

## Management Report to Council

Agenda item 6.4

### Amendment C245 Queen Victoria Market Precinct Renewal

Council

Presenter: Emma Appleton, Manager, Urban Strategy

26 July 2016

#### Purpose and background

1. The purpose of this report is to provide an assessment of the independent Panel's recommendations regarding Amendment C245 Queen Victoria Market (QVM) Precinct Renewal and propose that Council adopt the Amendment with the changes recommended by the Panel.
2. Amendment C245 was exhibited from 29 October to 4 December 2015 and 156 submissions were received. A panel hearing was held between 3 May and 12 May 2016. The Panel delivered its report to the City of Melbourne on 12 July 2016 (Attachment 2).

#### Key issues

3. The Panel recommended Council adopt Amendment C245 stating that:
  - 3.1. The Amendment is strategically justified and a review of the built form controls in the QVM precinct is warranted.
  - 3.2. The Amendment is required to achieve good planning outcomes for the QVM and environs and will deliver a net community benefit.
4. The Panel stated further that the majority of the proposed built form controls should be supported, but proposed some changes to refine them. A summary of the Panel recommendations and response by management is at Attachment 3. Briefly, the changes include:
  - 4.1. refinements to selected podium heights, and side and rear setbacks, and overall building heights in the Development Plan Overlay 11 (DPO11) area
  - 4.2. the adjustment of Design and Development 14 so that the controls are consistent with those proposed for the rest of the Hoddle Grid under Amendment C262
  - 4.3. further clarity around the requirements for wind assessment
  - 4.4. that the current Capital City Zone of the market itself not be changed to the Public Use Zone as exhibited.
5. The Panel has also recommended that in order to provide a greater level of independence in the decision making and governance process, the Minister for Planning should assume the status of Responsible Authority for approval of any development plan or permit application under DPO11.
6. The Panel's findings validate Council's strategic justification for the Amendment on the basis of the QVM being an integral part of the expanded Central City as opposed to being viewed as on the edge of the City. Its recommended changes are consistent with Council's vision for the QVM and surrounding precinct.
7. Having considered the merits of the Amendment and all submissions the Panel has recommended that Council adopt the amendment with changes. For the above reasons the Amendment with all the changes proposed by the Panel is recommended for adoption.

#### Recommendation from management

8. That Council:
  - 8.1. adopt Planning Scheme Amendment C245 as shown in Attachment 4 to this report.
  - 8.2. submit the adopted Amendment to the Minister for approval.
  - 8.3. authorises the Director City Strategy and Place to make any further minor editorial changes to the Amendment documents prior to submitting to the Minister for Planning for approval.

#### Attachments:

1. Supporting Attachment (page 2 of 211)
2. Panel Report (page 3 of 211)
3. Management Response to Panel Recommendations (page 142 of 211)
4. Amendment Documentation (page 157 of 211)

## Supporting Attachment

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### Legal

1. Section 29(1) of the *Planning and Environment Act 1987* (The Act) provides that after complying with Divisions 1 and 2 of the Act in respect of a planning scheme amendment, the planning authority may adopt the amendment with or without change.
2. The decision to adopt the Amendment cannot be made under delegation.

### Finance

3. These costs associated with the approval of this Amendment have been provided for in the City of Melbourne 2016-17 operating budget.

### Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

### Stakeholder consultation

5. The Amendment was exhibited in accordance with the Act. The Amendment was placed on exhibition between 29 October 2015 and 4 December 2015.
6. One hundred and fifty six submissions were received with 94 based on a proforma letter.
7. Public notices were placed in *The Age*, the *Herald Sun* and *Australian Financial Review* (26 October 2015) the *Melbourne Leader* (28 October 2015) and *Government Gazette* (29 October 2015).
8. The Amendment and supporting information was available at the City of Melbourne counter in Council House 2 and on the City of Melbourne website through Participate Melbourne and on the DELWP website.
9. A copy of the statutory notice, as well as a letter and brochure outlining the key proposal, was sent to affected land owners and occupiers. Information was also sent to a range of stakeholders, authorities, Aboriginal groups, resident associations and prescribed Ministers. Two public information sessions were held during the exhibition of the amendment in November 2015. These sessions were held at the Multicultural Hub opposite the QVM with around 30 people attending each session.
10. All submissions received in response to the exhibition of the Amendment were provided to the Panel. Submitters will also had the opportunity to address the panel.
11. All submitters were advised of receipt of the Panel report and this Council meeting.

### Relation to Council policy

12. The Amendment is consistent with the Queen Victoria Master Plan, the City North Structure Plan and the Municipal Strategic Statement.

### Environmental sustainability

13. The Queen Victoria Market Precinct Renewal Draft Master Plan sets out a comprehensive agenda for incorporating environmental sustainability into the renewal.

*Planning and Environment Act 1987*

**Panel Report**

# Melbourne Planning Scheme Amendment C245 Queen Victoria Market built form controls

**12 July 2016**

*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Melbourne Planning Scheme Amendment C245

Queen Victoria Market built form controls

12 July 2016

A handwritten signature in blue ink, appearing to be 'T O' with a long horizontal flourish extending to the right.

Trevor McCullough, Chair

A handwritten signature in black ink, appearing to be 'L. Nervegna'.

Lorina Nervegna, Member

A handwritten signature in black ink, appearing to be 'Tania Quick'.

Tania Quick, Member

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## List of Abbreviations

CBD	Central Business District
CCZ	Capital City Zone
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
DTPLI	Department of Transport, Planning and Local Infrastructure (former)
HO	Heritage Overlay
IPO	Incorporated Plan Overlay
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
PPN	Planning Practice Note
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
QVM	Queen Victoria Market
SPPF	State Planning Policy Framework
SUZ	Special Use Zone
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions



## Overview

### Amendment Summary

<b>The Amendment</b>	Melbourne Planning Scheme Amendment C245
<b>Common Name</b>	Queen Victoria Market built form controls
<b>Subject Site</b>	Queen Victoria Market Precinct, City of Melbourne
<b>The Proponent</b>	Melbourne City Council
<b>Planning Authority</b>	Melbourne City Council
<b>Authorisation</b>	A03072 approved with conditions 6 September 2015
<b>Exhibition</b>	29 October to 4 December 2015
<b>Submissions</b>	158 submissions were received as listed in Appendix A, including 93 pro-forma submissions

### Panel Process

<b>The Panel</b>	Trevor McCullough (Chair), Lorina Nervegna, Tania Quick
<b>Directions Hearing</b>	Planning Panels Victoria, 12 April 2016
<b>Panel Hearing</b>	Planning Panels Victoria, 3, 4, 5, 9, 10, 11, 12 May 2016
<b>Site Inspections</b>	Unaccompanied, 21 April and 17 May 2016
<b>Appearances</b>	As listed in Appendix B of this report.
<b>Date of this Report</b>	12 July 2016

## Executive summary

### (i) Summary

Amendment C245 to the Melbourne Planning Scheme seeks to introduce a revised framework of planning controls that facilitates the implementation of a Master Plan for the Queen Victoria Market (QVM) Precinct. Council submitted that the Amendment is required to facilitate the principles established in the Master Plan to safeguard the future of the QVM and enhance its surrounds.

The Amendment proposes to:

- Rezone the majority of the Queen Victoria Market land and Queen Street extension currently zoned Capital City Zone (CCZ1) to the Public Use Zone (PUZ7);
- Rezone the QVM car park currently zoned Capital City Zone (CCZ1) to the Public Park and Recreation Zone (PPRZ).
- Apply a new Schedule to the Development Plan Overlay (DPO11), which incorporates a vision and design requirements for development of land, including Council owned land, adjacent to the Queen Victoria Market.
- Delete existing Schedule 14 to the Design and Development Overlay (DDO14) from the Queen Victoria Market and land to which DPO11 applies to contract the area covered by DDO14.
- Amend the existing Schedule 14 to the Design and Development Overlay (DDO14), which will apply only to the contracted area, to introduce revised built form controls for new development.
- Make other supporting changes to the Hoddle Grid Policy (Clause 21.12) the existing Clause 22.02 (Sunlight to Public Spaces).

The Amendment has been, in part, prepared in response to a need to place appropriate built form controls on the QVM Precinct, which has become increasingly under pressure from larger scale development proposals near to and within the Precinct. The current built form controls in the Precinct date from 2005, and have been recently reviewed in the *QVM Precinct Renewal: Built Form Review and Recommendations*, (Jones and Whitehead 2015). The Jones and Whitehead report expressed the view that the 'transitional role' of the Precinct had changed due to recent developments that exceeded height limits and the change in strategic planning policy context, and noted the need for Council to allow for higher density developments in the Precinct to give effect to the proposed Master Plan.

A key driver for the proposed planning controls is the need to preserve the heritage and character of the QVM. Council commissioned a *Review of Heritage Issues: QVM Renewal, Precinct Built Form Controls*, Lovell Chen 2015. The review addresses an ongoing requirement to protect and enhance the QVM buildings and Precinct in acknowledgement of its unique place in the history of Melbourne.

Key issues raised in submissions included the following:

- Built form controls including height limits, podium heights, mandatory versus discretionary controls and building setbacks. Submissions varied in their support or

opposition to various aspects of the built form controls, depending on their interest in the Precinct.

- Inequity of development opportunities.
- Concern about Council as a landowner and potential developer in the Precinct.
- Amenity issues including privacy, overshadowing, loss of views and wind.
- Opposition to the removal of the Capital City Zone from the market site.
- Concerns about the form and configuration of the visitor centre and public open space proposed in the Master Plan (Parcel C).
- Concern about loss of ground level car parking.
- Traffic and public transport issues.
- Concern that the proposed Amendment will not adequately protect the heritage character of the QVM.
- Concerns about the consultation process on the Master Plan.

The Panel has considered the 158 written submissions, presentations made to the Hearing and reports from 12 expert witnesses and has concluded that: the Amendment is strategically justified; a review of the built form controls is warranted; and the Amendment is required to achieve good planning outcomes for the QVM Precinct.

The Panel received detailed submissions and expert evidence in relation to the proposed built form controls. The key issues for the proposed Schedules to the Development Plan Overlay (DPO11) and revised Design and Development Overlay (DDO14) were:

- Do the proposed built form overlay controls achieve an appropriate balance of amenity, heritage and development opportunity in relation to:
  - Podium heights
  - Front setbacks
  - Side and rear setbacks.
- Should the overlays include an overall maximum development height?
- Should mandatory or discretionary built form controls be used?

The Panel has concluded that, on balance, the majority of the proposed built form controls should be supported. The Panel has recommended some changes to which of the controls should be mandatory and which should be discretionary, and also some changes to the specified podium height and overall building heights, and side and rear setbacks. The Panel considers that there are 'exceptional circumstances' that justify mandatory controls for the direct interface area with the QVM (in DPO11), and has supported mandatory controls within DDO14 on an interim basis, based on a need for consistency between this area and other parts of the Hoddle Grid. The Panel notes that this should be reviewed once the outcome of C270 is known.

The Panel has also recommended some changes to the overshadowing controls in both the DPO11 and DDO14, and has proposed some further clarity around the requirements for wind assessment. The Panel has also made recommendations about the drafting of the overlays, to improve their statutory clarity and ease of interpretation.

The Panel was not convinced of the merits or the proposed rezoning of the majority of the Queen Victoria Market land and Queen Street extension currently zoned Capital City Zone

(CCZ1) to the Public Use Zone (PUZ7), and has recommended abandonment of that part of the Amendment.

In order to provide a greater level of independence in the decision making and governance process, the Panel has recommended that the Minister for Planning assume the status of Responsible Authority for approval of any Development Plan or permit application under Development Plan Overlay Schedule 11.

## **(ii) Recommendations**

**Based on the reasons set out in this Report, the Panel recommends that Melbourne Planning Scheme Amendment C245 be adopted as exhibited subject to the following changes:**

### **Development Plan Overlay Schedule 11**

- 1. Amend the Framework Plan at Figure 1 of the Development Plan Overlay Schedule 11 as follows:**
  - a) Include a discretionary overall height limit of 100 metres for Parcel A and 40 metres for Parcel B.**
  - b) Show podium height of 20 metre minimum to 40 metre maximum on the property located at the north east corner of Queen Street and Franklin Street.**
  - c) Show the location for greatest height being towards the Elizabeth Street end of the Parcel A, to the east of the proposed through block link.**
- 2. Amend the Conditions and Requirements for permits in Development Plan Overlay Schedule 11 to:**
  - a) Provide additional design guidance about managing heritage sensitivities within the first 10m rise of the podium, with particular consideration given to the extent the detailed design and treatment of the podium façade directly references the market opposite, and provides an appropriate pedestrian experience.**
  - b) Require a mandatory 10 metre tower setback from the front of podium to Therry Street and Queen Street, in Parcel A as shown in Figure 1.**
  - c) Provide for a discretionary 20 metre minimum podium height and require a mandatory 40 metre podium height for the property located at the corner of Queen Street and Franklin Street.**
  - d) Provide for a discretionary 10 metre tower setback from the front of podium to Queen Street for Parcel B, as shown in Figure 1. Alternatively, a mandatory 5 metre front setback could also be specified.**
  - e) Require a mandatory 5 metre tower setback from the front of podium to Franklin Street for Parcel B, as shown in Figure 1.**
  - f) Require a mandatory 5 metre side and rear tower setback from boundaries or the centre of a laneway, rather than the 10 metres as proposed.**
  - g) Require a mandatory tower separation distance to apply to ‘towers within a site’, or from ‘existing or approved towers on adjoining sites’**

- h) For Parcel B, provide for 0 metre side and rear setbacks up to a building height of 40 metres, where it can be demonstrated this will not cause an unreasonable impact on the future development potential or amenity of neighbouring properties.
  - i) Nominate a discretionary height limit of 100 metres for Parcel A and 40 metres for Parcel B. Any application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm.
3. Amend the Framework Plan at Figure 1 and Conditions and Requirements for permits of the Development Plan Overlay Schedule 11 to provide for a discretionary height limit of 7 metres and require a mandatory maximum height of 13 metres to Parcel C.
  4. Amend 'Conditions and requirements for permits' in the Development Plan Overlay Schedule 11 to include additional design guidance about urban design and built form outcomes sought for the building on Parcel C, which addresses:
    - Architectural excellence and high quality environmental performance
    - A requirement for design review by an independent Design Review Panel
    - Transparency and activation at ground level and sense of address to both the street and open space
    - Pedestrian permeability and connectivity through the building from Queen Street to the open space and Queen Victoria Market beyond.
  5. Amend the Framework Plan at Figure 1 of the Development Plan Overlay Schedule 11 for Parcel D as follows:
    - a) Show the podium setback from the north façade of the heritage listed Stores Buildings (towers facing new Franklin Street) as a mandatory minimum of 15 metres.
    - b) Show Podium heights on New Franklin Street where they abut the heritage listed Stores Building are to be a mandatory maximum height of 20 metres.
    - c) Show podium height on former Franklin Street between William and Queen Streets to be a discretionary 10 metre minimum and require mandatory 20m maximum, except at the ends of the block as shown in the framework plan where podiums are to be a discretionary minimum 20 metre to mandatory 40 metre maximum.
  6. Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:
    - a) Require podiums fronting New Franklin Street where they abut the heritage listed Stores Buildings to have a mandatory maximum podium height of 20 metres.
    - b) Remove the reference to a cantilever built form over the rear of the heritage listed Stores Buildings
    - c) Require Podiums fronting Little Franklin Street between William Street and Queen Street should have a mandatory maximum podium height of 20 metres, except at the block ends as shown in the framework plan

where podiums should have a discretionary minimum podium height of 20 metres and must have a mandatory maximum podium height of 40 metres.

- d) Require mandatory tower setbacks for towers facing new Franklin Street to be a mandatory minimum of at least 15 metres behind the northern masonry facades of the existing sheds.
- e) Require a mandatory 10m tower separation distance to apply to 'towers within a site', or from 'existing or approved towers on adjoining sites'.
- f) Nominate a discretionary overall height limit of 100 metres for Parcel D and with the location for greatest height being towards the Queen Street end of the Parcel D. Any application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm

#### Design and Development Overlay Schedule 14

7. Amend Design Development Overlay Schedule 14 Buildings and Works requirements, as currently shown in Tables 1 and 2 to achieve consistency with existing interim Amendment C262 Design Development Overlay Schedule 10 provisions, as follows.
  - a) Require mandatory 40m maximum podium heights
  - b) Require mandatory 5m minimum front tower setbacks
  - c) Require mandatory 5m side and rear setbacks, or 5% of overall building height over 100 metres
  - d) Require mandatory 10m tower separation within a site (as side and rear setbacks will address separation distances from existing towers on adjoining sites)
  - e) Require mandatory plot ratio controls of 24:1 to apply to the Design Development Overlay Schedule 14 area.
8. Amend Design Development Overlay Schedule 14 to include an 'Expiry' provision, consistent with Design Development Overlay Schedule 10 stating that:
  - The requirements of this overlay cease to have effect after 30 June 2017.
9. When the outcome of Amendment C270 is known, review and revise Design Development Overlay Schedule 14 to achieve consistency with the Design Development Overlay Schedule 10 Central City controls

**Form of controls**

10. Redraft and restructure Development Plan Overlay Schedule 11 in accordance with the following principles:
  - a) Adopt a 'Table' format, similar to the Design Development Overlay Schedule 14 to express discretionary provisions with the built form outcomes to be achieved, and mandatory provisions.
  - b) Retain the requirement for a Development Plan or a planning permit application to be consistent with the Framework Plan, but express as 'generally in accordance with'.
  - c) The development concept plan (required as part of the Development Plan) is required to include indicative building heights and setbacks – these must also achieve the mandatory and discretionary built form and amenity provisions of Development Plan Overlay Schedule 11.
  - d) Assess matters relating to the following elements at the permit, rather than Development Plan stage:
    - Elevations
    - Building materials and treatments
    - A wind tunnel model study
    - Environmentally Sustainable Design and Water Sensitive Urban Design assessments
    - Acoustic assessments
  - e) Add vision statements, together with objectives and design guidance for each development Parcel.
  - f) Include the *Queen Victoria Market Master Plan and the Queen Victoria Market Built Form Review* as a reference documents in the Development Plan Overlay Schedule 11.
11. Amend Design Development Overlay Schedule 14 to restructure Tables 1 and 2 and delete duplicated Built Form Outcomes in Table 2.
12. Amend Design Development Overlay 14 Design Objectives to delete reference to QVM, but maintain reference to generic heritage buildings, as follows:

To ensure that the scale and design of new buildings does not adversely affect the significance of adjoining or adjacent heritage buildings.
13. Amend Design Development Overlay 14 Built Form Outcomes for Podium Height in Table 1 to delete reference to Queen Victoria Market, but maintain reference to generic heritage buildings, as follows:

Building podiums are designed so that they:  
–are of a height, siting and detailing that does not adversely affect the significance of adjoining or adjacent heritage building(s).
14. Apply Development Plan Overlay Schedule 11 to the property at 501-503 Elizabeth Street as part of a future amendment.

### Clause 21.12 Hoddle Grid

15. Include the following strategic direction in Clause 21.12 Hoddle Grid, under Built Environment and Heritage:

Ensure that development form and scale in the area south of the Queen Victoria Market achieves built form, urban design, and amenity outcomes consistent with those sought for the Hoddle Grid.

16. Amend the boundary of the 'Precinct 2 Queen Victoria Market' to include only the Queen Victoria Market and Development Plan Overlay Schedule 11 area.

### Overshadowing

17. Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:

- a) New development should not cast a shadow across the Flagstaff Gardens or the proposed public open space in Figure 1 between 11.00 am and 2.00 pm on 21 June, unless the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the proposed public open space.

18. Amend 'Requirements for a development plan' in Development Plan Overlay Schedule 11 as follows:

- a) A Development Plan must include ... a development concept plan that includes shadow diagrams for the hours between 11.00 am and 2.00 pm at the Winter Solstice (21 June) demonstrating any shadow impacts on the proposed public open space and/or the Flagstaff Gardens, as relevant.

19. Include the following requirements in the Design and Development Overlay Schedule 14:

Buildings and works should not cast a shadow across the Queen Victoria Market proposed public open space or the Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June. A permit may only be granted to vary this requirement if the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the relevant open space.

### Zones

20. Abandon the proposed rezoning of the majority of the Queen Victoria Market land and Queen Street extension currently zoned Capital City Zone (CCZ1) to the Public Use Zone (PUZ7).

### Governance

21. The Minister for Planning assume the status of Responsible Authority for approval of any Development Plan or planning permit application under Development Plan Overlay Schedule 11.



**Wind**

- 22. Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:**

A permit application must include ... a wind tunnel model study that demonstrates that wind impacts will not adversely affect the amenity of the public realm.

- 23. Amend 'Decision Guidelines' in Design and Development Overlay 14 as follows:**

... the Responsible Authority must consider, as appropriate ... the wind effect at ground level of the development as demonstrated by a wind tunnel model study.

# 1 Introduction

## 1.1 The proposal

### (i) The subject area

The Amendment applies to the Queen Victoria Market (QVM) Precinct as shown in Figure 1.

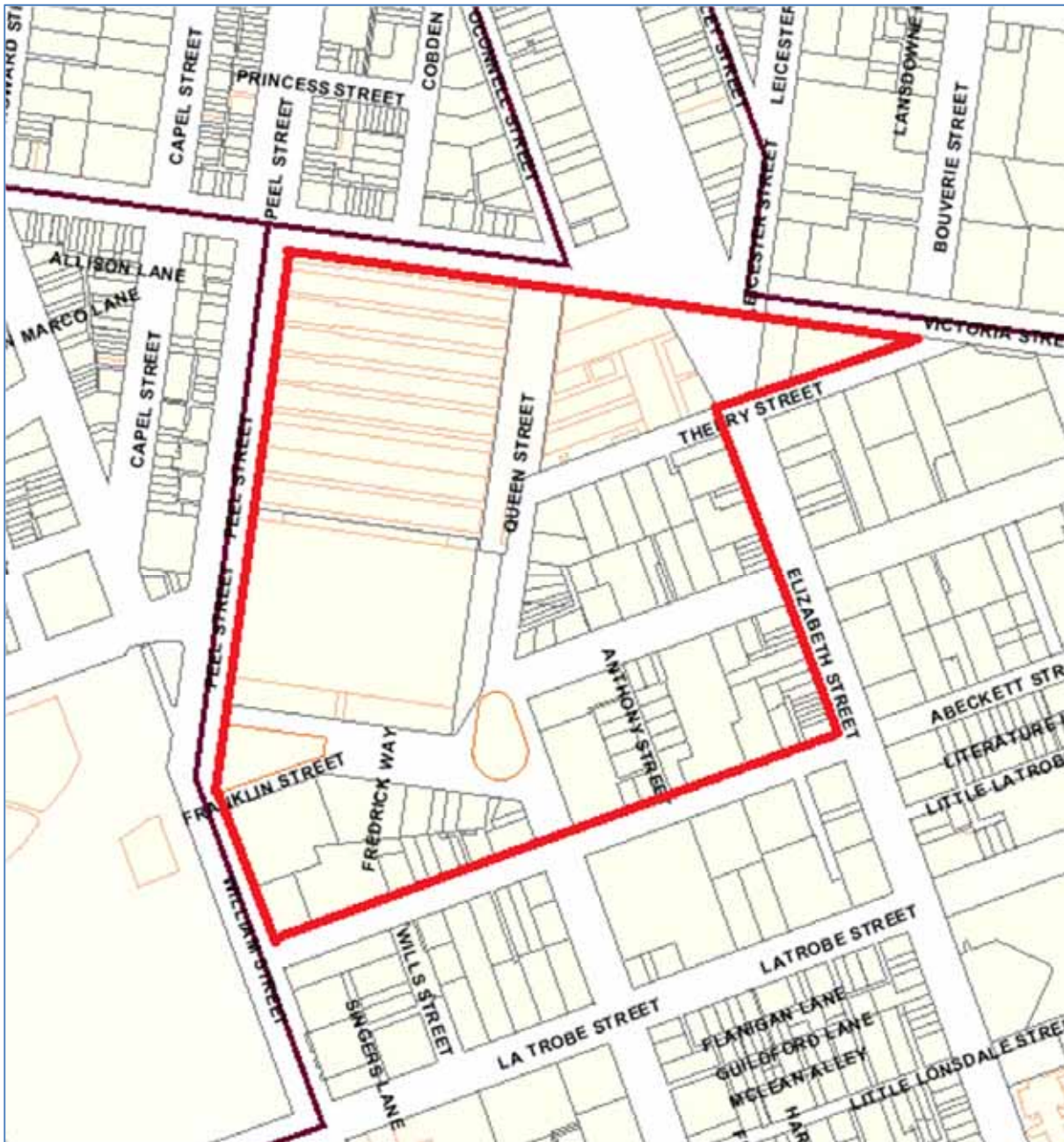


Figure 1 The QVM Precinct

**(ii) Amendment description**

The Amendment proposes to:

- Rezone land as follows and as shown in Figure 2:
  - The majority of the Queen Victoria Market land and Queen Street extension currently zoned Capital City Zone (CCZ1) to be rezoned to Public Use Zone (PUZ7); and
  - The Queen Victoria Market car park currently zoned Capital City Zone (CCZ1) to be rezoned to Public Park and Recreation Zone (PPRZ).
- Apply a new Schedule to the Development Plan Overlay (DPO11), which incorporates vision and design requirements for development of land, including Council owned land, adjacent to the Queen Victoria Market, as shown in Figure 2.
- Delete existing Schedule 14 to the Design and Development Overlay (DDO14) from the Queen Victoria Market and land to which DPO11 applies to contract the area covered by DDO14, as shown in Figure 2.
- Amend the existing Schedule 14 to the Design and Development Overlay (DDO14), which will apply only to the contracted area, to introduce revised built form controls for new development.
- Amend the Built Environment and Heritage within the Hoddle Grid Policy (Clause 21.12) to delete an existing policy statement relating to the existing DDO14, and amend Figure 6: Hoddle Grid to show the Queen Victoria Market and to extend the area of the Queen Victoria Market Precinct (to which this Amendment applies).
- Amend the existing Clause 22.02 Sunlight to Public Spaces to include a provision that development should not overshadow Flagstaff Gardens between 11am and 2pm on 21 June.

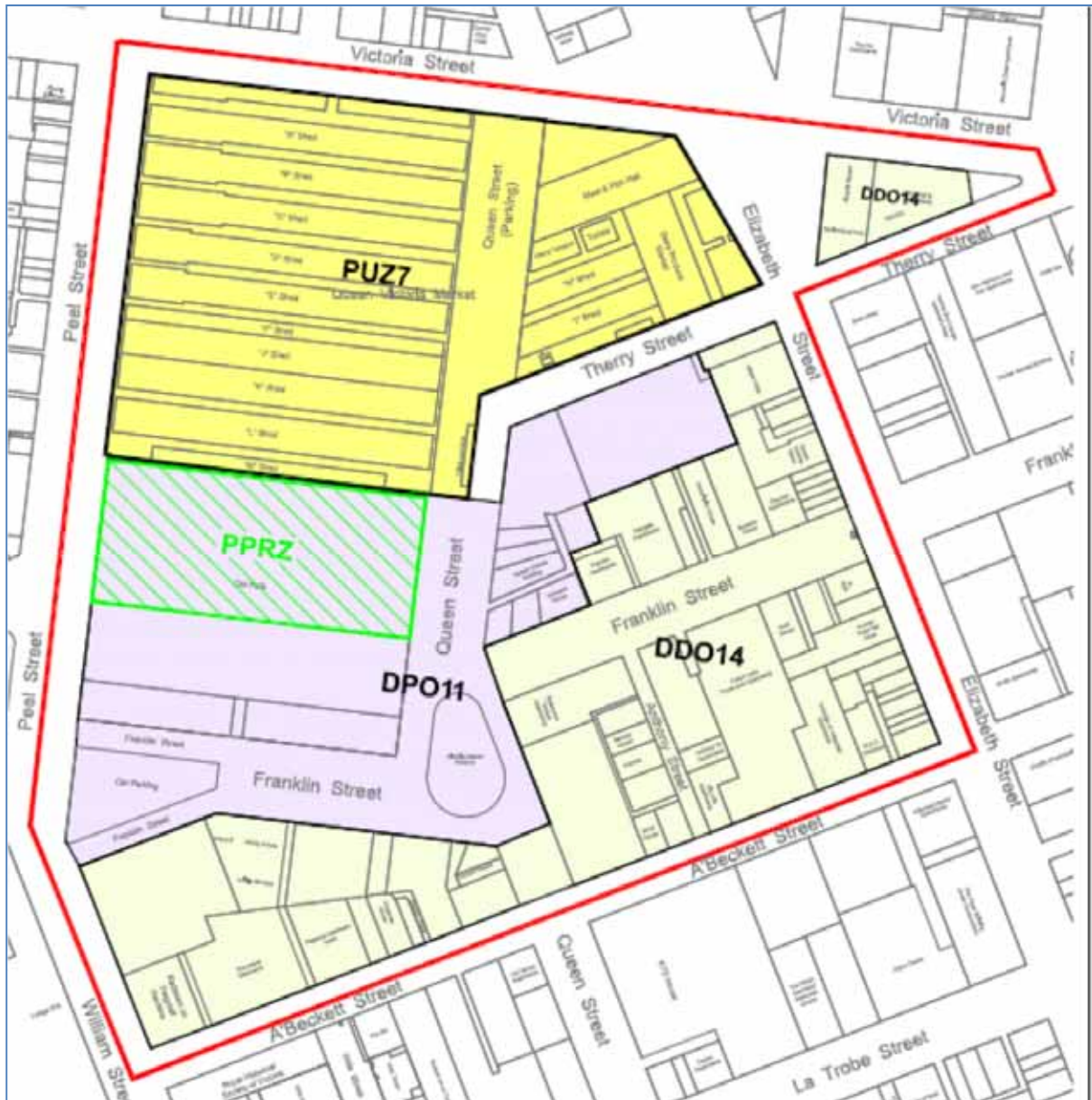


Figure 2 Plan showing proposed zone and overlay changes

### (iii) Purpose of the Amendment

The City of Melbourne has developed the *Queen Victoria Market Precinct Master Plan 2015* (the Master Plan), with the objective “to set a positive agenda for conserving the heritage significance and character of the QVM, whilst meeting the contemporary needs of traders, shoppers and a growing City.”

Council submitted that the Amendment is required in order to implement a revised framework of planning controls that facilitates the principles established in the Master Plan, safeguards the future of the QVM and enhances its surrounds.

The *Queen Victoria Market Precinct Renewal: Built Form Review and Recommendations Report 2015* prepared by Jones & Whitehead Pty Ltd (the Built Form Review) identifies shortcomings in the existing controls affecting the QVM and its environs. It sets out

recommendations regarding the Queen Victoria Market Precinct and changes to the existing planning controls, which the amendment seeks to implement.

The Amendment therefore serves two key functions:

- To implement the recommendations of the QVM Precinct Renewal Master Plan 2015 as they relate to the proposed restructuring, reconfiguration and redevelopment within the Precinct.
- To review the existing built form controls that apply over the Market in the context of a rapidly evolving physical and strategic planning policy context. In particular this relates to land to the south of the market that currently forms a 'transition' between the Market and the CBD Hoddle Grid.

In granting authorisation, the Minister for Planning required the inclusion of policies to consider overshadowing of Flagstaff Gardens within DPO11 and to modify clause 22.02 Sunlight to Public Places. These changes have also been incorporated into the Amendment.

## 1.2 Panel process

The Amendment was exhibited between 29 October and 4 December 2015. A total of 158 submissions were received as listed in Appendix A, including 93 pro-forma submissions.

A Panel comprising Trevor McCullough (Chair), Lorina Nervegna and Tania Quick was appointed in accordance with sections 153 and 155 of the *Planning and Environment Act 1987* under delegation from the Minister for Planning on 17 March 2016.

A Directions Hearing was held at Planning Panels Victoria offices on 12 April 2016, and Panel Hearings held at Planning Panels Victoria offices on 3, 4, 5, 9, 10, 11 and 12 May 2016. The Panel conducted unaccompanied site Inspections on 21 April and 17 May 2016.

The parties as listed in Appendix B appeared at the Hearings.

## 1.3 Issues dealt with in this report

Key issues raised in submissions included:

- Built form controls including height limits, podium heights, mandatory versus discretionary controls and building setbacks. Submissions varied in their support or opposition to various aspects of the built form controls, depending on their interest in the Precinct.
- Inequity of development opportunities.
- Concern about Council as a landowner and potential developer in the Precinct.
- Amenity issues including privacy, overshadowing, loss of views and wind.
- Opposition to the removal of the Capital City Zone from the market site.
- Concerns about the form and configuration of the visitor centre and public open space proposed in the Master Plan (Parcel C).
- Concern about loss of ground level car parking.
- Traffic and public transport issues.
- Concern that the proposed Amendment will not adequately protect the heritage character of the QVM.
- Concerns about the consultation process on the Master Plan.

The Panel considered all written submissions, as well as expert evidence and submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of the QVM Precinct.

This report deals with the issues under the following headings:

- Background
- Planning context
- Strategic assessment
- The proposed built form controls
- Form of controls
- Proposed changes to Clauses 21.12 and 22.02
- The most appropriate zones
- Other issues raised in submissions.

## 2 Background

### 2.1 Recent history of built form controls in the QVM area

Recent developments and a shift in strategic direction have required a review of earlier planning controls for the QVM Precinct that have been in place for over a decade. Several key planning decisions and amendments were made in the late 90's through to 2005 that determined and set built form and height controls for the QVM Precinct and surrounding area. These decisions were made in response to a long-standing desire to protect and restrict development in and adjoining the North West edge of Melbourne's Central Activity District. This Precinct was described as forming "... a unique and highly valued part of the City's image, history, function and experience" (*Queen Victoria Market Built Form Review*, Hansen Partnership 2003). Of all the issues relating to the sensitivities of the Precinct, the question of appropriate heights and built form outcomes have been the major area of concern over the last twenty years.

#### VCAT decisions

Relevant Tribunal historical decisions in the Precinct include:

- 114 to 122 Franklin Street

In 1998, VCAT affirmed the decision by Melbourne City Council in the refusal to grant a permit to allow for a 27 level (87 metre high) residential development at 144 to 122 Franklin Street stating reasons that included "... due to its scale, form and siting does not respond in so a positive manner and that it's contribution would be harmful and decidedly negative to that character ... and notwithstanding compliance with ... plot ratio controls ... the scale and siting was out of context with the Precinct ... as one of transition between the Central Business District and the Residential and Mixed Use Areas ... to the north." (*Nettlebeck & Ors v Melbourne CC [1998] VCAT 333*).

- 96 to 102 Franklin Street

Melbourne City Council refused an application for a 23-storey (92 metre high) apartment building in 2001 and this decision was subsequently affirmed by VCAT (*Hayball Leonard Stent v Melbourne CC & Ors [2001] VCAT 1083*). Council issued another permit for this site in January 2003, which allowed for alterations and additions to the existing building and for an 11-storey building with a maximum height of 39 metres. A current application to the Minister for Planning for a 57 level, 177-metre high residential tower is under consideration.

#### Queen Victoria Market Precinct Built Form Review 2003 (QVM BFR 2003)

This review undertaken by Hansen Partnership for the Melbourne City Council sought to determine appropriate built form and height recommendations as well as proposing the most appropriate planning tools for their implementation. The purpose of the review was to give certainty for stakeholders and developers on future planning directions in light of local sensitivities and strong views by vocal stakeholders. Three scenarios were proposed (Maximum Development, Transition Development and Minimum Development) with the with the Transition Development approach being adopted for a future amendment as being

the most appropriate given the market heritage context and setting. The three scenarios were described as follows:

*Scenario A: Maximum Development: Applying a primary form of development towards and abutting the edge of the Market Precinct, therefore defining a wall of buildings at the edge of the City grid overlooking the Market and gardens. This is envisaged as maximum development scenario.*

*Scenario B: Transition Development: A layered built form approach to the City edge condition, with a medium rise frontage to the Markets in front of a suite of background tower forms. The presentation of the medium rise frontage to the open Market and integrated with the more intimate heritage precinct, provides a podium effect to the more substantial rising towers on the horizon.*

*Scenario C: Minimum Development: Retaining the traditional built form configuration with minimal variation to the existing urban pattern through the use of medium to low and low scale development formats across the study area. Reiteration of the traditional building formats allowing for the City skyline to be experienced over the low rise Market frontage.*

### **Amendment C61**

In 2005, Amendment C61 reviewed and gave effect to the *QVM Built Form Review 2003* Transition Development approach (Scenario B). The built form controls are listed in Figure 3 and Table 1 below. The strategic justification for the Amendment was based on a perceived need to set limits for built form and height outcomes. The Panel heard that “*the catalyst for the amendment occurred several years earlier in response to strong local community opposition to development proposals*” within the Precinct and appeals heard by the Tribunal in the years leading up to the Amendment. The Panel recommended height limits set out in DDO14 ranging from the highest built form (north of A’Beckett Street) at 60 metres to the lowest being adjacent to the market sheds at 7 to 10 metres.



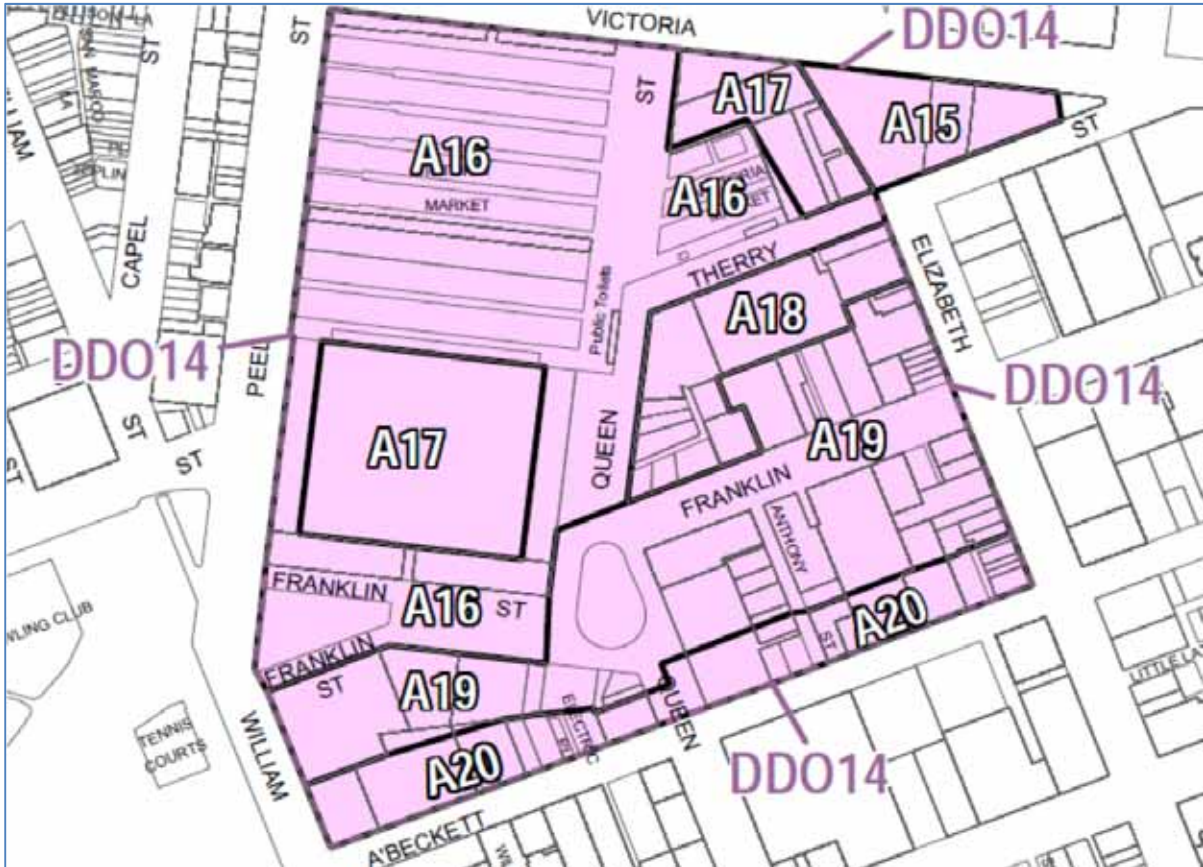


Figure 3 Amendment C61 current area map

AREA	MAXIMUM BUILDING HEIGHT	BUILT FORM OUTCOMES
15	12 metres	Development maintains the consistency of scale and built form of the historic Queen Victoria Market.
16	7 metres	Development maintains the consistency of scale and built form of the historic Queen Victoria Market.
17	10 metres	Development maintains the consistency of scale and built form of the historic Queen Victoria Market.
18	20 metres	The scale of surrounding development respects the low scale built form character of the Queen Victoria Market.
19	30 metres	The scale of development provides an appropriate interface from the low scale built form of the Queen Victoria Market towards the medium and high rise towers of the Central Business District.
20	60 metres	The scale of development provides an appropriate relationship in building height between the traditional low scale of the Market and immediate environs of the Central Business District

Table 1 Amendment C61 current DDO14 built form controls

## 2.2 QVM Renewal Project

In October 2013, Council announced the QVM Renewal Project. The project sought to undertake a number of key refurbishments to existing QVM buildings as well as undertake development and subsequent civil works in the Precinct to ensure a viable funding model, which involved the establishment of a State Agreement.

