support a diversity of housing types at higher densities in and around activity centres and commensurate with their role and function to foster development of the public transport network.
- 36 Clause 11.01-1R (Settlement – Metropolitan Melbourne), which seeks amongst other things, to create mixed-use neighbourhoods at varying densities, including through the development of urban-renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.
- 37 Clause 15.01-4R (Healthy Neighbourhoods – Metropolitan Melbourne) seeks the creation of 20 minute Neighbourhoods. **Figure 7** depicts the 20 minute neighbourhood as it applies to the Queens Parade Activity Centre.
- 38 Clause 15.02 (Sustainable Development) encourages land use and development that is energy and resource efficient.
- 39 Clause 15.03 (Heritage) seeks to ensure the conservation of places of heritage significance.
- 40 Clause 16.01 (Residential Development) seeks to locate new housing in or close to activity centres and in urban renewal precincts that offer good access to urban services, to foster 20 minute neighbourhoods by locating new residential development in proximity to public transport and activity centres and to provide for a range of housing types to meet diverse needs.
- 41 Clause 17.02-1S (Business) encourages development that meets the community's needs for retail, entertainment, office and other commercial services.
- 42 At the **Local level**, Council's MSS at Clause 21.03 (Vision) states that in 2020 Yarra will accommodate a diverse range of people 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. The Strategic Framework Plan within this clause designates the Queens Parade Activity Centre as a 'Neighbourhood Activity Centre'.