### State Agreement

In September 2014, A State Agreement titled the *Redevelopment of the Queen Victoria Market* was signed between the City of Melbourne and the State Government. The State Agreement was required in order to give effect to a number of land ownership transfers and changes as well as assignment of responsibilities to both parties.

As shown in Figure 4, below, The State Agreement requires Council (among other things) to:

- a) undertake renewal of the QVM, including renovation of the upper market sheds A, B and C by 2019;
- b) realign Franklin Street to New Franklin Street (land marked “C” below) by 2019;
- c) convert the at-grade car park to public open space by 2022 (land marked “A” below);
- d) construct a new Queen’s Corner building to accommodate a Victoria Visitor Centre and new facilities for QVM management by 2026 (land marked “B” below);
- e) transform K & L sheds at QVM into an event space;
- f) upgrade streetscapes and public transport infrastructure adjoining QVM by 2026;
- g) reconfigure land to the south of the at-grade car park to create a mixed use development site by 2026 (land marked “D” and “E” below); and
- h) replace current car spaces within the at-grade car park within the “Market Precinct” by 2019.

On the 28 July 2015, the City of Melbourne and the Minister for Finance signed a Variation Deed to the State Agreement to take into account the purchase by Council of the Munro Site in Therry Street. The Deed Variation realigns the boundary of the market shown in red in Figure 5 below to include the Munro site and notates land certificate titles instead of Parcels.

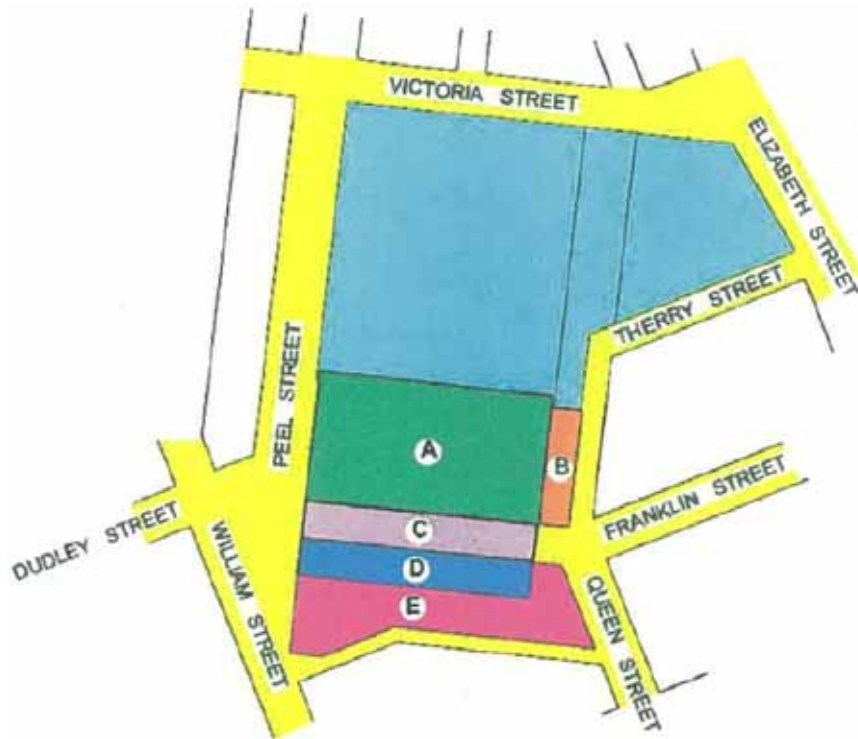


Figure 4 QVM Market Precinct Plan in State Agreement 2014

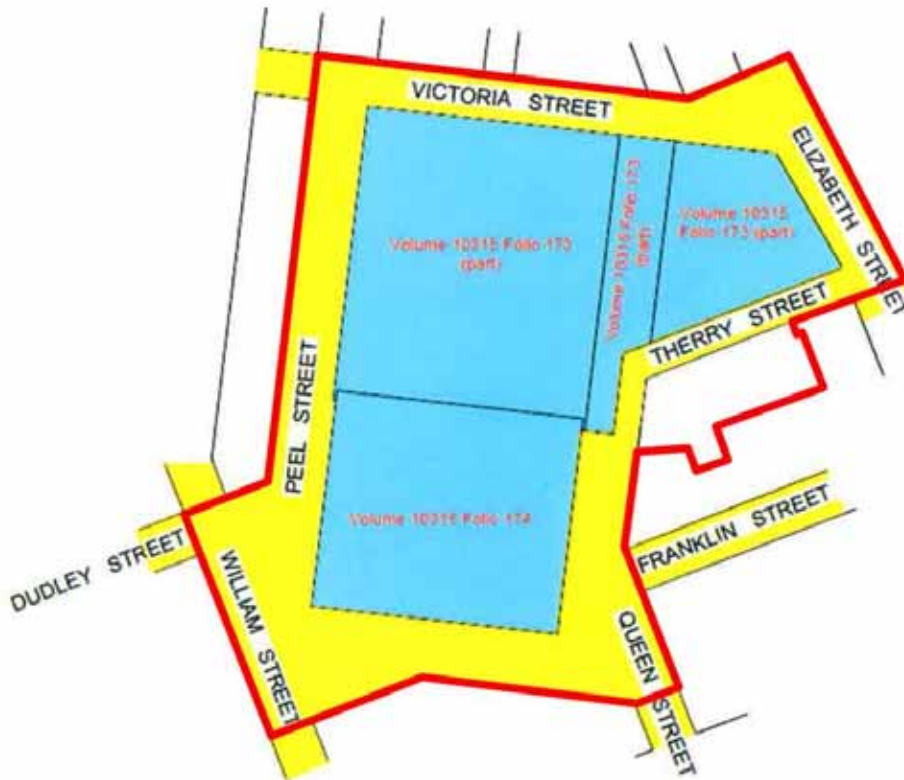


Figure 5 Deed Variation in the State Agreement: Market map following the purchase of the Munro Site

**Therry, Elizabeth, Franklin and Queen Block Plan**

Prior to the City of Melbourne's purchase of the Munro site, it prepared a document outlining development control guidelines for the block bounded by Queen, Therry, Elizabeth and Franklin Streets. The purpose was to assist potential property developers and their consultants to prepare proposals that would be appropriate in the context of the Queen Victoria Market Precinct Renewal. With Council's subsequent purchase of the Munro site, the audience for this document has changed, but the objectives it outlines are still relevant.

**QVM Precinct Renewal Master Plan 2015**

The driver for this work has been the decline in patronage and trading at the QVM over a number of decades and the desire to act upon key findings in stakeholder and community engagement activities that have occurred in recent years. The Master Plan sets out a number of key actions that relate to the QVM Precinct Renewal Strategic Brief on themes such as realising a renewal based on vision of trading and user activities. The Master Plan does not contain a review of the 2003 Built Form Review or current controls.

**Jones and Whitehead – QVM Precinct Renewal: Built Form Review and Recommendations 2015**

This review sought to make recommendations on revised built form and height controls based on a view that the transitional zone of the Precinct had changed due to recent developments that exceeded height limits and a change in strategic planning policy for the area. It also noted the need for Council to allow for higher density developments in the Precinct to give effect to the proposed Master Plan. The Amendment is based on the recommendations of this report.

**QVM Framework Plan**

The exhibited form of the QVM Framework Plan, derived from the Jones and Whitehead review is shown at Figure 6. It redefines the QVM Precinct into four parcels of land according to the relevance of proposed built form controls and heritage overlays. The Framework Plan has been used as a foundation for the built form controls as proposed in the Amendment, with different controls proposed for each land parcel. The proposed controls are discussed in detail in Chapters 4 to 8 of this report.

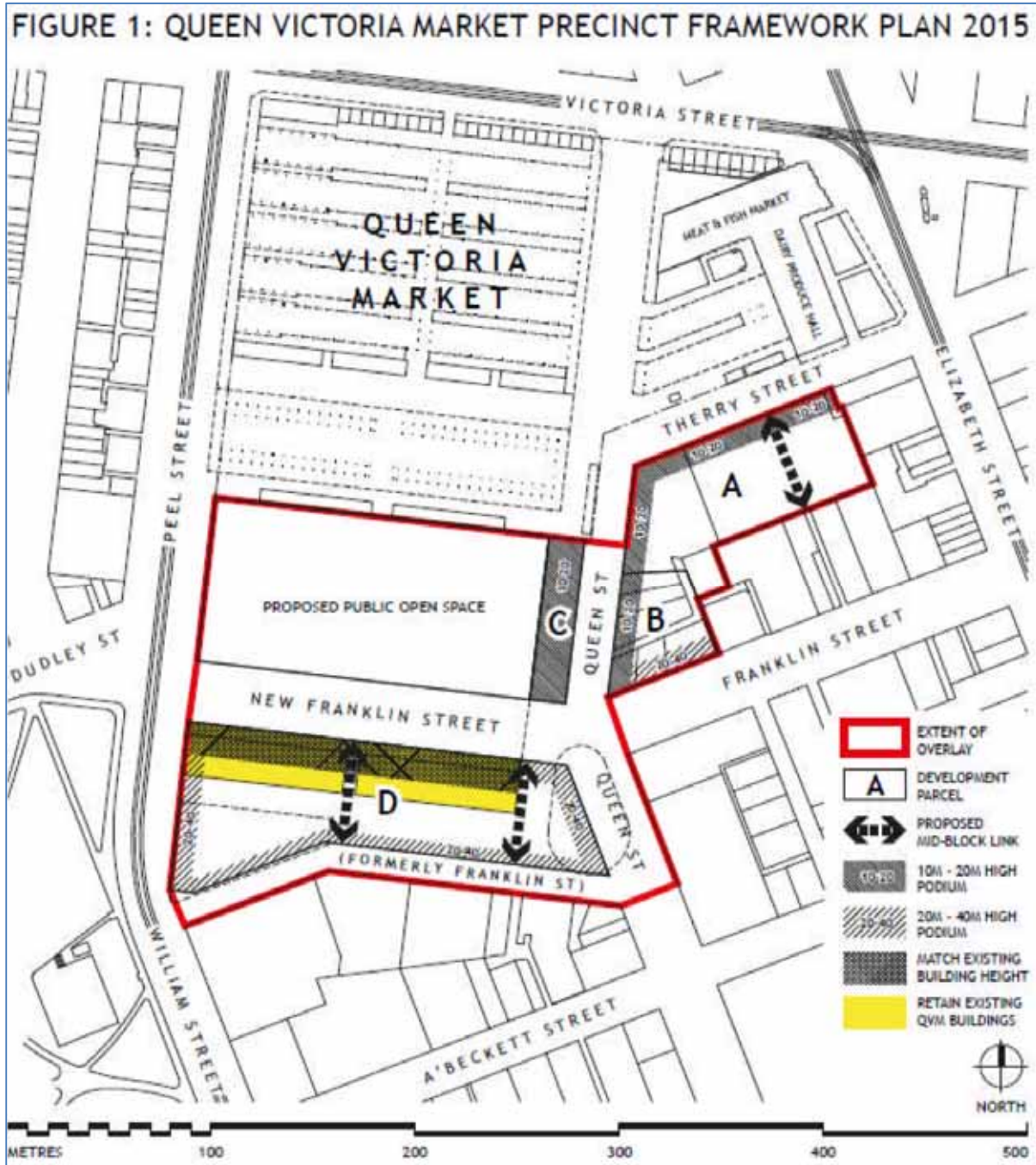


Figure 6 Exhibited QVM Precinct Framework Plan – Table 1 of DPO11

**Mel Consultants Advice – QVM Environmental Wind Considerations 2015**

In the advice from wind experts Mel Consultants, concerns are raised that the proposed tower and podium heights and setbacks may prove difficult to achieve with the recommended wind conditions proposed in the Precinct. It is their view that design advice on tower forms and mitigation strategies should be considered early in the planning and design phase. Wind is discussed in Chapter 9 of this report.

### **CBD North Edge Traffic Study April 2015 Review (Movendo)**

This report examined traffic issues relating to the QVM Precinct and will inform traffic works implemented in conjunction with the QVM renewal project.

## **2.3 Heritage context**

### **Queen Victoria Market Conservation Management Plan, Allom Lovell and Associates 2003 (updated 2011)**

The Conservation Management Plan (CMP) for the Queen Victoria Market was commissioned by the Queen Victoria Market Pty Ltd at the beginning of the Master Planning process. It provides an assessment of the significance of the market structures, the site and complex as a whole and previous conservation policies for future management and development. The CMP broadly follows the format of the Australia International Council on Monuments and Sites (ICOMOS) and the principle set out in the *Australia ICOMOS Burra Charter* (1999) adopted by Australia to assist in the conservation of heritage places.

Key listings and classifications for the QVM include:

- Victorian Heritage Register as H734
- Victorian Heritage Inventory designated as site H7822-0073
- Australian Heritage Commission (listed on the *Register of the National Estate*)
- National Trust of Australia (Victoria) as a building/ site of state significance
- Melbourne Planning Scheme identified in a heritage overlay (HO7).

The conservation policy includes both general and specific policies applying to buildings and to significant spaces and elements. It states that “... *if circumstances affecting the site alter in any significant way, then the policy should be reviewed at that time.*”<sup>1</sup> The CMP was last updated in 2011.

The CMP provides specific recommendations for new built form and heights in new developments facing or abutting the QVM boundaries.

### **Lovell Chen – Review of Heritage Issues: QVM Renewal, Precinct Built Form Controls 2015**

The review by Lovell Chen addresses an ongoing concern and requirement to protect and enhance the QVM buildings and Precinct generally in acknowledgement of its unique place in the history of Melbourne. As the only remaining nineteenth century market built by the City of Melbourne, the series of open sheds and enclosed market buildings remain in a similar pattern of use since 1878 when it first opened. A key attribute taken from the Statement of Significance highlights:

*The generally simple, low scale and remarkably intact example of a utilitarian form from the period of its construction. Taken as a whole, the Market and its component buildings are substantially intact in its 1923 form.*

The review by Lovell Chen was necessary in order to factor in heritage considerations in light of the proposed strategic shift of higher density development in the Precinct. The review did

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<sup>1</sup> QVM Conservation Management Plan, Allom Lovell and Assoc p107

not give advice on the appropriateness or otherwise of proposed tower heights, but detailed preferred heights for podiums specific to locations around the Precinct.

The most relevant findings of the heritage review that relate to this Amendment are that:

- Heritage responses to mandatory controls are site specific, vary upon the boundary location and will ultimately rely on heritage listings and overlays where applicable.
- Existing heritage controls both recognise the heritage significance and provide for appropriate management to the north and west boundary interfaces.
- To the east, the boundary interface is more mixed and the heritage sensitivities are site specific. This review found that no additional heritage controls are warranted in relation to the market.
- To the south, the heritage sensitivities are less exact and lack precision in the manner in which it has been established or defined. The introduction of new built form in accordance with the Jones and Whitehead *Built Form Review and Recommendations* should not result in adverse impact on the market or its surrounds.

## **2.4 Other relevant strategic planning work and projects**

### **Amendment C196 – City North Structure Plan**

Described as an extension of the Central City, this 2013 Amendment implemented the City North Structure Plan 2012. The QVM Precinct was included in the study area but ultimately the site is adjacent to (as opposed to forming part of) the land affected by the built form controls of C196. The DDO for the area facing the market buildings sets out preferred built form outcomes that “*Respects the heritage character of the Queen Victoria Market Buildings*”. The Panel also acknowledged the significant heritage fabric present in the area, and did not agree to heights exceeding the 1:1 street wall to street width ratio but rather a stronger expression thereof.

### **Amendment C198 – City North Heritage Review**

This Amendment (2014) sought to implement the *City North Heritage Review* (2012) and recommended a number of changes to the Heritage Overlay in the City North area and specifically within the QVM Precinct and surrounds. The result was the removal from the Heritage Overlay of the triangular at-grade parking area in the south-western corner of Franklin Street. It also adjusted the statement of significance for HO7.

### **Amendment C262 and C270 – Central City Built Form Review**

The introduction of the interim C262 mandatory built form controls in the Central City (excluding the QVM Precinct) were introduced in 2015 in response to an unprecedented quantity and scale of development (proposed and approved) within the Central City. The reasons given for the Amendment were: growing concerns by authorities and the community over resulting poor amenity outcomes; and infrastructure capacity pressures. The interim controls will be superseded by the outcomes of Amendment C270, due to go to a Panel hearing in July – August 2016. The Central City Built Form Review prepared by DELWP (April 2016) has been prepared to support recommended built form and plot ratios.

### **West Melbourne Structure Plan**

The development of this structure plan is currently underway with the study area abutting the QVM Precinct. The review will analyse the Precinct's land use and development, transport, open space, community infrastructure and utilities to provide strategic direction for Council policy on these matters.

### **Melbourne Metro Rail Project**

One of the largest public transport infrastructure projects undertaken in Australia, this project is to deliver extensive rail tunnels from South Kensington to South Yarra via Swanston Street in the CBD, linking the Sunbury and Cranbourne/Pakenham rail lines and creating new underground stations at Arden, Parkville in the CBD and South Yarra (Domain). It is expected that accessibility to the QVM will be substantially increased for the greater Melbourne Metropolitan region specifically through new stations at Parkville and CBD North.

### **Western Distributor Project**

This project is a proposed freeway that will add an alternative route to the West Gate Bridge, with a second river crossing and direct access to the Port of Melbourne from the west. The completion of this project may have implications for the QVM Renewal project for altered traffic and freight movements into and out of the Central City and City North.



## 3 Planning Context

The Panel has reviewed the policy context of the Amendment and the relevant zone and overlay controls and other relevant planning strategies.

### 3.1 Policy framework

A brief description of the provisions relevant to the Panels findings is provided below.

#### 3.1.1 State Planning Policy Framework

The Panel has had particular regard to the following clauses in the SPPF:

##### **Clause 9 Plan Melbourne**

Clause 9 requires planning and responsible authorities to consider and apply the strategies of *Plan Melbourne: Metropolitan Planning Strategy (DTPLI 2014)*.

*Plan Melbourne* includes the following directions and initiatives that are relevant to the Central City:

Direction 1.4 is to *Plan for the expanded Central City to become Australia's largest commercial and residential centre by 2040*. It sees the expanded Central City area:

- ... continuing to play an important role as a major destination for tourism, retail, entertainment and cultural activities.

*Plan Melbourne* includes specific reference to the Queen Victoria Market at Initiative 4.2.3 Protect Unique City Precincts:

- *Implement planning provisions that allow for the strategic redevelopment of the Queen Victoria Market and immediate surrounding area that provides for a low scale market that fits within a back drop to the south and south east of higher density development, with appropriate building spacing, commercial and employment opportunities, community infrastructure and community facilities*
- *Implement planning provisions to ensure that development does not compromise open and public spaces.*

The *Plan Melbourne Refresh Discussion Paper*, released in October 2015 confirms that the focus on the role of the expanded Central City will be maintained.

Council submitted that the Amendment supports the following state planning policy provisions:

- Clause 10 – Operation
- Clause 11 – Settlement
- Clause 15 – Built Environment and Heritage
- Clause 16 – Housing
- Clause 17 – Economic Development
- Clause 18 – Transport
- Clause 19 – Infrastructure

### 3.1.2 Local Planning Policy Framework

#### (i) Municipal Strategic Statement (MSS)

Council submitted that the Amendment supports the following directions of the Municipal Strategic Statement:

- Clause 21.02 – Municipal Profile and Clause 21.03 - Vision
  - Melbourne’s Growth (Clause 21.02-2)
  - People City (Clause 21.02-3)
  - Prosperous City (Clause 21.02-5)
- Clause 21.04 – Settlement
- Clause 21.06 – Built Environment and Heritage
- Clause 21.07 – Housing
- Clause 21.08 – Economic Development
- Clause 21.09 –Transport
- Clause 21.10 – Infrastructure
- Clause 21.12 - Hoddle Grid.

**Clause 21.12 – Hoddle Grid** is of particular relevance to the Panel’s findings. It seeks to:

- *Encourage the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities*
- *Support the Queen Victoria Market as a retail and tourist facility, and as a heritage asset of State significance*
- *Protect the scale of important heritage precincts, boulevards and other unique precincts that rely on a consistency of scale for their image, including the Retail Core, Chinatown, Hardware Lane, Flinders Lane, Bourke Hill, Parliament, the Melbourne Town Hall, and the churches on Flinders and Collins Streets*
- *Ensure the form and use of development around the Queen Victoria Market does not detract from its amenity nor compromise its 24 hour function*
- *Ensure a strong contrast in scale of development along Elizabeth Street from the lower scale areas to the north of Victoria Street and the higher scale of the Capital City Zone*
- *Ensure the area bounded by Latrobe and Victoria Streets and Elizabeth/Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid* (Panel emphasis).

Relevantly, the Amendment proposes to delete the last dot point underlined above. Clause 21.12 defines the Hoddle Grid and identifies the QVM as ‘Precinct 2’, as shown in Figure 7 below. The Amendment proposes to amend the boundary of the QVM Precinct shown in Clause 21.12 to reflect the study area of the Jones and Whitehead Review.

**Clause 21.14 Proposed Urban Renewal Areas** identifies the City North area as an area in transition with further potential for urban renewal. It references the Council’s City North Structure Plan which includes the following objective for QVM:

*“The area south of the QVM is a strategic renewal opportunity and intensification of development in the QVM is encouraged where appropriate<sup>2</sup>.”*

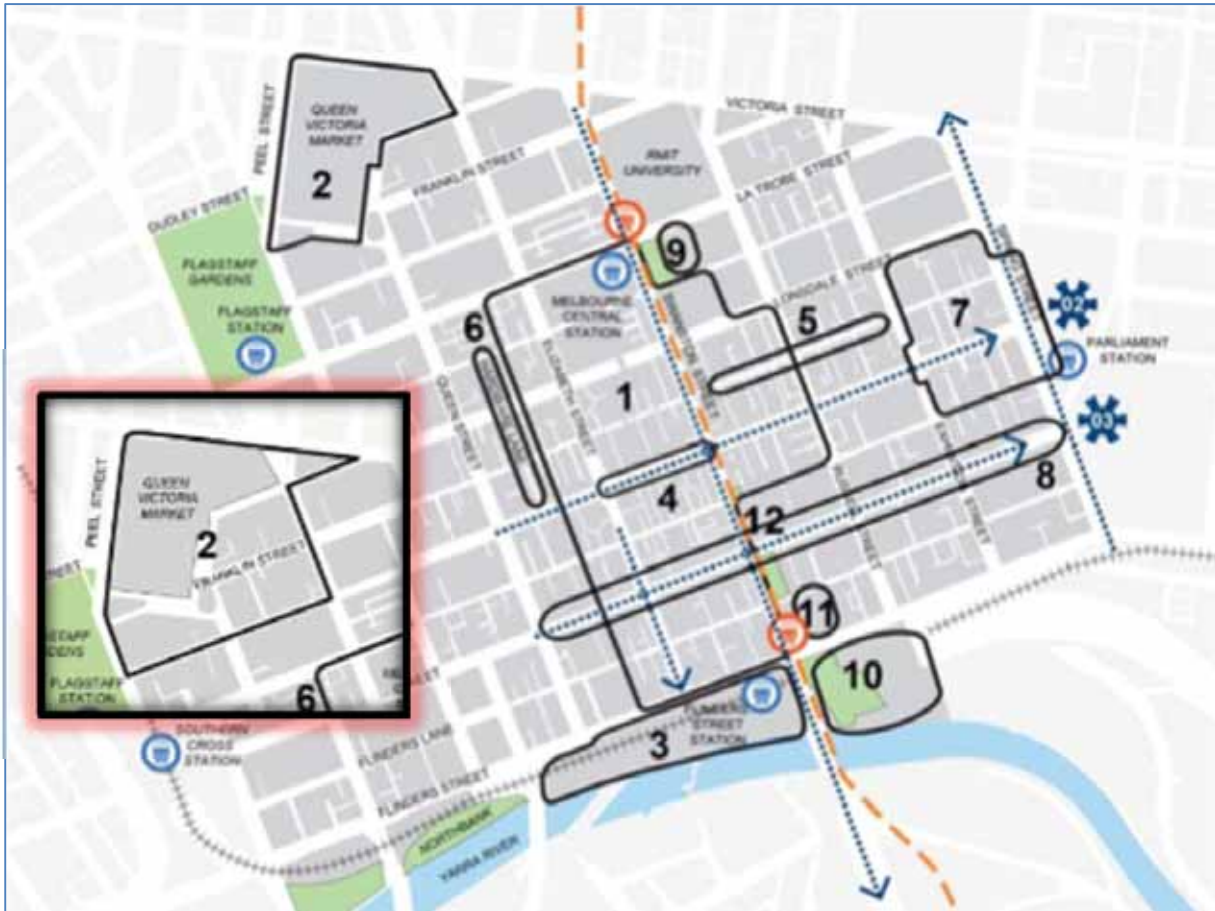


Figure 7 Clause 21.12 Figure 6 Hoddle Grid with proposed amended Precinct area

## (ii) Local Policy

Council submitted that the Amendment supports the following local planning policy provisions:

- Clause 22.01 - Urban Design within the Capital City Zone
- Clause 22.02 - Sunlight to Public Spaces
- Clause 22.04 - Heritage Places with the Capital City Zone
- Clause 22.19 - Energy, Water and Waste Efficiency
- Clause 22.26 - Public Open Space Contributions.

Of particular relevance, the policy basis of Clause 22.01 – Urban Design in the Capital City Zone is:

*Melbourne’s buildings, streets, open spaces and landscape features combine to give the Central City its unique appearance and feeling.*

<sup>2</sup> City North Structure Plan p38

*These elements have created a complex and attractive urban environment, giving Melbourne a grand and dignified city centre filled with diverse activities and possessing unique charm, character and a pleasant street level environment.*

The objectives of this Clause seek:

- *To ensure that new development responds to the underlying framework and fundamental characteristics of the Capital City Zone while establishing its own identity.*
- *To enhance the physical quality and character of Melbourne's streets, lanes and Capital City Zone form through sensitive and innovative design.*
- *To improve the experience of the area for pedestrians.*
- *To create and enhance public spaces within the Capital City Zone to provide sanctuary, visual pleasure and a range of recreation and leisure opportunities.*
- *To ensure that the design of public spaces, buildings and circulation spaces meets high quality design standards.*

In addition, the objectives of Clause 22.04 - Heritage Places with the Capital City Zone include:

- *To conserve and enhance the character and appearance of precincts identified as heritage places by ensuring that any new development complements their character, scale, form and appearance.*

## **3.2 Planning scheme provisions**

### **3.2.1 Zones**

Matters relating to land use zones are addressed in more detail in Chapter 8 of this report. A brief description of each zone relevant to the Panels findings is provided below.

#### **(i) Capital City Zone**

The Capital City Zone applies across the city core, Hoddle Grid and expanded capital city area (including Southbank, Fishermans Bend, and City North). The purpose of this Zone includes:

- *To enhance the role of Melbourne's Central City as the capital of Victoria and as an area of national and international importance.*
- *To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.*
- *To create through good urban design an attractive, pleasurable, safe and stimulating environment.*

The QVM Precinct is currently included in the Capital City Zone Schedule 1(CCZ1). The purpose of this Schedule is:

- *To provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.*

**(ii) Public Use Zone**

The Amendment proposes to rezone the QVM site (containing the existing QVM heritage buildings) to a Public Use Zone (PUZ). The purpose of this Zone includes:

- *To recognise public land use for public utility and community services and facilities.*
- *To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*

The Amendment proposes to include the QVM in Schedule 7 to the Public Use Zone – ‘Other public use’.

**(iii) Public Park and Recreation Zone**

The Amendment also proposes to rezone the existing QVM car park area to the Public Park and Recreation Zone. The purpose of this Zone includes:

- *To recognise areas for public recreation and open space.*
- *To protect and conserve areas of significance where appropriate.*
- *To provide for commercial uses where appropriate.*

**(iv) Special Use Zone**

Expert evidence was given by Mr Milner that it would be more appropriate for the Amendment to apply the Special Use Zone, rather than the Public Use Zone to the QVM itself.

The purpose of this Zone includes:

- *To recognise or provide for the use and development of land for specific purposes as identified in a schedule in this zone.*

**3.2.2 Overlays**

Matters relating to planning overlays are addressed in more detail in Chapters 5 and 6 of this report. A brief description of each overlay relevant to the Panels findings is provided below.

**(i) Heritage Overlay**

The QVM is currently affected by HO7 Queen Victoria Market Precinct which applies to the AVM and its immediate interface area, and HO496 site specific Heritage Overlay for the QVM which reflects the extent identified in the Victorian Heritage Register. The Amendment does not propose to change the application of the Heritage Overlay, however, heritage issues are an important consideration for the Panel.

The purpose of the Heritage Overlay is:

- *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.*

**(ii) Development Plan Overlay**

The Amendment proposes to apply a Development Plan Overlay to the QVM Environs area.

The purpose of this Overlay is to:

- *To identify areas which require the form and conditions of future use and development to be shown on a Development Plan before a permit can be granted to use or develop the land.*
- *To exempt an application from notice and review if it is generally in accordance with a Development Plan.*

The Amendment proposes to introduce a new Schedule 11 - QVM Environs, which, as exhibited, includes the *QVM Precinct Framework Plan 2015*.

**(iii) Design and Development Overlay**

The Amendment proposes to delete the Design and Development Overlay from the QVM Environs area, but to retain and amend the existing Schedule 14 to the DDO (DDO14).

The purpose of this Overlay is to:

*To identify areas which are affected by specific requirements relating to the design and built form of new development.*

The current design objectives included at DDO14 are:

- *To ensure that any development within the Queen Victoria Market is consistent with its Victorian character and low-scale.*
- *To ensure that development around the Market edges and within close proximity to the Market provides an appropriate scale transition from the low scale Market buildings towards the medium and high rise towers in the Central Business District.*
- *To ensure that any development in close proximity to the Queen Victoria Market is compatible with the scale and character of the Market, surrounding residential developments and adjacent precincts.*

The Amendment proposes to amend DDO14 to include, amongst other built form and design objectives, the following objective:

- *To ensure that the scale and design of new buildings does not adversely affect the significance of the QVM as a historic and cultural landmark.*

**(iv) Incorporated Plan Overlay**

Expert evidence was presented that it would be more appropriate for the Amendment to apply the Incorporated Plan Overlay, rather than the Development Plan Overlay to the QVM Environs.

The purpose of the Incorporated Plan Overlay is:

- *To identify areas which require:*
  - *The form and conditions of future use and development to be shown on an incorporated plan before a permit can be granted to use or develop the land.*

- *A planning scheme amendment before the incorporated plan can be changed.*
- *To exempt an application from notice and review if it is generally in accordance with an incorporated plan.*

### **3.2.3 General provisions**

#### **Clause 61.01 Administration and enforcement of this scheme**

Schedule 1 to this clause states that the Minister for Planning is the Responsible Authority for administering and enforcing the scheme for a range of matters, including:

- *Matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority in relation to:*
  - *Developments with a gross floor area exceeding 25,000 square metres.*
- *For the purposes of clause 43.04 DPO (schedules 2 to 7) where the total gross floor area of the buildings in the Development Plan exceeds 25,000 square metres.*
- *For all matters relating to Land included in the Development Plan Overlay, Schedule 8 – Carlton Housing Precincts.*

Matters raised in submissions relating to this provision are addressed in Chapter 9.

## **3.3 Ministerial Directions and Practice Notes**

### **3.3.1 Ministerial Directions**

#### **(i) Ministerial Direction No 11 - Strategic Assessment of Amendments**

The Amendment is consistent with Ministerial Direction 11 Strategic Assessment of Amendments.

#### **(ii) The Form and Content of Planning Schemes (s7(5))**

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act. The Panel has made further recommendations about the form and content of the proposed Amendment in Chapters 5 to 9.

### **3.3.2 Planning Practice Notes**

The following Planning Practice notes are relevant to the consideration of the Amendment:

#### **(i) PPN2 Public Land Zones**

The purpose of this practice note is to provide guidance about the appropriate use of Public Land Zones. This is addressed in Chapter 8.

#### **(ii) PPN3 Applying the Special Use Zone**

The purpose of this practice note is to provide guidance about the appropriate use of the Special Use Zone in planning schemes. It is indirectly relevant to the question of the use of the Public Use Zone as discussed in Chapter 8.

**(iii) PPN13 Incorporated and Reference Documents**

This practice note explains the role of external documents in planning schemes, the difference between incorporated and reference documents and when a document should be incorporated or be a reference document. This is relevant to the proposed DPO and DDO.

**(iv) PPN23 Applying the Incorporated Plan and Development Plan Overlays**

The purpose of this practice note is to:

- Explain the functions of the Incorporated Plan Overlay (IPO) and the Development Plan Overlay DPO)
- Provide advice about when these tools should be used
- Provide guidance on how to use these planning tools.

This is addressed in Chapter 5 of this report.

**(v) PPN46 Strategic Assessment Guidelines**

This planning practice note explains what strategic considerations should be made as part of the assessment against Ministerial Direction 11 (Strategic Assessment of Amendments). This is addressed in Chapter 4.

**(vi) PPN59 The role of mandatory provision in planning schemes**

The purpose of this practice note is to set out criteria that can be used to decide whether mandatory provisions may be appropriate in planning schemes.

This is relevant to the discussion of the proposed DPO and DDO, and is addressed in Chapters 5 and 6.

**(vii) PPN60 Height and setback controls for activity centres**

This practice note provides guidance on the department's preferred approach to the application of height and setback controls for activity centres.

This is addressed in Chapter 5 of this report.



## 4 Strategic assessment

### 4.1 The issues

The key issues for the Panel to consider are whether the Amendment is strategically justified and does the Amendment deliver a Net Community Benefit?

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

As outlined by Council in the Explanatory Report, that *“the QVM Precinct Renewal Master Plan sets a positive agenda for conserving the heritage significance and character of the QVM, whilst meeting the contemporary needs of traders, shoppers and a growing City. The amendment is required in order to implement a revised framework of planning controls that facilitates the principles established in the Master Plan, safeguards the future of the QVM and enhances its surrounds”*.<sup>3</sup>

In addition, the Jones and Whitehead Built Form Review stated:

*Understandings of the strategic role of the QVM have changed from a transitional zone between the Central City and low-intensity suburbs in the past, to an integral part of today’s Central City and emerging City North growth area. Existing controls over the built form of development in the vicinity of the QVM, based on past conceptions of the area, require review.*<sup>4</sup>

The Built Form Review articulates that:

*Development defines and activates QVM as a special place by creating a taller built form around, and oriented toward, the Market, albeit with relatively low podiums that establish as transition to the Market’s most intact heritage areas.*<sup>5</sup>

In line with this, the Amendment proposes a suite of planning controls that represent a clear conceptual shift in the approach to managing the built form interface with the QVM – from the existing a ‘transition’ approach to establishing a ‘defined edge’.

The proposed changes to built form controls, including removal of varying height limits from the QVM environs, together with the deletion of the clause from Clause 21.12 is most significant in this regard. These are addressed in Chapters 6 and 7.

Issues raised in submissions related to:

- The strategic role of the QVM Precinct in providing a transition
- The impact of the conceptual shift to a ‘defined built form edge’ on the heritage values of the market
- The QVM Precinct Renewal Master Plan being relied upon as strategic justification for the Amendment to built form controls over the wider Precinct.

<sup>3</sup> Amendment C245 Explanatory Report p3

<sup>4</sup> Jones and Whitehead Review p5

<sup>5</sup> ibid p37

## 4.2 Strategic role

### (i) Evidence and submissions

Council's submission included a presentation from Professor Rob Adams AM which highlighted a theme of 'continuity and change' in the context for the QVM. It has been operating and trading continuously as a market since 1978, but throughout that period has also experienced periods of change, decline and reinvention. Prof Adams explained in detail the strategic directions and key moves of the QVM Precinct Renewal Master plan including the renewal aim that:

*QVM will be a 'market of markets' with a distinctive offer and experience in each of its main trading quarters interlinked by a network of attractive public spaces and connected to the surrounding city by high quality streetscapes.<sup>6</sup>*

Professor Adams presentation also provided details of:

- The dramatic growth occurring in the broader CBD context over the last decade; particularly in terms of increased dwellings density, job density, mix of uses, quality of public realm and levels of pedestrian traffic.
- Information on the cumulative impact of recent construction, current approvals and applications showing extensive growth particularly in the city's north and west, as shown below in Figure 8.
- The evolving planning context including expansion of the CCZ to include the City North renewal area and designation of the city's inner north as a growth area, as shown below in Figure 9.

In concluding, Professor Adams stated:

*Just as in 1985 when the City looked out 15 years and prepared a Strategy for continuity and change, with the vision of 'a 24 hour City that would still feel like Melbourne' a strategy that has over the last 30 years helped to reintroduce a significant residential population, bringing back retail, strengthen the cultural and events program and create greater employment and economic benefit centred on its existing infrastructure, so today the QVM Renewal and City North Strategies are designed to build on this legacy.<sup>7</sup>*

None of the expert witnesses challenged the strategic planning rationale underlying the amendment.

All of the expert witnesses who gave planning and or urban design evidence acknowledged the strategic role of the QVM Precinct was increasingly as one that is an integral part of the Central City, rather than as a transitional or peripheral condition.

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<sup>6</sup> Document 2, Presentation by Rob Adams, Slide 121

<sup>7</sup> Document 2, Presentation by Rob Adams, Slide 161

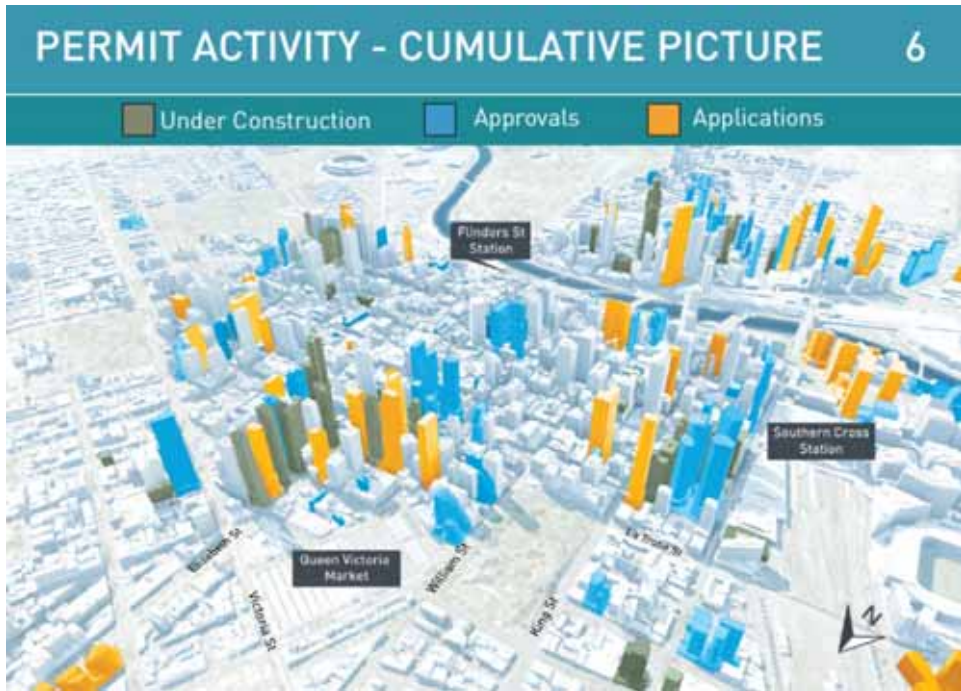


Figure 8 Permit activity in the vicinity of QVM (From Prof Adams presentation)

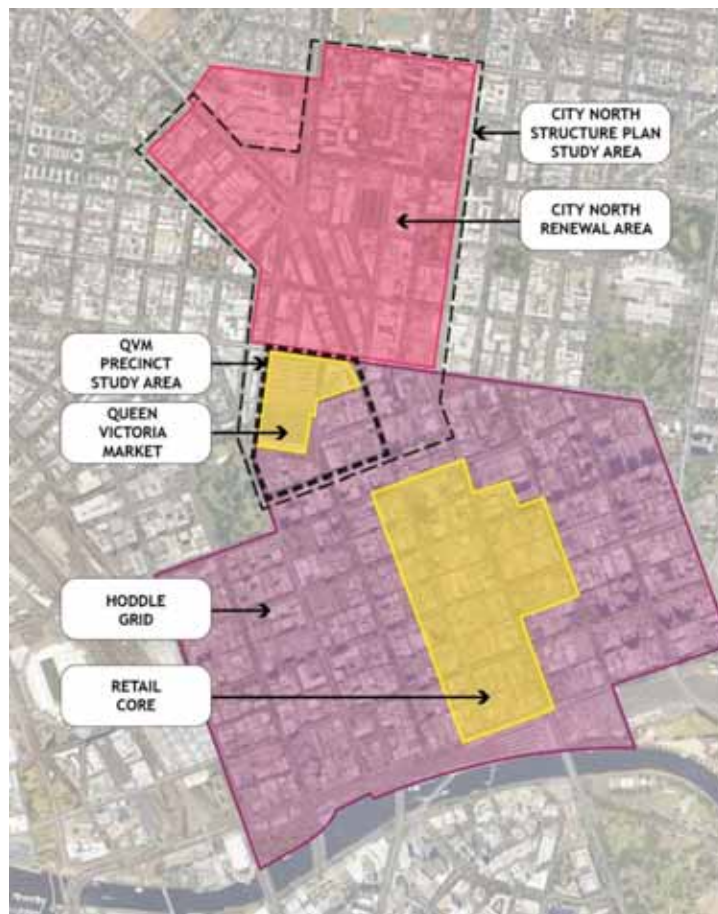


Figure 9 Expanded Central City (from Jones and Whitehead report)

The expert witnesses also agreed that there was a rapidly evolving physical context for the Amendment, and the need for review of the planning controls in the area. Ms Heggen appearing for Council spoke of the “northward march of substantial CBD tower development along Elizabeth Street”<sup>8</sup> and provided 3D models showing the existing DDO14 height limits with existing and approved towers protruding from those building envelopes<sup>9</sup>. Mr Crowder summarised that “the horse has bolted with regard to the original intent of DDO14, which was to provide a transition between low scale buildings within the QVMP and higher-scale buildings within the CBD.”<sup>10</sup> Mr Milner referenced “sweeping changes to the urban design direction that dramatically and abruptly changed the approach and exercise of discretion applying to the height and density controls in the Hoddle Grid ... some of the tallest and most intense developments in the city have been approved as a result of that change, some in the immediate environs of the market.”<sup>11</sup> Mr Czarny, who was a party to the establishment of the existing controls introduced by Amendment C61 “openly accept[ed] that a review of the status of the controls as they relate to the market is overdue.”<sup>12</sup>

All the planning and urban design experts also acknowledged the emerging best practice thinking about managing built form issues in the capital city context represented by, in the first instance, Amendment C262 and, more recently, its proposed successor, Amendment C270. While the merits of C270 were not on the table for debate as part of C245, the C270 approach was generally supported by the experts, in that it provided guidance about intensity of development through application of plot ratio and built form and amenity controls, whereas C245 was silent on the issue of overall height and intensity of development.

In contrast, in relation to the review of planning controls proposed by C245, the submission from Mr Echberg, who appeared at the Hearing, was that “there is no need or credible justification, proposed in the amendment or its’ supporting documents for such a radical change of direction at this time.”<sup>13</sup> Mr Echberg, the National Trust and the Friends of the QVM, submitted that the existing DDO14 controls had served as an effective limit to development in the QVM environs area, with the constructed Fulton Lane development and approved but not constructed development at 400 William Street being the only significant ‘incursions’ into the established height limits. The National Trust and the Friends of the QVM both submitted that it was inappropriate to rely on the QVM Masterplan as strategic justification for the amendment and in particular the removal of the height limits.

## **(ii) Discussion**

The Amendment serves two key strategic functions:

- To implement the recommendations of the QVM Precinct Renewal Master Plan 2015 as they relate to the proposed restructuring, reconfiguration and redevelopment within the Precinct.

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<sup>8</sup> Catherine Heggen, Statement of Planning and Urban Design Evidence p6

<sup>9</sup> Catherin Heggen, Statement of Planning and Urban Design Evidence Appendix G

<sup>10</sup> David Crowder, Town Planning Expert Evidence, p15

<sup>11</sup> Rob Milner, Statement of Expert Evidence, p10

<sup>12</sup> Craig Czarny, Statement of Expert Urban Design Evidence, p9

<sup>13</sup> Submission 34, Mr Bruce Echberg

- To review the existing built form controls that apply over the market area in the context of a rapidly evolving physical and strategic planning policy context. In particular this relates to DDO14 which applies to land to the south of the market that currently forms a 'transition' between the market and the CBD Hoddle Grid.

In relation to the first function of the Amendment, the Panel accepts Council's approach in developing a Master Plan to guide the renewal of the Market. Investment in the Market is well overdue. It is in desperate need of renovation and revitalisation to ensure it remains relevant and continues operating as a much loved feature of Melbourne's central urban fabric. While this must be done in a manner that maintains its character and charm, a 'do nothing' approach is not an option.

The Panel also accepts that the Amendment is required to implement components of the Master Plan, particularly the 'restructuring and reconfiguration moves' identified in Quarter 3 around Franklin Street and redevelopment opportunities in Quarter 4. The use of the DPO as the tool to achieve this is discussed further in Chapter 5 of the report.

In relation to the second function of the Amendment, the presentation by Professor Rob Adams was particularly useful in outlining changes occurring in the area. The Panel understands that these reflect broader planning strategies relating to the important role of the expanded Central City, in particular, as envisaged by Plan Melbourne.

The Panel accepts that the physical context is rapidly evolving. There has also been a recent and significant shift in policy context, with City North now included as part of the central city. A new regime of built form and amenity controls has also been recently introduced for the central city (by Amendments C262 and C270), which while not yet fully resolved, demonstrates advancements in planning practice to manage development impacts. This creates an entirely new setting within which the broader strategic role of this Amendment must be considered – it is a very different setting to that which existed when the current planning controls were introduced by Amendment C61.

The current extent of development exceeding the Amendment C61 height controls may not alone be justification to review the heights the QVM environs. However, when considered in conjunction with the changing planning policy context for the area and emerging thinking about managing built form in the CBD, the Panel considers that a review of the built form controls as they apply to land south of the Market is warranted.

The Panel is satisfied that the inclusion of City North as part of the expanded Central City means that the QVM is now very much an integral part of the Central City, rather than on the edge of the city. The Panel is also satisfied that planning policy at both the state and local level support significant intensification of development broadly in the Hoddle Grid and the expanded Central City.

### **4.3 Heritage significance and urban design response**

#### **(i) Evidence and submissions**

The strategic significance of the QVM as a 'heritage asset of state significance' as identified in the LPPF, was considered in particular by Mr Lovell. Mr Lovell drew primarily from the

Victorian Heritage Registration citation commenting in relation to the Hoddle Grid and taller built form that:

*With regard to the QVM the assessed significance at a State and local level is not one in which emphasis has been placed on the low scale surrounds. The focus in both contexts is on the history and physical form of the market rather than as related to the history and form of its wider setting....in reviewing the market in the context of the surrounding areas, it is evident that the QVM has historically operated as an island site and it continues to exist operationally and physically quite independently of its surrounds ... While on most of its boundaries there is a heritage context, the significance of the market is not reliant upon that context.<sup>14</sup> (Panel emphasis)*

The submission for the National Trust was that the aesthetic values embodied in the market's setting had been inadequately considered in the assessed significance of cultural heritage. The National Trust submission relied upon previous community consultation and engagement work undertaken by Capire in 2014 to support the *NHL Assessment Scoping Report*, and earlier in 2003 to support Amendment C61, stating that:

*As sense of openness was identified as a valued aspect of the market atmosphere both in the Capire Phase 1 report and in the C61 report, the latter also more specifically identifying the lack of a sense of enclosure created by the scale and spacing of buildings around the market.*<sup>15</sup>

The National Trust submission also referred to submissions 14, 21, and 9 which respectively valued the "open sunny and expansive feel of the Precinct", "an oasis in the midst of high rise madness" and raised concerns that the outcome would be "like being in a fish bowl".

In addition, numerous pro-forma written submissions objected to the proposed Amendment on the grounds that:

*It will completely change the market surrounds from low rise warehouses and shops to high rise apartments (40-60 storeys) at its immediate perimeter. Much of the heritage value of the market will be lost making future development of the market site more likely.*<sup>16</sup>

The planning and urban design experts for Council deferred to Mr Lovell's advice on the heritage significance, and no other Heritage experts were called.

From an urban design perspective, Mr Sheppard, Mr McPherson and Mr Czarny all supported the conceptual shift away from a 'transition in scale down to the Market edge' to a 'defined built form edge' condition; with debate revolving primarily about the specific form of the controls at the immediate interface with the QVM. Mr McPherson considered the example of the Santa Caterina Market, as referenced in the Jones and Whitehead Built Form Review as being effective in using contrast in scale to accentuate the QVM as a special place. He considered it a relevant precedent for the outcomes envisaged, and that the notion of a

<sup>14</sup> Mr Peter Lovell, Statement of Heritage Evidence for Melbourne City Council p31-32

<sup>15</sup> Submission on behalf of the National Trust p8-10

<sup>16</sup> Pro-forma submission numbers 61-152, 156

strong urban edge of taller built form framing and reinforcing the low-scale market reflected strong urban design principles of definition and legibility. Mr McPherson also referred to Central Park, New York as another example which although much larger *"is defined by a strong urban edge of relatively consistent podiums and varied tower heights. The 'space' or 'void' of the park is defined and highlighted by its built form edges."*<sup>17</sup>

Mr Lovell confirmed, as identified in the Built Form Review, that the scale and detailed design of the streetwall interface to the streetscape is most important in considering direct impacts on heritage interfaces. He did not consider that tower elements would overwhelm the cultural heritage significance of the market and was comfortable, from a heritage perspective, with towers of 'any height' in a capital city context.

However, Ms Heggen and Mr Shepherd, were comfortable with the concept of a defined built form edge. However, they both gave evidence that, from a planning and urban design perspective (rather than heritage perspective), some form of overall limitation on intensity of development was required at the most immediate interface with the QVM. This was based predominantly on a concern that very tall towers (of potentially up to 200 metres, as had been recently approved and were under construction in Elizabeth Street), would overwhelm the public spaces and affect the amenity of the market. This is discussed further in Chapter 5.

## **(ii) Discussion**

It is significant that at State Planning Policy level, the QVM warrants specific mention as a strategic redevelopment opportunity in Plan Melbourne and by reference, in Clause 9 of the SPPF. Plan Melbourne, at Initiative 4.2.3, includes to *"Implement planning provisions that allow for the strategic redevelopment of the Queen Victoria Market and immediate surrounding area that provides for a low scale market that fits within a back drop to the south and south east of higher density development"* (Panel Emphasis).

Importantly, at the local level, Clause 21.12 Hoddle Grid does not identify the Queen Victoria market as a Precinct which relies on a consistency of scale for its image. It also seeks a *"strong contrast in scale"* between the lower scale areas north of Victoria Street and the higher scale of the Capital City Zone, which undoubtedly includes land around the QVM. Clause 21.14 Urban Renewal Areas also specifically references the Council's City North Structure Plan which identifies *"the area south of the QVM is a strategic renewal opportunity and intensification of development in the QVM is encouraged where appropriate"*.

There is strategic clarity that higher density and intensification of development in the QVM environs is supported. Plan Melbourne also identifies the need to *'implement planning provisions to ensure that development does not compromise open and public spaces'*. Also, as noted in the preamble to Initiative 4.2.3 of Plan Melbourne, *"increasing the density of parts of the expanded Central City must be balanced by protecting areas that are sensitive from development which may compromise the values held by the community for those areas."*<sup>18</sup>

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<sup>17</sup> Mr Simon McPherson, SJB, Statement of Expert Evidence: Urban Design p19

<sup>18</sup> Plan Melbourne Initiative 4.2.3 p119

It is clear from the number and nature of submissions received that there is still community value held for some form of 'transition' between the QVM and the higher density development occurring in the rest of the Hoddle Grid. The Panel also considers it entirely reasonable that development does not overwhelm or detrimentally impact the heritage significance of the QVM buildings, or the proposed and nearby existing public open spaces.

The heritage evidence from Mr Lovell was explicit that, while identifying the significance of the low scale of the market itself, its assessed heritage values do not rely on a broader low scale context. As outlined in Mr Lovell's evidence and the Built Form Review, the interface conditions vary and heritage sensitivities are distinctly different on the different boundaries of the Precinct. The areas with most immediate interfaces to existing QVM buildings were the most sensitive, and the streetscape conditions, rather than the towers behind the podiums, were the key considerations that would most directly impact on these heritage interfaces. Mr Lovell commented:

*The [Amendment] provides for taller built form closer to the market than is currently the case. While such a change will alter the physical surrounds to the market the change is not one which will alter the visual dominance of the market. As a low scale complex extending over some seven hectares, the market will remain dominant in the area.<sup>19</sup>*

The most sensitive heritage interfaces to the east, along Therry and Queen Street, the Amendment proposes a defined built form edge in the form of streetwalls of up to 20 metres (5-6 storeys). This is considered a "very Melbourne response"<sup>20</sup> and an appropriate scale from both a heritage and urban design perspective. It relates well to both the heritage context and the pedestrian scale, will achieve good street definition, and provide a mediating form to tower development behind. At the existing southern interface, along Franklin Street, there is no strong visual or physical link to the market, other than to the market stores, which the Amendment proposes to integrate into a new development parcel (Parcel D) to create an entirely new interface condition to high rise development beyond. This is discussed further in Chapter 5.

The Panel accepts the recommendations of the Built Form Review and the Council's heritage and urban design evidence that a defined built form edge of moderating podiums is an appropriate urban design response and can achieve an appropriate interface with the heritage sensitivities of the QVM.

Based on its own site inspections, the Panel notes that the 'open air' experience from within the market itself (in Sheds A to L) derives from the sheds being unenclosed and open to the elements, with exposed roof trusses, rather than open views to the sky, adding to the markets sense of ambiance. The proposed Amendment will not alter this.

However, Council's planning and urban design experts, while comfortable with a defined built form edge, felt that inclusion of a maximum height limit in the immediate interface with the QVM (in the DPO area) would be beneficial in limiting the amenity impacts of buildings and ensuring that very tall towers close to the market would not overwhelm the

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<sup>19</sup> Mr Peter Lovell, Statement of Heritage Evidence for Melbourne City Council p32

<sup>20</sup> Professor Adams verbal submission



public open spaces. The Panel agrees and has discussed this in further detail in Chapter 5. In summary, this represents a revised, albeit more compact, 'transition area' between the QVM and CBD beyond. The Panel considers that this achieves a balance of planning, heritage and urban design outcomes more appropriate to the contemporary planning and physical context.

#### **4.4 Net community benefit**

##### **(i) Evidence and Submissions**

The Panel was also presented with expert evidence from Dr Spiller of SGS Economics that presented a cost benefit analysis to demonstrate net community benefit of the QVM Precinct Renewal Master Plan, together with an economic impact analysis and retail impact analysis. The key conclusions of this evidence relating to net community benefit were:

- The project is shown to deliver a very strong net community benefit of some \$1.2 billion with a benefit cost ratio in excess of 6.1.
- The single greatest benefit generated by the project was conservation and enhancement of the heritage value of the Market, accounting for more than a third of the total community value generated. Urban consolidation and agglomeration benefits accounted for a further 35% of total community value.
- Even setting aside the above two benefit categories, the project continues to deliver a benefit cost ratio in excess of 4:1, demonstrating that the project was very robust in terms of net community benefit.

The submission for the National Trust challenged the relevance of considering the cost benefits of the full package of initiatives in the Master Plan, rather than the social and economic effects associated directly with the proposed components of the Amendment, stating:

*Other aspects of the Amendment, in particular the dramatic changes to desired built form character, have no logical connection at all [to the Master Plan beyond having been packaged in the same Amendment]<sup>21</sup>.*

##### **(ii) Discussion**

The Panel acknowledges the significant cultural heritage value of the QVM. Critical to this will be ensuring that the QVM continues to operate as a Market and to preserve its unique heritage character for future Victorians and visitors to enjoy.

The purchase of the Munro site represents an entrepreneurial response by Council to a strategic opportunity. Council should be congratulated on its initiative to obtain control of this site and its inclusion in the State Agreement to facilitate relocation of car parking and creation of the new open space. However, the Panel is also conscious that in responding to a strategic redevelopment opportunity, redevelopment of this site also needs to be carefully managed and balanced against the protection of heritage and amenity values of the QVM.

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<sup>21</sup> Submission on behalf of the National Trust p2

The Panel accepts the approach taken by Dr Spiller in considering the net community benefits of the Master Plan and other components of the Amendment in an integrated manner. While the renovation and renewal of QVM itself (in Quarters 1 and 2) is not the subject of this Amendment, the Amendment does form an integral part of that overall renewal project.

The Panel also accepts the proposition put by the National Trust that other components of the Amendment, namely those relating to amending built form controls to allow greater intensity of development in the broader QVM area, are not in themselves preconditions to the implementation of the Master Plan. However, the Panel accepts that those components are justified for other broader strategic reasons, as has been expressed in the preceding section of this chapter. The Panel also accepts Mr Spiller's evidence that there are significant benefits to the community associated with urban consolidation and agglomeration.

Overall, the Panel finds that the Amendment will deliver a significant net community benefit.

## **4.5 Conclusions**

The Panel concludes:

- The Amendment is strategically justified and a review of the built form controls is warranted.
- The Amendment is required to achieve good planning outcomes for the QVM and environs and will deliver a net community benefit.
- The Amendment is generally supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

The detailed assessment of the appropriate use of the proposed zone and overlays and policy, together with consideration of the relevant Planning Practice Notes for the component parts of the Amendment, is discussed in the following chapters.

## 5 The proposed built form controls

### 5.1 The issues

The issue is whether the proposed built form controls should be supported as exhibited and whether they achieve an appropriately balance of amenity, heritage and development opportunity. The Panel has considered the following issues:

- Proposed built form overlay controls in relation to (Podium heights, Front setbacks, Side and rear setbacks)
- Overall maximum development height
- Mandatory or discretionary built form controls

### 5.2 Background

#### 5.2.1 Proposed Development Plan Overlay

The Explanatory Report refers to the DPO11 as follows:

*A new Development Plan Overlay (Schedule 11) is proposed to be applied to the QVM car park, existing store buildings to the south and land opposite the market in Therry Street, Queen Street and Franklin Street. The DPO11 is proposed to apply new use and development requirements that will facilitate the recommendations of the masterplan and the Built Form Review. The area to which the DPO11 applies is considered the most sensitive being directly opposite the market. Any development proposal will be subject to street frontage heights and setbacks, and wind and weather protection requirements. These requirements are to ensure a lively and comfortable pedestrian environment and the interface with the Market and to ensure development responds appropriately to its scale and heritage character.*

The two key purposes of the DPO are:

- *To identify areas which require the form and conditions of future use and development to be shown on a Development Plan before a permit can be granted to use or develop the land.*
- *To exempt an application from notice and review if it is generally in accordance with a Development Plan.*

The DPO allows a Development Plan to guide land use as well as development. It also provides that a Schedule may provide for a permit to be granted *before* a Development Plan is approved and, in this instance, Council proposes to utilise this function.

DPO11 includes a strategic framework plan for the DPO11 area at Figure 1 of the Schedule. The exhibited (2015) version of this plan was amended during the course of the hearing in response to submissions and evidence. The exhibited version is as shown in Figure 6 of this report. The proposed Council amended (2016) version is shown below in Figure 10.

Schedule 11 requires that a both a planning permit issued for the use, development or subdivision *and* a Development Plan must be generally in accordance with the framework plan shown at DPO11 Figure 1<sup>22</sup>.

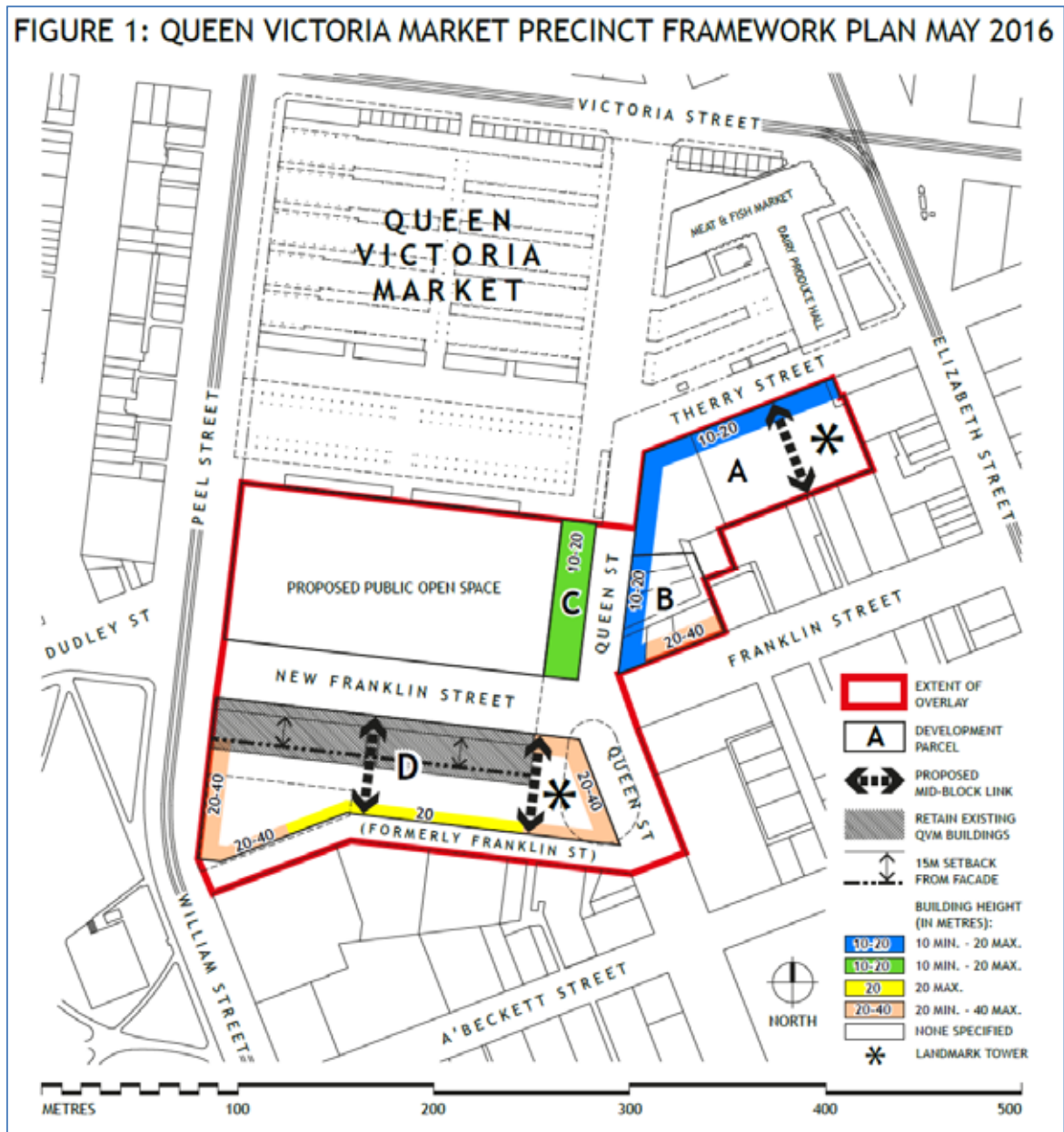


Figure 10 DPO11 Figure 1 modified version tabled by Council

The 'Requirements for a development plan' in the DPO11:

- Set out a Vision that the Development Plan must achieve
- Set out a range of information requirements that must accompany the Development Plan
- Require the relocation of 720 car spaces from the existing car park to within Parcels A and/or D

<sup>22</sup> Hearing document 23

- State that ‘consideration be given’ to incorporating affordable housing on land owned or controlled by City of Melbourne
- Provide for a new community facility to be located in Parcel C and outlines the type of facilities and uses that should be accommodated.

Where a Development Plan is approved, the head provisions of Clause 43.04 state that an application under any provision of the scheme which is generally in accordance with the Development Plan is exempt from third party notice and review provisions of the *Planning and Environment Act 1987*.

As proposed, the DPO ‘Conditions and requirements for permits’ set out a range of design requirements which *must* be achieved. However, these are expressed variously as matters which *should* or *must* be achieved. It is assumed that these are to be read as *discretionary* and *mandatory* provisions, respectively. The requirements relate to:

- Overshadowing
- Podium height
- Front, side and rear tower setbacks
- Tower separation
- Wind exposure
- Acoustic design
- Pedestrian accessibility and permeability
- Weather protection and active frontages
- Vehicle access.

These are summarized in more detail in Table 2 below.

### **5.2.2 Proposed Design and Development Overlay**

The Amendment proposes to delete the DDO from the QVM Environs area, which will be replaced by the DPO described above. The existing DDO14 is proposed to be retained on the balance of the QVM Precinct as shown on Figure 2 of this report, but amended to remove current height limits and instead introduce built form and amenity provisions to manage higher density built form.

The Explanatory Report states:

*The existing Design and Development Overlay (Schedule 14) will be amended, to contract its extent (to be in part replaced by a Development Plan Overlay, and to introduce specific design requirements for building scale, heights, setbacks, facades, active street frontages, public spaces and new pedestrian access links. A number of these requirements align with policy direction in existing local policies and in order to simplify the planning scheme, these provisions have been subsumed into the new DDO. As Amendment C245 was prepared prior to the approval of Amendment C262, it was considered necessary that the revised area of DDO 14 remain and include built form controls that are generally complementary to the DPO provisions and complete the suite of planning scheme controls that will enhance whole QVM Precinct.*

The purpose of the DDO is to:

*To identify areas which are affected by specific requirements relating to the design and built form of new development.*

The Amendment proposes to amend DDO14 to include the following objectives:

- *To ensure that development is suitable to its site context.*
- *To ensure the height of new buildings does not overwhelm the public domain.*
- *To allow daylight and sunlight to penetrate to the street and lower building levels.*
- *To ensure development supports high levels of pedestrian amenity including daylight, sky views, sunlight and protection from wind impacts.*
- *To ensure that new buildings respect the amenity and future development potential of adjacent sites and allow for an equitable spread of development potential on these sites.*
- *To ensure that development provides a high level of amenity for building occupants.*
- *To ensure that the scale and design of new buildings does not adversely affect the significance of the QVM as a historic and cultural landmark.*

Under 'Buildings and works', DDO14 includes a similar range of design requirements as DPO11. In DDO14:

- Requirements relating to podium height, tower separation and setbacks are expressed in:
  - Table 1, which includes discretionary requirements that *should* be met
  - Table 2, which includes mandatory requirements that *must* be met
  - Both Tables also include identical built form outcomes that *must* be met.
- All other requirements are expressed as discretionary requirements which *should* be met.

### **5.3 Proposed built form controls**

The proposed built form controls of both the DPO11 and DDO14 are summarised below in Table 2.

Issues relating to the proposed built form controls are addressed in relation to each of the 'development parcels' A to D as identified in Figure 1 of the Framework Plan (Figures 6 and 10 of this report), and the DDO14 area.

Table 2 Summary of built form controls in DPO11 and DDO14

Design element	DPO11	DDO14
Overshadowing	Limiting overshadowing between 11:00am and 2:00pm of the proposed public open space on the 21 June winter solstice, or of Flagstaff Gardens on the 22 September* equinox (*Amended to June solstice during hearing)	As per DPO11 but using 22 June winter solstice for Flagstaff gardens
Podium heights	<u>Therry Street and Queen Street north of Franklin Street</u> : Preferred/discretionary 10m minimum and mandatory 20m maximum podium heights <u>Other Streets</u> : Preferred/Discretionary 20m minimum and mandatory 40m maximum* podium heights for all streets (*Amended to 20m mandatory max for south side of Parcel D during hearing) Specified built form outcomes	As per DPO11 for ' <u>Other Streets</u> '
Front tower setbacks	Parcels A and B: Mandatory 10m front tower setbacks Parcel C: N/A Parcel D: Mandatory 10m from north frontage, Mandatory 6m from south frontage Specified built form outcomes	Mandatory 10m front tower setbacks As per DPO11 Parcels A, B, & D (north)
Side and rear tower setbacks	Mandatory 10m side and rear tower setbacks Specified built form outcomes	Discretionary 10m side and rear tower setbacks
Tower separation	Preferred/Discretionary 24m and mandatory 10m minimum tower separation distances Specified built form outcomes	As per DPO11
Wind exposure	Wind exposure criteria for street frontages to achieve levels general acceptable for short term stationary or walking exposure	As per DPO11
Acoustic design	Acoustic design requirements for habitable rooms to not exceed 45dB	As per DPO11
Pedestrian accessibility and permeability	Provision of mid-block publicly accessible pedestrian links for blocks more than 100m in length, located in accordance with Figure 1.	As per DPO11
Weather protection and active frontages	Continuous weather protection provided. Active frontages to be provided for at least 5m or 80% of the street frontage	As per DPO11
Vehicle access	Vehicle ingress and egress not permitted to key streets where alternative frontage (laneway) access is available.	As per DPO11

## 5.4 Development parcels

### 5.4.1 Parcels A and B

#### (i) The issues

Parcels A and B comprise land with an immediate interface to the QVM, although the boundary conditions vary between Therry and Queen Streets.

Parcel A includes the 'Munro Site', purchased by Council in 2015 and now included in the State Agreement as part of the QVM Renewal Project, which includes the Mercat Cross Hotel and a number of other smaller commercial properties. This land has a direct and intimate relationship to the QVM Dairy Hall, Deli Lane and H and I Sheds across Therry Street. The Mercat Cross Hotel addresses the corner of Therry and Queen Streets, which is proposed to become the new 'Market Cross' public gathering space.

Parcel B interfaces with Queen Street to the east, and currently has a less direct interface with the QVM buildings. Its future interface will be to the proposed 'Queens Corner' visitor information/public amenities building (Parcel C) and beyond to the proposed 'Market Square' public open space that will replace the existing at grade carpark. Parcel B also has frontage to Franklin Street and interfaces with the existing 'Melbourne Terraces' development at this location.

Key features of the proposed controls for Parcels A and B as shown on the Framework Plan at Figure 1 of DPO11 are as follows:

- Podium heights to Therry Street and Queen Street of 10 metre minimum (discretionary) to 20 metre maximum (mandatory)
- Podium heights to Franklin Street of 20 metre minimum (discretionary) to 40 metre maximum (mandatory)
- Nomination of a 'landmark tower' located at the eastern portion of Parcel A (as amended and proposed during the hearing)
- Provision of a through block link in Parcel A from Therry Street to connect with an existing laneway off Franklin Street.

Key issues raised in submissions relating to Parcels A and B were:

- Heritage interfaces with the QVM and appropriateness of the proposed mandatory podium heights and front setbacks. This included resolution of the podium treatment to the corner of Queen and Franklin Streets.
- Equitable development opportunities and the impacts of proposed mandatory side and rear setbacks and tower separation.
- The potential for development scale to overwhelm the QVM and proposed open space and whether or not some form of height or density control is warranted.

#### (ii) Evidence and submissions

##### Podiums heights

Council's submission, via Professor Adams' presentation, explained proposed podium heights for Parcels A and B reflected an evolution of the 'Block Plan' which identified podiums of 20-30 metres and a central zone for towers setback at least 10 metres as a



preferred outcome. The rationale submitted for this was that a substantial podium would reduce the impacts of any high-rise development behind or beyond on views from the QVM and adjoining streets. This was submitted by Prof Adams as an appropriate and 'very Melbourne response' and one that is reflected in emerging best practice in managing built form elsewhere in the CBD in C262 and C270.

This work was further refined in the QVM Built Form Review which noted that objectives relating to wind and heritage would be a further constraint on street wall heights in locations with direct frontages to the QVM.

Mr Lovell gave evidence that Therry Street, and the Queen Street corner are the most sensitive heritage interfaces, and most important to maintaining the market atmosphere and intimacy. In his evidence, he stated that *"less so than tower height, the street wall/podium height combined with the tower setback are the key considerations which most directly impact on the heritage interfaces."*<sup>23</sup> He further stated that the most sensitivity would be within the first 10 metre rise of the podium wall, with detailed design and treatment of podium façade and any flanking walls being a key heritage consideration. He supported including consideration of articulation and materiality, the balance of solid walls to openings, and the use of verandahs and awnings, and stated:

*The critical sensitivity with regard to the street wall is the delivery of a treatment which responds to the pedestrian exposure and experience in the street, and proximity to the market opposite. Tying together opposing sides of the street, by way of a commonality in the design response at ground level, such as the use of verandahs, will be important both in heritage and urban design terms.*<sup>24</sup>

Mr Lovell gave evidence that the 10 metre minimum podium height responds directly to the existing streetscape scale and *"considered in isolation is a height which accords with the existing heritage controls"*. He also stated that the maximum podium height of 20 metres related well to the heritage context and pedestrian scale, would appropriately mediate between the street wall and potential tower development behind, and would provide an acceptable scale transition that will not dominate or overwhelm the QVM buildings opposite. Mr Lovell supported mandatory podium heights of 20 metre on the basis that a podium exceeding this height this would dominate lower scale heritage form and was not appropriate in the context of relevant heritage policy.

Mr Sheppard and Ms Heggen deferred to Mr Lovell on the need for a mandatory maximum podium heights on heritage grounds. Mr Sheppard gave evidence that, from an urban design perspective, the mandatory maximum 20 metre podium height will sit comfortably in the existing low rise streetscapes, and the discretionary minimum podium height of 10 metres will provide good spatial definition of the streets in the area.

Mr McPherson gave evidence that, at a streetscape scale, the mandated podium heights and tower setbacks would support a defined, legible form, was an effective approach where tall buildings are (or will be) present, and that the proposed height ranges reflect

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<sup>23</sup> Statement of Evidence Peter Lovell p20, par 33.

<sup>24</sup> Ibid, p22.

appropriate mid rise built form, proportionate to the street widths in the area<sup>25</sup>. Mr McPherson questioned the merit of the proposed discretionary minimum podium height, suggesting that mandating the minimum height would avoid the potential for excessively low street walls, which in his opinion, would be undesirable.<sup>26</sup>

In considering the heritage interface along Queen Street, Mr Lovell gave evidence that “*the sensitivity with the market opposite diminishes from a heritage perspective*”, and the “*direct contextual relationship with the market falls away*”, but that it was desirable to maintain the minimum and maximum podium heights as proposed.<sup>27</sup>

The submission for Tramere was that, given this disconnect to the Market, and the proposed future interface with new development on Parcel C, Queen Street ought to be treated differently to Therry Street. The Tramere submission was that podium heights of 40 metres could and should be accommodated in Queen Street. Mr Czarny gave evidence that the introduction of 20 metre mandatory podium heights, together with mandatory setbacks, were a retrograde step from the current 20 metre discretionary heights provided under DDO14, and that resulted in a “*diminished opportunity precinct*”<sup>28</sup> that does not serve the objectives of the QVM Master plan or the CCZ. Tramere advocated for a discretionary minimum podium height of 20 metres and mandatory maximum podium height of 40 metres, extending the full extent of the Queen Street frontage of Parcel B from the southern boundary of the Mercat Cross Hotel to Franklin Street.

In relation to the corner of Queen and Franklin Streets, Ms Heggen considered that 20 metre podium heights should extend along Queen Street, but that south of the existing laneway and wrapping around the corner of Franklin Street, a 40 metre podium could be supported from an urban design perspective – matching the scale of the Melbourne Terraces building opposite. Mr Lovell’s opinion was that it was preferable from a heritage perspective to maintain a lower podium on that corner. Mr Czarny’s urban design evidence was that the 40 metre maximum podium height should apply. Other urban design and planning experts did not comment on this particular issue, however noted variously in their evidence statements that away from the areas with a direct heritage interface with the QVM, it was appropriate for podiums up to 40 metres to establish in a manner consistent with other parts of the Central City.

### **Front setbacks**

Mr Lovell supported the proposed front setbacks of 10 metres, noting that “*within heritage precincts...setbacks typically sit in the 5 to 10 metre range*”. He stated that “*while tower elements will be visible in close and more distant views they will not overwhelm such that the cultural heritage significance of the market or precinct is diminished*”<sup>29</sup> In delivering his evidence, he stated that he did not necessarily see the need for a mandatory 10 metre setback, and in cross examination he confirmed that towers of between 40-80 metres could potentially have lesser setbacks, but at least 10 metres is warranted for taller towers.

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<sup>25</sup> Statement of Expert Evidence: Urban Design Simon McPherson p17, para 21

<sup>26</sup> Statement of Expert Evidence: Urban Design Simon McPherson p17, para 22

<sup>27</sup> Ibid p20, para 34 and p32 para 76

<sup>28</sup> Statement of evidence Craig Czarny p13 para 43

<sup>29</sup> Ibid p 29, paras 57-58.

Mr Sheppard gave urban design evidence that a 10 metre setback will ensure a clear distinction between tower and podium, but not that it would make a notable difference in visual recessiveness. Mr Sheppard did not support mandatory 10 metre setbacks from an urban design perspective on the basis that there are design responses (such as curved towers) that may be acceptable despite encroaching slightly within the 10 metre setback.

Ms Heggen's evidence was that "*nevertheless, a sound urban design rationale to mandate generous tower setbacks at the edge of the intimate public spaces of Therry Street and Queen Street (north) around the market.*"<sup>30</sup>

For Parcel B, Tramere sought greater flexibility in front setbacks. Mr Czarny, in his oral evidence, offered a solution that provided a built form delineation in the podium façade to create a street wall effect at 20 metres, without necessarily requiring substantial further setbacks of built form up to 40 metres.

Mr McPherson's evidence was that the use of podium heights and setbacks provide an appropriate framework for development.

#### **Side and rear setbacks and tower separation**

The impact of the proposed side and rear setback and tower separation provisions on equitable development potential of the smaller sites in Parcel B was a particular issue of concern raised in submissions for Tramere. Similar issues were raised in submissions for Burbank, whose site is located in Franklin Street, and affected by the DDO14 controls.

The submission for Tramere was that the combined effect of the mandatory front, side and rear setbacks prevented any viable tower floorplate being built above the podium. This in effect created a mandatory overall height limit of 20 metres on this, and other smaller sites in Parcel B. Mr Czarny gave evidence that demonstrated how the Tramere site might be used for an 'infill development', built boundary to boundary, of up to 40 metres.

Both Mr Sheppard and Ms Heggen's evidence included an analysis of the 10 metre side and rear setbacks significantly curtailing development opportunities for small lots such as those in Parcel B. Both supported a reduction in side and rear setbacks to 5 metres, but considered a minimum 10 metre tower separation to be inadequate for very tall towers, preferring the interim DDO10 approach established by C262 to require 5 metre mandatory side and rear setbacks from boundaries or the centre of laneway, increasing as building exceed 100 metres in height. Mr McPherson gave evidence that appropriate building separation is generally a product of building height along with other considerations in relation to the interface, such as internal layouts and the positioning and orientation of the towers. His expert opinion was that the 10-24 metre permissible range allows for reasonable consideration of site-specific constraints and opportunities. He stated in his evidence:

*While supportive of the degree of discretion provided for building separation, in my opinion the provisions should allow for 0 metre side setbacks where it can be demonstrated that building up to a side boundary is no likely to result*

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<sup>30</sup> Planning and Urban Design Evidence Catherine Heggen p15.

*in excessively wide building forms (or adjoining towers) or a 'wall' of built form.*<sup>31</sup>

Both Mr Sheppard and Ms Heggen gave evidence that consolidating lots in Parcel B was an option to create more 'developable' parcels.

Mr Czarny considered that Parcel B should be considered a single 'consolidated' built form outcome, without formally consolidating title ownership, achieved by adopting a party wall arrangement to all side boundaries, to create a consistent 'infill' building form of up to 40 metres along Queen Street.

### **Building Height**

The National Trust submitted that the assessment of aesthetic values had not been adequately considered. It was the Trust's submission that existing lower height limits should be retained, submitting that a 30m discretionary height limit should apply to Parcels A and B.

In cross-examination, Mr Lovell stated that he did not see a need for specific height controls in this location from a heritage perspective, and was comfortable with towers of any height in a CCZ city context, although he stressed that he had not considered tower heights in his evidence.