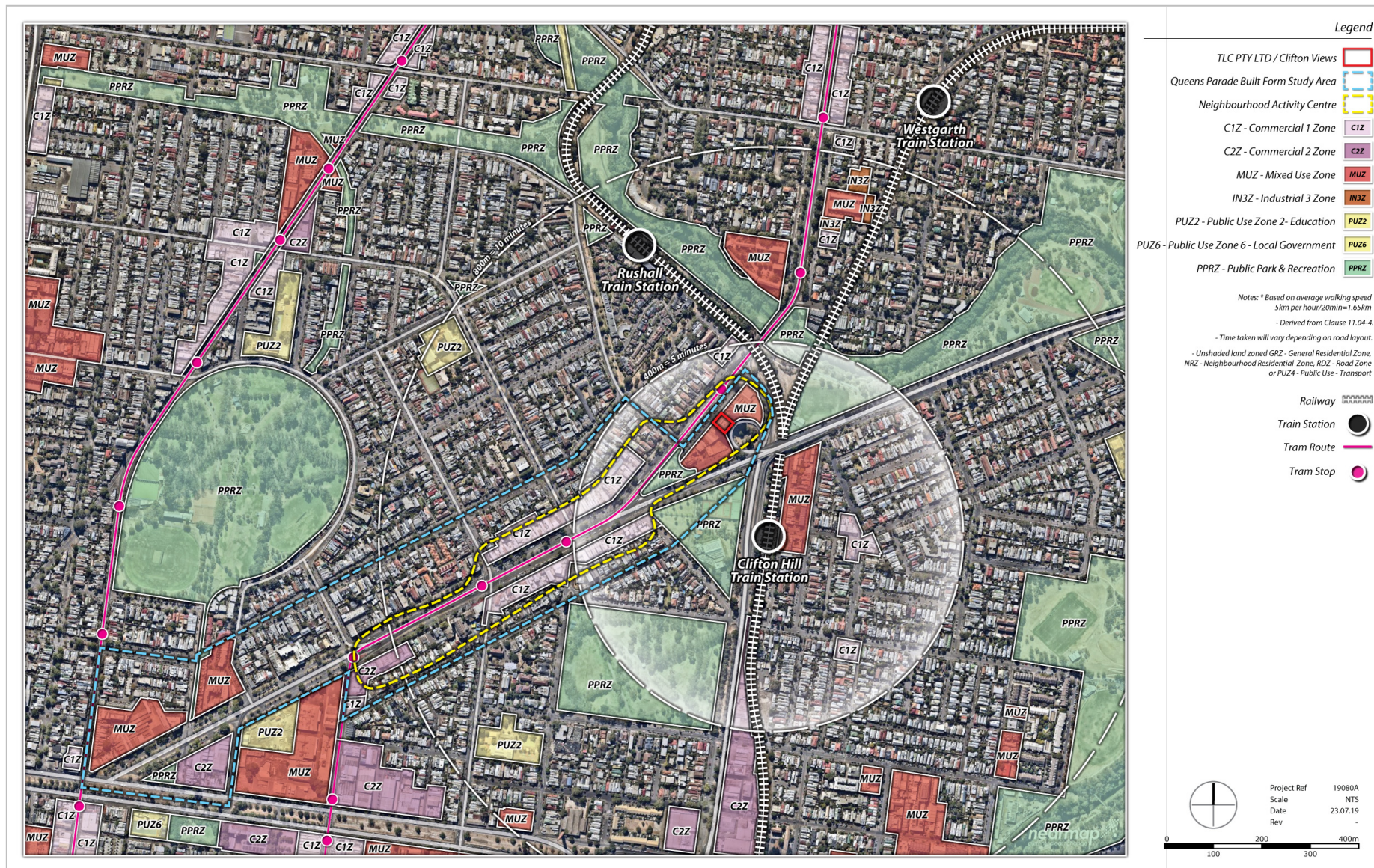


Figure 7 – Strategic and Urban Context Plan

- 43 Clause 21.04-1 recognises that Yarra will continue to accommodate its share of housing growth of the inner city on strategic redevelopment sites or as is the case with the review site, *“on sites identified through any structure plans or urban design frameworks”* (my emphasis).
- 44 The thrust of metropolitan and local strategic policy and the ongoing change occurring within the study area indicates the study area as an area of regeneration for the City of Yarra.

2.3.2. Built Form Policy

- 45 The relevant State and local planning policy directions applying to a consideration of built form and urban design matters for AmC231 are:
- Clauses 15.01-1S Urban design, 15.01-2S Building design and 15.01-5S Neighbourhood Character
 - Clause 15.03 Heritage
 - Clause 21.05 Built form;
 - Clause 21.08 Neighbourhoods - Clifton Hill
 - Clause 22.03 Landmarks and Tall Structures
 - Clause 22.05 Interface Uses Policy;
 - Clause 22.07 Development Abutting Laneways;

- 46 These design and heritage policies and provisions described above combine to, in summary, encourage new development that responds to its site context and create safe functional and good quality environments with a sense of place and cultural identity whilst protecting and enhancing the identified character including sites and precincts of heritage significance and main road/boulevards.
- 47 My assessment concludes that AmC231 implements State and Local Frameworks by successfully striking a balance between relevant competing strategic and built form policy drivers. On the one hand strategic policy seeks increases in density in activity centres. On the other hand, the role and function of the Queens Parade Activity Centre as that of a neighbourhood centres and the extent of individual and precinct based places of heritage significance, temper urban consolidation aspirations.
- 48 In this context the high level role of a DDO control and clarified HO's will serve to manage and shape built form outcomes for an increased density in the study area generally and the Queens Parade Neighbourhood Activity Centre specifically.

2.4. Does the amendment make proper use of the Victoria Planning Provisions (VPP's)?

- 49 AmC231 utilises statutory provisions that already exist within the study area such as zone controls and the heritage and environmental audit overlay provisions, and introduces a built form management technique via a DDO control. These tools are the appropriate VPP mechanisms to address the particular and use and built form issues identified through the Built Form Review.
- 50 The exhibited DDO16 seeks a built form outcome of higher development in Precincts 2 and 5, namely a maximum building height of 31m and of 49m respectively, on the MUZ land at the south and north ends of the Queens Parade boulevard. Building heights then grade down from these book ends, to the finer grain residential Precincts 1 and 3 and the heritage shop fronts in Precinct 4. The principle of managing a building height gradient along a linear activity centre comprised of different zones and subdivision grains has strong strategic logic.
- 51 However, I consider that it is the detail of the exhibited DDO16 control in general and Sub Precinct 5B in particular that requires interrogation.

2.4.1. What does DDO16 seek to do?

- 52 The General Design Objectives of the exhibited DDO16 are set down at Clause 1.0 of the provision and state;
- *“To recognise and respond to the distinct character, heritage streetscape and varying development opportunities defined by the five precincts along Queens Parade,*
 - *To support a new mid-rise character behind a consistent street wall in precincts 2-5.*
 - *To ensure development respects the architectural form and qualities of heritage buildings and streetscapes and maintains the visual prominence of the St John the Baptist church belfry and spire, the former ANZ Bank building, the former United Kingdom Hotel and the former Clifton Motors garage.*
 - *To ensure new development responds to the grand, tree-lined boulevard character of Queens Parade.*
 - *To ensure that the overall scale and form of new buildings provides a suitable transition to low scale residential areas and protects these properties from unreasonable loss of amenity through visual bulk, overlooking and overshadowing.”*
- 53 The subsequent Council adopted DDO16 draft alters these design objectives slightly to improve them, however the general thrust remains.

54 More specific Design Requirements for Precinct 5 are set down in Clause 2.4.4 of the exhibited DDO16 and note that;

- **“Development must:**
 - retain the visual prominence and *not visually dominate the three dimensional forms of the former United Kingdom Hotel when viewed from Raines Reserve and the former Clifton Motors Garage when viewed from the opposite side of Queens Parade.*
 - retain, conserve and incorporate the moderne façade of the former Clifton Motor Garage (205-211 Queens Parade) in any redevelopment of the site and ensure that the three dimensional form of the façade remains prominent and the decorative vertical fin remains a prominent freestanding element when viewed from the public realm.
 - be designed above street wall in Precincts 5B and 5C as a series of separate development parts with building separation.
 - establish a transition and gradual stepping down of building heights from taller forms in Precinct 5C to existing heritage form in Precinct 5A”(my emphasis).