Mr Sheppard gave evidence that from an urban design perspective he considered the potential for buildings of 200 metres or more located in immediate proximity to the QVM would overwhelm the proposed open space. Mr Sheppard stated:

*I consider that a maximum height of 'around 100 metres' is appropriate in the DPO land to provide a layer of moderate building heights that 'buffers' the new open space from the taller buildings beyond ... Therefore I recommend the addition of a discretionary maximum height limit of 100 metres to the DPO. Any criteria to guide variations from this height should include demonstrating that the proposed development will not visually overwhelm the public open space.*<sup>32</sup>

In cross examination Mr Sheppard acknowledged that designation of the specific locations for taller built form would also be useful in managing impacts of heights.

Ms Heggen provided built form shadowing modelling which demonstrated that the overshadowing controls are not a constraint on building height for Parcel A and B, given the angle of the sun between 11am and 2pm on 22 June, therefore leaving open the possibility under the proposed controls for very tall towers at this direct interface with the Market. Ms Heggen found this an undesirable situation, and in evidence stated that a plot ratio regime, similar to that applied to the wider Central City under interim DDO10 controls should be applied. Ms Heggen used 3D modelling to demonstrate that a plot ratio of 24:1 would temper the overall intensity of development in a manner consistent with the Central City beyond.

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<sup>31</sup> Statement of Expert Evidence: Urban Design Simon McPherson p20

<sup>32</sup> Expert Urban Design Evidence Mark Sheppard p13

Mr Milner, in his evidence raised concern about the absence of height limits in the QVM Precinct when considered in context with the introduction of plot ratio controls elsewhere in the Hoddle Grid under C270. He notes that despite the potential impacts of taller built form around the market being part of the motivation for the review, the combined effect of C245 and C270 unwittingly facilitate the highest built form in the City around the QVM.

Tramere opposed the introduction of plot ratio controls, and sought only a more modest height of up to 40 metres for Parcel B. Mr Sheppard considered that a height of 100m could apply. The Trust submitted that a 50m height limit should apply to this land.

Mr McPherson, in his evidence, observes that the Amendment signals that tall buildings are encouraged and does not seek to control or restrict built form scale. Further, he noted that the large Munro Site on Parcel A may present the most substantial development scale potential, but is in the most sensitive location adjacent to the Market. Mr McPherson acknowledged that very tall buildings may be overwhelming when viewed from the public realm, however, considered that podium heights and setbacks would moderate the impacts of buildings at the street. Mr McPherson questioned the need for plot ratio controls, but in the absence of detailed design testing *“is not able to comment definitively on whether the current framework effectively manages and controls development scale”*.<sup>33</sup>

### **(iii) Discussion**

#### **Heritage Interfaces, Podium Heights and Setbacks**

The Panel is conscious that the Amendment needs to achieve an appropriate balance of amenity, heritage and development opportunity outcomes.

The Panel accepts Mr Lovell’s evidence, and the observations of other urban design experts, that the Therry Street interface has the most sensitive heritage values, and is fundamental to the experience of the character, charm and amenity of the QVM. This was confirmed for the Panel upon its own visits to the site. In this location, the weight of consideration must go to ensuring the heritage values are protected. In this regard, the Panel accepts that the proposed 20 metre mandatory maximum podium height represents an appropriate response to the heritage context, while also offering an acceptable outcome in terms of streetscape character and transition to the QVM opposite, and a mediating effect on the impacts of any taller development beyond. The Panel also notes Mr Lovell’s comments regarding the importance of the first 10 metre rise of the podium wall to the overall extent to which heritage values and market atmosphere are maintained. The Panel considers that the DPO would benefit from including further design guidance in this regard, with particular consideration given to the detailed design and treatment of the podium façade and any flanking walls, in relation to the pedestrian experience within the street, and a design response at ground level that directly references the market opposite.

The Panel also accepts that there is merit in specifying the proposed 10 metre minimum podium height, though this is seen more as an urban design consideration related to providing spatial definition to the street, which is essential to creating a sense of intimacy, particularly in the Therry Street location. However, taking into account the need to ensure

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<sup>33</sup> Statement of Expert Evidence: Urban Design Simon McPherson pp18, 22

short term stationary wind criteria can be achieved (as addressed in Chapter 9), the Panel considers it appropriate to retain this as a discretionary provision.

Recognising the unique and intimate relationship that exists in Therry Street, the Panel considers that front tower setbacks of at least 10 metres are warranted. Notwithstanding Mr Lovell's position that these setbacks need not be mandatory from a heritage perspective, the Panel accepts Ms Heggen's view that there are sound urban design reasons to mandate this setback. Further, the Panel notes that Parcel A is a large site in a CBD context and should be able to comfortably accommodate a 10 metre setback. The Panel supports a mandatory 10 metre setback in this location.

The Panel agrees that there is merit in a consistent approach to podium heights and setbacks extending around the Queen Street corner, from Therry Street, to the Mercat Cross Hotel site. This will become an increasingly important interface to the Market establishing a direct relationship with future Market Cross public space.

The Panel also agrees with Mr Lovell that the heritage sensitivities and contextual relationship diminish moving southwards along Queen Street to Parcel B. However, not to the extent submitted by Tramere. The Panel considers that while it currently has a sense of disconnect to the Market, and a relatively uninspiring interface to the carpark, this space will become an increasingly important and integrated part of the QVM. The future interface will serve an important public realm and amenity function as a meeting and gathering space once the Queens Corner building and open space is completed. While not defined by heritage values, it will (or should) be defined by new, high quality architecture and urban design, and in a similar vein to Federation Square, could become one of Melbourne's great public meeting places.

With that in mind, the Panel considers there is strong urban design merit in maintaining a consistency of podium treatments along the full extent of Queen Street, including the frontages of both Parcel A and B. However, in recognition of the reduced heritage sensitivities, and potential for a new contextual relationship to emerge, the Panel finds that discretion should be provided regarding the front setbacks - with provision for the 10 metre front setback to be reduced where it can be demonstrated that the streetscape character and amenity is not compromised. Alternatively, the Panel would also accept that a mandatory 5m setback may be appropriate, consistent with provisions that apply elsewhere in the capital city zone.

The Panel accepts Ms Heggen's and Mr Czarny's views, that from an urban design perspective, the building at the corner of Queen and Franklin Streets can accommodate a podium of up to 40m wrapping around to the Queen Street frontage. The Panel notes that this will serve to define this corner as a 'gateway' to the QVM proper, while still maintaining a comfortable relationship to the Melbourne Terraces opposite. Given that the Franklin Street frontage to Parcel B does not have any direct interface with the market, the Panel also accepts that a mandatory 5 metre setback may be appropriate in this location, consistent with provisions that apply elsewhere in the capital city zone.

**Equitable development opportunities and side/rear setbacks and tower separation**

The application of mandatory side and rear setbacks and tower separation distances have emerged most recently in Amendments C262 and C270 as a planning control mechanism to manage matters of amenity and equitable sharing of development opportunities. Amendment C245 proposes mandatory 10 metre side and rear setbacks, and mandatory 10 metre minimum tower separation distances from an existing or likely future tower/s on adjoining sites.

The Panel acknowledges the evidence presented by Mr Czarny on the extent to which these 10 metre rear and side setbacks curtail development opportunity, rendering tower forms unviable, particularly for the smaller sites on Parcel B. The Panel also agrees with Ms Heggen and Mr Sheppard that an alternative approach, more consistent with the controls that apply elsewhere in the City, is warranted. The Panel recommends mandatory 5 metre minimum side and rear setbacks from boundaries or the centre of a laneway, and a mandatory minimum 10 metre tower separation distance. This reflects the current DDO10 controls applied under C262, and the Panel recommends this be applied on an interim basis pending the outcome of the C270 review. Should alternative controls eventuate from that process, then the Panel agrees with Ms Heggen that the QVM does not warrant a different approach from elsewhere in the central city and the same controls should apply (except in relation to front setbacks as previously noted).

The Panel agrees with Mr Czarny and Mr McPherson that provision should be made for 0 (zero) metre side setbacks up to a height of 40 metres to allow 'informal consolidation', conditional that it does not unduly restrict the development potential or amenity of adjoining properties. The Panel notes that C270 proposes to enable 0 metre side setbacks on only one boundary. For Parcel B, the Panel accepts Mr Czarny's proposition of enabling an 'infill' built form to occur, given the limited size and number of properties affected, and resulting limited scope for built form to create unacceptable visual bulk. In effect, this provision would enable a secondary built form podium up to 40 metre, setback a discretionary 10 metre/mandatory 5 metre distance from the primary 20 metre podium.

Further, the Panel considers that the proposed measure of tower separation distance 'from an existing or likely future tower/s on adjoining sites', is problematic to implement – particularly in relation to the 'likely future towers' consideration. The Panel notes that C270 proposes the separation distance to apply only to tower/s within a site. Considering the built form outcomes sought to be achieved by this requirement in DPO11, a better expression would be for consideration be given to 'existing or approved towers', but there is also merit in applying the same measure to 'towers within a site'.

**Development Scale – height or density controls**

The Panel accepts the concerns raised by Mr Sheppard and Ms Heggen about the potential urban design impacts of very tall towers in the immediate interface with the QVM, and in particular the potential for these towers to overwhelm the proposed open space. The Panel also acknowledges Mr Milner's concern that an absence of some form of height or density control may have the effect of skewing development imperatives for the area towards very high density, potentially at the cost of amenity values of the Market.

The Panel notes that the existing Clause 22.01 already includes a discretionary plot ratio provision for land within the CCZ, which will continue to apply to the DPO11 area.

Amendment C270 proposes to remove this statement, but it will continue to apply at least until the outcome of C270 is known and this approach may offer further direction for the QVM Precinct in the meantime.

In addition, the Panel accepts Mr Sheppard's suggestion to apply a discretionary 100 metre maximum height limit for the areas with an immediate interface with the Market – that is the DPO11 area, noting the importance of managing visual impacts on the proposed open space.

In light of the recommended introduction of height limits, the Panel does not consider it necessary to also introduce mandatory plot ratio controls in this location.

The Panel notes the Tramere submission that it effectively seeks overall heights only up to 40 metres, and noting the proximity to the proposed open space, Market Cross, and future QVM visitor centre, the Panel agrees that this is an appropriate moderating height to apply as a discretionary limit.

Any proposal to exceed the height limits would need to be supported by 3D modelling and assessment of the visual impact when viewed from the proposed open space. The Panel also sees merit in using the Framework Plan in Figure 1 of DPO11 to nominate the locations where the highest built form should be directed, as was proposed during the course of the Hearing, and is shown in the amended Framework Plan (Figure 10).

#### **(iv) Conclusions**

In summary, the Panel concludes as follows.

##### **For Parcel A:**

- The proposed 10 metre (discretionary) minimum and 20 metre (mandatory) maximum podium height is supported. Further design guidance is warranted about managing heritage sensitivities within the first 10 metre rise of the podium, with particular consideration given to the extent the detailed design and treatment of the podium façade directly references the market opposite, and provides an appropriate pedestrian experience.
- The proposed 10 metre (mandatory) front setback is supported.
- The proposed 10 metre (mandatory) side and rear side setbacks are not supported. These should be reduced to 5 metre mandatory side and rear setbacks from boundaries or the centre of a laneway, or controls similar to those that apply to the rest of the CCZ. Provision should also be made for 0 metre setback 'party walls' up to 40 metres where it can be demonstrated this does not unduly affect the development potential or amenity of neighbouring properties.
- The proposed mandatory 10 metre tower separation distances are supported (subject to provision for party walls, as mentioned above). This should apply to towers within a site, and from existing or approved towers on adjoining sites.
- A 100 metre discretionary overall height limit should apply. The highest built form should be directed to be located towards the Elizabeth Street end of Parcel A. Any



application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm.

**For Parcel B:**

- The proposed 10 metre (discretionary) minimum and 20 metre (mandatory) maximum podium height is supported along the full extent of the Queen Street frontage, with the exception of the property at the corner of Queen and Franklin Streets which can support a podium of up to 40 metres around both frontages.
- The proposed 10 metre front setback is supported to Queen Street, but this should be discretionary, rather than mandatory. A mandatory 5 metre front setback to Franklin Street is considered appropriate.
- The proposed 10 metre (mandatory) side and rear side setbacks are not supported. These should be reduced to 5 metre mandatory side and rear setbacks from boundaries or the centre of a laneway, or controls similar to those that apply to the rest of the CCZ.
- Provision should also be made for 0 metre setback 'party walls' up to 40 metres where it can be demonstrated that this does not unduly affect the development potential or amenity of neighbouring properties.
- The proposed mandatory 10m tower separation distances are supported (subject to provision for party walls, as mentioned above). This should apply to towers within a site, or from existing or approved towers on adjoining sites.
- A 40 metre discretionary overall height limit should apply. Any application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm.

**(v) Recommendations**

The Panel makes the following recommendations in relation to Parcels A and B in the DPO. The Panel's recommendations in relation to all built form controls are consolidated in Appendix E.

- 1. Amend the Framework Plan at Figure 1 of the Development Plan Overlay Schedule 11 as follows:**
  - a) Include a discretionary overall height limit of 100 metres for Parcel A and 40 metres for Parcel B.**
  - b) Show podium height of 20 metre minimum to 40 metre maximum on the property located at the north east corner of Queen Street and Franklin Street.**
  - c) Show the location for greatest height being towards the Elizabeth Street end of the Parcel A, to the east of the proposed through block link.**
- 2. Amend the Conditions and Requirements for permits in Development Plan Overlay Schedule 11 to:**
  - a) Provide additional design guidance about managing heritage sensitivities within the first 10m rise of the podium, with particular consideration given to the extent the detailed design and treatment of the podium façade directly references the market opposite, and provides an appropriate pedestrian experience.**

- b) Require a mandatory 10 metre tower setback from the front of podium to Therry Street and Queen Street, in Parcel A as shown in Figure 1.
- c) Provide for a discretionary 20 metre minimum podium height and require a mandatory 40 metre podium height for the property located at the north east corner of Queen Street and Franklin Street.
- d) Provide for a discretionary 10 metre tower setback from the front of podium to Queen Street for Parcel B, as shown in Figure 1. Alternatively, a mandatory 5 metre front setback could also be specified.
- e) Require a mandatory 5 metre tower setback from the front of podium to Franklin Street for Parcel B, as shown in Figure 1.
- f) Require a mandatory 5 metre side and rear tower setback from boundaries or the centre of a laneway, rather than the 10 metres as proposed.
- g) Require a mandatory tower separation distance to apply to 'towers within a site', or from 'existing or approved towers on adjoining sites'
- h) For Parcel B, provide for 0 metre side and rear setbacks up to a building height of 40 metres, where it can be demonstrated this will not cause an unreasonable impact on the future development potential or amenity of neighbouring properties.
- i) Nominate a discretionary height limit of 100 metres for Parcel A and 40 metres for Parcel B. Any application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm.

#### 5.4.2 Parcel C

##### (i) The issues

Parcel C presents unique design challenges for the QVM Renewal Project. It is located in a central site of the QVM Precinct on the west side of Queen Street within the road reserve, and on the eastern edge of the proposed public park (See Figure 6). It will be visible from many locations within the QVM Precinct and on approach from areas outside the Precinct. It will also have a sensitive interface to the heritage context and setting of the Market sheds and surrounds.

Under current planning controls, the building is in an area designated with a maximum height of 7 metres. This Amendment seeks to alter the height limits in Parcel C to a discretionary 10 metre minimum to mandatory 20 metre maximum.

The issues raised in submissions related to whether the Amendment will assist in delivering an appropriate design response for Parcel C considering:

- The scale of the building, having regard to the interface with the proposed public open space, and the heritage setting of the QVM Precinct
- The location and use of the building, and the potential to block views of the market upon arrival from Queen Street
- The built form relationship to properties opposite in Queen Street, which are largely in private ownership.

**(ii) Evidence and submissions**

Council submitted that under the State Agreement, Parcel C must be developed to accommodate a new visitor centre and the QVM management functions. The building will be known as Queen's Corner and Council's intention is that it will meet high architectural and sustainable design standards.<sup>34</sup>

Professor Adams submitted that the Queen's Corner building would need to be a building of design excellence that would be subject to an Office of the Victorian Government Architect (OVGA) Design Review Panel. In his view the building would act as an *"important anchor from an urban design view"* when journeying up from Queen Street and that if the site was *"...left open, it would feel like a vast space before you get to the market"*<sup>35</sup>.

Professor Adams submitted, that the activation of this building at ground level to the open space, the market buildings, and Queen Street will be important, as well as providing a sense of transparency, permeability and connectivity through the building.

Mr Lovell gave evidence that Parcel C is located outside the Victorian Heritage Register listing for the QVM, but is within the Heritage Overlay (HO7). *"However, any development would be strongly visible from within the market, proposed public space and surrounding streets, and management of height will be important."*<sup>36</sup> Mr Lovell also stated that he had a *"degree of difficulty in conceiving this building ..."* and was *"... less comfortable with the proposed heights from a heritage perspective"*. He also stated that the current context is not a *"... pre-existing presentation of the market and that the new Parcel C building will transform that built form context ... the Queen Street vista should not be forgotten."*<sup>37</sup> The issue was the threat that the heights, in his view, would potentially alter the traditional reading of the Market area, and any design response had to be approached with care. He gave evidence that:

*"... a lower form up to 13 metres (4 storeys) is likely to sit more comfortably as a transition building between the existing market buildings and taller developments to the south and east contemplated by the DPO. In this regard, it is relevant that the policy within the QVM Conservation Management Plan notes that the preferred development height on the perimeter of the existing car park is 1 to 2 storey, with scope for taller forms of up to 4 storeys within the site. If adopted, a lesser height than that currently proposed might be treated as discretionary rather than mandatory."*<sup>38</sup>

Mr Sheppard stated in cross-examination that Parcel C heights were acceptable that Mr Lovell had recommended a lower 13 metre height, which was a heritage driven outcome with which he would be comfortable.<sup>39</sup>

<sup>34</sup> Para 43, p10, Council Part C submission

<sup>35</sup> Oral evidence by Prof Adams from Council, Day 1

<sup>36</sup> Expert heritage evidence by Peter Lovell on behalf of Council

<sup>37</sup> Oral evidence from Peter Lovell, Day 1 of Hearing

<sup>38</sup> Para 48, p25, Expert evidence by Peter Lovell on behalf of Council

<sup>39</sup> Oral evidence by Mark Sheppard on behalf of Council, Day 3 of Hearing

The National Trust submitted that Parcel C was an example of where you put policy first, saying that the proposed heights were three times higher than the adjacent market sheds. The Trust also submitted that there were no real plan for heights and that it was not based on an identified need. The Trust submitted that that the recommended seven metre height proposed in the Conservation Management Plan by Lovell Chen should be adhered to.<sup>40</sup>

The 2003 QVM Conservation Management Plan (updated 2011)<sup>41</sup> states:

*Queen Street should retain its historic use as a thoroughfare and loading area, while accommodating part-time market use.*

*While Queen Street has traditionally provided a link between the two distinct market sites, it also provides a means of understanding the development of the site in different phases. In this regard it should remain a defining element rather than be consumed by permanent market structures.*

The submission for the Friends of the Victoria Market also submitted that the height and location of the Queen's Corner building was not supported or warranted.

Mr Christou appearing on behalf of Trosscliff Pty Ltd submitted that Parcel C '... will cause a massive negative impact on the Market...' and that the open-air ambience will be lost. He submitted that there will be traffic gridlock as a result of the Queen Street narrowing to create Parcel C and that there will be significant overshadowing to all buildings on the east of Queen Street. He submitted that he believed there would be a wind tunnel effect from the road narrowing and tall forms built to either side, and that it will cause detriment to the Precinct.

### **(iii) Discussion**

The Panel acknowledges that a number of design challenges will govern the design response (primarily in terms the heritage context and environmental wind effect), however, the Panel views building height as being a key issue. The Panel acknowledges that the aim of Council is to procure a high quality design outcome that is peer reviewed by an independent design review panel but questions whether this process of and in itself will necessarily lead to the best outcome for the QVM Precinct based on proposed height, context and scale. In other words, the Panel believes that ensuring the proposed height is appropriate and sympathetic to the heritage setting at the outset is the critical element.

The experiential journey northwards from the centre of the City to the Market, discussed by experts and Council during the Hearing, is an important vista and axis. This vista will be greatly altered by any building on development Parcel C.

Upon approach, from a distance several blocks away down Queen Street, current views along this axis are uninterrupted or unencumbered. A building terminating this view line will be an important visual marker and will be further accentuated or exaggerated in its perceived height by the natural rise in the landform (from the south to the north) to the Market interface). This means that a 20 metre high building will appear much taller than it

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<sup>40</sup> Oral submission by Daniel Robinson on behalf of the National Trust

<sup>41</sup> Para 2, p118, QVM Conservation Management Plan by Allom Lovell and Associates 2003

really is due to visual foreshortening or perspective and arguably more than double the height of a 13 metre high building. For that matter, even a 13 metre high building will appear taller than it actually is, rather than if the visual axis was along a relatively flat landform. The Panel believes these factors along with the heritage advice that a lower built form is critical to ensuring the future Queens Corner will be a positive addition to the immediate Market environs.

The Panel also believes other critical site context issues, notwithstanding heritage, includes scale including the proposed length and width of the building. These elements will further add significant visual mass and bulk to the current sparse heritage setting, particularly when Queen Street is reduced in width. The treatment of the building edge or facades to the public interface will also become critical in activating the area around this site and these features should be addressed fully in the development of the design brief.

The Panel agrees with the submissions of Mr Lovell and other experts that supports the recommendation for a lower built form. The Panel believes that the most appropriate outcome based on all evidence would be a building in the order of a discretionary preferred 7 metre high minimum to a form up to a maximum mandatory height of 13 metres.

The Panel supports Council's ambitions to achieve a building of architectural excellence and environmental performance, and the proposal to submit the design for an expert peer review. Further, the Panel agrees with Prof Adams that achieving a high quality urban design treatment of Parcel C, particularly at ground level will be critical to the overall successful integration of this building with its sensitive heritage context. The Panel has recommended these ambitions be explicit within the DPO11.

#### **(iv) Conclusions**

The Panel concludes that the following height and urban design controls should apply for Parcel C:

- 7 metre discretionary height limit (as per the existing DDO14 controls).
- 13 metre mandatory height limit, representing the uppermost limit for the building to respond appropriately to its setting within its heritage context.
- The design response for the proposed building should achieve architectural excellence and high quality environmental performance, and high quality urban design outcomes. The Panel supports the design being subject to a peer review by an independent Design Review Panel (for example, through the Office of the Victorian Government Architect).

#### **(v) Recommendations**

The Panel makes the following recommendations in relation to Parcel C in the DPO. The Panel's recommendations in relation to all built form controls are consolidated in Appendix E.

- 3. Amend the Framework Plan at Figure 1 and Conditions and Requirements for permits of the Development Plan Overlay Schedule 11 to provide for a discretionary height limit of 7 metres and require a mandatory maximum height of 13 metres to Parcel C.**

**4. Amend ‘Conditions and requirements for permits’ in the Development Plan Overlay Schedule 11 to include additional design guidance about urban design and built form outcomes sought for the building on Parcel C, which addresses:**

- **Architectural excellence and high quality environmental performance**
- **A requirement for design review by an independent Design Review Panel such as the Office of the Victorian Government Architect**
- **Transparency and activation at ground level and sense of address to both the street and open space**
- **Pedestrian permeability and connectivity through the building from Queen Street to the open space and Queen Victoria Market.**

### **5.4.3 Parcel D**

#### **(i) The issues**

The land identified as Parcel D relies on the realignment of Franklin Street to create a new street to the north of the site (New Franklin Street), two new mid-block pedestrian links, and the creation of a new little street to the south (former Franklin Street). It contains the heritage-listed Stores Buildings, which in addition to the site and heritage context provide a complex set of challenges for redevelopment. It is currently listed in the Melbourne Planning Scheme as being subject to a 7 metre height limit (Area A16 shown in Figure 3) where *“development maintains a consistency of scale and built form of the historic Queen Victoria Market”*.

Key features of the proposed controls for Parcel D as shown on the DPO Figure 1 Framework Plan tabled by Council are as follows:

- The north facade of the heritage listed Stores Buildings to be retained with a mandatory 10m podium setback (amended to 15 metres during the Hearing)
- Provision for building cantilever permissible over the rear (south facing) portion of the buildings and land facing the former Franklin Street
- Podium/street wall heights of discretionary 20 metre minimum to mandatory 40 metre to the former Franklin Street (amended to 20m during the hearing, with proposed mandatory 40 metre podium height on the eastern end at Queen Street and western end to William Street).
- Provision of through block link at the eastern edge of the Stores Buildings and centrally within the site where the current break in the buildings exists.

Key issues raised in submissions included:

- The heritage significance and sensitivities of the Stores Buildings
- The appropriateness of nominating a cantilever approach as a possible design solution
- Potential interface issues and built form impacts to the former Franklin Street
- The need for overall height limits for development, and nomination of a ‘landmark tower’ at the eastern end of Parcel D.

**(ii) Evidence and submissions**

Council submitted that the redevelopment of Parcel D was critical to the successful delivery of the Master Plan, as the financial model was contingent upon the delivery of the development potential proposed.

In his evidence, Mr Lovell reviewed the proposed built form outcomes, stating that in relation to the north facade of the Stores Buildings, “... *the expectation that the maximum podium heights contemplated by the DPO would be moderated in this area (abutting the stores at the eastern and western ends) ... to a maximum of height reduced to 20 metres*”. However, the proposed minimum and maximum heights to the south and on the east and west ends, south of the abuttal area with the Stores Buildings sits outside the heritage overlay and are acceptable.

Mr Lovell also gave evidence that the proposition to cantilever built forms over the rear (south façade) of the Stores Buildings would not be appropriate and unlikely to be acceptable to Heritage Victoria. “*It is an unusual provision to include in a DPO and to a degree openly contemplates an outcome which could have an adverse heritage impact. Recognising that the approval of cantilevers in heritage places occurs rarely and typically only where strongly justified on economic grounds and reasonable use grounds ... the provision in the DPO is unnecessary.*”

Mr Lovell stated under cross-examination that he had not considered tower heights in general as he viewed these as a whole-of-city consideration. However, in his evidence, he stated that tower setbacks of a deeper mandatory measure of 15 metres from the front (north) of the Stores Buildings are preferred.

*Recognising also that in the first instance my expectation is that Heritage Victoria would require the stores to be retained (and I am instructed that Melbourne City Council has confirmed that the stores are to be retained), any development immediately abutting would need to have regard to the existing scale and relationship of the stores to the QVM. While the introduction of a new road through the registered market site would to a degree separate the stores from the main market activity area, it would be anticipated that there would be a sensitivity to maintaining the legibility of the link, such as it is, between the two areas. Such legibility would be sensitive to the proximity of new taller built form hard abutting the stores.*

Mr Sheppard gave evidence that the narrowing of former Franklin Street to 10 metres in width would not support a 40 metre maximum high podium as it would “...*create a canyon-like effect and significantly reduce solar access to buildings along the south side of the of the street...*”. He also noted that a “...*relatively recent 10-11 storey apartment buildings on the south side of this street, the lower 8 storeys of which (or thereabouts) would be shaded by the proposed podium alone, at the equinox.*” He concluded:

*Therefore, I recommend that the maximum podium height on Franklin Street between William and Queen Street be lowered to (a discretionary) 20m,*

*except at the ends of the block, where greater enclosure of a 40m podium is offset by the openness of the wider street beyond.*<sup>42</sup>

Mr Sheppard also stated that very tall towers in this parcel could have the potential of overwhelming the proposed public open space.

Mr Sheppard also deferred to Mr Lovell on tower setbacks but gave evidence that a taller form on the eastern end of Parcel D could be supported. In conclusion, Mr Sheppard's stated in his evidence that:

*The corner of Queen and New Franklin Street is an important node in the local movement system, and marks the entry to the QVM Precinct from the south. A taller building at the eastern end of the new block between the former and new Franklin Streets would create an appropriate marker, terminating vistas along Queen Street from the north and Franklin Street from the east.*

*Therefore I recommend the addition of a discretionary maximum height of 100m to the DPO except for ... the part of the parcel D east of the 'sheds'*<sup>43</sup>.

On this matter, Ms Heggen's evidence was generally consistent with Mr Sheppard's, and also recommended the use of plot ratios in determining tower heights and site density.

### **(iii) Discussion**

The Panel accepts that the sensitivities and complexities of Parcel D warrant careful consideration in the planning (pre-design) and design stages and that balancing heritage imperatives, land use potential and development opportunities are all competing influences. However, the Panel is of the view that the sensitive heritage controls and context, as well as specific environmental influences (i.e. wind and pedestrian amenity), are the basis of a first principles approach to resolving these design challenges. In this respect, the DPO informs the design process without inferring design outcomes.

The Panel agrees with Mr Lovell that the proposition of a cantilevered design solution to the rear of the Stores Buildings are pre-emptive and prescribe an outcome that is unlikely to pass the test of a heritage application. It may also allow for a design outcome that could diminish the value of the Stores Building as remnant and token to the point of not sitting comfortably within the broader market heritage precinct. The Panel accepts Mr Lovell's recommendation to require a 15m setback from the north edge of the buildings, however, notes that the buildings are 21m deep. There is significant and unresolved matter regarding the resolution of this interface, which the Panel suggest requires further consideration at a conceptual level, with input from Heritage Victoria.

The Panel accepts the evidence and recommendations from Mr Sheppard on podium heights and view the creation of new little street as an opportunity to develop a more intimate and comfortable scale for visitors, local residents, workers and market patrons in general.

<sup>42</sup> Para 47, p18, Expert Evidence by Mark Sheppard for Council

<sup>43</sup> *ibid*



The proposed marker building at the eastern edge of Parcel D was a late addition to the framework plan during the Panel Hearing,<sup>44</sup> but the Panel notes Mr Sheppard and other experts supported this in terms of resolving the overall parcel as having an appropriate development potential.

Consistent with the findings for Parcels A and B, the Panel finds that some form of overall height limit is appropriate for Parcel D, given its 'interface' function with the QVM, in particular to ensure that the development does not overwhelm the proposed public open space. The Panel accepts Mr Sheppard's suggestion to apply a discretionary 100m height limit for this parcel. Any proposal to exceed this height would need to be supported by 3D modelling and assessment of the wind and visual impact when viewed from the proposed open space. The Panel notes the recommendation from Ms Heggen in relation to plot ratios, and, as for Parcels A and B, that a discretionary plot ratio applies within the existing Clause 22.01. The Panel does not support this being applied as a mandatory control.

The future development of Parcel D will define a new edge to the QVM. It is the view of the Panel that this particular built form and the interface with the rest of Parcel D, particularly the Stores Buildings, requires further development from a conceptual or notional idea of a landmark building, to a more defined proposition.

The Panel is of the view that it is critical that this work should be undertaken with input in particular from Heritage Victoria, as part of the preparation of a Development Plan and prior to the preparation of a planning application. The Panel recommends that the provision for a planning permit to be granted prior to the approval of a Development Plan should not apply to Parcel D.

#### **(iv) Conclusions**

In summary the Panel concludes:

- The retention of the existing QVM Stores Buildings is integral to the heritage significance of the QVM.
- The proposed mandatory 10 metre front setbacks should be increased to mandatory 15 metre front setbacks along the former Franklin Street frontage.
- Reference to a 'cantilevered' form over the Market Sheds should be removed from the DPO.
- The proposed 20m discretionary minimum and 40m mandatory maximum podium heights to former Franklin Street, should be revised in part to reduce these heights to 10m and 20m respectively. The heights as proposed can be retained wrapping around the eastern and western ends of Parcel D to Queen Street and William Street.
- A 100m discretionary overall height limit should apply, with the Queen Street end of the Parcel nominated as the location for a landmark tower up to this height. Any application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm.

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<sup>44</sup> Document 30, submitted Day 4 of the Hearing.

- The future built form interface of development in Parcel D with the Stores Buildings in particular requires further resolution, with input from Heritage Victoria, via a Development Plan.
- Provision for a planning permit to be granted prior to approval of a Development Plan should not apply to Parcel D.

**(v) Recommendations**

The Panel makes the following recommendations in relation to Parcel D in the DPO. The Panel's recommendations in relation to all built form controls are consolidated in Appendix E.

- 5. Amend the Framework Plan at Figure 1 of the Development Plan Overlay Schedule 11 for Parcel D as follows:**
  - a) Show the podium setback from the north façade of the heritage listed Stores Buildings (towers facing new Franklin Street) as a mandatory minimum setback of 15 metres.**
  - b) Show podium heights on New Franklin Street where they abut the heritage listed Stores Building are to be a mandatory maximum height of 20 metres.**
  - c) Show podium heights on former Franklin Street between William and Queen Streets to be a discretionary 10 metre minimum and require mandatory 20m maximum, except at the ends of the block as shown in the framework plan where podiums are to be a discretionary minimum 20 metre to mandatory 40 metre maximum.**
  - d) Show provision for a landmark tower at the eastern end of Parcel D, east of the through block link.**
- 6. Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:**
  - a) Require podiums fronting New Franklin Street where they abut the heritage listed Stores Buildings to have a mandatory maximum podium height of 20 metres.**
  - b) Remove the reference to a cantilever built form over the rear of the heritage listed Stores Buildings.**
  - c) Require Podiums fronting Little Franklin Street between William Street and Queen Street to have a mandatory maximum podium height of 20 metres, except at the block ends as shown in the framework plan where podiums should have a discretionary minimum podium height of 20 metres and must have a mandatory maximum podium height of 40 metres.**
  - d) Require mandatory tower setbacks for towers facing new Franklin Street to be a mandatory minimum setback of at least 15 metres behind the northern masonry facades of the existing Stores Buildings (sheds).**
  - e) Require a mandatory 10m tower separation distance to apply to 'towers within a site', or from 'existing or approved towers on adjoining sites'.**
  - f) Nominate a discretionary overall height limit of 100 metres for Parcel D and with the location for greatest height being towards the Queen Street end of the Parcel D. Any application to exceed this height should be supported by**

### 3D modelling and an assessment of the visual impact on the open space and public realm.

## 5.5 DDO14 area

### (i) The issues

DDO14 was introduced in 2006 by Amendment C61, in response to emerging development pressures. It applied variable height limits over the QVM and its surrounding area, to create a 'transition area' between the QVM and taller built form within the capital city zoned area.

Part of the existing DDO14 area is to be replaced by the proposed DPO11, which applies to the immediate interface to the QVM – as discussed for Parcels A through D above. The area to be retained in DDO14 by this Amendment is currently affected by 30 metre and 60 metre height limits under the C61 regime.

Existing height limits will be removed from the amended DDO14, with it also relying instead on built form, urban design, and amenity controls, as is the approach under the DPO11.

Amendment C262 recently established a new regime for managing built form within the wider capital city zone, under DDO10. The C262 regime also utilises a combination of built form, urban design and amenity controls, together with a plot ratio control, to manage development impacts. A further evolution of this regime is now proposed by Amendment C270, which was on exhibition at the time of the C245 Panel hearing.

As outlined in the Explanatory Report:

*As Amendment C245 was prepared prior to the approval of C262, it was considered necessary that the revised area of DDO14 remain and include built form controls that are generally complimentary to the DPO provision and complete the suite of planning scheme controls that will enhance [the] whole QVM Precinct.*

Issues raised in submissions related to:

- The strategic shift away from the Precinct serving a built form transition between the QVM and taller form of the CBD beyond
- Whether it is appropriate to review DDO14 to remove height limits and introduce new regime of built form, urban design and amenity controls
- The relationship to C262 (and C270) and whether the QVM DDO14 should have different controls to those which apply to the balance of the Hoddle Grid
- If Central City built form controls should be applied to the area then, when and how?

### (ii) Evidence and submissions

#### Strategic shift and review of DDO14

As discussed in Chapter 4, there was a general agreement amongst the planning and urban design experts, in summary, that: - the physical and strategic context for the QVM Precinct had significantly changed in recent times; the market is now very much integral part of the Central City, rather than a transitional or edge condition; that existing 'transitional' built form controls warranted review; an approach that established a defined built form edge was

appropriate and reflected broader strategic objectives to support and manage growth in the Central City. There was also general agreement that Amendment C262 and C270 represent an advancement in sophistication of planning approaches to manage built form, urban design and amenity in the central city.

The Panel also heard heritage evidence that the cultural heritage significance of the Precinct drew from the market itself, rather than a low scale context, and that providing and sensitive street wall interface was established, that higher built form behind and beyond would not overwhelm the heritage significance of the market.

### **Hoddle Grid 'Central City' controls**

Council's submission noted:

*... The Revised DDO14 was prepared without the knowledge of DDO10 which applies to the balance of the Hoddle Grid.*

*The Melbourne Planning Scheme treats the QVM Precinct as part the Hoddle Grid. While the DPO11 area has particular sensitivities relating to its interface with the QVM, and particular requirements relating to the realignment of Franklin Street, creation of public open space, and relocation of customer car parking, the DDO14 area does not share those characteristics. There is no reason in principle why the DDO14 area should not be subject to the same controls as the balance of the Central City.<sup>45</sup>*

There was also a general sense amongst the experts who gave planning and urban design evidence, that away from the most direct and immediate interface with the market, there was no strategic reason why the built form controls should differ from those that applied to the rest of the capital city zone.

Mr Sheppard gave evidence that:

*I consider it appropriate to treat the DDO land in the same way as the main part of the Hoddle Grid ...*

*The land proposed to remain affected by DDO14 is largely separated from QVM by a distance of at least 50m, and the intervening land is contemplated to be developed for buildings of considerable height ... development in the DDO area would be unable to adversely affect the significance of the market.*

In relation to overall building heights, the Built Form Review states:

*In effect, as with much of the Hoddle Grid, there is no limit on overall building height for most of the Precinct that would come into play except in proposal for exceptionally tall buildings. There is no clear basis to depart from this approach in areas away from the immediate perimeter of QVM.<sup>46</sup>*

It goes on, in relation to 'built form street frontages along other Hoddle Grid street', stating:

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<sup>45</sup> Council Part B submission p6 & 7

<sup>46</sup> Built Form Review p47

*For the remainder of the Precinct away from the immediate perimeter of QVM, strategic policy directions indicate that, rather than an existing built form character that should be protected there is a desired new built form character that should be encouraged, i.e. a pattern of development more consistent with accepted norms of Melbourne's Hoddle Grid....beyond the streets at the Markets perimeter there is no clear reason to depart from the Hoddle Grid norms.<sup>47</sup>*

Mr Crowder gave evidence that Amendments C262 and C270 represented a 'clear shift in thinking' with regard to Hoddle norms, since that report was written, about appropriate front setbacks, side and rear setbacks, and tower separation, and that *"the nominated figures for the QVM Precinct should be revised to reflect those more recent amendment unless a specific impact on the QVM can be identified to justify otherwise ... I believe it would make sense that the built form provision relation the Hoddle Grid are consistent"*.<sup>48</sup> Table 3 overleaf is the Panel's summation of the shift in thinking that has occurred.

Ms Heggen and Mr Sheppard both gave specific evidence that even in the DPO areas with a direct interface to the QVM, the QVM Precinct does not warrant a different approach to side and rear setbacks and tower separation – particularly in relation to matters of equitable development and amenity, to that which that apply elsewhere in the Central City under DDO10.

### **Heights and plot ratio controls**

As discussed previously in relation to *heights* for Parcels A and B, both Ms Heggen and Mr Sheppard found there to be strong urban design rationale for limits on height in the immediate interface area with QVM in the DPO area, but that the DDO14 area should be treated consistently with other parts of the Central City.

It is fair to say there was divergence between the experts on the appropriateness of the use of plot ratios. Ms Heggen in her evidence advocated for DDO14 to be amended to include discretionary plot ratios of 24:1, and in cross examination stated these could instead be mandatory, consistent with the Central City provisions. Mr Sheppard did not explicitly support use of plot ratios, but also stated the DDO land should be treated in the same way as the main part of the Hoddle Grid. Mr Crowder supported the proposal not to have any building height provisions in DDO14, noting the strategic appropriateness of maximising development potential in this part of the Hoddle Grid. Mr McPherson's evidence questioned the need for a plot ratio given establishment of mandatory podium heights and front setbacks. He also stated that nominated ratio of 24:1 in C262 was based on a 'quite simplistic or even arbitrary' approach that needed further testing and analysis.

Mr Milner gave evidence that the combined effect of C245 removal of height limits, considered against the introduction of plot ratio controls by C262 (and C270) elsewhere in the CCZ, left the QVM as one of the few areas in the CBD where no explicit and quantified height or plot ratios constraints apply. His evidence states:

<sup>47</sup> Built Form Review p47.

<sup>48</sup> Town Planning Expert Evidence David Crowder p36.