55 The quantitative provisions for a new building height, street wall height and setback are detailed for each Sub Precinct 5A, 5B and 5C.

56 The preferred overall building heights for Sub Precincts 5A, 5B and 5C are 18m, 28m and 49m respectively.

57 The specific DDO16 requirements as they apply to Precinct 5B as exhibited are set down at Figure 8.

58 The provisions in the mandatory requirements column cannot be varied with a permit. Clause 2.2 of DDO20 goes on to state that a permit cannot be granted for buildings and works which exceed the preferred building height and setbacks unless the following requirements are met:

- *“The built form outcome as a result of the proposed variation satisfies the general design objectives in Clause 1.0; and*
- *The built form outcome as a result of the proposed variation satisfies the relevant requirements specified in this schedule”*

Built form	Mandatory requirement	Preferred requirement
Precinct 5B		
Building height		1:1 heritage street wall to new built form behind Clifton Motors and 203 Queens Parade visible from the opposite side of Queens Parade 28 metres elsewhere
Front street wall height	Match parapet height of former Clifton Motor Garage and eaves line of former UK Hotel	11 metres for non contributory buildings facing Queens Parade and Dummett Crescent
Street wall setback	0 metres	
Setback from side and rear boundary	0 metres	
Upper level	6 metres for development at former Clifton Motor Garage	6 metres elsewhere

Figure 8 – Exhibited DDO16 requirements for Sub Precinct 5B

- 59 The specific Design Requirements for Precinct 5 are supplemented by particular Heritage Design directions at Clause 2.3 for development within a heritage overlay or immediately adjacent to a heritage building.
- 60 Also Clause 5 sets down decision guidelines when considering an application for planning permit including as relevant;
- *“...Whether heritage buildings retain their three-dimensional form when viewed from the public realm.*
 - *Whether upper level development above the heritage street wall is visually recessive and does not dominate or visually overwhelm the heritage buildings.*
 - *Whether the proposal contributes to and improves the pedestrian environment and other areas of the public realm.*
 - *The impact of development on views to:*
 - *the former ANZ Bank building’s tower, roof, chimney and upper level*
 - *the St John the Baptist Church belfry and spire*
 - *the former Clifton Motor Garage’s Moderne façade and fin.”*
- 61 Views of the Former ANZ Bank and Saint John’s Church belfry and spire will not be affected by development within Precinct 5 because of the Queens Parade alignment. Views of the Former Clifton Motor Garage are of course relevant.
- 62 Overall building height is only one part of a 3D built form equation. The exhibited DDO16 also specifies a street wall height and setbacks that are different for buildings that are of heritage significance to those that are non-contributory.
- 63 I have tested how the exhibited DDO16 controls apply to Sub Precinct 5B and then consider the consequences of Council’s adopted changes in the next section of my evidence.

2.4.2. Built Form Outcomes for Sub Precinct 5B

- 64 The setback for new built form behind the Former Clifton Motor Garage is determined by a 1:1 street wall ratio when viewed from the opposite side of Queens Parade. The consequence of this requirement is depicted in **Figure 9 (overleaf)**.
- 65 The required street wall height and setbacks for non-contributory buildings such as the corner building at 215 Queens Parade is for an 11m street wall height, a 6m upper level setback and an overall building height of 28m.
- 66 Moreover, the sight line 1:1 ratio control does not apply to non-contributory buildings. In short, the quantitative provisions of DDO20 (as well as those of the exhibited DDO16) are inconsistent and on a strict interpretation lead to an incoherent 3D building envelope as depicted in **Figure 9(overleaf)**.
- 67 It is in this context that it is useful to examine the Council adopted position for DDO16 which adjusts the quantitative requirements for a 3D building envelope to one that envisages a coherent volumetric outcome. The Council adjusted DDO16 now removes the sight line 1:1 ratio control and adopts a mandatory minimum 8m setback for new built form above the street wall on land at 201-215 Queens Parade including the Former Clifton Motor Garage and the eaves line of the Former UK Hotel.
- 68 A mandatory maximum building height of 18m is stipulated for land 201-205 Queens Parade. Furthermore, the preferred maximum building height elsewhere is nominated as 28m. A preferred street wall height and upper level setback for land at 4-10 Dummett Crescent is also clarified.

The 8m setback requirements together with the 3D building envelope of Council's adopted position is depicted in **Figure 10 (page 17)**.

- 69 To assist with understanding how the built form work together with the quantitative provisions of DDO16, a 3D model has been prepared of the exhibited provisions and the Council adopted version for Sub Precinct 5B at **Figure 11 (page 18)**.