*The least clearly and consistently resolved strategic planning and urban design attribute of the [renewal] project is how to manage the redevelopment of land at the periphery of the market and at the interface with the CBD ...*

He went on to say:

*While the supporting documentation to Amendment C245 recognises that taller built form around the market is an issue, and part of the motivation for the review, neither Amendments C245 or C270 sheds light on why that threat and potential conflict remains addressed<sup>49</sup>.*

Mr Milner did not proffer a specific solution, other than the need for explicit policy guidance being required on the preferred built form in the context of the proposed provisions of C270.

The submission for Burbank supported the continued use of the DDO with the removal of height limits and alteration of strategic policy for the QVM Precinct away from that as a transition zone between the Hoddle Grid and the QVM. The Burbank submission opposed the introduction of a plot ratio when the strategic basis is yet to be tested, and submitted it should not be used as a blunt tool to control height where it is not the intended purpose elsewhere in the Planning Scheme.

The submission from Mr Echberg was that the transitional role of the C61 DDO14 controls should be retained and made mandatory. In his submission to the Panel, he stated that *"the current height limits may not be perfect but the biggest weakness of them is their discretionary nature."*<sup>50</sup> He submitted that they had been introduced to give the community and developers certainty, had been largely effective in controlling development in the Precinct, and were important to retaining the amenity of existing residential development in the area.

One submitter also raised concern about the potential impact of additional high rise towers in the QVM Precinct would have on the application for World Heritage Listing.

### **Application of Central City controls**

Council in its Part B submission identified that:

*'This panel has a number of options to deal with Amendment C270 and its interaction with DDO14:*

- (a) make recommendations for appropriate built form controls in DDO14 irrespective of the controls propose by Amendment C270*
- (b) make recommendations for appropriate built form controls in DDO14 as an interim arrangement, pending the final form of Amendment C270, or*
- (c) make no recommendations for appropriate built form controls in DDO14, pending the final form of Amendment C270.*

In cross examination, the planning and urban design experts were asked to consider this matter and gave views that were effectively minor variations of the above.

<sup>49</sup> Mr Milner, Statement of Expert Evidence, pp 10 & 11

<sup>50</sup> Submission to Panel, Bruce Echberg.

**(iii) Discussion**

As discussed in Chapter 4, the Panel has accepted that there is strategic support for a review of the built form controls to facilitate more intensive development in this area, as part of the Hoddle Grid.

The Panel accepts the approach adopted by Council in introducing complementary DPO and DDO controls which deal with podium heights, setbacks and separation distances. This is seen as representing current best practice planning to manage built form, urban design and amenity issues within a high density, capital city context.

The Panel agrees with the findings of the QVM Built Form Review, and the views put forward by the various planning and urban design experts, that away from the area with a direct interface with the QVM, there is no particular justification for the controls to vary from those that apply elsewhere in the Central City.

To this extent, the Panel notes that the current consistency in approach for podium heights between the amendments, and that areas of variation between the QVM Amendment C245 controls and the Central City Amendment C262 controls relate to:

- front setbacks, which under C245 are exactly double those that have been introduced by C262 and C270
- side and rear setbacks, which are significantly more restrictive under C245, and unlike under C262 and C270, do not take into account a need for greater setbacks as height increases, or as under C270, make provision to build to one side boundary
- tower separation, which under C245 relate to 'existing or likely future towers on adjoining sites' and are not specified under C262, but relate to separation distances 'within a site' under C270
- density controls, which are not prescribed in C245, but a mandatory 24:1 plot ratio applies in C262 and discretionary 18:1 plot ratio (with value capture density bonuses) applies in C270
- where absolute mandatory provisions are provided in C262, C270 provides 'preferred' discretionary requirements and mandatory 'modified' requirements.

Table 3 below provides the Panel's comparison of the three Amendments and the evolution in thinking that has occurred.

Noting the current untested status of C270, the impending panel hearing for that Amendment, there is very high likelihood of extensive analysis and debate will occur, and recommendations for change will be made as part of that process. Accordingly, it is simply not appropriate for the Panel to recommend that the C270 controls, either in their current or their ultimate form, be translated into DDO14 as part of the C245 Amendment.

Table 3 Comparison of built form controls

Design element	DDO14 - C245	DDO14 – C262	DDO14- C270 (proposed)
Podium heights	Preferred/Discretionary 20m minimum and mandatory 40m maximum podium heights Specified built form outcomes	Mandatory 40m podium heights Specified built form outcomes	Preferred/Discretionary 20m podium height Mandatory 40m maximum podium heights - (or up to 80m for main street corner/frontage to open space). Specified built form outcomes
Front tower setbacks	Mandatory 10m front tower setbacks Specified built form outcomes	Mandatory 5m front tower setbacks Specified built form outcomes	Discretionary 5m front setbacks Mandatory 5m front setbacks if floorplate is modified.
Side and rear tower setbacks	Mandatory 10m side and rear tower setbacks Specified built form outcomes	Mandatory 5m side and rear tower setbacks (or 5% of overall building height if above 100m) Specified built form outcomes	Discretionary 5m side and rear tower setbacks (or 6% of overall building height if above 100m). May be 0m to one side boundary, up to 80m, if mandatory 5m setback met on other boundaries. Specified built form outcomes
Tower separation	Preferred/Discretionary 24m and mandatory 10m minimum tower separation distances <u>from an existing or likely future tower/s on adjoining sites</u> . Specified built form outcomes	No separation distance specified. Specified built form outcomes.	Separation <u>within a site</u> : Discretionary 6% of combined height of adjacent towers of Mandatory 10m setback for modified floorplates.
Height	None specified– Remove C61 discretionary variable height limits (30m for Franklin Street and 60m to A'Beckett Street)	No height specified. Plot ratio 24:1 Mandatory Specified built form outcomes – development equity and infrastructure capacity.	No height specified Plot ratios 18:1 Discretionary with value capture (density bonus)

The Panel considers that the DDO14 area should be treated consistently, to the current extent possible, using the qualitative measures nominated in the current interim controls that apply in DDO10 as introduced under C262 that is:

- mandatory 40m podium heights



- mandatory 5m front setbacks
- mandatory 5m side and rear setbacks, or 5% of overall building height over 100 metres
- mandatory 10m tower separation within a site (as side and rear setbacks will address separation distances from existing towers on adjoining sites).

These mandatory provisions should be introduced on an interim basis, reviewed when the outcomes of C270 are known, and amended to discretionary provisions if that is found by C270 to be more appropriate.

The unresolved issue in C245, as concisely articulated by Mr Milner, relates to the absence of clarity about managing overall height of taller built form, and that the Amendment is silent on overall height limits or plot ratios.

The Panel notes that the existing Clause 22.01 Urban Design within the Capital City Zone already includes discretionary plot ratios of 24:1. Prior to the introduction of C262, which made the plot ratio of 24:1 mandatory, this was regularly exceeded across the Central City.

The Panel agrees with Mr Milner that it would be undesirable to leave the DDO14 area exposed with no explicit controls on height or density, or to inadvertently direct the highest built form in the city to this Precinct.

The Panel has previously established an underlying principle that the DDO14 area is part of the Hoddle Grid, and should be treated consistently with other parts of the Central City. Consistent with this principle, the Panel is also prepared to recommend that the C262 approach of applying a mandatory plot ratio of 24:1 is also adopted within C245 DDO14 area, and applied on an interim basis.

However, as per the Panel's recommendation regarding mandatory front, side and rear setbacks, this provision should be reviewed when the outcomes of C270 are known, and amended to a discretionary provision or a different plot ratio that aligns with the rest of the Hoddle Grid, if that is found by C270 to be more appropriate.

Should the Panel's recommendation for an 'interim' mandatory plot ratio not be implemented, then any application to exceed a discretionary plot ratio should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm of the QVM, considered in the context of a backdrop of higher built form.

All other matters (overshadowing, wind exposure, acoustic design, pedestrian access and permeability, weather protection and active frontages, vehicle access) should be treated consistently with DPO11 as currently proposed (with modifications as recommended by the Panel).

### **Application of 'Central City' controls**

As is the case with the C262 controls, the C245 DDO14 provisions should also be applied on an interim basis (with a sunset clause as applies under DDO10 - currently September 2016) and DDO14 may warrant further reviewed once the outcome of C270 is revealed to maintain consistency with those findings. The Panel recommends a sunset clause of June 2017, to allow time for the findings of C270 to be reviewed and an amendment prepared if necessary.

**(iv) Conclusions**

The Panel concludes:

- There is strategic support for a review of DDO14 built form controls in the QVM Area.
- An approach that complements the DPO and utilises podium heights, setbacks and separation distances reflects current best practice planning in a capital city context.
- Away from the area with a direct interface with the QVM, there is no particular justification for the controls to vary from those that apply elsewhere in the Central City.
- DDO14 should be revised to achieve consistency, to the extent practicable and with minor modifications, with the qualitative measures in the interim controls that apply under C262.
- Some guidance on overall intensity of development is required. The Panel supports introduction of a mandatory plot ratio control of 24:1. If this is not supported, any application to exceed a discretionary plot ratio should be supported by 3D modelling and an assessment on the visual impact on the open space and public realm of the QVM, considered in the context of a backdrop of higher built form of the Central City.
- Revised C245 DDO14 controls should be applied on an interim basis.
- Once the outcome of C270 is known, the DDO14 controls introduced by C245 should be further amended, as necessary, to align and maintain consistency with controls that apply elsewhere in the Central City.

**(v) Recommendations**

The Panel makes the following recommendations in relation to the DDO14 area. The Panel's recommendations in relation to all built form controls are consolidated in Appendix E.

- 7. Amend Design Development Overlay Schedule 14 Buildings and Works requirements, as currently shown in Tables 1 and 2 to achieve consistency with existing interim Amendment C262 Design Development Overlay Schedule 10 provisions, as follows:**
  - a) **Require mandatory 40m maximum podium heights**
  - b) **Require mandatory 5m minimum front tower setbacks**
  - c) **Require mandatory 5m side and rear setbacks, or 5% of overall building height over 100 metres**
  - d) **Require mandatory 10m tower separation within a site (as side and rear setbacks will address separation distances from existing towers on adjoining sites)**
  - e) **Require mandatory plot ratio controls of 24:1 to apply to the Design Development Overlay Schedule 14 area.**
- 8. Amend Design Development Overlay Schedule 14 to include an 'Expiry' provision, consistent with Design Development Overlay Schedule 10 stating that:**
  - **The requirements of this overlay cease to have effect after 30 June 2017.**
- 9. When the outcome of Amendment C270 is known, review and revise Design Development Overlay Schedule 14 to achieve consistency with the Design Development Overlay Schedule 10 Central City controls**

## 5.6 Mandatory and discretionary controls

### (i) The issue

The DPO and DDO propose a combination of mandatory and discretionary provisions to manage built form and amenity outcomes for all streets. The issue for the Panel to consider is whether mandatory controls are justified and supported, in any or all of the proposed circumstances.

Issues raised in submissions included:

- Use of mandatory provisions is contrary to the performance based principles underpinning the VPPs
- Introduction of mandatory controls unreasonably curtail development opportunity and do not allow for site responsive design
- Proposed mandatory controls are not underpinned by adequate analysis and required further built form modelling and testing
- Existing discretionary controls in DDO14 do not provide adequate certainty and should be made mandatory.

### (ii) Evidence and submissions

Council submitted that it has consistently sought mandatory built form controls for urban renewal areas through the following recent Amendments:

- C196 - City North Structure Plan 2012 (podium heights and setbacks above podium)
- C171 – Southbank Structure Plan 2010 (podium heights, setbacks above podium, tower separation, overall heights)
- C190 – Arden Macaulay Structure Plan 2012 (podium heights, overall heights).

Council in this case seeks mandatory podium height and tower setback controls to ensure a sensitive response to heritage interfaces, and to achieve a high quality public realm environment in highly pedestrianised areas. Council submitted that mandatory controls may also be appropriate to provide certainty of outcome in circumstances where third party exemptions apply.

Council's position is aligned with the direction in which State planning (DELWP) is now heading for in the Central City, specifically in introducing mandatory podium height and tower setback requirements through Amendment C262 and C270. Council's Part B Submission stated:

*Whilst this Panel is not responsible for adjudicating the merits of Amendment C270, it is nonetheless of some assistance to appreciate its general approach to mandatory and discretionary controls, the quantitative measures which have been advanced for the Hoddle Grid, and the additional tools which are proposed to manage development expectations in the Central City.*

The position of the various experts in relation to the various proposed mandatory and discretionary controls has been explored in previous sections of this report. Council provided a useful summary of these positions, which has been amended and updated by the

Panel after further cross reference with the evidence statements and is attached at Appendix D.

Mr Crowder did not support the mandatory controls as a matter of principle, based on preference for a performance based approach. Mr McPherson considered that the balance of discretionary and mandatory controls may benefit from further testing of development potential and built form outcomes. Mr Czarny did not support mandatory controls in this location on the basis that it unreasonably stifled development opportunity, though in cross examination acknowledged that he had in relation to C190, supported proposed mandatory parameters, as long as they were generous enough to accommodate capacity. Ms Heggen generally supported the mandatory approach.

There was some divergence of views between heritage, planning and urban design experts as to whether the proposed 10 metre front setbacks in the DPO should be mandatory or discretionary. Mr Czarny was the only expert to challenge the mandatory 20 metre podium height within the DPO (for Parcel B north of the laneway).

Otherwise, the other principal dispute between the witnesses related to whether reduced side and rear setbacks (i.e. from 10 metres to 5 metres) should be mandatory or discretionary.

As previously noted, there was a general sense amongst the experts that away from the areas with a direct interface with the market, an approach consistent with that applied in other parts of the Central City could be adopted. Those that considered the matter also agreed that the final form of controls for the QVM Precinct (away from the direct interface), should be informed by the outcome of C270 when that is known, with mandatory controls revised at that time if found to more appropriately be discretionary.

Neither Burbank or Tramere supported mandatory provisions. Both parties were represented by Ms Hicks, who submitted:

*There is clearly room for debate amongst eminent experts. Given that, in my submission it cannot be said that the majority of proposals not in accordance with the mandatory provision will be clearly unacceptable.*

### **(iii) Discussion**

A range of issues relating to the mandatory and discretionary nature of the proposed controls, and the specific figures or values prescribed in those controls, have been identified and addressed in detail earlier in this report. In summary, the Panel has concluded in Chapters 5.4 of this report, that within the DPO area:

- Mandatory maximum podium heights and front setbacks are warranted, based on a range of heritage and urban design considerations unique to the interface with the QVM.
- Mandatory height limits are warranted for Parcel C, based on a need to protect the amenity of the proposed public open space within the QVM. Discretionary height limits are recommended for other land outside, but with a direct interface to, the QVM. Any application to exceed the height limit should be accompanied by 3D modelling and an assessment on the visual impact on the open space and public realm of the QVM.
- The QVM Precinct does not warrant a different approach to side and rear setbacks and tower separation, in relation to matters of equitable development and amenity, to those

that apply elsewhere in the Central City. Mandatory side and rear setbacks (with provisions for party walls) and tower separation provisions are supported based on consistency with other Central City controls.

For the DDO14 area, the Panel has also concluded in Chapter 5.5, in summary, that this area should be treated consistently with other parts of the Hoddle Grid. Mandatory podium height, mandatory setback and separation distances and plot ratios, aligning with those applying to other parts of the Central City under C262 are supported on an interim basis until the outcome of C270 is resolved.

For both the DPO and DDO, if the outcome of the C270 process does not support mandatory controls, then where the Panel has recommended mandatory controls be introduced to *achieve consistency with existing Central City controls*, these should be reviewed once the outcome of C270 is known, to maintain that consistency in approach. If C270 finds discretionary controls to be more appropriate, then with the exception of podium heights and front setbacks in the DPO, mandatory controls should be made discretionary to maintain consistency with other parts of the Central City.

The Panel has had regard to Planning Practice Notes 59 *'The role of mandatory provisions in planning schemes'* (PPN59), and 60 *Height and Setback controls for activity centres* (PPN60). Together these provide criteria and guidance on considering whether mandatory controls are appropriate. These are addressed below.

PPN59 states:

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

*Nevertheless, there will be circumstances where a mandatory provision will provide certainty and ensure a preferable and efficient outcome ...*

As outlined in PPN60, those circumstances need to be demonstrated to be 'exceptional'. It states:

*Mandatory height and setback controls (that is, controls that cannot be exceeded under any circumstance) will only be considered in exceptional circumstances.*

*Even where exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives or outcomes identified from the comprehensive built form analysis. Where mandatory controls are proposed, it will need to be demonstrated that discretionary controls could result in an unacceptable built form outcome.*

### **'Exceptional Circumstances'**

The Panel considers the QVM in itself represents an 'exceptional circumstance' in that it is a heritage asset of 'State significance', pending National Heritage listing, immediately

juxtaposed against one of the most rapidly and intensely developing parts of the Capital City and a designated strategic redevelopment area.

The treatment of the streetscape and street wall conditions at its direct interface is fundamental to the cultural heritage significance, character and amenity of the place. Podium heights and front tower setbacks are critical to the heritage values and pedestrian experience of that interface, and there are a combination of heritage and urban design considerations that warrant mandatory controls at these direct interfaces. Within the QVM Precinct, the proposed open space will serve an important public and community function servicing growth in the surrounding area - it is also critical that the future amenity of this space is assured.

As required in Clause 21.12, the QVM Precinct must also be considered in its broader context within the Hoddle Grid. Amendment C262 has set a relevant reference in identifying a range of 'exceptional circumstances' currently apply in the Hoddle Grid and broader CCZ area. As outlined in the C262 Explanatory Report:

*In recent years there has been a dramatic increase in the quantity and scale of development proposed, and approved, within the Central City. Cumulatively this increase in density has created infrastructure capacity pressures and poor amenity outcomes which have the potential to damage investment attraction to Central City and irreversibly damage the liveability of Melbourne.*

*The current planning scheme provisions are clearly not responding to the emerging changes in development density. As a result development is starting to have adverse impacts on the amenity of residents, workers and visitors to the Central City, including,*

- *poor building amenity due to closeness to neighbours (affecting light and privacy),*
- *impaired development opportunities on neighbouring sites (inequity),*
- *negative visual domination of historic and pedestrian scale streetscapes by new development,*
- *increased overshadowing of public space,*
- *uncomfortable wind effects in public space, and*
- *pressure on the capacity of footpaths, plazas and public facilities.*

These factors were seen to support the introduction of a regime of mandatory podium heights, front side and rear setbacks, tower separation and plot ratio controls on an interim basis, while permanent built form controls were developed via C270, which also propose mandatory built form controls (but a discretionary plot ratio control).

It has been demonstrated that there is increasing development pressure within and around the QVM Precinct. In supporting the strategic shift in the role of the QVM Precinct as an integral part of the Hoddle Grid, and as a strategic redevelopment area as identified in Plan Melbourne, the Panel finds it appropriate that the same measures are put in place from the outset to also avoid potential to '*irreversibly damage [this part] of Melbourne*'. A mandatory plot ratio is also supported, on an interim basis, until the outcomes of C270 are known.

**Is the mandatory provision strategically supported?**

The strategic basis for the amendment is addressed in Chapter 4 of this report. In particular, the proposed mandatory controls are supported by the Jones and Whitehead Built Form Review, the earlier 'Block Plan' work, and the QVM Precinct Renewal Master Plan. It is also supported by broader policy objectives of Plan Melbourne and Local Policy for the QVM Precinct to serve a strategic redevelopment role, while maintaining heritage values of the QVM and Central City amenity.

**Is the mandatory provision appropriate to the majority of proposals?**

The proposed mandatory podium provisions and front tower setbacks are appropriate to the heritage context and consistent with the broader Central City context.

To the extent that it was demonstrated that the proposed mandatory side and rear setbacks, and tower separations unreasonably impacted upon the development potential of smaller lots, the Panel has recommended changes to these provisions to apply a consistent approach to other parts of the Central City. The appropriateness of these provisions as mandatory controls will need to be further considered once the outcomes of C270 are known, to maintain consistency with other parts of the Hoddle Grid.

**Does the mandatory provision provide for the preferred outcome?**

The mandatory podium heights and front setbacks will achieve an appropriate mediating effect to taller buildings behind and beyond, and will provide for a preferred outcome in terms of relationship to heritage values and pedestrian scale of streetscapes. It will resolve divergent opinions within the community about the appropriate treatment at the immediate interface with the QVM and the desired built form and streetscape outcomes within the QVM Precinct. It will also achieve the preferred podium and setback outcomes identified for the rest of the Hoddle Grid.

The mandatory side and rear setbacks, mandatory tower separations and plot ratios are recommended to replicate those that apply elsewhere in the Central City. These are understood to have been introduced to achieve equitable development and amenity outcomes, and to provide certainty to the community and development about acceptable built form outcomes. The appropriateness of these provisions will need to be further considered once the outcomes of C270 are known.

**Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?**

The Panel considers that development not in accordance with the mandatory podium heights and front setbacks at the immediate interface with the QVM would have unacceptable heritage and urban design impacts.

C262 has also established that Central City development proposals that do not meet mandatory front, side and rear setbacks, tower separation distances and plot ratios, will have unacceptable impacts on equitable development and amenity. The appropriateness of these provisions will need to be further considered once the outcomes of C270 are known.

**Will the mandatory provision reduce administrative costs?**

The mandatory provisions will provide greater certainty and will reduce administrative costs to the responsible authority, and developers, and in the context where third party exemptions apply, the community.

**(iv) Conclusions**

The Panel concludes:

- PPN59 and PPN60 identify that while not the preferred approach within the VPP's, there may be 'exceptional circumstances' demonstrated that warrant mandatory controls.
- The high level of heritage significance of the QVM and sensitivity of its immediate interface, in the context of a rapidly evolving Central City, warrant mandatory controls.
- There are also other exceptional circumstances within the broader Central City that have supported the introduction of mandatory controls on an interim basis, under C262, while permanent controls are developed and implemented by C270.
- The proposed mandatory provisions meet the criteria established by PPN59 in that:
  - They are strategically supported
  - They are appropriate to the majority of proposals, within the heritage context of the QVM and broader Central City.
  - They provide for the preferred outcomes within the QVM Precinct and wider Central City.
  - The majority of proposals not in accordance with the controls would have clearly unacceptable impacts on heritage values, urban design and amenity, and development equity.
- Mandatory controls in the DPO and DDO should be reviewed once the outcome of C270 is known. If C270 finds discretionary controls to be more appropriate, then with the exception of podium heights and front setbacks in the DPO, mandatory controls should be made discretionary to maintain consistency with other parts of the Central City.



## 6 Form of controls

### 6.1 The issues

The Amendment proposes to:

- Apply a new DPO11 to land immediately adjacent to the Queen Victoria Market to facilitate recommendations of the QVM Precinct Master Plan and the Built Form Review.
- Delete existing DDO14 from the Queen Victoria Market and land to which DPO11 will apply.
- Retain and review the existing DDO14 over land south and east of the DPO11, to the existing boundaries at William Street, Elizabeth Street and A'Beckett Street.

Figure 11 below, shows the relationship to between the proposed DPO11 area the key recommendations of the Master Plan, and the DDO14 area.



Figure 11 Proposed overlay and QVM Master Plan initiatives  
(Source: Ms Heggen's Evidence)

The purpose and function of each of the controls is described previously in Chapter 5.

Issues raised by the submissions and during the course of the Hearing included:

- Whether the DPO is the most appropriate planning tool to facilitate the restructure, reconfiguration, and redevelopment of the QVM Precinct.
- Whether the boundaries between the DPO and DDO are appropriate.
- That the proposed overlay controls provided inadequate detail about the built form and nature of development that will take place within the QVM Precinct.
- Whether the QVM Master Plan be included as a reference document.
- Whether the structure and drafting of the overlays was clear or provided adequate guidance to decision making.
- That third party rights should be provided.

## 6.2 Evidence and submissions

### Selection and application of planning overlay tools

Council submitted that the area to which the DPO11 applies is considered the most sensitive being directly opposite the QVM, and that it includes requirements to ensure a lively and comfortable pedestrian environment, protect the interface with QVM, and ensure development responds appropriately to QVM's scale and heritage character.

Council submitted:

*Use of the DPO is appropriate in circumstances where a master-planned approach is required, having regard to the realignment of Franklin Street, the creation of new public open space, the relocation of customer car parking and the creation of new pedestrian mid block linkages.<sup>51</sup>*

The Friends of Victoria Market called Mr Milner who in evidence queried the need for and use of the DPO, instead recommending, in summary, that:

- the QVM Precinct Framework Plan be incorporated into the Scheme under an Incorporated Plan Overlay
- DDO14 be extended and retained over the interface area proposed to be addressed by DPO11
- built form and amenity controls be consolidated into a single DDO14, with sub precincts if necessary.

Mr Milner gave evidence that:

*This would ensure:*

- *The fundamental structure of the Framework Plan formed the template for the development of the overall precinct*
- *The details of built form would be resolved through a permit process having regard to the guidelines and discretions of the Capital City Zone, and the revised DDO14*
- *The additional step, the unclear role of, and ability to deliver an overall Development Plan would be removed.*

<sup>51</sup> Council Part B submission p4

Council’s reply submission noted that Mr Milner did not criticise the urban restructuring or strategic outcomes sought and Mr Milner’s evidence amounted to an alternative approach to how the same strategic outcome might be achieved through the use of different controls.

Ms Heggen’s gave evidence that the proposed DPO11 was primarily concerned with facilitating the delivery of the QVM Master Plan and managing built form on land which is within Councils existing or future ownership (as per the State Agreement) (as shown above in Figure 11). She also observed that the amended DDO14 controls seek to manage built form outcomes in the wider Market context in line with the extent of the existing DDO14.

In evidence, Ms Heggen provided an analysis of the ‘area of influence’ on and of the QVM, and where management of built form has a direct relationship on the Market “at this point in time”, as shown below in Figure 12. Ms Heggen stated:

*This spatial relationship will change over time as approved development within the Am C245 area is constructed (386 William Street) and the building program in DPO11 is delivered. When the DPO11 projects are completed, then the direct visual connection between the QVM with that area depicted in Figure 14 as being within the market environs will be significantly reduced<sup>52</sup>.*



Figure 12 Key built form influences on the QVM Precinct.  
Source: Ms Heggen’s Evidence Figure 10

<sup>52</sup> Planning and Urban Design Evidence Catherine Heggen p8.

Ms Heggen gave evidence that an option would be to contract the mapped extent of DDO14 area to apply to the 'market environs' area with recommended changes and consolidate the balance of the area into DDO10 and apply DDO10 provisions. See Figure 13.

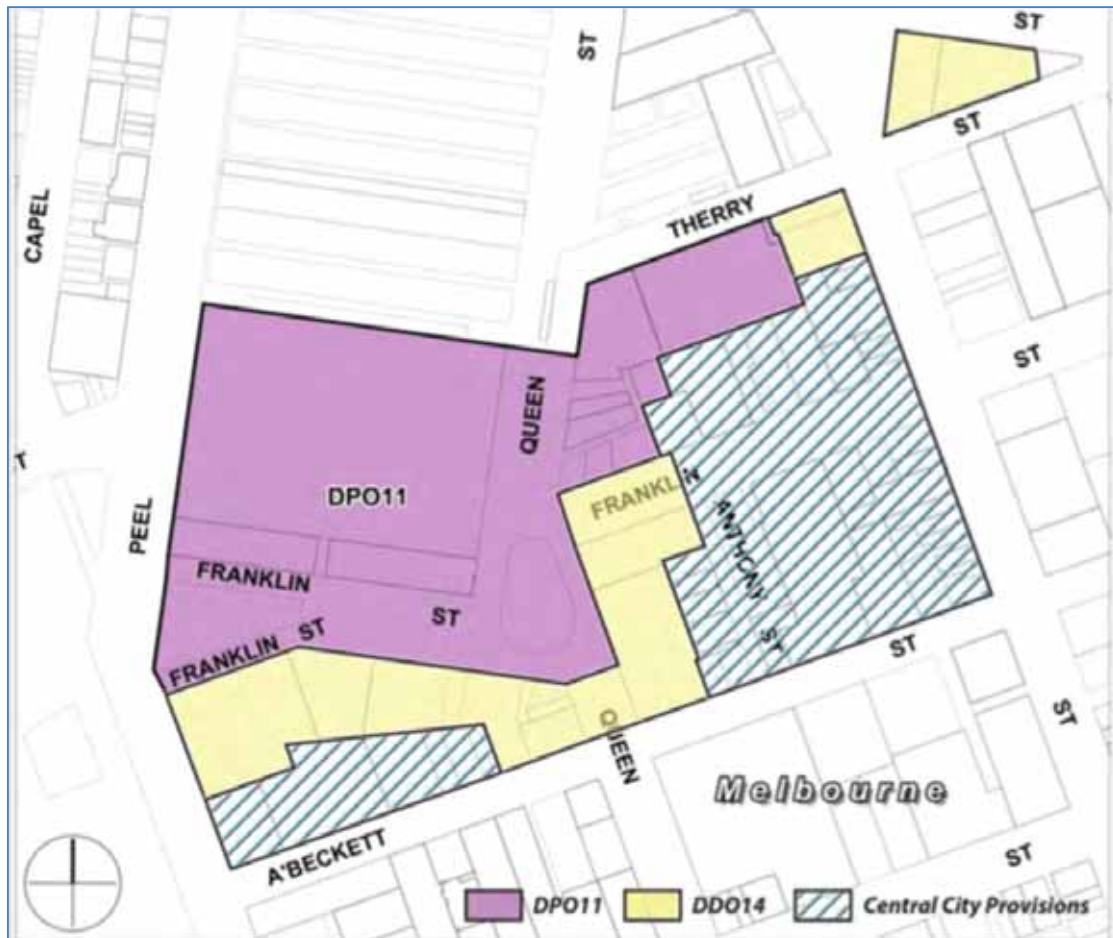


Figure 13 Extent of DDO14 recommended by Ms Heggen  
Source Ms Heggen's Evidence Figure 21

In verbal evidence and cross examination Ms Heggen articulated that she considered the DDO14 area still had some "heavy lifting" to do in terms of managing the *current* interface with the market. Ms Heggen explained that this was more of a temporal issue conditional upon the resolution of C270 and completion of new development parcels within the DPO area, at which point she considered the DDO14 controls should be reviewed.

Mr Sheppard supported the division of the Amendment land as proposed into that which abuts the market (and will therefore have a direct effect on its heritage values and other aspects of its public realm quality), and the land further away (which is to be treated as an extension of the Central City, subject to a minor modification to the boundary as described below).

Mr Crowder, called to give evidence by Burbank, had no objection to the proposed introduction of a new DPO or repealing of DDO14 from the QVM.

The Friends of QVM submission, in summary, was that there was no justification (nor consideration by Council's experts) for removal of the DDO14 controls from the QVM itself,

and that no change is needed to the planning controls in this location to give effect to the renewal objectives of the Master Plan. The Friends also submitted that Council's disclosure of its plans for Precincts A and D in the DPO area are "*wholly lacking*".

The National Trust submitted that QVM itself (the area proposed to be rezoned to PUZ7) should remain subject to a DDO to the same effect as the present control. The submission noted:

*The height limits and built form outcomes in the current areas A16 and A17 of the DDO14 were arrived at through a detailed expert review ... and careful consideration by the Panel in Amendment C61.*

*Council has not provided any coherent explanation for the complete removal of the DDO14 from the market itself (in the area coextensive with the proposed PUZ7). The existing control is discretionary, based on a comprehensive and 'holistic' assessment which has already been carried out by a heritage expert, and allows for a 'holistic' consideration of heritage and design issues in relation to any future development proposal in that area<sup>53</sup>.*

### **Boundaries of the DPO**

In his evidence, Mr Lovell recommended a change to the boundary of the DPO in Therry Street, to include the property at 501-503 Elizabeth Street, stating:

*The subject site is in my assessment a critical site in the contemplation of the QVM interface with Therry Street and notwithstanding that it is not included in the heritage precinct HO7, should be included in the area covered by the DPO. At present it is included in HO1125, the Elizabeth Street heritage overlay precinct, the ascribed significance of which is unrelated to the market.<sup>54</sup>*

This was also proposed by Mr Sheppard in evidence and supported by Ms Heggen, based on heritage and urban design considerations.

In its submission Council responded:

*Council does not have a position on the inclusion of 501-503 Elizabeth Street within the DPO, as proposed by both Mr Sheppard and Mr Lovell. The Council notes that no notice has been given to the land owner of 501-503 Elizabeth Street of an alternative planning control over its land and that land owner has not elected to make a submission or participate in the panel hearing.<sup>55</sup>*

In addition, the National Trust submitted that the properties along Elizabeth Street, south to A'Beckett Street, (covered by HO1125, HO1025, and HO1022) should have a 15 metre mandatory height limit prescribed in the DDO14. Mr Echberg considered that these properties should be subject to built form controls that responded to the scale and heritage qualities of the QVM, "*because these properties are an intrinsic part of the market precinct character and an important arrival experience to the market. A 20 metre height limit on*

<sup>53</sup> Submission for National Trust p15 para 82, 84

<sup>54</sup> Statement of Evidence Peter Lovell p23, para 41

<sup>55</sup> Council Part C Submission p4

*these properties is recommended ... I consider Council has been remiss in not recognising this special component of the precinct.*<sup>56</sup>

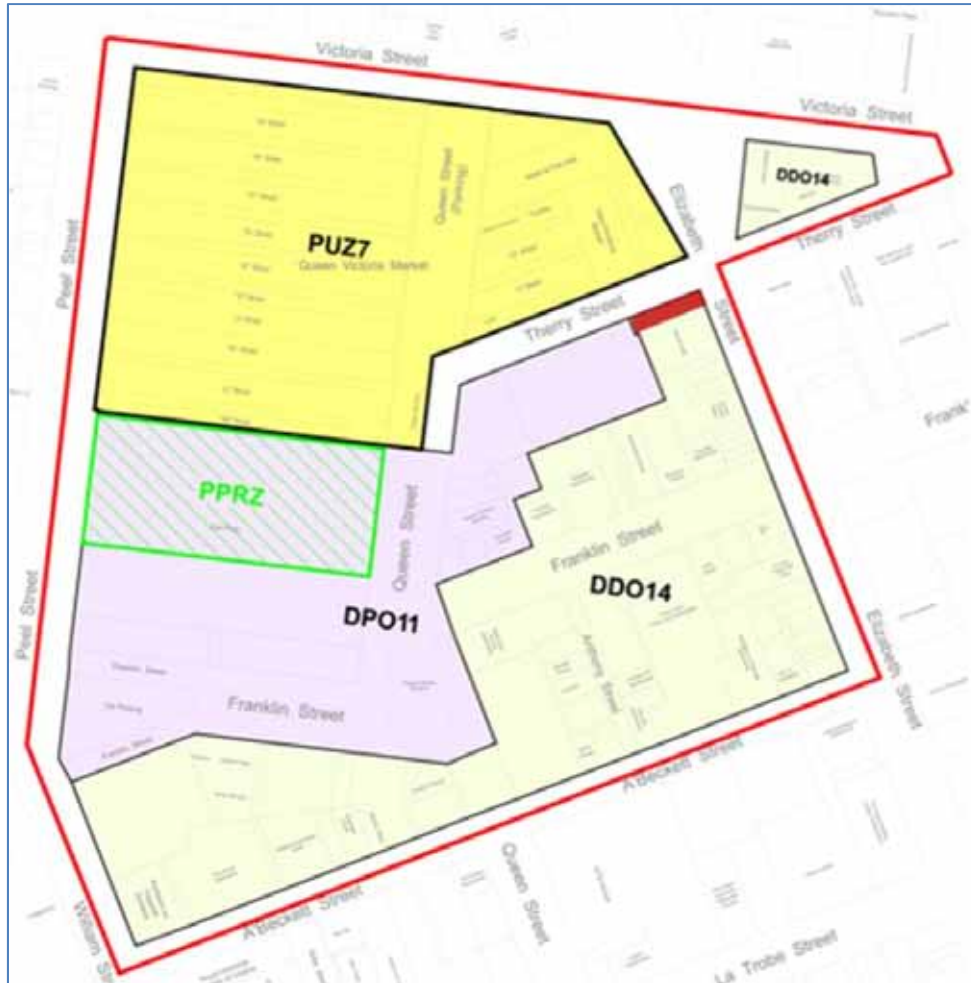


Figure 14 DPO11 boundary, showing 501-503 Elizabeth Street, highlighted in red

During the course of the Hearing, a question was raised about whether the DPO boundary should also be modified to include the additional HO7 property facing Franklin Street. The Panel notes that Mr Lovell's evidence stated *"this section of Franklin Street ... has no heritage sensitivity as related to the QVM and with the south side of the street, increasingly presents as part of the central city core"*<sup>57</sup>.

### Content and drafting

The primary issue raised in evidence regarding the drafting of both proposed overlay controls was the need for greater clarity in the construction and expression of mandatory and discretionary controls, to provide statutory clarity and ease of interpretation.

Ms Heggen recommended that the DPO should be revised to redraft design guidelines and requirements into a table with preferred provisions and built form outcomes to guide discretion, with separately stated mandatory requirements.

<sup>56</sup> Submission by Mr Echberg. Recommendation 2

<sup>57</sup> Statement of evidence Peter Lovell p27, para 49

There was agreement between at least some of the experts that the DDO14 should be redrafted to reduce repetition and duplication between the Tables 1 and 2, which specifies discretionary and mandatory controls respectively. Mr Sheppard gave evidence that Table 2 *Built form outcomes* are unnecessary, as Table 2 specifies mandatory requirements so no guidance for discretion is needed.

There was a divergence of opinion amongst the experts on the need and justification for mandatory controls, as well as the qualitative figures specified. This is addressed in Chapter 5.6.

Mr Sheppard gave evidence that the DPO11 should include, in the Framework Plan or elsewhere, nomination of a 100 metre discretionary height limit. In cross examination, he agreed that this could instead include nomination of a location for greatest height/landmark building rather than a specified height limit.

Ms Heggen gave evidence recommending that the DPO11 and DDO14 should include discretionary plot ratio controls, and in cross examination stated these could instead be mandatory, consistent with Central City provisions.

During the course of the Hearing, Council submitted alternative DPO11 Figure 1 QVM Framework Plan in response to matters raised in evidence, including nominated locations for marker buildings (but no overall height or plot ratios) for Parcels A and D, adjusted podium heights and setbacks for Parcel D, and clarity around podium heights at the corner of Queen and Franklin Streets. This is shown in Figure 10.

Mr Sheppard gave evidence that the DPO11 'Requirements for a development plan' included matters that were unnecessary in a Development Plan and are best required as part of a permit application. These related to:

- Elevations
- Building materials and treatments
- A wind effects assessment
- ESD and WSUD assessment
- Acoustic assessments.

Council submitted a revised version of DPO11 which sought to address this issue, and included reference to the updated Framework Plan.

Mr Milner submitted that the *Queen Victoria Market Precinct Renewal Built Form Review and Recommendations March 2015* and the *Queen Victoria Market Precinct Renewal Master Plan 2015* should be 'Reference Documents' to a new Incorporated Plan Overlay (as a replacement for the DPO11).

In relation to DDO14, Mr McPherson considered that, given the shift in strategic direction for this area, it should include the stated aim to facilitate more intensive development and accommodate the growing city, or similar.

Mr Sheppard recommended that, on the basis the property at 501-503 Elizabeth Street was included in the DPO11, then place specific references to the QVM in the Objectives and Built Form Outcomes could be removed from DDO14. He recommended that DDO14 maintain a general reference to not adversely affecting the heritage significance of adjoining or

adjacent buildings. Mr Sheppard gave evidence that reference to QVM will be redundant as development in DDO14 will be separated by distance and proposed new development and would be unable to adversely affect the significance of the Market.

Recommendations were also made to align and achieve consistency between DDO14 and DPO11 in relation to the overshadowing measure, for both controls to reference the June 21 winter equinox. This issue is addressed in Chapter 7.2 of this report.

### Third party rights

The Friends of QVM submitted that the impact, as a result of the DPO, on third parties to the south of Parcels A and D will be significant, particularly in light of the fact that there has been nominal consultation of, or disclosure by the Council of its development proposals for both parcels.

Mr Milner gave evidence that he “*considered it inappropriate that there is no opportunity for public comment and an exemption from notice and review under the provisions of the DPO before approval of a development plan*”. Mr Milner also recommended that DDO14 should be amended to require public notification of permit applications.