Figure 9 – DDO16 Permanent Controls (exhibited), section (top) and building envelope 3D model (bottom)



Figure 10 – DDO16 Council Adopted Permanent Controls (May 2019), section (top) and building envelope 3D model (bottom)

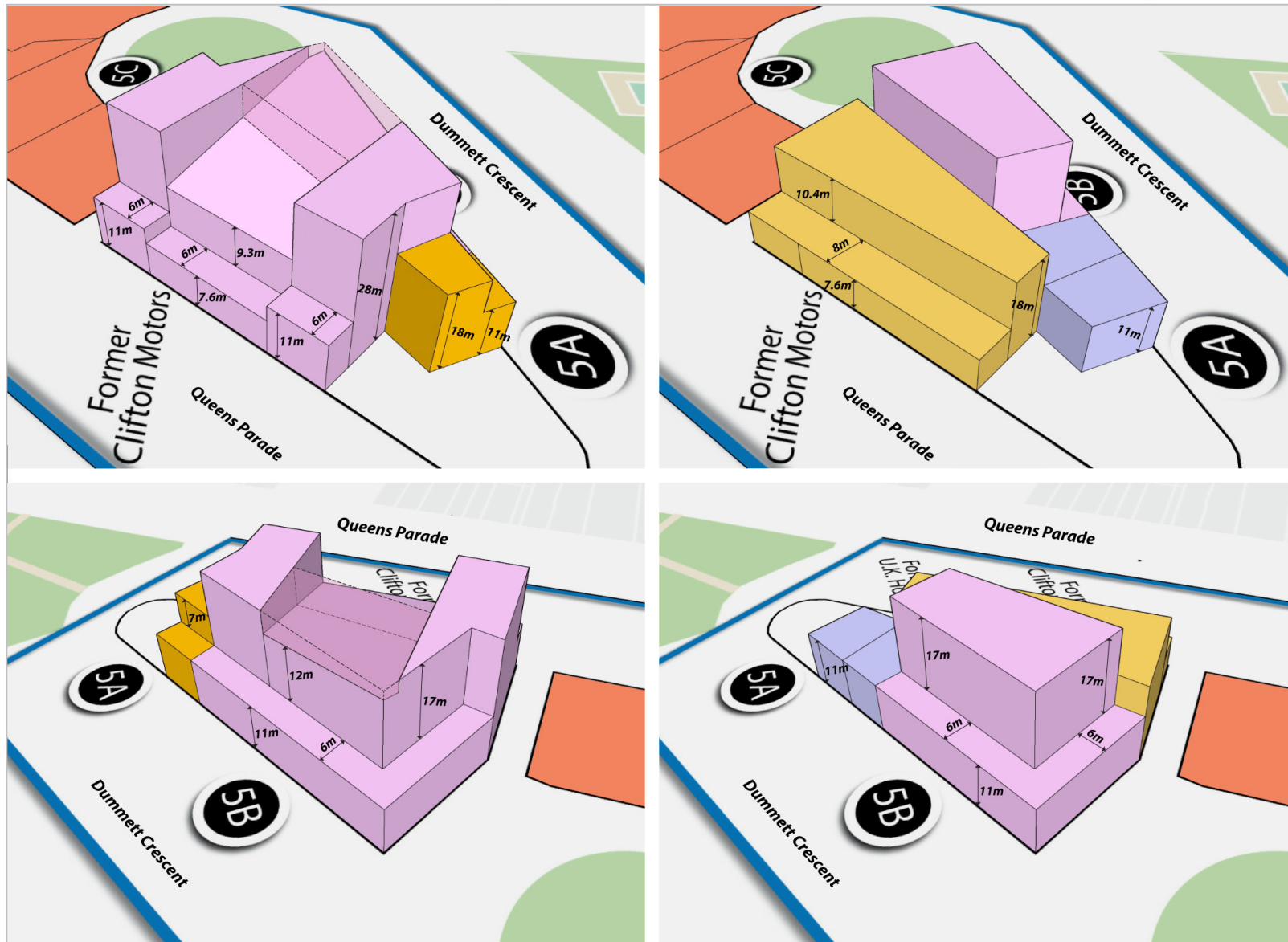


Figure 11 – DDO16 Permanent Controls, exhibited (left) and Council's Adopted DDO16 (right) 3D model

2.4.3. What does this analysis mean?

70 At a high level;

- The concept of a built form transition from a high point in Sub Precinct 5C to the Former UK Hotel in Sub Precinct 5A is sound;
- The responsibility for new development to have particular regard for the specific characteristics of heritage buildings and heritage precincts is appropriate;
- The nomination of a street wall height, upper level setback dimensions, building separation distance and overall building heights to guide new development is also sound.

71 However, when taken together the diagrams and 3D models contained in the previous section confirm that the exhibited DDO16 delivers an incoherent built form outcome and one that;

- Does not demonstrate a transition in overall building height to the Former UK Hotel; and
- Does not deliver an eave height for new development on a site containing a non-contributory building that is consistent with that of the Former Clifton Motor Garage.

72 The modified provisions as adopted by Council at its meeting on 28 May 2019 have rectified and overcome the inconsistencies I have identified by:

- Applying mandatory building height and setbacks for the Former Clifton Motor Garage site and abutting properties. In this way referencing 201-215 Queens Parade simplifies and clarifies where the provisions are to be applied.