Council’s Part B submission was as follows:

*To the extent that the Friends of the Market complain about loss of public participation in decision making in the QVM Precinct, the only third party rights that are effectively removed by the application of the DPO are third party notification and appeal rights under HO7 (third party exemptions already apply under the CCZ and existing DDO14), and this new exemption would apply only where a proposal is generally in accordance with an approved Development Plan.*

*The loss of those limited third party rights are offset by the certainty provided by mandatory built form controls, which replace the current discretionary controls. Moreover, in terms of heritage implications, Mr Lovell’s evidence supports the potential built form outcomes under DPO11 as providing an acceptable response to the heritage significance of the Queen Victoria Market Precinct under HO7; his is the only heritage evidence before the panel<sup>58</sup>.*

## 6.3 Discussion

### Tool selection – IPO or DPO?

The Panel has had regard to Planning Practice Note 23 (PPN23) *Applying the Incorporated Plan and Development Plan Overlays*.

It provides useful guidance about ‘deciding which overlay to use’.

*The differences between the overlays decide where they should be used.*

- *The IPO requirement for a planning scheme amendment to incorporate or change the plan enables third parties to be involved in the process of making or changing the plan. For this reason, the IPO should normally*

<sup>58</sup> Council’s Part C submission



*be used for sites that are likely to affect third-party interests and sites comprising multiple lots in different ownership. Most redevelopment of existing urban land will fall into this category, particularly where the surrounding land use is residential.*

- *Because the DPO has no public approval process for the plan, it should normally be applied to development proposals that are not likely to significantly affect third-party interests, self-contained sites where ownership is limited to one or two parties and sites that contain no existing residential population and do not adjoin established residential areas.*
- *In some situations on large self-contained sites, both overlays can be used. The IPO can be used to manage the strategic development framework, and the DPO can be used to specify the conditions and require a plan to specify the form for the detailed development of parts of the site or individual development stages.*

The Panel agrees to an extent with Mr Milner that the IPO could be used to incorporate the Framework Plan within the planning scheme – with the effect, as described above, that third parties can be involved in the process of making or changing the plan via a planning scheme amendment. However, this is in effect what the proposed Amendment C245 does. Amendment C245 has provided a process for third parties to be involved in the making (and changing) of this plan. The inclusion of the Framework Plan within the actual ordinance provisions of the DPO11 means that it is proposed to become part of the scheme, and a planning scheme amendment will be required to amend it. The proposed approach also has the added benefit that the Framework Plan is immediately present within the relevant part of the scheme, rather than as a separate document.

In addition, the QVM contains large, relatively self contained sites – being Parcel A (Munro site) and Parcel D, that will require a level of whole-of-site master planning, which is appropriate to undertake via a Development Plan. While the development outcome on these sites may be of high public curiosity, the extent of third party interests are limited by existing third party exemptions that apply under the CCZ and DDO14, and are currently constrained to matters to be considered under HO7. The potential impacts on the heritage values of the QVM Precinct have been considered within the C245 process, and mandatory podium heights and front setback controls are recommended which are considered to achieve an appropriate response to the heritage and streetscape values of the Precinct, and will provide certainty about development outcomes.

In effect the approach taken achieves both PPN23 outcomes identified in the third dot point above – a strategic development framework is to be incorporated into the scheme, by way of the Framework Plan at Figure 1 of the DPO, and any changes to this can only occur via a planning scheme amendment with third party input. The DPO11 will then allow a Development Plan to be prepared to ‘Master Plan’ and specify more detail about the development of the sites. It also provides that a permit can be granted prior to approval of a Development Plan, which will be useful for smaller sites where a master planning approach is not warranted.

The Panel therefore finds that the proposed approach and use of the DPO is appropriate.

### Use of the DDO and DPO

The Panel agrees that there is some merit to the argument put forward by Mr Milner that the built form and amenity provisions could be stripped from the DPO and expressed as a single consolidated DDO14. This approach would be consistent with other parts of the Capital City Zone where precinct based DDO built form provisions apply, and it would be perfectly acceptable for both controls to apply to the QVM land – one to guide the restructuring and reconfiguration, and one to guide detailed development. However, the Panel has also made other recommendations about the need to review DDO14 and achieve consistency with other parts of the Central City, once the outcome of C270 is known, and that revised controls in DDO14 should be applied on an interim basis only.

The Panel is also satisfied that the QVM immediate interface area justifies tailored permanent controls, to protect heritage values and provide certainty about development outcomes, beyond an 'interim' period. Further, the DPO provides for the use, as well as development, of land, which is particularly important in relation to Parcel C.

Therefore, subject to redrafting recommendations below, the Panel accepts that the DPO can and should include built form and amenity provisions.

In relation to the delineation between the DDO and DPO in the area south of the QVM, the Panel notes the expert evidence included widely varying views on this matter. In summary, Mr Milner recommended consolidating the DPO11 into an extended DDO14 area, Ms Heggen supported retention of the DPO11 and a significant further contraction of the DDO14. Mr Sheppard and Mr Lovell both supported the current proposed delineation subject to a minor boundary modification at the Elizabeth Street interface.

The Panel accepts that the DPO will need to serve a 'sensitive interface management' function, as well as a 'restructure and reconfigure' function. This will leave the DDO14 to serve the role of managing built form further away in a manner consistent with other parts of the Central City. As mentioned above, to the extent that the DDO14 has a *current* interface with the QVM, this is a temporal issue in a rapidly evolving context, and will be superseded once the DPO11 development outcomes are delivered.

The Panel therefore supports the proposed delineation between the land that abuts the Market and the land which is to be treated as a part of the Hoddle Grid.

None of the planning or urban design experts gave evidence on the appropriateness of removing the DDO14 from the QVM itself, which The Friends of QVM and National Trust submitted should be retained.

It was Mr Lovell's view that the existing HO7 and HO496 controls provided adequate protection of the heritage values of the site. The Panel agrees, and considers that in conjunction with strategic directions in the MSS Clause 21.12 identifying the QVM as a 'heritage asset of State Significance', and local policy Clause 22.04 Heritage Places within the Capital City Zone, and application requirements within the CCZ and Heritage Overlay themselves, there is adequate provision to ensure heritage values will be upheld. The only new development proposed within the QVM itself is Parcel C. The DPO specifies built form outcomes for Parcel C, including revised preferred discretionary height which reflects the existing findings of the Conservation Management Plan. There is a further argument that

retention of a DDO on this land implies some form of redevelopment potential – as opposed to retention, renovation, renewal and revitalisation which is the objective as set out in the QVM Master Plan.

In relation to the boundary adjustment proposed in Therry Street to include 501-503 Elizabeth Street, the Panel supports the inclusion of this site within the DPO. The Panel notes, however, Council's comment that no notification has been given of this proposed change, and the owners were not parties to the Hearing. The Panel therefore concludes that the properties should not be included in the DPO11 as part of Amendment C245, and this change could be included as part of a subsequent amendment. The Panel considers it would still be appropriate to remove the specific reference to QVM in the design objectives of DDO14 as recommended by Mr Sheppard. The Panel notes that retaining generic reference to 'not adversely affecting the heritage significance of adjoining or adjacent buildings' will still ensure consideration of the heritage significance of the QVM for any potential redevelopment of this site.

The National Trust and Mr Echberg both sought inclusion, and recognition of the heritage sensitivities of, additional properties along Elizabeth Street. The Panel does not support this, noting the heritage significance of those sites does not relate to the QVM, nor do they have a direct interface relationship with the market. It is appropriate that these properties be treated in the same manner as other heritage properties in the Hoddle Grid.

### **Content and drafting**

As outlined in earlier Chapters, both the DPO11 and DDO14 would benefit from redrafting to provide greater clarity of statutory interpretation and removal of duplication.

In addition, the Panel considers that the DPO11 would benefit from inclusion of a greater level of detail and guidance about the specific outcomes sought for the Development Parcels. The Panel notes that the Master Plan provides a level of detail about the objectives and outcomes sought for the key land parcels in the QVM, however, very little detail has been translated into the DPO11. The Panel agrees with submissions that this is inadequate. The Vision should be expanded to include a further vision statement, together with specific design objectives and guidance, for each development Parcel, drawing from the QVM Master Plan and the Built Form Review.

In addition, the Panel agrees that the QVM Master plan should be included as a reference document within the DPO Schedule, as it assists in understanding the background to the overall vision and outcomes sought.

In relation to the redrafting the DPO, the Panel considers that the following principles will be useful:

- The DPO11 should adopt a 'Table' format, similar to the DDO14 to express discretionary provisions with the built form outcomes to be achieved, and mandatory provisions.
- Qualitative values and mandatory and discretionary nature of controls should be amended, as recommended in Chapter 5 of this report.
- The updated Framework Plan, amended in accordance with recommendation in Chapter 5 of this report, should be included at Figure 1 of the DPO.

- The requirement for a Development Plan or a planning permit application to be consistent with the Framework Plan should be retained, though this may be better expressed as ‘generally in accordance with’.
- The development concept plan (required as part of a Development Plan) is required to include indicative building heights and setbacks – these must also achieve the mandatory and discretionary built form and amenity provisions of DPO11.
- Matters relating to the following elements are best assessed at the permit, rather than Development Plan stage:
  - Elevations
  - Building materials and treatments
  - A wind tunnel model study
  - ESD and WSUD assessment
  - Acoustic assessments.
- Vision statements, design objectives and guidance are required for each development Parcel.
- The *QVM Master Plan and the Built Form Review* should be included as a reference document.

### Third party rights

Third party rights are discussed briefly under ‘Tool Selection’ above. This is expanded upon below.

Amendment C245 has provided an opportunity for third party involvement in the establishment of a Framework Plan and mandatory controls for the QVM Precinct to protect heritage and streetscape amenity values. This provides certainty to all parties. The outcomes of this process will be encapsulated within the planning scheme, and can only be amended by a further planning scheme amendment, which would provide opportunity for third party involvement at that time. There may well be parties who do not agree with these outcomes in their entirety, or at all, but nevertheless they have been subject to testing and review process.

As noted in Councils submission, the extent of existing third party rights for planning permit applications is limited under the current planning regime – both the CCZ and the existing DDO14 included third party exemptions, and this is consistent with other parts of the Central City. The scope of current third party rights is limited to those available under the Heritage Overlay.

The third party exemptions under the DPO apply to an application made under *any* provision of the scheme, including the Heritage Overlay, but *only* where it is ‘generally in accordance with an approved Development Plan’. Under DPO11:

- A Development Plan *must* be consistent, (or generally in accordance), with the Framework Plan and Vision statement/s.
- The Panel has recommended that a development concept plan provided as part of a Development Plan must also meet the mandatory built form and amenity requirements of DPO11.
- A permit granted must also be generally in accordance with the Development Plan (and by extension, the mandatory controls).

- For a permit application before a Development Plan has been approved, DPO11 still requires the mandatory controls to be met.

The overall effect is that DPO11 creates a planning framework within which there is a high level of certainty about the outcomes of either a Development Plan, or planning permit application. The Panel agrees that the use of the DPO to exempt third party rights is appropriate. In any case, the exemption in the head provision of the DPO is a default setting, without provision for the Schedule to specify otherwise.

As mentioned above, the scope of third party provisions that exist in DDO14 reflect current circumstances and the approach that applies over other parts of the Central City. The Panel does not consider that this area warrants a different approach and does not consider that the reinstatement of third party provisions is warranted in DDO14.

## **6.4 Conclusions**

The Panel concludes as follows:

### **Tool selection and application**

- The proposed use of the DPO tool is appropriate to facilitate the reconfiguration and restructure and redevelopment of land within the QVM Precinct.
- It is appropriate for the DPO11 to include built form and amenity provisions, tailored to respond to the direct interface with the QVM.
- The proposed delineation between the land that abuts the market and the land which is to be treated as a part of the Hoddle Grid, is supported.
- The removal of DDO14 from the QVM itself is supported, noting extensive protection for heritage values exists within other provisions of the scheme.

### **Boundaries**

- The boundary of the DPO should be adjusted to include the property at 501-503 Elizabeth Street as part of a future amendment.
- Inclusion of other properties along Elizabeth Street, south to A'Beckett Street, as part of the QVM Precinct is not supported.

### **Drafting**

- The Vision in the DPO should be expanded to include a vision statement for each Parcel.
- The QVM Master Plan and QVM Built Form Review should be included as a reference document in the DPO11.
- The DPO11 should be redrafted in accordance with the principles set out in the recommendations below.
- DDO14 Tables 1 and 2 need to be restructured to remove unnecessary duplication and repetition.

### **Third party rights**

- Use of the DPO to exempt third party rights is appropriate, and inclusion or reinstatement of third party notice and review rights in DDO14 is not supported.

## 6.5 Recommendations

The Panel makes the following recommendations in relation to the form of controls:

**10. Redraft and restructure Development Plan Overlay Schedule 11 in accordance with the following principles:**

- a) Adopt a 'Table' format, similar to the Design Development Overlay Schedule 14 to express discretionary provisions with the built form outcomes to be achieved, and mandatory provisions.
- b) Retain the requirement for a Development Plan or a planning permit application to be consistent with the Framework Plan, but express as 'generally in accordance with'.
- c) The development concept plan (required as part of the Development Plan) is required to include indicative building heights and setbacks – these must also achieve the mandatory and discretionary built form and amenity provisions of Development Plan Overlay Schedule 11.
- d) Assess matters relating to the following elements at the permit, rather than Development Plan stage:
  - Elevations
  - Building materials and treatments
  - A wind tunnel model study
  - Environmentally Sustainable Design and Water Sensitive Urban Design assessments
  - Acoustic assessments
- e) Add vision statements, together with objectives and design guidance for each development Parcel.
- f) Include the *Queen Victoria Market Master Plan and the Queen Victoria Market Built Form Review* as a reference documents in the Development Plan Overlay Schedule 11.

**11. Amend Design Development Overlay Schedule 14 to restructure Tables 1 and 2 and delete duplicated Built Form Outcomes in Table 2.**

**12. Amend Design Development Overlay 14 Design Objectives to delete reference to QVM, but maintain reference to generic heritage buildings, as follows:**

To ensure that the scale and design of new buildings does not adversely affect the significance of adjoining or adjacent heritage buildings.

**13. Amend Design Development Overlay 14 Built Form Outcomes for Podium Height in Table 1 to delete reference to Queen Victoria Market, but maintain reference to generic heritage buildings, as follows:**

*Building podiums are designed so that they:*

- *are of a height, siting and detailing that does not adversely affect the significance of adjoining or adjacent heritage building(s).*

**14. Apply Development Plan Overlay Schedule 11 to the property at 501-503 Elizabeth Street as part of a future amendment.**

## 7 Proposed changes to Clauses 21.12 and 22.02

### 7.1 Clause 21.12 – Hoddle Grid

#### (i) The issues

The Amendment proposes to remove the following strategic direction from the Municipal Strategic Statement at Clause 21.12 – Hoddle Grid:

*Ensure the area bounded by Latrobe and Victoria Streets and Elizabeth/Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.*

This proposed introduction of the DPO and changes to the DDO, if approved, will introduce an internal inconsistency with this statement. As articulated in the Explanatory Report:

*A consequential change is also required to Clause 21.12 (Hoddle Grid) to remove reference to a built form transition that is no longer relevant or achievable in the context of the built form review.*

The Amendment also proposes to amend the boundary of the QVM Precinct shown in Clause 21.12 to reflect the area to which this amendment applies (consistent with the study area of the Jones and Whitehead Review), as shown in Figures 1 and 7 of this report.

The issues raised in submissions related to the following:

- that the strategic objective of maintaining a ‘transition’ should be retained and strengthened
- the removal of the local policy will have the effect of increasing overall density of development within the QVM site and its periphery
- removal of this strategic direction leaves a ‘policy gap’ in relation to the preferred built form scale
- considered in conjunction with C270, and capital city policy, there is an implied incentive to facilitate the highest built form in the city in this location.

#### (ii) Evidence and submissions

Mr Milner gave evidence that:

*In the light of Amendment C270 there should be further review of the wisdom of deleting the sub-clause under the heading Built Environment and Heritage that references the area bound by Latrobe Street and Victoria Street and Elizabeth and Peel Streets.*

*The effect of deleting this sub-clause, which referred to a contrast in built form scale, would have the effect of removing any reference to appropriate height in the immediate environs of the market.*

*Its removal would have had the effect of aligning strategy with a policy position that was liberal in its interpretation of preferred height controls.*

*As alluded to earlier, the combined implications of C245 and C270 could lead to the unstated view that the absence of policy direction around the QVM Precinct, relative to the rest of the Hoddle Grid, is to be interpreted as facilitating the highest built form.*

*It is not explicit that this is intended.<sup>59</sup>*

Ms Heggen supported the changes from a broader strategic perspective and the need for updated controls.

Mr Crowder supported the removal of the policy statement, noting that it was consistent with the removal of height limits in DDO14 indicated that the Amendment 'clearly contemplates taller buildings in this locale'.

Mr Echberg preferred to retain the policy statement and modify it to emphasise consistency of low scale and built form transition role of the Precinct between QVM and the Hoddle Grid, rather than as a contrast between Carlton and North Melbourne and the Hoddle Grid.

### **(iii) Discussion**

In Chapter 4, the Panel has discussed issues relating to the strategic role of the Precinct, and in Chapter 5, matters pertaining to height and scale, recommending that it would be appropriate to introduce plot ratio controls into DDO14. Consistent with those findings, the Panel finds it appropriate to delete the statement, as a consequential change, as proposed.

However, the Panel also accepts Mr Milner's view that a complete lack of policy guidance about this area is undesirable. The Panel has previously established that the DDO14 area should be treated consistently with other parts of the Central City in terms of achieving amenity and built form outcomes.

The Panel considers it appropriate to include, on an interim basis, a policy statement that will support the recommended alignment of DDO14 with interim controls that currently apply to the Central City to achieve consistency with other parts of the Hoddle Grid. This may warrant further reviewed once the outcome of C270 is revealed to maintain consistency with those findings.

In addition, the Panel considers that the proposed amendment to the boundary of Precinct 2 Queen Victoria Market, as shown in Clause 21.12 should include only the QVM and the DPO11 area, as this is the QVM interface area. Extending the defined boundary of the precinct to include the DDO14 area undermines the strategic urban renewal role of the DDO14 area as part of the Hoddle Grid and recommendations to treat this area consistently with other parts of the Central City. It also undermines the importance and significance of the DPO11 area as an important interface, and a critical part of the QVM Precinct.

### **(iv) Conclusions**

The Panel concludes:

- Deletion of the strategic direction from Clause 21.12 is supported.

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<sup>59</sup> Expert Evidence Mr Milner p37



- A new strategic statement is required to support a built form scale that is consistent with overall built form, urban design and amenity outcomes for the Central City.
- The boundary of the 'Precinct 2 Queen Victoria Market', as identified in the map in Clause 21.12, should include only the QVM and DPO11 area.

**(v) Recommendation**

The Panel recommends:

**15. Include the following strategic direction in Clause 21.12 Hoddle Grid, under Built Environment and Heritage:**

**Ensure that development form and scale in the area south of the Queen Victoria Market achieves built form, urban design, and amenity outcomes consistent with those sought for the Hoddle Grid.**

**16. Amend the boundary of the 'Precinct 2 Queen Victoria Market' to include only the Queen Victoria Market and Development Plan Overlay Schedule 11 area.**

**7.2 Clause 22.02, DPO11 and DDO14 – Sunlight to Public Spaces**

**(i) The issue**

The Amendment seeks to ensure that new development in the QVM Precinct allows good sunlight to public spaces, in particular the proposed public park and the nearby Flagstaff Gardens. The latter was included, as a condition of authorisation of the amendment. Specifically, it seeks to provide sunlight to public spaces when most warranted, that is in the winter months. Sunlight provisions are included in Clause 22.02, which relates to overshadowing controls protecting the Flagstaff Gardens, and in DPO11 and DDO14, which relate to the proposed public open space in addition to the Flagstaff Gardens. The DPO and DDO sunlight provisions will be discussed in this Chapter, as evidence and submissions were relevant to Clause 22.02, DPO11 and DDO14.

The issues raised in submissions were:

- whether the proposed changes are appropriate, workable and flexible enough to allow for future development
- whether any other consequential changes are required to give effect to the policy intent, specifically in relation to consistency with DPO11 and DDO14.

**(ii) Evidence and submissions**

The exhibited version of the proposed changes to Clause 22.02 is referred to in this report. It states:

*New development should not cast any additional shadow across Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June.*

The exhibited version of DPO11 states:

*New development should not cast a shadow across the proposed public open space in Figure 1 between 11.00 am and 2.00 pm on 21 June, unless the*

*Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the proposed public open space.*

*New development should not cast any additional shadows across Flagstaff Gardens between 11.00 am and 2.00 pm on 22 September (Panel emphasis).*

*A Development Plan must include the following*

- *A development concept plan that includes*
  - *Shadow diagrams for the hours between 11.00 am and 2.00 pm at the Winter Solstice (21 June) demonstrating any shadow imp[acts on the proposed public open space.*

The proposed wording in DDO14 also reflects the DPO above stating:

*New development should not cast any additional shadows across Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June. (Panel emphasis)*

Clause 22.02 already provides mandatory overshadowing protection for significant public spaces including Federation Square, City Square, Queensbridge Square, State Library Forecourt, Parliament House Steps and Forecourt, and the Shrine of Remembrance. Council submitted that the changes to Clause 22.02 would ensure that the Flagstaff Gardens would continue to receive sunlight at the winter solstice. Ms Brennan, appearing for Council, reiterated that it was appropriate to protect the Flagstaff Gardens, albeit with a discretionary measure, as is the case in DDO10 (C262).

Ms Heggen gave evidence that included a comprehensive shadow angle study for the QVM Precinct<sup>60</sup>, showing existing, approved and projected maximum development under the proposed DPO11, at different times of the day and year. The diagrams demonstrate that some additional shadowing at 11.00 am at the edge of the Flagstaff Gardens will occur under DPO11. Ms Heggen stated that in her view this was only a minor encroachment, in the order of several metres in a horizontal direction, from potential development at Parcel D. The diagrams also show that an appreciable shadow will be cast at the winter solstice from a recently approved application at 306-412 William Street.

In her evidence, Ms Heggen stated that for the Flagstaff Gardens “... *it is appropriate for the control to consider impacts in the middle of the day at the winter solstice, but with discretion for an assessment to be made about the impact of any shadow, including which parts of the gardens are affected.*”<sup>61</sup>

Mr Sheppard agreed that the solar access requirement for Flagstaff Gardens in the DPO should be amended to the winter solstice, and added that development that merely overshadows the eastern embankment edge of the gardens is not necessarily precluded. He recommended:

- *the solar access requirement for Flagstaff Gardens in the DPO be amended to winter solstice*
- *the ‘amenity provision’ in the be added to the Flagstaff Gardens overshadowing requirement in the DPO*

<sup>60</sup> Document 19

<sup>61</sup> Evidence by Ms C Heggen, Message Consultants Page 15, para 1.

Council submitted the recently completed Central City Built Form Review<sup>62</sup> by DELWP, which established a ‘hierarchy’ of key public open spaces subject to specific overshadowing protection, based on their role, function and usage as follows:

- *‘Premier and iconic key public spaces of metropolitan and State significance, that make a critical contribution to Melbourne’s character and cultural identity, warrant specific mandatory overshadowing protection*
- *Important key public spaces of local and/or metropolitan significance, that make a significant contribution to the Central City’s character and amenity, warrant specific discretionary overshadowing protection’ (Panel emphasis).*

The DELWP review identifies various ‘Parks and Gardens’, including Batman Park, Treasury Gardens, Parliament Gardens and Birrarung Marr as warranting specific discretionary controls. The DELWP review did not include the Flagstaff Gardens as built form in the study area will not impact on this public space, and only built form in the C245 area will impact on Flagstaff Gardens. However, in submitting this document, Council recommended Flagstaff Gardens also be treated with same specific discretionary controls as the Parks and Gardens listed.

When questioned by the Panel on this matter, both Ms Heggen and Mr Sheppard agreed that the Flagstaff Gardens also fell into the second category of the hierarchy warranting discretionary controls. Council further submitted an arborist officer report<sup>63</sup> that stated that the additional shadow cast by the maximum DPO building envelope over three mature elm trees “... is minor ...” and the trees “... are expected to be leafless for the period from June to September. Shadowing at this period is not expected to affect tree growth or function.” This advice also confirmed that the sports courts and Bowling Club would not be affected. No other submissions were made on this provision.

### **(iii) Discussion**

The variation in reference to the September equinox within DPO11 and June winter solstice DDO14 was identified and acknowledged as a discrepancy to be resolved. The Panel accepts Council’s submission that both controls should reference the June winter solstice.

In relation to the proposed open space within QVM, the Panels accepts the advice from experts that a discretionary measure for protecting the sunlight amenity to the proposed public open space is workable and warranted. Any structure at development Parcel C will invariably cast a morning shadow to the eastern adjoining edge of the new public open space. Minimising these impacts by setting a discretionary measure at the winter solstice will ensure that morning overshadowing in the cooler months will not adversely affect the overall use and enjoyment of this proposed public open space.

The Panel notes that the advice from Council describes the Flagstaff Gardens as particularly significant for their connection to the early history of Melbourne and listed on the Victorian Heritage Register.<sup>64</sup> The Panel agrees that both the Flagstaff Gardens and the proposed

<sup>62</sup> Central City Built Form review Overshadowing Technical Report DELWP

<sup>63</sup> Document 33

<sup>64</sup> Ibid

QVM public open space warrant protection at the winter solstice between 11.00 am and 2.00 pm, and that it is appropriate for both DPO11 and DDO14 to include this as a discretionary control.

The Panel agrees that both the Flagstaff Gardens and the proposed public open space will be significant in terms of ongoing amenity provision for city residents, workers and visitors in this part of the City. This is particularly relevant in terms of expected numbers of increased residents and visitors as well as expected increased patron numbers to the QVM. As increased density (built form and population) is expected to rise in coming decades, and is indeed central to Government policy (Plan Melbourne, state and local policies), the requirement for protection of public open space overshadowing amenity is, in the view of the Panel, warranted. The Panel believes this is supported by the Government overshadowing technical report<sup>65</sup>, the significance of the Flagstaff Gardens and the anticipated role the proposed public open space will have for the QVM patrons and surrounding residents, workers and visitors to this part of the city.

The eastern edge of the Flagstaff Gardens is a popular and much frequented walking track and with pause points that will already be negatively affected from an appreciable increase in overshadowing in the mornings of winter months by the recently approved development. The Panel views this outcome as unfortunate and views the proposed control will assist in ensuring future sunlight amenity receives greater protection during the winter months. While the Panel is not recommending mandatory measures, the discretionary provision should allow for a balance between development in the Precinct and the protection of sunlight to the Flagstaff Gardens during sunny winter mornings when it is most warranted.

#### **(iv) Conclusions**

The Panel concludes that:

- It is appropriate to provide shadowing protection to the Flagstaff Gardens and the proposed public open space.
- All overshadowing requirements should relate to overshadowing between 11.00 AM and 2.00 PM on 21 June (winter solstice).
- All overshadowing provisions in DPO11 and DDO14 for the Flagstaff Gardens and the proposed QVM open space should be discretionary.
- It is appropriate to require that a permit may only be granted to vary this requirement if the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of Flagstaff Gardens and the proposed QVM open space.

#### **(v) Recommendation**

The Panel makes the following recommendation in relation to overshadowing:

##### **17. Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:**

- a) **New development should not cast a shadow across the Flagstaff Gardens or the proposed public open space in Figure 1 between 11.00 am and 2.00 pm**

<sup>65</sup> Document 35

on 21 June, unless the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the proposed public open space.

18. Amend 'Requirements for a development plan' in Development Plan Overlay Schedule 11 as follows:

- a) A Development Plan must include ... a development concept plan that includes shadow diagrams for the hours between 11.00 am and 2.00 pm at the Winter Solstice (21 June) demonstrating any shadow impacts on the proposed public open space and/or the Flagstaff Gardens, as relevant.

19. Include the following requirements in the Design and Development Overlay Schedule 14:

Buildings and works should not cast a shadow across the Queen Victoria Market proposed public open space or the Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June. A permit may only be granted to vary this requirement if the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the relevant open space.

## 8 The most appropriate zones

### 8.1 The issues

Are the proposed zone controls the most appropriate?

### 8.2 Evidence and submissions

Council submitted that:<sup>66</sup>

*The QVM and the Queen Street extension are to be rezoned to the Public Use Zone in recognition of their long-standing use for public purposes. The new zone will continue to facilitate the existing use and development of the land for purposes related to the ongoing operation of the QVM, differentiating it from the Mixed Use Zone (MUZ) or Capital City Zone (CCZ) land surrounding it.*

*The land to the south of the main QVM buildings, between Peel and Queen Streets, is proposed to be rezoned to PPRZ. This is to implement the State Agreement requirement and Master Plan proposal to relocate the existing at-grade car parking spaces within the 'Market Precinct' and convert the land to a new public open space.*

A small number of submissions suggested that the CCZ boundary should exclude the entire QVM Precinct, rather than just the area proposed on the basis that “*the location of the boundary was put in place by Council with no opportunity for community comment*”. The reasons for this suggestion were not clear, and no alternative was proposed. Council did not provide a detailed response apart from reiterating the purpose of the proposed zone changes as set out above.

Several submissions noted that the rezoning to PUZ will not enable them to appeal to VCAT if they oppose entertainment venues/licensed venues in the area, and that more entertainment in the area will increase unsociable behaviour such as graffiti and rubbish generation.

In response, Council submitted that, under the Public Use Zone, Section 1 (permit not required uses) must:

- *Be for the purpose described in the table to Clause 36.01-6 which corresponds to the notation on the planning scheme map.*
- *The use must be carried out by or on behalf of the public land manager.*

Council submitted that, although licensed entertainment such as the QVM night markets is allowed, entertainment and licensed venues would not fall within this definition, and the concerns expressed are therefore unfounded.

The rezoning of the proposed open space area to PPRZ was not strongly contested, and both Ms Heggen and Mr Milner gave evidence that the PPRZ would be appropriate for that land.

Another issue was whether the zoning over the market buildings should remain as CCZ, rather than PUZ as proposed.

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<sup>66</sup> Council Part A submission

The Friends of Victoria Market (The Friends) submitted that *“the existing planning controls, namely the CCZ1 zoning and DDO14 and various HO overlay controls, do not require amendment in order to effect the sorts of changes envisaged in the Masterplan.”* They submitted that the existing planning controls, including the DDO14 have been working well.

The Friends noted that Planning Practice Note No 2 (PPN2) provides guidance about the appropriate use of public land zones. The Friends noted that Council seems to rely on this Practice Note in justifying the application of the PUZ.

The Friends submitted that *“the Practice Note, however, states on p2 that:”*

*Land should not be automatically included in a public land zone simply because it is public land. There will be situations where a public land zone is not the most appropriate zone. Examples include roads and remnant parcels of public land in rural areas.*

*In such cases the use of other zones and overlays may appropriately recognise the purpose for which the land is reserved.*

*Many public authorities established under Victorian legislation are now government business enterprises which are commercial in nature. Where the public land use is essentially of a commercial or business nature (such as an office or the provision of services) or comprises a community facility, the surrounding zoning will usually be appropriate. For example:*

- *Although the public land zone makes provision for its potential application to public land used for the purpose of ‘education’, most schools could be included in surrounding zones, particularly residential zones.*
- *Many works depots or offices for government or local government bodies could be included in a business or industrial zone.*

*Where possible, to allow for competitive neutrality, similar private and public land use should be treated in the same manner for zoning purposes. For example, government schools should be zoned in the surrounding zone similar to private schools, unless there is a special reason which warrants the school being included within a public land zone.*

The Friends submitted that the QVM is a commercial enterprise undertaken by the Council and it is therefore *“contrary to competitive neutrality to justify the change in zoning in circumstances where the commercial nature of the QVM differentiates it from all the other sites zoned PUZ7”*.

The Friends submitted that the fact that the Council owns the land and that it is reserved for a public purpose is not of itself sufficient to justify the designation of the PUZ. Given the use of the QVM land, the Friends submitted that the CCZ1 zone permits the continued and ongoing operation of the QVM and that no change to the zoning is necessary in order to facilitate those activities into the future.

The Friends noted that in PPN2 under ‘Where should the public land zones be applied?’ it says that *“The principles are similar to those that apply to the Special Use Zone”*. They submitted that, the following principles set out in Practice Note No 3 (PPN3) are therefore relevant to the PUZ and need to be understood:

- *The complexity of planning requirements is reduced by keeping the number of zones used to a minimum.*
- *Planning scheme maps identify the statutory requirements which apply to land, not the particular land uses which happen to exist there.*
- *Detailed and complex site specific zones are discouraged in preference for clear policy guidelines as the primary tool for decision making on planning matters.*
- *The planning permit should be the principal method for land use or development approval.*

Having regard to the above criteria, the Friends submitted that:

- (a) The change in zoning to PUZ7 will just increase the complexity of the scheme*
- (b) The statutory requirements set out in the CCZ1 are appropriate and the underlying use and ownership of the land are irrelevant considerations for zoning purposes*
- (c) The CCZ1 has been in operation in respect of the site since the VPP schemes came into operation in 1996 and in conjunction with the policies in the MSS relating to the capital city zone give clear guidance as to the use and development of the QVM land*
- (d) The permit requirements of the CCZ do not impede upon the ongoing use or operation of the QVM*
- (e) The CCZ provides an appropriate planning outcome, when considered in conjunction with the other supporting state and local policies affecting the QVM.*

The Friends submitted that, should the land be rezoned PUZ7, any proposed public use could be broadly interpreted and, where a use can be linked to the market purpose, then it is a section 1 use under the PUZ.

Mr Milner also noted that there are no prohibited Section 3 uses in the PUZ (Clause 36.01-1).

Mr Milner gave evidence that:

*The Capital City Zone is accompanied by a local schedule that takes its purpose and location of application to another level of precision.*

*Neither zone specifically mentions QVM but the combination of the generic purposes of CCZ (Clause 37.04) and the specific purposes of the 1st Schedule reference uses, the international standing of the city (and by inference the market) and the built environment outcomes that resonate with direction and intent of the QVM Master Plan.*

*The Public Use Zone provides no direction.*

*It enables uses that must be carried out by or on behalf of the public land manager and must be for the purpose "Other Public Use".*



*How that is to be interpreted in the context of the QVM, the role of Melbourne City Council, the various parties that sell goods at the market or for other uses that might be made of the land is open to legal debate, diverse interpretation and is so imprecise to be almost unhelpful.*

Mr Milner noted the following extract from PPN2 on the application of the Public Land Zones:

*Public Land Zones are not intended to identify the legal status of the land nor indicate the existing land use. They are intended to set out appropriate statutory requirements, which apply to the use and development of the land in addition to the relevant land management legislation.*

*It is intended that the public land zone be applied to public land where the surrounding zoning is inappropriate or where there is a special reason to identify separately the public land for planning purposes.*

*A useful test in considering if a public land manager needs some level of flexibility, protection or exemption different from the surrounding zone.*

*I can find no analysis or documentation accompanying the amendment that suggests the land manager has been hindered or the market has been poorly served by the existing zoning of the land.*

*The CCZ has the advantage of clear distinctions between permitted, discretionary and prohibited uses, to keep the use of land focused upon the primary purpose.*

*Nothing is prohibited in a Public Use Zone, weakening its capacity to be 'fit for purpose'.*

Mr Milner concluded that the market should be retained in the *Capital City Zone, Schedule 1*.

Council replied that Mr Milner was not able to point to any problem with rezoning the QVM to PUZ7, and his evidence does not support the assertion that it will "not result in orderly or good planning outcomes".

Ms Heggen gave the following evidence in relation to this issue:

*The whole of the amendment area is currently within the Capital City Zone (CCZ1), which has the purpose to provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.*

*The amendment applies the Public Use Zone (PUZ 7 – other public use) to the market itself and the northern end of Queen Street in recognition of the long-standing use of the market for public purposes. It reflects the unique status of the market as a public amenity which fulfils more than a simple retail function.*

*The PUZ has as its purposes:*

- *To recognise public land use for public utility and community services and facilities.*

- *To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*

*The application of this zone will continue to facilitate the existing use of the land as a market and future development of the land for market and associated activities in line with the adopted QVM Master Plan and the objectives of the public land manager namely the City of Melbourne.*

*Whilst it could be argued that the QVM Master Plan activities and development can be achieved with the current zoning, I consider it appropriate to embed the public nature and civic importance of the market into the Planning Scheme and to differentiate it from surrounding areas within the land use/zoning framework.*

### 8.3 Discussion

The Panel agrees with Council and expert witnesses that the PPRZ is appropriate for that land that will become the public open space.

The Panel does not agree with submissions that proposed that the whole Precinct be removed from the CCZ. The Panel believes it is appropriate to retain the CCZ in the balance of the area outside the QVM not proposed to be rezoned on the basis that it has essentially the same land use characteristics of the Central City land further to south and east.

With regard to the area proposed to be rezoned to the PUZ7, the Panel is guided by PPN2 and PPN3. The Panel notes Council's intent to differentiate the market itself from the surrounding land uses but notes the guidance in PPN2:

*It is intended that the public land zone be applied to public land where the surrounding zoning is inappropriate or where there is a special reason to identify separately the public land for planning purposes.*

The Panel believes that the surrounding zoning, in this case CCZ has not been shown to be inappropriate, nor has there been an planning purpose given for the proposed rezoning.

PPN2 goes on to say:

*A useful test in considering if a public land manager needs some level of flexibility, protection or exemption different from the surrounding zone.*

The Panel agrees with the evidence of Mr Milner that no evidence has been presented that supports that a different level of flexibility, protection or exemption is required. In other words, this test is not met.

Council submitted (supported by the evidence of Ms Heggen) that the rezoning was "in recognition of their long-standing use for public purposes". PPN2 states, however, that:

*Land should not be automatically included in a public land zone simply because it is public land. There will be situations where a public land zone is not the most appropriate zone. Examples include roads and remnant parcels of public land in rural areas.*

*In such cases the use of other zones and overlays may appropriately recognise the purpose for which the land is reserved.*

The Panel concludes from this that 'recognition' of its long-standing public use is not a substantial enough reason to rezone the land.

The Panel does not accept the argument put by The Friends that rezoning to PUZ7 would offend competitive neutrality. The Panel believes that the retail offer of the QVM is generally quite different to that of any nearby retail businesses and so it would be a stretch to imply that rezoning the site to PUZ would provide any competitive advantage.

The Panel does, however, agree with The Friends submission that rezoning to the PUZ does make the scheme marginally more complex, and in that respect does not support that principle in PPN3.

The Panel accepts Mr Milner's evidence that a wider range of uses would be permitted as of right under the PUZ, however this would likely be tempered by the requirement: *"uses that must be carried out by or on behalf of the public land manager and must be for the purpose 'Other Public Use'"*. In short, the Panel believes it would amount to no practical difference in terms of the planning outcomes that would result.

The Panel also agrees with Mr Milner that there is some advantage with the CCZ in that it has clearer distinctions between permitted, discretionary and prohibited uses, but the Panel believes that this is only marginal.

It is not entirely clear to the Panel why The Friends are opposed to the PUZ, apart from concerns about the range of uses that may be available as of right. The Panel believes, however, that the issues that have been aired have exposed that the justification for rezoning to the PUZ is at best light on. On one hand the Panel can see that there may be value in differentiating the QVM site from surrounding uses, but on the other hand the Panel can see no compelling reason to change zones. The Panel agrees with The Friends and Mr Milner that no evidence was produced that the existing CCZ is causing any unintended planning outcomes on the QVM site, or that there is any need to provide any special protections that might be afforded through the PUZ.

In the circumstances, therefore, where the Panel has not been presented with an adequate case for a change of zone and there appears to be no detriment to retaining the existing zone, the Panel believes the existing CCZ should be retained for the area that was proposed to be rezoned to the PUZ.

## **8.4 Conclusion**

The Panel concludes:

- The proposed rezoning of the QVM car park currently zoned Capital City Zone (CCZ1) to Public Park and Recreation Zone (PPRZ) is supported.
- The proposed rezoning of the majority of the QVM land and Queen Street extension currently zoned Capital City Zone (CCZ1) to Public Use Zone (PUZ7) is not supported.
- The proposal to retain the CCZ on the balance of the QVM Precinct is supported.

## 8.5 Recommendation

The Panel recommends:

- 20. Abandon the proposed rezoning of the majority of the Queen Victoria Market land and Queen Street extension from Capital City Zone (CCZ1) to the Public Use Zone (PUZ7), and retain this land within the current CCZ1.**

## 9 Other issues raised in submissions

### 9.1 Governance

#### (i) The issue

Should the Council be the responsible authority?

#### (ii) Evidence and submissions

A number of submitters including The Friends of Victoria Market submitted that Council have a conflict of interest as both the landowner and the responsible authority for administering the planning scheme.