- Introducing minimum side and rear setbacks for upper levels is positive, however the draft provisions fail to nominate a laneway wall height above which these setbacks are to apply. Without such a clarification the exhibited and draft provisions could be interpreted as requiring a 6m setback above a street wall height.

73 In summary, I consider that the Council adopted version at its meeting on the 28 May 2019 resolves the unintentional incoherent built form outcome envisaged by the exhibited AmC231 for Sub Precinct 5B.

74 I recommend however, a maximum preferred laneway street wall height that matches the eave height of the Former Clifton Motor Garage be introduced.

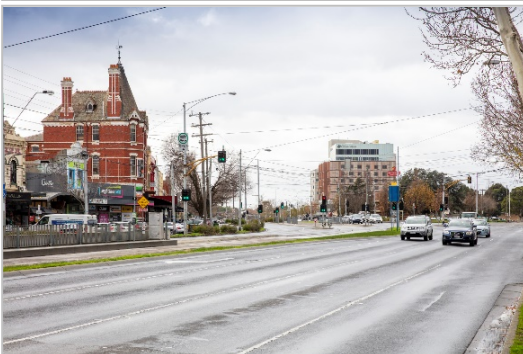
2.4.4. Are the mandatory controls justified?

- 75 The use of mandatory provisions in a performance base planning system is one where their introduction is to be carefully managed in accordance with Planning Practice Note 59.
- 76 I consider that there is strong strategic rationale to support a transition in new building height from Sub Precinct 5C to Sub Precinct 5A and Raines Reserve. The question is, will the reliance on a preferred instead of a mandatory building height and setback provision guarantee such an outcome?
- 77 The development of the 10 storey Clifton Views building and the 12 storey Patch Apartments together with the issue of a planning permit for a 14 storey building at No 269-271 Queens Parade establishes a benchmark height in the middle of Precinct 5. It is less important what maximum building height is eventually settled on for the remaining development sites in Sub Precinct 5C to the north of Sub Precinct 5B.
- 78 What is far more critical is to ensure an acceptable building height transition and new built form behind and above the retained Clifton Motor Garage. It is this potential new insertion that must deliver a meaningful transition between the building heights of Clifton Views down to the Former UK Hotel. Unlike Sub Precinct 5C, Sub Precinct 5B has its beginning and end transition points already established.
- 79 It is not clear to me that adopting a preferred overall building height behind the Clifton Motors Garage as well as for the adjoining properties at No 213-215 and No 203 Queens Parade will deliver the desired transition outcome between one heritage building of State cultural heritage significance and another building with the same heritage status.
- 80 Moreover a mandatory upper level setback behind the retained heritage building will allow the appreciation and protection of the decorative parapet treatment and a 3 dimensional built form.
- 81 In this context I consider a mandatory overall building height and upper level setback for new development in Sub Precinct 5B is strategically justified.

3. Conclusions

- 82 My assessment concludes that AmC231 is strategically justified. I consider however that the quantitative provisions of the exhibited DDO16 for Sub Precinct 5B will deliver an unintended built form outcome and will fail to deliver a meaningful transition and building height.
- 83 I concur with the alterations to DDO16 as they relate to Sub Precinct 5B as was subsequently adopted by Council. However, I recommend that the interpretation of Sub Precinct 5B provisions would be assisted by the introduction of a laneway wall height definition.

Appendix A: Precinct 5



Appendix B: Existing Planning Controls and Policies

84 Precinct 5 is affected by the provisions of the Yarra Planning Scheme (the Planning Scheme). An overview of the relevant statutory provisions that apply to Precinct 5 is set down below.

C1 Zoning

85 The land is affected by the Mixed Use Zone (MUZ) pursuant to **Clause 32.04**.

86 The purpose of the MUZ is:

- *“To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *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.
- To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.”

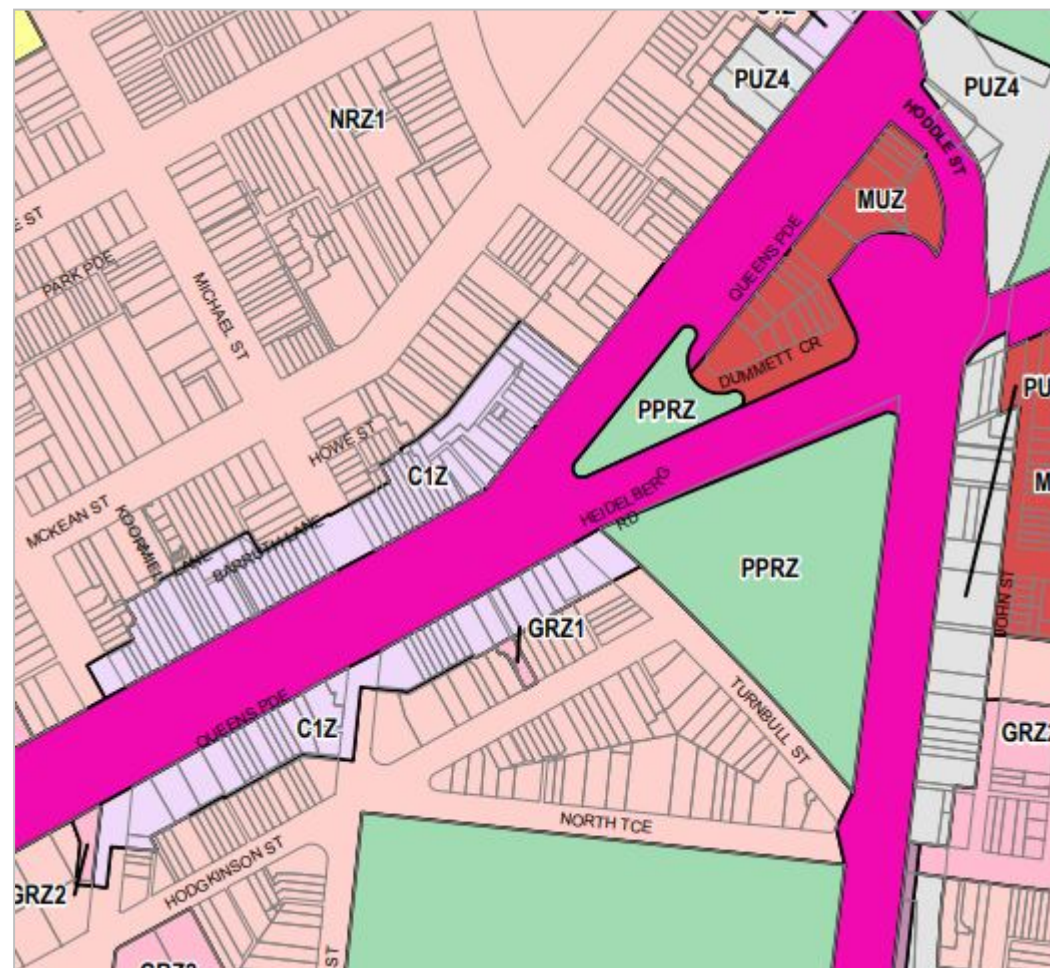


Figure A1 – Zones Map

Appendix B: Existing Planning Controls and Policies

87 The land is affected by 3 different overlays as follows:

Environmental Audit Overlay

The purpose of this overlay is:

- *“To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.”*

Design and Development Overlay Schedule 20 (DDO20) – Queens Parade

The purpose of the Design and Development Overlay is:

- *“To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.”*

88 The land is affected by the DDO20 – Queens Parade which implements interim built form controls for the Queens Parade Neighbourhood Activity Centre. This overlay will cease to have effect after 12 January 2020. Refer to **Figure 6** in main body of text.

Heritage Overlay (HO330)

89 Most of the properties are affected by the Queens Parade Precinct (HO330). Properties at 2-10 Dummett Crescent are not affected by the HO330. The Former United Kingdom Hotel at 199 Queens Parade is affected by a site specific heritage overlay (HO92). This property is also included on the Victorian Heritage Register as H0684. The purpose of the heritage overlay is:

- *“To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.”*

90 The Former Clifton Hill Motor Garage at 2005-211 Queens Parade is included on the Victorian Heritage Register as VHR No. H2380. At present however it is not included in a HO.



Figure A2 – EAO Map

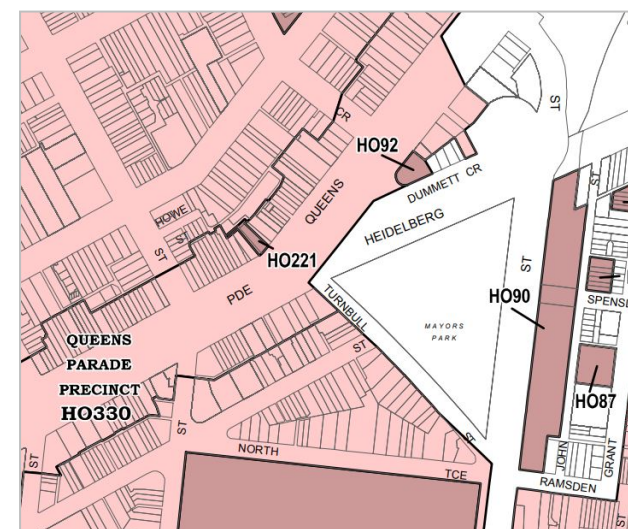


Figure A3 – EAO Map

Appendix D: Comparison of Provisions between AmC241 and AmC231

Interim DDO20

Map of Precinct 5

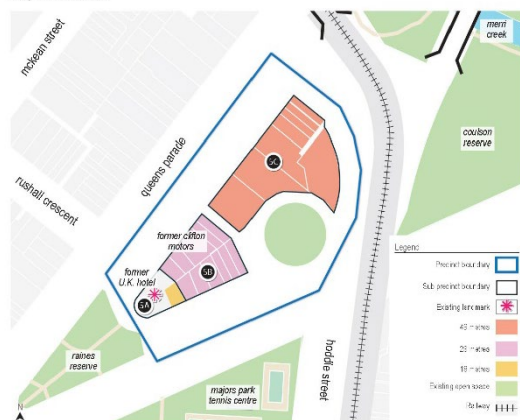


Table 5— Street wall height, building height and setbacks for Precincts 5A, 5B and 5C