The Friends submitted that<sup>67</sup>:

*The Council has not prepared this Amendment in its capacity as an objective responsible authority. Its judgement has been coloured by the development imperatives for the four development parcels set out in Figure 1 for the DPO11.*

*This is evidenced by the instructions provided to the Council's experts, notably Mr Sheppard, Mr Lovell and Ms Heggen to focus on issues arising from the imposition of the DPO11.*

*While the Council acknowledges its dual roles in this Amendment, the Friends note that the change in approach of the Council since the Pageorgiou case in 2013 is extreme.*

*The Friends say that in such circumstances, it is incumbent on the Council to act in a model way and the Friends say that its disclosure of its plans for Precincts A and D are wholly lacking.*

Council responded<sup>68</sup>:

*It is appropriate that the Minister be the responsible authority for approval of any Development Plan or permit application under DPO11, to ensure that no perception of conflict arises having regard to Council's substantial land holding within the QVM Precinct. Given the size of Council's landholdings and likely consequential floor area of development, the Minister was likely to be the responsible authority for approvals under clause 61.01 in any case. However, for the avoidance of doubt and in light of the Ministerial role identified for other DPOs in Melbourne, it is proposed to make that authority explicit.*

*Any development within the area covered by HO496 falls to be assessed by Heritage Victoria given the inclusion of QVM on the Heritage Register.*

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<sup>67</sup> Friends of Victoria Market submission to the Panel Hearing

<sup>68</sup> Council Part B submission

Ms Heggen supported that the Minister for Planning should be the responsible authority for approval of Development Plan and planning permits on the basis that it would lead to *“Improved decision making and governance because the City of Melbourne is a major land owner”*.

**(iii) Discussion and conclusion**

The Panel accepts that there could be a perceived conflict with Council’s dual roles as landowner and responsible authority.

The Panel agrees that the Minister for Planning should be nominated as the responsible authority for approval of any Development Plan or permit application under DPO11.

**(iv) Recommendation**

The Panel recommends:

- 21. The Minister for Planning assume the status of Responsible Authority for approval of any Development Plan or planning permit application under Development Plan Overlay Schedule 11.**

## **9.2 Wind**

**(i) The issue**

The issue is whether the proposed wind amenity provisions are appropriate.

**(ii) Evidence and submissions**

Council have included wind amenity provisions in the proposed DPO and DDO to ensure that minimum stationary and pedestrian wind exposure levels are considered in all new development applications in the QVM Precinct. Council submitted that these provisions were required in order to ensure future development does not adversely affect public amenity in terms of local and site specific wind effects. The proposed measures include discretionary provisions in both controls that limit wind exposure to:

- 13 metres per second / generally acceptable for short term stationary wind exposure
- 16 metres per second / generally acceptable for exposure when walking.

The short term exposure measure is applicable to areas that adjoin public open spaces, cafes and outdoor restaurants as well as frontages in the DPO – namely the proposed public open space, Therry Street, Queen Street, the southern side of New Franklin Street, Peel Street, as well as areas planned for short term stationary uses in the DDO. The higher measure of 16 metres per second applies to areas of pedestrian thoroughfare and not areas planned for stationary use. Both controls include a requirement that a ‘wind effects assessment’ be undertaken and submitted with any development plan application, demonstrating that wind impacts will not adversely affect the amenity of the public realm.

Council called on the expert evidence of Mr Eaddy who described Melbourne as a windy city located in the Roaring Forties. In his evidence<sup>69</sup>, Mr Eaddy stated that the QVM is very exposed to wind, and that:

*The location of the Queen Victoria Market would mean it has high exposure to the strong and frequent west to north-northeast wind directions over the lower building of North and West Melbourne.*

*Previous wind tunnel model studies have shown, with the above exposure, that the existing wind conditions within the DPO11 zone would not achieve the long term stationary criteria for all wind directions at all locations.*

Mr Eaddy stated that a number of factors influenced wind conditions at street level including podium heights, tower setbacks, form (whether rectilinear or curved, elliptical towers) as well as tower separation and orientation (with examples such as Melbourne Central and Rialto towers being orientated at 45 degrees to the street grid). With respect to podium heights, in his view “...if you build a 40 metre high podium in these streets, you will not meet the criteria.”<sup>70</sup> Mr Eaddy also stated that:

*The minimum podium height, 10 metres or 20 metres, could still be too high to allow the required pedestrian comfort criteria, particularly near building corners, to be achieved and we agree the minimum podium height should be discretionary.*

Mr Eaddy also gave evidence that wind mitigation strategies such as continuous weather protection such as canopies along the footpaths of Therry Street and Queen Street would be supported. However, street trees and landscaping are not to be relied upon as part of wind mitigation strategies.

In summary, Mr Eaddy recommended that at least a preliminary wind assessment should be carried out at the development plan stage in order to provide some guidance on the form of buildings that may work on a site. He accepted, however, that detailed wind assessment can only be carried out at the planning permit stage once more detailed building designs are available.

His recommendations included retaining the requirement for continuous weather protection and discretionary provisions for tower separation and setbacks, and podiums built to street edges in order to meet required wind comfort criteria during the design phase in addition to the following:

- *Support for the environmental wind comfort criteria for the DPO11 and would propose to include a long term stationary criterion as a requirement for certain types of activation for example long exposure activities.*
- *A mandatory minimum podium height should not be defined as this will be determined by the requirement to meet pedestrian comfort criteria*

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<sup>69</sup> Expert Environmental Wind evidence by Mr Eaddy

<sup>70</sup> Oral evidence at Panel Hearing by Mr Eaddy, Day 2

- *The mandatory maximum podium height at the street frontages would be academic since it would not be possible to achieve the required pedestrian comfort criteria with podiums of the required maximum height*
- *The mid-block laneways will require effective seals for wind and the requirements should consider this feature and define required criteria for the laneways*
- *The requirement for a 'wind effects assessment' should be changed to a requirement for a 'wind tunnel model study' that demonstrates that wind impact will not adversely affect the amenity of the public realm and achieve the required pedestrian and stationary wind comfort criteria at the planning permit application stage and not at the Development Plan stage.*

Mr Sheppard recommendations included that the “*requirement for a development plan to include a wind effects assessment that demonstrates that wind impact will not adversely affect the amenity of the public realm*” would be better required as part of the information for a planning permit application.

Ms Hicks, Counsel for Tramere, cross examining Mr Eaddy, asked whether he had looked at a 40 metre high podium proposition for Queen Street with which he replied he had “*...and that a 40 metre high form was awfully tall for this exposure and that you would not meet the wind criteria requirement*”. This assessment was provided to Council and modelling included options to cut corners, lower podium and various tower shapes. Mr Eaddy also stated that there was no optimum tower separation dimension, and that it depended on their forms. Ms Hicks submitted a Wind Tunnel Model by Mr Eaddy’s consulting firm MEL Consultants, of the 100 Franklin Street development,<sup>71</sup> which shows proposed wind conditions have been shown to meet similar wind conditions at the Franklin Street and Elizabeth Street intersection. In his evidence,<sup>72</sup> Mr Crowder also raised concerns for wind turbulence due to exposure of buildings adjoining open space and low rise building of QVM.

### **(iii) Discussion**

The Panel understands that there are a number of challenges and conflicting design imperatives in the DPO and DDO with respect to wind mitigation as would be expected in any precinct of this nature and scale, particularly in Melbourne. Based on the evidence provided by Mr Eaddy, the Panel is of the view that the proposed wind amenity provisions are workable and flexible enough for inclusion in the Amendment. Wind impacts from high urban forms and increased density, particularly in the Central City and the QVM Precinct are a significant amenity issue and the Panel agrees with Mr Eaddy’s recommendation that consideration should be given to wind impacts early in the design phase. The Panel agrees, however, that it is not practical to make a wind effects statement a requirement of the Development Plan.

The Panel notes Mr Eaddy’s recommendation for wind mitigation strategies to be included at laneways by way of setting criteria and possible strategies such as air seals. If not, these laneways (and for that matter pedestrian links in general) could become hostile urban

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<sup>71</sup> Document 38

<sup>72</sup> Expert Town Planning evidence by Mr Crowder on behalf of the Burbank Group of Companies



environments that will work against a key aim of the market renewal project, namely to increase accessibility to the QVM through increased pedestrian patronage and visitors. It will also help ensure that the expected increased number of nearby and local residents will be drawn to the area through enhanced amenity considerations. The Panel also accepts Mr Eaddy's evidence in terms of a 10 metres per second long term exposure criteria for areas proposed for outdoor events and outdoor restaurants, but also notes that, given existing wind conditions in this location, this may not be achievable through building design alone and may require addition street furniture or wind mitigation techniques.

The Panel agrees that it is appropriate for DPO11 and DDO14 to include requirements for development to be designed to meet the short term stationary and walking exposure criteria. However the Panel is not prepared to prescribe specific design measures or an additional requirement for building design to meet the long term stationary criteria. Instead, the Panel believes that the general requirement in the vision of the DPO11 and Objectives and Decision Guidelines in DDO14 to consider the potential wind impacts on the amenity of the public realm will ensure that wind impacts are appropriately considered and mitigated where long term stationary activities are proposed.

#### **(iv) Conclusions**

The Panel concludes:

- The proposed wind exposure criteria for stationary and pedestrian criteria set out in the DPO and DDO is appropriate and warranted.
- In considering effects on the 'amenity of the public realm', the Responsible Authority should take into account the 10 metre per second environmental wind criteria, where it is proposed that stationary, long exposure activities (outdoor restaurants and cafes, theatres – longer than 15 minutes) are to occur.
- The requirement for a wind effects assessment should be changed to the requirement for a wind tunnel model study. This should be included in the DPO and DDO as a requirement of the planning permit, demonstrating the required wind comfort criteria will be achieved.

#### **(v) Recommendation**

The Panel recommends the following:

##### **22. Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:**

**A permit application must include ... a wind tunnel model study that demonstrates that wind impacts will not adversely affect the amenity of the public realm.**

##### **23. Amend 'Decision Guidelines' in Design and Development Overlay 14 as follows:**

**... the Responsible Authority must consider, as appropriate ... the wind effect at ground level of the development as demonstrated by a wind tunnel model study.**

### 9.3 Parking issues

#### (i) The issues

Does the Amendment appropriately address parking issues raised in submissions?

#### (ii) Evidence and submissions

A number of submitters including The Friends of QVM, Ms McKinna and Ms Howie raised concerns about the loss of customer car parking and the resulting impact on the viability of the Market.

Ms Howie submitted:

*Where do customers park?*

*In terms of parking loss we can say goodbye to on-street parking in Franklin and Queen Streets. We constantly hear throw away lines that parking will be located in the Munro site (so said Professor Adams in his presentation), without giving any further detail.*

*Traders have identified this as a key issue that will make or break the market as we know it. If it is possible to put the car park in the Munro site, where & how will customers easily access it.*

Ms McKinna submitted:

*The viability of the QVM largely rests on the availability of nearby cheap parking. While we understand the broad content of the MOU between the MCC and the State Government re the removal of the surface car parking on top of the old cemetery we are concerned at the suggestion that the redevelopment of the Munro site also provide 720 replacement parking spaces due to the congestion this could cause on Queen Street, Therry Street and Elizabeth Street, and our desire for the QVM Precinct to continue be largely a 'pedestrian friendly' neighbourhood.*

The Friends of QVM submitted:

*Insofar as car parking is concerned, the need for convenient car parking is still required and Council has provided that the car parking yield that presently exists will be relocated and used for that purpose either in Precinct A or D. The Friends say that the devil is in the detail and they are unable to say how or if the relocating car parking will provide a similar degree of amenity to the existing carpark area.*

Other submitters were concerned about the approach of allowing reduced car parking rates for high-rise developments, which puts significant pressure on minimal on-street parking. In contrast, another submission argued that Council should consider apartments without car parking facilities, as the area is very well serviced by public transport.

Council responded that there will be no change to the number of car parking spaces currently provided within the Precinct.

*A requirement in DPO11 states the existing 720 car parking spaces associated with the Queen Victoria Market located within the proposed public open space and New Franklin Street should be relocated to Parcels A (Munro site) and/or D (Southern Development sites).*

*The Amendment does not propose any change to the CBD parking regime.*

Ms Dunstan's expert evidence provided an analysis of existing car parking at QVM. The surveys undertaken as part of her analysis showed that the existing on-site QVM car park is not fully utilised on any day, with typically 100 spaces free even at peak usage times on weekdays and on Saturdays. The car park comes closest to capacity on Sundays when parking is free.

Ms Dunstan gave evidence that:

*The replacement of this car parking in the location most proximate to the QVM will ensure the same level of accessibility to the QVM by car as is currently provided. I note that the replacement of the current QVM car parking (720 spaces) elsewhere within the Precinct is an obligation on Council under the agreement with the State Government.<sup>73</sup>*

Ms Dunstan also examined the on-street car parking in Franklin Street between Queen Street and Peel Street (which will be lost as part of Parcel D redevelopment), noting that it is in relatively low demand during the week. She noted that this is probably due to the location being further from the Market and having higher fees. Again, the exception is Sunday, when parking is free.

In relation to on-street car parking, Ms Dunstan commented:

*Reconfigurations of various roads within the Precinct may result in changes to the supply of on-street parking (gain or loss of parking). The key on-street parking resource to be affected will be the on-street parking within Franklin Street.*

*Notwithstanding the potential removal of the on-street car spaces on Franklin Street, the use of these car spaces was observed to be low (see Section 4.3.1) at most times, except on Sunday market days when these spaces offer free parking (and are therefore cheaper than the more proximate QVM carpark). I am satisfied that the replacement or otherwise of these car spaces is not a significant concern from a parking management perspective.<sup>74</sup>*

Ms Dunstan noted the requirement in the proposed DPO11 to restrict vehicle access to car parks in development sites from Therry Street, Queen Street or Franklin Street "where vehicle access via an alternative frontage is possible". She noted that this is problematic for the development of the Munro site that would require access from Therry Street. She gave evidence that the proposal to locate car park access points as far as possible from the Queen Street/Therry Street intersection "sensibly manages the competing objectives of vehicle access verses a high quality pedestrian environment, by minimising the extent of the Munro

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<sup>73</sup> Ms Dunstan's evidence statement p41

<sup>74</sup> Ibid p42

*Site's frontages (which constitute the high pedestrian activity areas, particularly at the Queen Street/Therry Street intersection) that vehicular traffic traverses along".*

**(iii) Discussion**

The Panel acknowledges the concerns of submitters about the importance of easy access to parking to serve customers of the Market. The Panel accepts the submission of Council and the evidence of Ms Dunstan that the proposed DPO11 appropriately includes a requirement to replace the existing on-site QVM car park in full, on Parcel A or Parcel D. Provided that the replacement car parking is conveniently accessible, well signed and protected from usage by non-Market customers, the Panel is satisfied that the proposal will not impact on the viability of the Market. Ensuring these outcomes is a matter for detailed design and permit consideration.

The Panel supports the requirement to minimise the impact of car park entrances on key pedestrian areas, and notes Council's intention to locate the car park access to the Munro site as far as possible from the Queen Street/Therry Street intersection. Again, these are issues to be analysed at the permit stage.

The Panel notes that there will be changes to on-street parking, with a likely loss of overall on-street parking. Given the high level of restriction on existing on-street parking, and the underutilisation of the Franklin Street car park, the Panel agrees with the evidence of Ms Dunstan that it is not a significant concern.

**(iv) Conclusion**

The Panel concludes that the proposed Amendment appropriately addresses parking issues.

## **9.4 Traffic and pedestrian amenity issues**

**(i) The issue**

Does the Amendment appropriately address traffic and pedestrian amenity issues raised in submissions?

**(ii) Evidence and submissions**

A number of submitters raised concerns about the proposed realigned 'New Franklin Street'. Most concerns related to increases in traffic as a result of the more direct connection to Dudley Street, and the impact that this may have on the pedestrian environment of the Market and the amenity of Franklin Street residents.

The developer of 386-412 William Street is concerned that its access to the site off the current Franklin Street will be significantly impacted (traffic assessment attached to submission), and requested that two way traffic along Franklin Lane be considered.

Other submissions raised concerns about the increased traffic from increased development in the area, and general concerns about preserving the accessibility for pedestrians.

Council responded that the final design and form of the proposed New Franklin Street is currently being developed and will address many of the concerns raised by submitters.

*To support Amendment C245 the City of Melbourne engaged Movendo traffic consultant to prepare Melbourne CBD North Edge Traffic Study April 2015. This report includes a concept design for new Franklin Street which provides one lane in each direction with generous footpaths and on street bicycle lanes. Specific design and speed treatments will be incorporated into the design of the New Franklin Street to ensure that it does not become a busy thoroughfare for vehicles.*

*It is proposed that New Franklin Street will be a local city road that operates as other local city roads do throughout the municipality. These roads are designated with low speeds of 40 kilometres per hour, and carry high numbers of pedestrians with wide footpaths and safe crossing points for all users.*

*A key aim through the Queen Victoria Market Master Plan is to ensure that the QVM is a more pedestrian friendly environment.<sup>75</sup>*

Ms Dunstan, in her expert witness report, reviewed the traffic issues across the broader road network and the preliminary design work that has been done for New Franklin Street. She concluded that the proposed arrangement would produce net benefits for the road network and “not lead to unreasonable congestion on any one link”. She also reviewed the likely traffic impact of relocating the QVM car park, concluding that, while local traffic changes may be required, the impacts are resolvable at the detailed design stage.

Ms Dunstan included the following conclusions in her expert evidence:

- *the requirements of DPO11 are appropriate and necessary inclusions to ensure the traffic and parking impacts of the Queen Victoria Market Precinct (‘QVM’) Renewal are suitably managed*
- *the realignment and reconfiguration of Franklin Street provides numerous benefits to pedestrians, cyclists, public transport services, QVM and the broader road network*
- *the increased level of through traffic in the realigned Franklin Street is relatively modest and manageable*
- *the configuration of the new Franklin Lane has yet to be finalised, however I am satisfied that a suitable design solution can be found that addresses the issues raised in the submissions*
- *the relocation of the 720 car spaces within the QVM carpark to the Munro Site (Parcel A identified in DPO11) (‘Munro Site’) provides convenient and accessible car parking for QVM without compromising the sustainable transport objectives of Melbourne City Council*
- *the traffic impacts of relocating the QVM carpark can be suitably managed when the Integrated Transport Plan required by DPO11 is prepared.*

### **(iii) Discussion**

The Panel notes that New Franklin Street will require careful design to limit its capacity and attractiveness as an east-west link across the City. The Panel agrees with submitters that,

<sup>75</sup> Council Part A submission

without this limitation, the increased traffic could impact the amenity of the QVM Precinct. The Panel, however, accepts the advice of Ms Dunstan that the design proposed by Council will adequately achieve a balance between providing convenient vehicle access to the QVM Precinct and preserving the amenity of the Precinct.

The requirements included in DPO11 aimed at providing pedestrian amenity, along with the requirements for both an integrated transport plan and a road management plan appropriately address traffic and pedestrian amenity issues arising out of the QVM redevelopment project.

**(iv) Conclusion**

The Panel concludes that the proposed Amendment appropriately addresses traffic and pedestrian amenity issues.

## **9.5 Public transport issues**

**(i) The issue**

Does the Amendment appropriately address public transport issues raised in submissions?

**(ii) Evidence and submissions**

The Public Transport Users Association (PTUA) made submissions in relation to the proposed relocation of a tram stop, changes to tram and bus services to the market. PTUA also noted that the functionality of the bus terminus needs to be retained in the plans for QVM.

Council noted that the functionality of the bus terminus will be retained, with capacity to expand in the future.

Ms Dunstan noted in her evidence:

*DPO11 does not include specific requirements relating to public transport services, however the Integrated Transport Plan requires an assessment of the transport, traffic, pedestrian and bicycle access needs of development. This requirement relates to how pedestrians access public transport stops in the nearby area, rather than the capacity of the public transport system as a whole.*

*The realignment of Franklin Street will result in the relocation of the existing bus stops on the south side of Franklin Street, just east of Peel Street. These stops are expected to be replaced on the new alignment of Franklin Street and will be a significant upgrade from the current facilities. This will also bring this facility closer to the heart of QVM.*

**(iii) Discussion and conclusion**

The issues raised in relation to public transport are largely outside the scope of the Amendment. The Panel notes the action being taken to relocate the bus terminus as part of the implementation of the QVM redevelopment.

The Panel concludes that there are no issues of concern in relation to public transport arising out of the Amendment.

## **9.6 Environmental assessment**

The Panel notes the significant track record of the City of Melbourne in producing leadership buildings and spaces that have set a high benchmark for local and capital city governments both in Victoria and nationally, particularly under the stewardship of long standing directors in Council. The Panel anticipates high environmental and sustainability outcomes for development in the QVM Precinct, particularly those procured by the City of Melbourne, and supports the inclusion of various ecologically sustainable design measures and requirements in the proposed DPO and DDO.

## **9.7 Archaeology and indigenous cultural heritage**

### **9.7.1 Archaeological evidence**

The Panel received expert archaeological evidence from Professor Richard Mackay, of Mackay Strategic, relating to the Amendment called by Council. The archaeological context of the QVM is of high significance due the sensitive nature of extensive archaeological remains that are present. The southern portion of the Old Melbourne Cemetery was located at the current QVM at grade car park and Franklin Street Stores Buildings, which was used for burials from 1837 to 1917 (when the final remaining section of the Old Melbourne Cemetery was resumed for market purposes through the *Melbourne General Markets Land Act 1917*). In effect, the proposed new public open space and location of New Franklin Street will be sited over this land.

It is estimated that up 7,500 burials remain at the site, and Professor Mackay recommended that further archaeological investigation is undertaken during work in creating the proposed public park and associated civic works. Professor Mackay also recommended that opportunities to recognise, understand and interpret the history of the site were taken up by Council in the QVM renewal project to regenerate community understanding, recognition and commemoration. Professor Mackay did not appear at the Hearing and his evidence was uncontested. The Panel accepts the evidence in full.

### **9.7.2 Indigenous cultural heritage**

The Panel received indigenous cultural heritage evidence called by Council from Mr Jonathon Howell-Muers, Executive Director of Andrew Long and Associates. The evidence relates to Aboriginal history of the area, specifically that there are Aboriginal remains buried at the Old Melbourne Cemetery site and that Aboriginal items were discovered at the Munro site. Mr Howell-Muers' evidence gave a brief overview of the significance of Aboriginal cultural heritage and the legislative framework governing strategies and actions for future development in the QVM Precinct.

Mr Howell-Muers did not appear at the Hearing and the Panel accepts his evidence, which was uncontested.

## 9.8 Consultation

### (i) The issue

Has appropriate consultation taken place on the Amendment?

### (ii) Submissions

A number of submitters including the National Trust, The Friends of the QVM, Mr Echberg, and Ms Pyke raised concerns about the consultation carried out by Council on the Amendment. Some submitters considered that the Amendment sets out insufficient detail about the form of new developments and, in particular, street design and redevelopment of the Munro site.

Other submissions raised concerns that the Amendment will give the Council a high degree of discretion in respect of the final form of the redevelopment, with no further formal opportunity for consultation with the community. They submitted that Council should be required to seek further planning approval.

Another submitter is concerned that DPO11 has the effect of exempting a planning permit application from notice and review if it is generally in accordance with an approved plan.

A number of submissions object to the lack of professional urban design analysis and consultation during the development of the Amendment, and consider that no credible justification is included in the Amendment documentation for such a radical change of direction.

Council responded that Amendment C245 implements the vision set out in the *Queen Victoria Market Precinct Renewal Master Plan*. The Master Plan was subject to a comprehensive and fulsome public consultation which included three phases of consultation.

Similarly, Council submitted:

*Amendment C245 has been subject to a comprehensive program of public consultation. Approximately 16,000 letters were sent to owners and occupiers of land within and surrounding the Queen Victoria Market Precinct, notices were published in a range of newspapers and copies of all amendment documentation were made available through the Participate Melbourne website and at Council offices. The public exhibition of the Amendment included two public meetings at which the Amendment was explained, as well as the opportunity for one-on-one discussions and explanations by Council officers.*

Council submitted that the Amendment sets out an appropriate level of detail to guide built form and development proposals going forward.

As discussed in Chapter 9.1, Council has agreed that it is appropriate for the Minister for Planning to be the Responsible Authority for approval of any Development Plan or permit application under Development Plan Overlay Schedule 11.



**(iii) Discussion and conclusion**

The Panel is satisfied that the consultation processes employed by Council in both developing the QVM renewal Master Plan and exhibiting the Amendment are appropriate and have provided a reasonable opportunity for all potentially affected parties to be properly informed.

**9.9 Social Housing**

Council submitted that, as part of the comprehensive redevelopment by the City of Melbourne of land it owns, they will:

*... consider including up to 15 per cent of dwellings constructed being made available as affordable housing to a registered Affordable Housing Provider.<sup>76</sup>*

This measure is part of Goal 1 in the Council housing strategy that aims to help provide at least 1721 affordable homes (subsidised) for low and moderate income earners by 2024. Ms Brennan clarified that, for this Amendment, this measure applied only to Council owned land at Parcels A and D, and would therefore not include Parcel B. These aspirations by Council were in response to an earlier 2003 report that found declining housing affordability was due to: a declining number of affordable housing options available for vulnerable community members; poor access to affordable housing for low income workers; and rising costs of housing outpaced growth and inflation.<sup>77</sup>

The DPO includes a reference to social housing considerations and states:

*Where dwellings are proposed on land owned or controlled by the City of Melbourne, consideration should be given to incorporating affordable housing.*

The Panel did not hear any further evidence on this issue but believes that the Amendment could have included more targeted actions directly related to the housing strategy, as opposed to the discretionary clause expressed in the DPO.

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<sup>76</sup> *Homes for People Housing Strategy 2014-2018*, City of Melbourne (Issue 8, 2015) p5

<sup>77</sup> *Future Living*, City of Melbourne (2013)

## Appendix A Submitters to the Amendment

Number	Name	Organisation
1	David Tweed	National Exchange Pty Ltd
2	Nicholas Dow	Melbourne Bicycle User Group
3	Serge Roujnikov	
4	Richard Webb	
5	Frances Separovic	
6	ZhengYao Jia	
7	Janet Doyle	
8	Tony Morton	Public Transport Users Association
9	Barry and Susan Ziebell	
10	Meng Miao	
11	Guosen He	
12	James Henry	Housing Choices Australia
13	Mary-Lou Howie	
14	Elizabeth Grgacic	
15	Mick Brancatisano	
16	Sarah Butterfield	
17	Anna Epstein	
18	Kim Yoon Thong	
19	Margot Burrows	
20	Andrew Wong	
21	Sarah Wong	
22	"Boo Radly"	
23	Kathy Greening	
24	Jillian Bamforth	
25	Melody Powell	
26	Emma Demaine	VicTrack
27	David Legge and Bona Seo	
28	Ray Culvenor	
29	Renato Ferreira	
30	Mark Chicoine	
31	Paul Milo	

Number	Name	Organisation
32	Ronaldo Lubong and Rowen Angayon	
33	Nelson Estrella	
34	Bruce Echberg	
35	Phil Rounsevell	
36	Louis Christou	Christou Real Estate
37	Tom Carson	Abode Restoration Pty Ltd
38	Soma Pandji	SOMA
39	Harley Anstee	
40	Richard Stevenson	Hansen for National Exchange P/L and Tramere P/L
41	Karin Penttila	
42	Cheryl McKinna	
43	Peter Pierce	
44	Kim Yoon	
45	Catherina Toh and Antonu Tobin	
46	Russell Mooney	
47	Andrew Hallsworth	
48	Craig Lynch	
49	Hamish McNeill-Young	
50	Alan and Sybil Langley-Jones	
51	Miriam Faine	
52	Andrea Pagliaro	Urbis Pty Ltd for Burbank Group
53	Saul Siritzky	Urbis Pty Ltd for MIT Australia Pty Ltd
54	Nicholas Touzeau	Urbis Pty Ltd for prospective developer
55	Jenny Pyke	
56	Bob Evans and Marisa Wilkins	
57	Paul Roser	National Trust of Australia (Victoria)
58	Althea Thomas	
59	Eva & Pierre Lui	
60	Jerone Lui	
61	Ly Taing	<i>(Pro-forma)</i>
62	indecipherable	<i>(Pro-forma)</i>
63	Peter Frisina	<i>(Pro-forma)</i>

Number	Name	Organisation
64	Mohammad Mirzai	<i>(Pro-forma)</i>
65	Farukh Sazegar	<i>(Pro-forma)</i>
66	Paul Ansaldo	<i>(Pro-forma)</i>
67	Rosa Ansaldo	<i>(Pro-forma)</i>
68	Marshall Waters	<i>(Pro-forma)</i>
69	Petito	<i>(Pro-forma)</i>
70	Steven Booth	<i>(Pro-forma)</i>
71	Sou	<i>(Pro-forma)</i>
72	Wizard Magic Pens	<i>(Pro-forma)</i>
73	Klara Sandler	<i>(Pro-forma)</i>
74	Ykov Sandler	<i>(Pro-forma)</i>
75	indecipherable	<i>(Pro-forma)</i>
76	Nathan Levit	<i>(Pro-forma)</i>
77	Alex Levqov	<i>(Pro-forma)</i>
78	indecipherable	<i>(Pro-forma)</i>
79	Damien Moulton	<i>(Pro-forma)</i>
80	Ryan Moulton	<i>(Pro-forma)</i>
81	Hung Mgone Nguyen	<i>(Pro-forma)</i>
82	H Maierhofer	<i>(Pro-forma)</i>
83	indecipherable	<i>(Pro-forma)</i>
84	Catherine Xu	<i>(Pro-forma)</i>
85	Vi Truong Mach	<i>(Pro-forma)</i>
86	indecipherable	<i>(Pro-forma)</i>
87	Michael Sammann	<i>(Pro-forma)</i>
88	Terence Port	<i>(Pro-forma)</i>
89	George Geng	<i>(Pro-forma)</i>
90	Subrata Roy	<i>(Pro-forma)</i>
91	indecipherable	<i>(Pro-forma)</i>
92	indecipherable	<i>(Pro-forma)</i>
93	Edward Zolman	<i>(Pro-forma)</i>
94	Zhiqing Zhang	<i>(Pro-forma)</i>
95	Fang Cheng	<i>(Pro-forma)</i>
96	Ahmed Saeed	<i>(Pro-forma)</i>

Number	Name	Organisation
97	indecipherable	<i>(Pro-forma)</i>
98	Anh Nguyen	<i>(Pro-forma)</i>
99	Anh Bui	<i>(Pro-forma)</i>
100	Joe	<i>(Pro-forma)</i>
101	indecipherable	<i>(Pro-forma)</i>
102	Hong Xu	<i>(Pro-forma)</i>
103	Joan	<i>(Pro-forma)</i>
104	May M	<i>(Pro-forma)</i>
105	Alex Smirnor	<i>(Pro-forma)</i>
106	Aschua	<i>(Pro-forma)</i>
107	Wesley Knizhnik	<i>(Pro-forma)</i>
108	Luke	<i>(Pro-forma)</i>
109	indecipherable	<i>(Pro-forma)</i>
110	Aurelia Wozniak	<i>(Pro-forma)</i>
111	Ben Moulton	<i>(Pro-forma)</i>
112	Mohammad H Mirzai	<i>(Pro-forma)</i>
113	Mick Williams	<i>(Pro-forma)</i>
114	Leah Morg	<i>(Pro-forma)</i>
115	E Kruk	<i>(Pro-forma)</i>
116	John Oestmann	<i>(Pro-forma)</i>
117	Pasquale	<i>(Pro-forma)</i>
118	Mark Fridman	<i>(Pro-forma)</i>
119	Kay Fridman	<i>(Pro-forma)</i>
120	Shane Jenkins	<i>(Pro-forma)</i>
121	Michael Mallon	<i>(Pro-forma)</i>
122	Kabir Popal	<i>(Pro-forma)</i>
123	indecipherable	<i>(Pro-forma)</i>
124	indecipherable	<i>(Pro-forma)</i>
125	Pabitra	<i>(Pro-forma)</i>
126	Pie Yang	<i>(Pro-forma)</i>
127	Peter	<i>(Pro-forma)</i>
128	Lee	<i>(Pro-forma)</i>
129	indecipherable	<i>(Pro-forma)</i>

Number	Name	Organisation
130	Sandy Lewis	<i>(Pro-forma)</i>
131	Kakay	<i>(Pro-forma)</i>
132	Mansurul	<i>(Pro-forma)</i>
133	Ali	<i>(Pro-forma)</i>
134	Moheb	<i>(Pro-forma)</i>
135	David Thompson	<i>(Pro-forma)</i>
136	Cameron Short	<i>(Pro-forma)</i>
137	indecipherable	<i>(Pro-forma)</i>
138	Jeff Wozniak	<i>(Pro-forma)</i>
139	Tien Do	<i>(Pro-forma)</i>
140	indecipherable	<i>(Pro-forma)</i>
141	Hazel Niklaws	<i>(Pro-forma)</i>
142	Jill Smith	<i>(Pro-forma)</i>
143	Sonia Cohen	<i>(Pro-forma)</i>
144	Peter Howie	<i>(Pro-forma)</i>
145	Mary-Lou Howie	<i>(Pro-forma)</i>
146	Anne Taib	<i>(Pro-forma)</i>
147	Susan Faine	<i>(Pro-forma)</i>
148	Dr Andrew Fiarstone	<i>(Pro-forma)</i>
149	Ponch Hawkes	<i>(Pro-forma)</i>
150	Paul Howie	<i>(Pro-forma)</i>
151	Ian Bracegirdle	<i>(Pro-forma)</i>
152	Frances Wadsworth	<i>(Pro-forma)</i>
153	Long Nguyen	University of Melbourne
154	Peter Brohier	
155	Chris Bydder	EPA Victoria
156	G Wettenhall	<i>(Pro-forma)</i>
157	Antonio Blanco	
158	Janet Beard	

## Appendix B Parties to the Panel Hearing

Submitter	Represented by
Melbourne City Council	<p>Ms Susan Brennan SC</p> <p>Including a presentation from Mr Rob Adams, and calling expert evidence from:</p> <ul style="list-style-type: none"> <li>- Mr Peter Lovell of Lovell Chen on Heritage</li> <li>- Mr Marcus Spiller of SGS on Economics</li> <li>- Ms Charmaine Dunstan of Traffix Group on Traffic</li> <li>- Mr Michael Eaddy of Mel Consultants on Wind</li> <li>- Mr Mark Sheppard of David Lock and Assoc on Built Form</li> <li>- Ms Catherine Heggen of Message Consultants on Planning</li> <li>- Mr Richard Mackay* of Mackay Strategic on Archaeology</li> <li>- Mr Jon Howell-Meurs* of Andrew Long and Associates on Indigenous Cultural Heritage</li> </ul> <p>(* <i>Mr Mackay and Mr Howell-Meurs tabled written evidence but did not appear at the Hearing</i>)</p>
Burbank Group of companies	<p>Ms Louise Hicks of Counsel, instructed by Urbis and calling expert evidence from:</p> <ul style="list-style-type: none"> <li>- Mr David Crowder of Ratio Consultants on Planning</li> <li>- Mr Simon McPherson of SJB Urban on urban design</li> </ul>
National Trust of Australia (Victoria)	<p>Ms Louise Hicks of Counsel, instructed by Urbis and calling expert evidence from:</p> <ul style="list-style-type: none"> <li>- Mr David Crowder of Ratio Consultants on Planning</li> <li>- Mr Simon McPherson of SJB Urban on urban design</li> </ul>
Friends of Victoria Market Inc.	<p>Mr Tom Pikusa of Counsel, instructed by Bazzani Scully Priddle and calling expert evidence from :</p> <ul style="list-style-type: none"> <li>- Mr Robert Milner of 10 Consulting on town planning</li> </ul>
Tramere Pty Ltd	<p>Ms Louise Hicks of Counsel, instructed by Hansen Partnership and calling expert evidence from:</p> <ul style="list-style-type: none"> <li>- Mr Craig Czarny of Hansen Partnership on urban design</li> </ul>
Ms Mary-Lou Howie	
Ms Cheryl McKinna	
Ms Jenny Pyke	
Mr Bruce Echberg	
Trosscliff Pty Ltd	Mr Louis Christou
Public Transport Users Assoc	Mr Ian Hundley

## Appendix C Document list

No.	Date	Description	Presented by
1	26/4/16	Council Part A submission	Melbourne City Council
2	3/5/16	Printout of slides – Prof. Rob Adams panel presentation	Melbourne City Council
3	3/6/16	Council Part B submission	Melbourne City Council
4	3/6/16	Amendment C270 exhibition documentation	Melbourne City Council
5	3/5/16	Central Cities Built Form Review (April 2016)	Melbourne City Council
6	3/5/16	Table comparing current and proposed DDO14 to DPO 11, C262 and C270 (A3)	Melbourne City Council
7	3/5/16	Revised schedules and reflected changes with expert witnesses (watermarked 'Panel Version')	Melbourne City Council
8	3/5/16	Development Activity Snapshot (A3)	Melbourne City Council
9	3/5/16	The Northern Heights CBD North (15/10/2016)	Melbourne City Council
10	3/5/16	Printout of slides – Peter Lovell expert evidence panel presentation	Mr Lovell
11	3/5/16	Heritage Impact Statement by Lovell Chen (March 2016)	Tramere Pty Ltd
12	3/5/16	The Burra Charter (2013)	Friends of QVM
13	3/5/16	DDO14 (C174)	Friends of QVM
14	3/6/16	Maps and plot ratio scenarios (A3)	Friends of QVM
15	4/5/16	DDO11 and clause 61.01 (watermarked 'Panel Version')	Melbourne City Council
16	5/5/16	Appendix B of M. Sheppard expert evidence for C245 (April 2016) 'Building and Podium Heights surrounding QVM' (A3)	Melbourne City Council
17	5/5/16	VCAT Urban design expert evidence by M. Sheppard for No. 446 Queen Street (June 2013)	Tramere Pty Ltd
18	5/5/16	Printout of slides – C Heggen expert evidence panel presentation	Ms Heggen
19	5/5/16	Shadow diagrams/ modelling by Message Consultants	Ms Heggen
20	9/5/16	PPN2 Public Land Zones (June 2015); PPN3 Applying the Special Use Zone (June 2015); PPN23 Applying the Incorporated Plan and Development Plan Overlays (August 2015)	Friends of QVM



No.	Date	Description	Presented by
21	9/5/16	a) Brief to Catherine Heggen from Ashurst for C245 (4/8/2015) b) Letter to C Heggen from Ashurst (10/3/2016)	Melbourne City Council
22	9/5/16	QVM and Old Melbourne Cemetery Victorian Heritage Database Report and Statement of Significance (27/8/2007)	Melbourne City Council
23	9/5/16	Architectural images: 400 William Street	Melbourne City Council
24	9/5/16	Architectural images: 98 - 100 Franklin Street	Melbourne City Council
25	9/5/16	Architectural images: 350 Queen Street	Melbourne City Council
26	9/5/16	Vic Traders online article by Greg Smith (4/5/2016)	Melbourne City Council
27	9/5/16	Council Part C submission	Melbourne City Council
28	9/5/16	Extract from C190 Arden-Macaulay Panel report (23/10/2015)	Melbourne City Council
29	9/5/16	Extract from C240 Bourke Hill Panel report (4/5/2015)	Melbourne City Council
30	9/5/16	Revised Figure 1: QVM Precinct Framework Plan (May 2016)	Melbourne City Council
31	9/5/16	DDO33 C174: CBD Fringe	Melbourne City Council
32	9/5/16	C60(i) Replacement MSS and LPP Review (14/10/2003)	Melbourne City Council
33	9/3/16	Memo: Council comments on Shadows, Flagstaff Gardens, Trees and Amenity (3/5/2016)	Melbourne City Council
34	9/5/16	Extract from C172 Chapel Street Activity Centre Panel report (17/6/2015)	Melbourne City Council
35	10/5/16	CCBFR Overshadowing Technical Report (April 2016)	Melbourne City Council
36	10/5/16	Submissions of Burbank Group of Companies	Burbank
37	10/5/16	No 100 Franklin Street: Town planning drawings TP0101, TP0106 and TP0111 (20/12/2015); and 'Tower Wall on Boundary' and 'Separate Sites with Setback' drawings (18/3/2016) by Plus Architecture	Burbank
38	10/5/16	Environmental Wind Speed Measurements on a Wind Tunnel Model of the 100 Franklin Street Development by A Loie and E Chong (March 2016)	Burbank
39	10/5/16	Submission on behalf of National Trust	National Trust of Australia (Victoria)
40	11/5/16	National Trust of Australia (Victoria) C245 Summary of Recommendations – Addendum to Submission	National Trust of Australia (Victoria)