Built form	Mandatory requirement	Preferred requirement
Precinct 5A		
Building height		Maximum 18 metres
Street wall height	Match existing parapet or eaves height	
Upper level setback		Minimum 5 metres
Precinct 5B		
Building height		1:1 heritage street wall to new built form behind Clifton Motors and 203 Queens Parade visible from the opposite side of Queens Parade Maximum 28 metres elsewhere
Front street wall height	Match parapet height of former Clifton Motor Garage and eaves line of former UK Hotel	Maximum 11 metres for non contributory buildings facing Queens Parade and Dummett Crescent
Street wall setback	0 metres	
Setback from side and rear boundary	0 metres	
Upper level setback	Minimum 6 metres for development at former Clifton Motor Garage	Minimum 6 metres elsewhere
Precinct 5C		
Building height		Maximum 49 metres
Front street wall height		Maximum 35 metres
Upper level setback		Minimum 10 metres

Permanent DDO16 (exhibited October

Map of Precinct 5 is unchanged.

Table 5— Street wall height, building height and setbacks for Precincts 5A, 5B and 5C

Built form	Mandatory requirement	Preferred requirement
Precinct 5A		
Building height		18 metres
Street wall height	Match existing parapet or eaves height	
Upper level setback		Minimum 5 metres
Precinct 5B		
Building height		1:1 heritage street wall to new built form behind Clifton Motors and 203 Queens Parade visible from the opposite side of Queens Parade 28 metres elsewhere
Front street wall height	Match parapet height of former Clifton Motor Garage and eaves line of former UK Hotel	11 metres for non contributory buildings facing Queens Parade and Dummett Crescent
Street wall setback	0 metres	
Setback from side and rear boundary	0 metres	
Upper level setback	6 metres for development at former Clifton Motor Garage	6 metres elsewhere
Precinct 5C		
Built Form	Mandatory requirement	Preferred requirement
Building height		49 metres
Front street wall height		35 metres
Upper level setback		10 metres

Appendix E: Council adopted DDO16 at its meeting on 28 May 2019

Council Adopted DDO16

Map 5 - Precinct 5

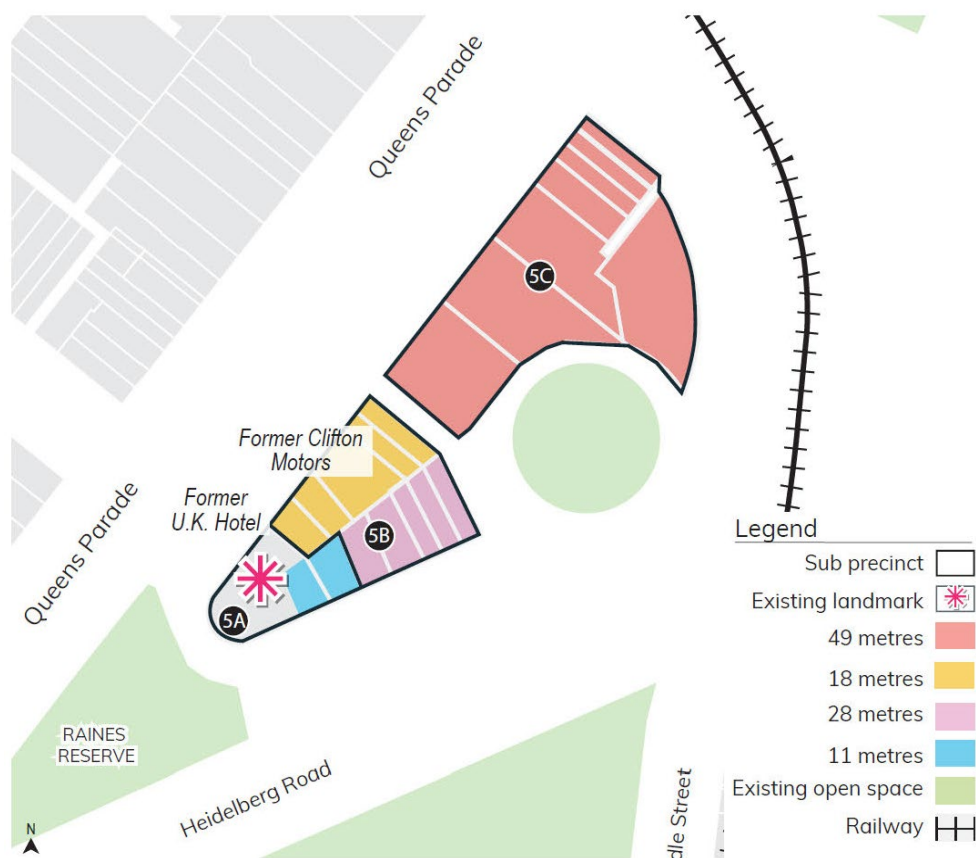


Table 5— Street wall height, building height and setbacks for Precincts 5A, 5B and 5C

Built form	Mandatory requirement	Preferred requirement
Precinct 5A		
Maximum building height	11 metres	None specified
Maximum street wall height	Match existing parapet or eaves height	None specified
Minimum upper level setback	None specified	6 metres
Precinct 5B		
Maximum building height	201-215 Queens Parade - 18 metres	28 metres elsewhere
Street wall setback	0 metres – built to the boundary	None specified
Minimum upper level setback	201-215 Queens Parade - 8 metres	6 metres elsewhere
Minimum side and rear setbacks	None specified	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 from the centre line of the laneway (on a where the laneway is less than 6 metres wide).
Precinct 5C		
Maximum building height	None specified	43 metres
Maximum street wall height	None specified	18 metres
Minimum Upper level setback	None specified	6 metres
Minimum side and rear setbacks	None specified	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 from the centre line of the laneway (on a where the laneway is less than 6 metres wide).

Appendix F: Witness statement

Name and Address

Catherine Anne Heggen
Message Consultants
Australia Pty Ltd
2/398 Smith Street,
Collingwood 3066

Qualifications

- Bachelor of Town and Regional Planning, Melbourne University 1982
- Fellow, Planning Institute of Australia
- Fellow, Victorian Planning and Environmental Law Association

Professional experience

- Current Position: Director, Message Consultants Australia Pty Ltd
- 1985 – Current: Town Planning Consultant
- 1982 – 1985: Town Planner in local government and regional authorities (Australia & overseas)

Professional appointments

- 1996 – 2002: Member, Victoria's Heritage Council
- 1998 – 2002: Chair, Victoria's Heritage Council
- 1998 – 2002: Trustee, Melbourne Heritage Restoration Fund
- 2001 & 2002: Jury Member, Stonnington Urban Design Awards
- 2001: Jury Member, Australian Institute of Landscape Architects (Vic Chapter) Awards
- 2003: Jury Member, Planning Institute of Australia (Vic Division) Awards
- 2004 – 2013: Member, Heritage Committee to the Building and Estates Committee – University of Melbourne
- 2005 – 2012: Member, Building Committee – Queen Victoria Women's Centre
- 2011 Member, Ministerial Advisory Committee on Planning System Reform

Areas of expertise

- Extensive urban design advice to architects and project managers involved in medium and high density housing and other built form projects.
- Strategic and statutory planning advice to commercial and institutional clients as well as government and alpine management authorities on a range of residential, environmental, tourism, cultural heritage and urban character issues.
- Consulting advice to a wide range of private sector and government clients addressing the management of urban development and rural land use.
- Project planning and coordination of Institutional Master Plans.
- Experience in the preparation of environmental management plans and Environment Effects Statements for extractive industry.
- Preparation and presentation of evidence before VCAT, and various government appointed independent panels and advisory committees.

Expertise to prepare this report

Professional qualifications and expertise in urban design and town planning, including:

- Urban design and building form impact assessment.
- Ongoing involvement in a range of residential, mixed use, institutional, commercial and extractive industry development proposals.
- Ongoing involvement in cultural heritage, urban character and visual and landscape impact issues.
- Experience in new community development, greenfield subdivision projects and institutional Master Plans.
- Specialist experience in medium and high density housing issues.

Appendix F: Witness statement

Investigations and research

In preparing this evidence I have:

- Inspected the locality on 11 July 2019;
- Reviewed planning scheme amendment documents of AmC231 and relevant material; and
- Reviewed the planning policy framework and the relevant planning controls for the Queens Parade Activity Centre.

My evidence is based upon the Planning Scheme Amendment C231 documents prepared by Yarra City Council and supporting material Queens Parade Built Form Framework (prepared by Hansen Partnership) and Queens Parade Built Form Heritage Review (prepared by GJM Heritage Consultants). I have also considered the adjusted DDO16 provisions adopted by Council at its Council Meeting held on 28 May 2019.

I note that I have also been engaged by TLC Aged Care Pty Ltd to prepare and present expert evidence for VCAT Application for Review.

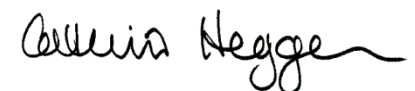
Summary of opinions

My conclusions are summarised in the preamble and conclusion of this report.

Declaration

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

I prepared this report with assistance from Gokhan Karpas, Manager/Urban Designer and Erica Orfanos, Planner at Message Consultants Australia Pty Ltd.



C A Heggen
BTRP FP