No.	Date	Description	Presented by
41	11/5/16	Submissions (folder): Friends of Queen Victoria Market	Friends of QVM
42	11/5/16	Clause 43.03 Incorporated Plan Overlay (VC116)	Melbourne City Council
43	11/5/16	Submissions of the Friends of the QVM Inc.	Friends of QVM
44	11/5/16	C196 Evidence Statement by C Czarny	Melbourne City Council
45	11/5/16	C190 Evidence Statement by C Czarny	Melbourne City Council
46	11/5/16	Submissions of Tramere Pty Ltd	Tramere Pty Ltd
47	11/5/16	Expert witness statement to VCAT by Bryce Raworth on 446-450 Queen Street (January 2013)	Tramere Pty Ltd
48	12/5/16	Submission by Mary-Lou Howie	Mary-Lou Howie
49	12/5/16	Submission by Cheryl McKinna	Cheryl McKinna
50	12/5/16	Submission by Bruce Echberg	Bruce Echberg
51	12/5/16	Submission by Louis Christou	Trosscliff Pty Ltd
52	12/5/15	Submission by Ian Hundley	Public Transport Users Association
53	12/5/16	National Trust of Australia (Victoria) C245 Summary of Recommendations – Addendum to submission, resubmitted and amended 12/5/2016	National Trust of Australia (Victoria)
54	12/5/16	National Trust – Proposed form of instructions for supplementary expert opinion	National Trust of Australia (Victoria)
55	12/5/16	Submission by Jenny Pyke	Jenny Pyke
56	12/5/16	Reply submissions of the Planning Authority	Melbourne City Council
57	12/5/16	Abandoned proposal for QVM (1971)	Melbourne City Council

## Appendix D Summary of expert evidence on built form controls

Witness	Land parcel	Podium height	Mandatory/Discretionary	Front tower setback	Mandatory/Discretionary	Side, rear tower setback	Mandatory/Discretionary	Tower Separation	Mandatory/Discretionary	Additional Control
<b>Heggen</b>	Parcel A	20m	M	10m	M	5m	M	10m	D	Discretionary plot ratio 18:1
	Parcel B north of lane	20m	M	10m	M	5m	M	-	-	
	Parcel B south of lane	40m	M	5m	M	5m	M	-	-	
	DDO area	40m	M	-	-	-	-	-	-	
<b>Sheppard</b>	Parcels A and B	20m	M	10m	M	5m	D	10m+	D	100m discretionary over part Parcels A and D or show tower location
	DDO area	40m	D	5m	M	5m	D	10M+	D	
<b>Lovell</b>	Parcels A and B	20m	M	10m	D	-	-	-	-	
<b>McPherson</b>	DDO area	40m	M	10m	M	10m	D	10m	M	
<b>Crowder</b>	DDO area	40m	D	10m	D	10m	D	10m	D	
<b>Milner</b>	-	-	-	-	-	-	-	-	-	
<b>Czarny</b>	Parcel A	20m	-	-	-	-	-	-	-	
	Parcel B	20m	D	-	D	5m	D	-	-	
	Parcel B	40m	M	-	D	-	-	-	-	

## Appendix E Summary of Panel recommendations on built form controls

Design element	DPO11 and DDO14 – Exhibited C245	Panel recommended DPO11	Panel recommended DDO14
Podium heights	<p><u>Therry Street and Queen Street north of Franklin Street:</u> Preferred/discretionary 10m minimum and mandatory 20m maximum podium heights</p> <p><u>Other Streets:</u> Preferred/Discretionary 20m minimum and mandatory 40m maximum podium heights for all streets</p> <p>Specified built form outcomes</p>	<p><u>Therry Street and Queen Street north of Franklin Street:</u> Preferred/discretionary 10m minimum and mandatory 20m maximum podium heights</p> <p><u>Other Streets:</u> Preferred/Discretionary 20m minimum and mandatory 40m maximum* podium heights for all streets (*Amended during hearing to 20m mandatory maximum for central part of south side of Parcel D)</p> <p>Specified built form outcomes (as per C245)</p>	<p>Mandatory 40m podium heights</p> <p>Specified built form outcomes (as per C262)</p>
Front tower setbacks	<p>Parcels A and B: Mandatory 10m front tower setbacks</p> <p>Parcel C: N/A</p> <p>Parcel D: Mandatory 10m from north frontage, Mandatory 6m from south frontage</p> <p>Specified built form outcomes</p>	<p>Parcel A: Mandatory 10m front tower setbacks</p> <p>Parcel B: Discretionary 10m front setback/Mandatory 5m front setback</p> <p>Parcel C: N/A</p> <p>Parcel D: Mandatory 15m from north frontage, Mandatory 5m to Queen Street or Peel Street frontage. Mandatory 6m from south frontage.</p> <p>Specified built form outcomes (as per C245)</p>	<p>Mandatory 5m front tower setbacks</p> <p>Specified built form outcomes (as per C262)</p>
Side and rear tower setbacks	<p>Mandatory 10m side and rear tower setbacks</p> <p>Specified built form outcomes</p>	<p>Mandatory 5m side and rear tower setbacks (or 5% of overall building height if above 100m)</p> <p>May be 0m, up to 40m, if demonstrated not to cause an unreasonable impact on future development potential or amenity of neighbouring properties.</p> <p>Specified built form outcomes (as per C245)</p> <p>Review once outcome of C270 is known to retain consistency with central city controls.</p>	<p>Mandatory 5m side and rear tower setbacks (or 5% of overall building height if above 100m)</p> <p>Specified built form outcomes (as per C262)</p>

Design element	DPO11 and DDO14 – Exhibited C245	Panel recommended DPO11	Panel recommended DDO14
Tower separation	Preferred/Discretionary 24m and mandatory 10m minimum tower separation distances <u>from an existing or likely future tower/s on adjoining sites.</u> Specified built form outcomes	Preferred/Discretionary 24m and mandatory 10m minimum tower separation distances <u>between towers within a site or from existing or approved tower/s on adjoining sites</u> Specified built form outcomes (as per C245) Review once outcome of C270 is known to retain consistency with central city controls	Mandatory 10m minimum tower separation distance <u>between towers within a site or from existing tower/s on adjoining sites.</u> Specified built form outcomes (as per C262).
Height	None specified– Remove C61 discretionary variable height limits (30m for Franklin Street and 60m to A'Beckett Street)	Parcel A and D: Discretionary height limits 100m Parcel B: discretionary height limit of 40m Parcel C: preferred/discretionary height limit of 7m, mandatory height limit of 13m. Specified built form outcomes: should not visually overwhelm or affect amenity of open space. Any application to exceed must be accompanied by 3D model.	No height specified. Plot ratio 24:1 Mandatory Specified built form outcomes – equitable development and infrastructure capacity (as per C262)
Overshadowing	Limiting overshadowing between 11:00am and 2:00pm of the proposed public open space on the 21 June winter solstice, or of Flagstaff Gardens on the 22 <u>September</u> equinox	Limiting overshadowing between 11:00am and 2:00pm of the proposed public open space or Flagstaff Gardens on the 21 June winter solstice.	Limiting overshadowing between 11:00am and 2:00pm of the proposed public open space or Flagstaff Gardens on the 21 June winter solstice
			All DDO14 controls applied on interim basis. Review once outcome of C270 is known to retain consistency with central city controls.

	PANEL RECOMMENDATION	ACCEPT/REJECT	MANAGEMENT RESPONSE
<b>Development Plan Overlay Schedule 11 (DPO11)</b>			
1.	<p>Amend the Framework Plan at Figure 1 of the Development Plan Overlay Schedule 11 as follows:</p> <ul style="list-style-type: none"> <li>a) Include a discretionary overall height limit of 100 metres for Parcel A and 40 metres for Parcel B.</li> <li>b) Show podium height of 20 metre minimum to 40 metre maximum on the property located at the north east corner of Queen Street and Franklin Street.</li> <li>c) Show the location for greatest height being towards the Elizabeth Street end of the Parcel A, to the east of the proposed through block link.</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>Provisions have been included to specify preferred heights in DPO11.</p> <p>Provisions have also been included to increase the development capacity of Parcel B which is slightly more removed from the Market than Parcel A, the Council owned land.</p> <p><i>Recommendation:</i></p> <p>The Framework Plan at Figure 1 of the DPO11 has been amended to reflect the recommendations of the Panel.</p>
2.	<p>Amend the Conditions and Requirements for permits in Development Plan Overlay Schedule 11 to:</p> <ul style="list-style-type: none"> <li>a) Provide additional design guidance about managing heritage sensitivities within the first 10m rise of the podium, with particular consideration given to the extent the detailed design and treatment of the podium façade directly references the market opposite, and provides an appropriate pedestrian</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>Design guidelines for the lower part of the building frontages have been included.</p> <p>For the parcel of land on the corner of Queen and Franklin Streets, the podium heights</p>

	<p>experience.</p> <ul style="list-style-type: none"> <li>b) Require a mandatory 10 metre tower setback from the front of podium to Therry Street and Queen Street, in Parcel A as shown in Figure 1.</li> <li>c) Provide for a discretionary 20 metre minimum podium height and require a mandatory 40 metre podium height for the property located at the corner of Queen Street and Franklin Street.</li> <li>d) Provide for a discretionary 10 metre tower setback from the front of podium to Queen Street for Parcel B, as shown in Figure 1. Alternatively, a mandatory 5 metre front setback could also be specified.</li> <li>e) Require a mandatory 5 metre tower setback from the front of podium to Franklin Street for Parcel B, as shown in Figure 1.</li> <li>f) Require a mandatory 5 metre side and rear tower setback from boundaries or the centre of a laneway, rather than the 10 metres as proposed.</li> <li>g) Require a mandatory tower separation distance to apply to 'towers within a site', or from 'existing or approved towers on adjoining sites'.</li> <li>h) For Parcel B, provide for 0 metre side and rear setbacks up to a building height of 40 metres, where it can be demonstrated this will not cause an unreasonable impact on the future development potential or amenity of neighbouring properties.</li> <li>i) Nominate a discretionary height limit of 100 metres for Parcel A and 40 metres for Parcel B. Any application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm.</li> </ul>		<p>have been increased to a discretionary 20 metre minimum and a mandatory 40 metre maximum and the podium setback from Queen Street has been made discretionary. This parcel may also have 0 metre side and rear setbacks up to a building height of 40 metres, where it can be demonstrated this will not cause an unreasonable impact on the future development potential or amenity of neighbouring properties.</p> <p>Parcel A which is owned by Council is subject to a 100 metre discretionary height control.</p> <p><i>Recommendation:</i></p> <p>The Conditions and Requirements for permits in the DPO11 have been amended to reflect the recommendations of the Panel.</p>
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3.	Amend the Framework Plan at Figure 1 and Conditions and Requirements for permits of the Development Plan Overlay Schedule 11 to provide for a discretionary height limit of 7 metres and require a mandatory maximum height of 13 metres to Parcel C.	Accept	<p><i>Discussion:</i></p> <p>The maximum height of the proposed Queens Corner building has been lowered to a maximum of 13 metres to be more sympathetic to the new open space.</p> <p><i>Recommendation:</i></p> <p>The Framework Plan at Figure 1 of the DPO11 has been amended to reflect the recommendations of the Panel.</p>
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4.	<p>Amend 'Conditions and requirements for permits' in the Development Plan Overlay Schedule 11 to include additional design guidance about urban design and built form outcomes sought for the building on Parcel C, which addresses:</p> <ul style="list-style-type: none"> <li>• Architectural excellence and high quality environmental performance</li> <li>• A requirement for design review by an independent Design Review Panel</li> <li>• Transparency and activation at ground level and sense of address to both the street and open space</li> <li>• Pedestrian permeability and connectivity through the building from Queen Street to the open space and Queen Victoria Market beyond.</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>Guidelines have been included in DPO11 to ensure that the Queens Corner building achieves architectural excellence, transparency, and permeability and addresses both Queen Street and the new open space.</p> <p><i>Recommendation:</i></p> <p>The Conditions and Requirements for permits in the DPO11 have been amended to reflect the recommendations of the Panel.</p>
5.	<p>5. Amend the Framework Plan at Figure 1 of the Development Plan Overlay Schedule 11 for Parcel D as follows:</p> <ol style="list-style-type: none"> <li>a) Show the podium setback from the north façade of the heritage listed Stores Buildings (towers facing new Franklin Street) as a mandatory minimum of 15 metres.</li> <li>b) Show Podium heights on New Franklin Street where they abut the heritage listed Stores Building are to be a mandatory maximum height of 20 metres.</li> <li>c) Show podium height on former Franklin Street between William and Queen Streets to be a discretionary 10 metre minimum and require mandatory 20m maximum, except at the ends of the block as shown in the framework plan where podiums are to be a discretionary minimum 20 metre to mandatory 40 metre maximum.</li> </ol>	Accept	<p><i>Discussion:</i></p> <p>Parcel D is the newly created parcel that will vest in Council.</p> <p>Revised provisions have been included to ensure new development responds sympathetically to the Stores building which is part of the Heritage Registered area.</p> <p>Because New Franklin Street is narrow reduced podium heights (except at block) ends to allow more light to the street have been included.</p> <p><i>Recommendation:</i></p>

			The Framework Plan at Figure 1 of the DPO11 has been amended to reflect the recommendations of the Panel.
6.	<p>Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:</p> <ul style="list-style-type: none"> <li>a) Require podiums fronting New Franklin Street where they abut the heritage listed Stores Buildings to have a mandatory maximum podium height of 20 metres.</li> <li>b) Remove the reference to a cantilever built form over the rear of the heritage listed Stores Buildings</li> <li>c) Require Podiums fronting Little Franklin Street between William Street and Queen Street should have a mandatory maximum podium height of 20 metres, except at the block ends as shown in the framework plan where podiums should have a discretionary minimum podium height of 20 metres and must have a mandatory maximum podium height of 40 metres.</li> <li>d) Require mandatory tower setbacks for towers facing new Franklin Street to be a mandatory minimum of at least 15 metres behind the northern masonry facades of the existing sheds.</li> <li>e) Require a mandatory 10m tower separation distance to apply to 'towers within a site', or from 'existing or approved towers on adjoining sites'.</li> <li>f) Nominate a discretionary overall height limit of 100 metres for Parcel D and with the location for greatest height being towards the Queen Street end of the Parcel D. Any application to exceed this height should be supported by 3D modelling and an assessment of the visual impact on the open space and public realm</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>Revised provisions have been included to ensure new development responds sympathetically to the Stores building which is part of the Heritage Registered area. This includes a discretionary overall height limit of 100 metres for parcel D.</p> <p>Because New Franklin Street is narrow reduced podium heights (except at block ends) allow more light to the street.</p> <p><i>Recommendation:</i></p> <p>The Conditions and Requirements for permits in the DPO11 have been amended to reflect the recommendations of the Panel.</p>

### Design and Development Overlay Schedule 14 (DDO14)

7.	<p>7. Amend Design Development Overlay Schedule 14 Buildings and Works requirements, as currently shown in Tables 1 and 2 to achieve consistency with existing interim Amendment C262 Design Development Overlay Schedule 10 provisions, as follows.</p> <ol style="list-style-type: none"> <li>a) Require mandatory 40m maximum podium heights</li> <li>b) Require mandatory 5m minimum front tower setbacks</li> <li>c) Require mandatory 5m side and rear setbacks, or 5% of overall building height over 100 metres</li> <li>d) Require mandatory 10m tower separation within a site (as side and rear setbacks will address separation distances from existing towers on adjoining sites)</li> <li>e) Require mandatory plot ratio controls of 24:1 to apply to the Design Development Overlay Schedule 14 area.</li> </ol>	Accept	<p><i>Discussion:</i></p> <p>As the area south of DPO11 should be treated in the same manner as the rest of the Hoddle Grid, controls which are consistent with Amendment C262 Central City interim controls are to be introduced as an interim measure to allow for Amendment C270 Central City Built Form to be resolved. The panel recommends that at this time an amendment to introduce C270 controls should be prepared.</p> <p><i>Recommendation:</i></p> <p>The Buildings and Works requirements shown in Tables 1 and 2 have been amended to be consistent with the existing interim Amendment C262 Design and Development Overlay Schedule 10, as recommended by the Panel.</p>
8.	<p>Amend Design Development Overlay Schedule 14 to include an 'Expiry' provision, consistent with Design Development Overlay Schedule 10 stating that:</p> <ul style="list-style-type: none"> <li>• The requirements of this overlay cease to have effect after 30 June 2017.</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>As the area south of DPO11 should be treated in the same manner as the rest of the Hoddle Grid, controls which are consistent with Amendment C262 Central City interim controls are to be introduced as</p>

			<p>an interim measure to allow for Amendment C270 Central City Built Form to be resolved. The panel recommends that at this time an amendment to introduce C270 controls should be prepared.</p> <p><i>Recommendation:</i></p> <p>An expiry provision consistent with that of DDO10 has been included in DDO14 as recommended by the Panel.</p>
<p>9.</p>	<p>When the outcome of Amendment C270 is known, review and revise Design Development Overlay Schedule 14 to achieve consistency with the Design Development Overlay Schedule 10 Central City controls.</p>	<p>Accept</p>	<p><i>Discussion:</i></p> <p>As the area south of DPO11 should be treated in the same manner as the rest of the Hoddle Grid, controls which are consistent with Amendment C262 Central City interim controls are going to be introduced as an interim measure, to allow for Amendment C270 Central City Built Form to be resolved.</p> <p>Once amendment C270 process has been finalised the panel recommends an amendment to introduce C270 controls should be prepared.</p> <p><i>Recommendation:</i></p> <p>Once Amendment C270 is finalised, it will be</p>

			assessed to determine whether a full amendment process is required or whether a prescribed amendment would be appropriate.
<b>Form of controls</b>			
10.	<p>Redraft and restructure Development Plan Overlay Schedule 11 in accordance with the following principles:</p> <ol style="list-style-type: none"> <li>a) Adopt a 'Table' format, similar to the Design Development Overlay Schedule 14 to express discretionary provisions with the built form outcomes to be achieved, and mandatory provisions.</li> <li>b) Retain the requirement for a Development Plan or a planning permit application to be consistent with the Framework Plan, but express as 'generally in accordance with'.</li> <li>c) The development concept plan (required as part of the Development Plan) is required to include indicative building heights and setbacks – these must also achieve the mandatory and discretionary built form and amenity provisions of Development Plan Overlay Schedule 11.</li> <li>d) Assess matters relating to the following elements at the permit, rather than Development Plan stage: <ul style="list-style-type: none"> <li>• Elevations</li> <li>• Building materials and treatments</li> <li>• A wind tunnel model study</li> <li>• Environmentally Sustainable Design and Water Sensitive Urban Design assessments</li> <li>• Acoustic assessments</li> </ul> </li> <li>e) Add vision statements, together with objectives and design guidance for each development Parcel.</li> </ol>	Accept	<p><i>Discussion:</i></p> <p>These drafting changes will refine the controls and provide an improved link with the Queen Victoria Market Master Plan.</p> <p><i>Recommendation:</i></p> <p>The DPO11 have been redrafted and restructured in accordance with this recommendation of the Panel.</p>

	f) f) Include the <i>Queen Victoria Market Master Plan and the Queen Victoria Market Built Form Review</i> as a reference documents in the Development Plan Overlay Schedule 11.		
11.	Amend Design Development Overlay Schedule 14 to restructure Tables 1 and 2 and delete duplicated Built Form Outcomes in Table 2.	Accept	<p><i>Discussion:</i></p> <p>These drafting changes will refine the controls.</p> <p><i>Recommendation:</i></p> <p>Tables 1 and 2 in the DDO14 have been restructured in accordance with this recommendation of the Panel.</p>
12.	<p>Amend Design Development Overlay 14 Design Objectives to delete reference to QVM, but maintain reference to generic heritage buildings, as follows:</p> <ul style="list-style-type: none"> <li>To ensure that the scale and design of new buildings does not adversely affect the significance of adjoining or adjacent heritage buildings.</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>This change acknowledges that development in the DDO area will be unlikely to have an impact on the Market but nonetheless needs to be sensitive to heritage buildings in the precinct.</p> <p><i>Recommendation:</i></p> <p>The reference to QVM has been deleted in accordance with this recommendation of the Panel.</p>
13.	<p>Amend Design Development Overlay 14 Built Form Outcomes for Podium Height in Table 1 to delete reference to Queen Victoria Market, but maintain reference to generic heritage buildings, as follows:</p> <ul style="list-style-type: none"> <li>Building podiums are designed so that they:</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>This change acknowledges that development in the DDO area will be unlikely to have an</p>

	-are of a height, siting and detailing that does not adversely affect the significance of adjoining or adjacent heritage building(s).		<p>impact on the Market but nonetheless needs to be sensitive to heritage buildings in the precinct.</p> <p><i>Recommendation:</i></p> <p>The reference to QVM in the Built Form Outcome for Podium Height in Table 1 has been deleted in accordance with this recommendation of the Panel.</p>
14.	Apply Development Plan Overlay Schedule 11 to the property at 501-503 Elizabeth Street as part of a future amendment.	Accept	<p>The owners of this property will be contacted and made aware of this recommendation. Should there be agreement that this property be included in the DPO11 area a request to the Minister for Planning to undertake a 20(4) planning scheme amendment will be made.</p>
<b>Clause 21.12 Hoddle Grid</b>			
15.	<p>Include the following strategic direction in Clause 21.12 Hoddle Grid, under Built Environment and Heritage:</p> <ul style="list-style-type: none"> <li>• Ensure that development form and scale in the area south of the Queen Victoria Market achieves built form, urban design, and amenity outcomes consistent with those sought for the Hoddle Grid.</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>This recommendation will ensure that the strategic intention of the Amendment is included in the MSS.</p> <p><i>Recommendation:</i></p> <p>The Clause 21.12 Hoddle Grid - Built Environment and Heritage has been</p>

			amended to include this recommendation of the Panel.
16.	Amend the boundary of the 'Precinct 2 Queen Victoria Market' to include only the Queen Victoria Market and Development Plan Overlay Schedule 11 area.	Accept	<p><i>Discussion:</i></p> <p>This change removes the DDO14 area as an area whose built form affects the Market.</p> <p><i>Recommendation:</i></p> <p>The boundary of 'Precinct 2 Queen Victoria Market' has been amended to include this recommendation of the Panel.</p>



<b>Overshadowing</b>			
17.	<p>Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:</p> <p style="margin-left: 20px;">a) New development should not cast a shadow across the Flagstaff Gardens or the proposed public open space in Figure 1 between 11.00 am and 2.00 pm on 21 June, unless the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the proposed public open space.</p>	Accept	<p><i>Discussion:</i></p> <p>Council had amended Clause 22.02 Sunlight to Public Spaces prior to exhibition of the Amendment. This change to DPO 11 has been suggested by the Panel to be consistent with Clause 22.02.</p> <p><i>Recommendation:</i></p> <p>The Conditions and requirements for permits in the DPO11 have been amended to include this recommendation of the Panel.</p>
18.	<p>Amend 'Requirements for a development plan' in Development Plan Overlay Schedule 11 as follows:</p> <p style="margin-left: 20px;">a) A Development Plan must include ... a development concept plan that includes shadow diagrams for the hours between 11.00 am and 2.00 pm at the Winter Solstice (21 June) demonstrating any shadow impacts on the proposed public open space and/or the Flagstaff Gardens, as relevant.</p>	Accept	<p><i>Discussion:</i></p> <p>Council had amended Clause 22.02 Sunlight to Public Spaces prior to exhibition of the Amendment. This change to DPO 11 has been suggested by the Panel to be consistent with Clause 22.02.</p> <p><i>Recommendation:</i></p> <p>The Requirements for a development plan in the DPO11 have been amended to include this recommendation of the Panel.</p>

<p>19.</p>	<p>Include the following requirements in the Design and Development Overlay Schedule 14:</p> <ul style="list-style-type: none"> <li>• Buildings and works should not cast a shadow across the Queen Victoria Market proposed public open space or the Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June. A permit may only be granted to vary this requirement if the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the relevant open space.</li> </ul>	<p>Accept</p>	<p><i>Discussion:</i></p> <p>Council had amended Clause 22.02 Sunlight to Public Space Policy. This change was included for consistency with Clause 22.02.</p> <p><i>Requirement:</i></p> <p>The DDO14 has been amended to include this recommendation of the Panel.</p>
<p><b>Zones</b></p>			
<p>20.</p>	<p>Abandon the proposed rezoning of the majority of the Queen Victoria Market land and Queen Street extension currently zoned Capital City Zone (CCZ1) to the Public Use Zone (PUZ7).</p>	<p>Accept</p>	<p><i>Discussion:</i></p> <p>This will mean that for the Market itself, the Capital City Zone will be retained and the market's long standing use for public purposes will not be formally recognised in the Planning Scheme.</p> <p><i>Recommendation:</i></p> <p>The proposed rezoning from Capital City Zone to Public Use Zone will be abandoned in accordance with this recommendation of the Panel.</p>

<b>Governance</b>			
21.	The Minister for Planning assume the status of Responsible Authority for approval of any Development Plan or planning permit application under Development Plan Overlay Schedule 11.	Accept	<p><i>Discussion:</i></p> <p>This change is to avoid conflict of interest by making the Minister for Planning responsible for approving plans on land that Council owns.</p> <p><i>Recommendation:</i></p> <p>The Schedule to Clause 61.01 of the Planning Scheme has been amended in accordance with this recommendation of the Panel.</p>
<b>Wind</b>			
22.	<p>Amend 'Conditions and requirements for permits' in Development Plan Overlay Schedule 11 as follows:</p> <ul style="list-style-type: none"> <li>• A permit application must include ... a wind tunnel model study that demonstrates that wind impacts will not adversely affect the amenity of the public realm.</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>The provision in DPO11 requires refinement.</p> <p><i>Recommendation:</i></p> <p>The Conditions and requirements of permits in DPO11 have been amended to include this recommendation of the Panel.</p>
23.	<p>Amend 'Decision Guidelines' in Design and Development Overlay 14 as follows:</p> <ul style="list-style-type: none"> <li>• ... the Responsible Authority must consider, as appropriate ... the wind effect at ground level of the development as demonstrated by a wind tunnel model study.</li> </ul>	Accept	<p><i>Discussion:</i></p> <p>The provision in DDO14 requires refinement.</p> <p><i>Recommendation:</i></p>

			The Decision Guidelines in DDO14 have been amended to include this recommendation of the Panel.
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## MELBOURNE PLANNING SCHEME

### AMENDMENT C245

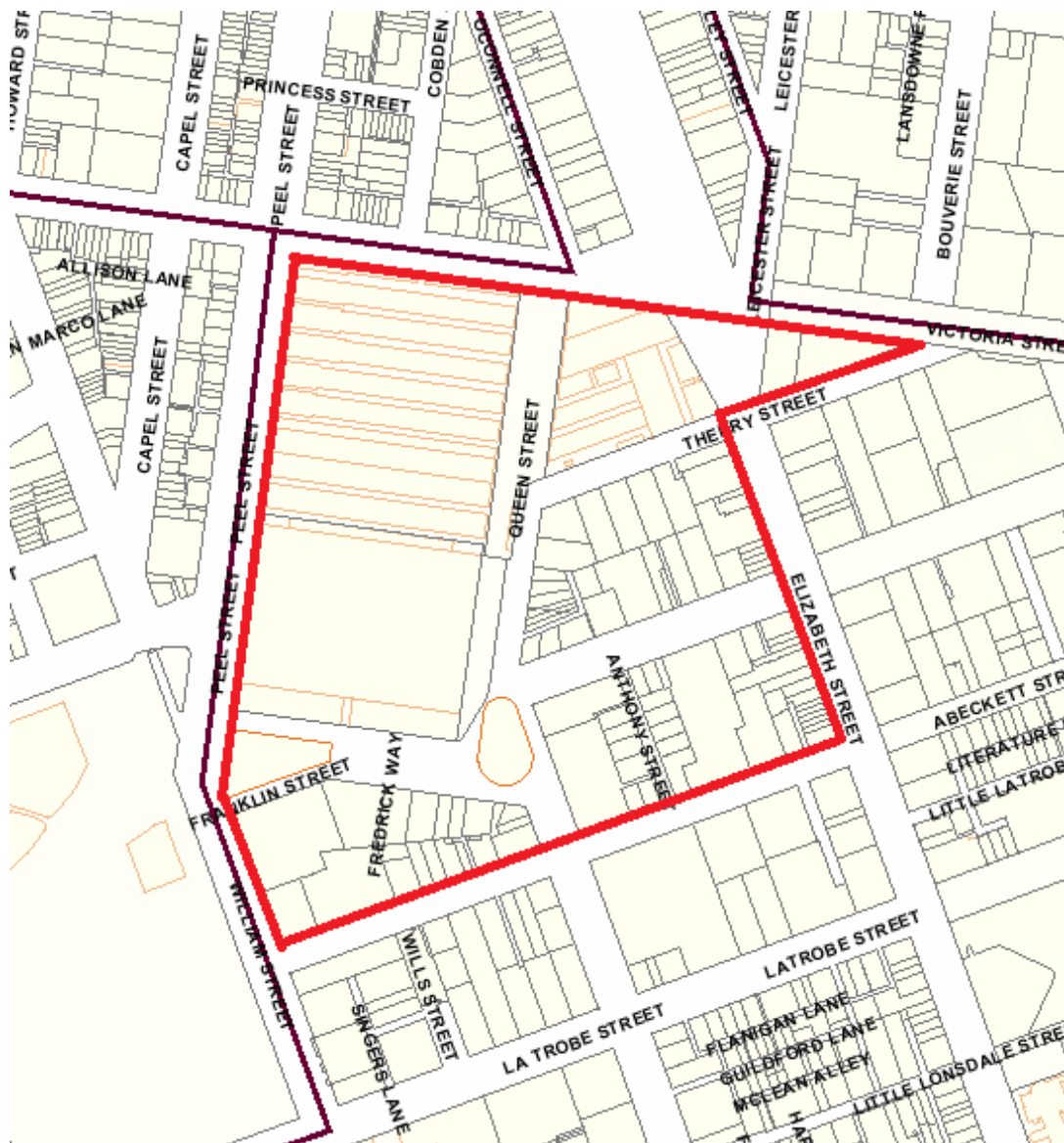
#### EXPLANATORY REPORT

##### Who is the planning authority?

This amendment has been prepared by the City of Melbourne, who is the planning authority for this amendment.

##### Land affected by the amendment

The amendment applies to the Queen Victoria Market (QVM) Precinct as shown on the following map:



## What the amendment does

The amendment proposes to:

- Rezone the Queen Victoria Market car park currently zoned Capital City Zone (CCZ1) to be rezoned to Public Park and Recreation Zone (PPRZ).
- Apply a new Schedule to the Development Plan Overlay (DPO11), which incorporates a vision and design requirements for development of land, including Council owned land, adjacent to the Queen Victoria Market.
- Delete existing schedule 14 to the Design and Development Overlay (DDO14) from the Queen Victoria Market and land to which DPO11 applies to contract the area covered by DDO14.
- Amend the existing schedule 14 to the Design and Development Overlay (DDO14) which will apply only to the contracted area, to introduce revised built form controls for new development.
- Amend the Built Environment and Heritage within the Hoddle Grid Policy (Clause 21.12) to delete an existing policy statement relating to the existing DDO14; to include a new policy statement relating to the Market precinct, being the Queen Victoria Market and the land to which Development Plan Overlay 11 applies; .and to amend Figure 6: Hoddle Grid to show the Queen Victoria Market and the land to which Development Plan Overlay 11 applies.
- Amend the existing clause 22.02 Sunlight to Public Spaces to include a provision that development should not overshadow Flagstaff Gardens between 11am and 2pm on 21 June.
- Amend the existing schedule to clause 61.01 to make the Minister for Planning the responsible authority for approval of any Development Plan or planning permit application under Development Plan Overlay Schedule 11.



## Strategic assessment of the amendment

- **Why is the amendment required?**

The City of Melbourne has developed a masterplan for the Queen Victoria Market Precinct, to set a positive agenda for conserving the heritage significance and character of the QVM, whilst meeting the contemporary needs of traders, shoppers and a growing City.

The Amendment is required in order to implement a revised framework of planning controls that facilitates the principles established in the masterplan, safeguards the future of the QVM and enhances its surrounds.

The *Queen Victoria Market Precinct Renewal: Built Form Review and Recommendations Report* prepared by Jones & Whitehead Pty Ltd (the Built Form Review) identifies shortcomings in the existing controls affecting the QVM and its environs. It sets out recommendations regarding the Queen Victoria Market Precinct and changes to the existing planning controls, which the amendment seeks to implement.

***Required changes to the planning scheme:***

The land to the south of main Market building, between Peel Street and Queen Street is proposed to be rezoned to a Public Park and Recreation Zone. This is to implement the masterplan's proposal to relocate the existing market car park to other Council owned site(s) in the precinct and use the land as a new public open space.

A new Development Plan Overlay (Schedule 11) is proposed to be applied to the QVM car park, existing store buildings to the south and land opposite the market in Therry Street, Queen Street and Franklin Street. The DPO11 is proposed to apply new use and development requirements that will facilitate the recommendations of the masterplan and the Built Form Review. The area to which the DPO11 applies is considered the most sensitive being directly opposite the market. Any development proposal will be subject to street frontage heights and setbacks, and wind and weather protection requirements. These requirements are to ensure a lively and comfortable pedestrian environment and the interface with the Market and to ensure development responds appropriately to its scale and heritage character.

The existing Design and Development Overlay (Schedule 14) will be amended, to contract its extent (to be in part replaced by a Development Plan Overlay, and to introduce specific design requirements for building scale, heights, setbacks, facades, active street frontages, public spaces and new pedestrian access links. A number of these requirements align with policy direction in existing local policies and in order to simplify the planning scheme, these provisions have been subsumed into the new DDO. As Amendment C245 was prepared prior to the approval of Amendment C262, it was considered necessary that the revised area of DDO 14 remain and include built form controls that are generally complementary to the DPO provisions and complete the suite of planning scheme controls that will enhance whole QVM Precinct.

A consequential change is also required to Clause 21.12 (Hoddle Grid) to remove reference to a built form transition that is no longer relevant or achievable in the context of the built form review.

In granting authorisation the Minister for Planning has required the inclusion of policies to consider overshadowing of Flagstaff Gardens within DPO11 and to modify clause 22.02 Sunlight to Public Places. These changes have been made.

A further change to the amendment in response to submissions is the inclusion of a statement in the schedule to clause 61.01 to include that the Minister for Planning is the responsible authority for approval of any Development Plan or planning permit application under Development Plan Overlay Schedule 11. This was in response to the perceived conflict with Council's dual roles as landowner and responsible authority.

• **How does the amendment implement the objectives of planning in Victoria?**

The amendment implements the objectives of planning in Victoria by putting in place a suite of planning tools that facilitate the orderly development of the land. The amendment balances the present and future interests of all Victorians via the fair, orderly, economic and sustainable use and development of land and the securing of a pleasant and efficient working, living and recreational environment for all Victorians and visitors to Victoria.

• **How does the amendment address the environmental effects and any relevant social and economic effects?**

The amendment is expected to have positive, environmental, economic and social benefits. The amendment aims to ensure that land use and development occurs within a framework that manages change at the interface with the Queen Victoria Market, delivers high quality public realm outcomes and facilitates planned improvements to the QVM.

• **Does the Amendment address relevant bushfire risk?**

Not applicable



- **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment complies and is consistent with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes pursuant to Section 7(5) of the Planning and Environment Act 1987 (the Act).

The amendment also complies and is consistent with the requirements of Ministerial Direction 11 on the Strategic Assessment of Planning Scheme Amendments.

Pursuant to section 12 of the Planning and Environment Act 1987 the amendment also complies with the Ministerial Direction No.9 (Metropolitan Strategy):

- *Direction 1.4 – Expanded central city:* the amendment will facilitate the future expansion of the CBD into the City North Precinct by encouraging a range of uses and quality built form outcomes that reflect the intended linking of the CBD and City North.
- *Direction 2.2 – Housing supply:* the amendment will assist with unlocking the capacity of the northern edge of the Central City for higher density mixed use development including housing and more affordable housing close to public transport and, employment and community services.
- *Direction 4.2 Protect Melbourne and its suburbs from inappropriate development:* the amendment will protect a unique City's precinct in and around the QVM and ensure that new development does not compromise the values held by the community for this area.
- *Direction 4.6 – More public spaces:* the amendment will enable the creation of a new public open space at the southern end of the market that complements highly valued existing public spaces in the area
- *Direction 4.7 – Respect our heritage:* the amendment will encourage new development that is designed and sited to respect the identified significance of heritage places, in particular the Queen Victoria Market.

- **How does the amendment support or implement the State Planning Policy Framework?**

The amendment is consistent with State Planning Policy by supporting the regeneration of existing urban land, providing good use of infill development and use of existing infrastructure, whilst managing change and impacts on the significant Queen Victoria Market.

Specifically, the amendment is consistent with:

- *Clause 10 – Operation.* By managing the use and development of land adjacent to the QVM, the amendment will help deliver a net community benefit. This will be achieved by allowing an increased urban density, activating a mixture of different and complementary land uses as well as bringing vitality to the these areas.
- *Clause 11 – Settlement.* The amendment is consistent with the principles and objectives of Plan Melbourne and will manage development in a manner that will uphold the Metropolitan Strategy's policy directives.
- *Clause 15.01 – Design and Built Form.* The amendment will facilitate the implementation of urban design, built form, and streetscape design principles to facilitate positive changes to land adjacent to the QVM. The amendment will help incorporate planning provisions that will encourage and support enhanced liveability, and amenity within the QVM environs.
- *Clause 16 – Housing.* The amendment will help deliver the strategic vision for the QVM environs by facilitating and contributing to the enhancement and planning of a vibrant, functional, safe and integrated part of the Central city which services the commercial, employment and housing needs of the municipality.

- **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

In accordance with the Local Planning Policy Framework of the Melbourne Planning Scheme, the amendment implements a review of the built form controls affecting the Queen Victoria Market and its environs.

The amendment proposes a new land use and development controls to facilitate positive changes adjacent to the QVM that contributes to the long term viability and vitality of a significant public asset that defines the northern edge of the City.

Clause 22.12 (Hoddle Grid) of the Municipal Strategic Statement has been amended to remove reference to a built form transition that is no longer relevant or achievable in the context of the built form review.

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

The amendment makes appropriate use of the various zoning and overlay tools available under the Victorian Planning Provisions to achieve the strategic objective of the Scheme.

- **How does the amendment address the views of any relevant agency?**

An extensive consultation process on the draft Queen Victoria Market Precinct Masterplan was carried out seeking feedback from the community, agencies and stakeholders. All relevant agencies will be notified as part of the planning scheme amendment formal exhibition process.

- **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The City of Melbourne is an interface body under the Transport Integration Act 2010. It is required to have regard to transport system objectives and decision-making principles when making decisions that have a significant impact on the transport system.

The Amendment will improve the transport system. It will: encourage walking; reduce reliance on cars; and improve the pedestrian network within, into and out of the precinct. The Amendment will strongly integrate transport and land use by providing for more intensive land use near existing and proposed public transport nodes including the planned Melbourne Metro stations at Parkville and City North.

The Amendment provides for mixed land uses near existing and proposed stations which will increase the efficiency of the use of public transport infrastructure by increasing counter-peak and inter-peak use.

## **Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The new planning provisions will have no marked effect on existing administrative costs to the City of Melbourne.

- **Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

City of Melbourne  
Level 3, 240 Little Collins Street  
MELBOURNE VIC 3000

City of Melbourne website at [www.melbourne.vic.gov.au/planningamendments](http://www.melbourne.vic.gov.au/planningamendments)

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.dtpli.vic.gov.au/publicinspection](http://www.dtpli.vic.gov.au/publicinspection) .

21.12 HODDLE GRID

30/072015

Proposed C245

Housing

- Support permanent and short term residential development in the Hoddle Grid that accommodates a diverse population.

Economic development

- Encourage the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities.
- Encourage the retention and enhancement of specialised shopping and entertainment precincts within the Hoddle Grid, particularly, Hardware Lane, Chinatown, Collins Street and Little Collins Street.
- Support entertainment, bars, eating and other evening uses throughout the Hoddle Grid.
- Support the Retail Core as a compact, high-density retail precinct and facilitate easy pedestrian access.
- Support the consolidation of education clusters on the northern and western edges of the Hoddle Grid and in Flinders Street.
- Ensure the Northbank of the Yarra River has increased open space opportunities.
- Support the Queen Victoria Market as a retail and tourist facility, and as a heritage asset of State significance.
- Ensure the form and use of development around the Queen Victoria Market does not detract from its amenity nor compromise its 24 hour function.

Built Environment and Heritage

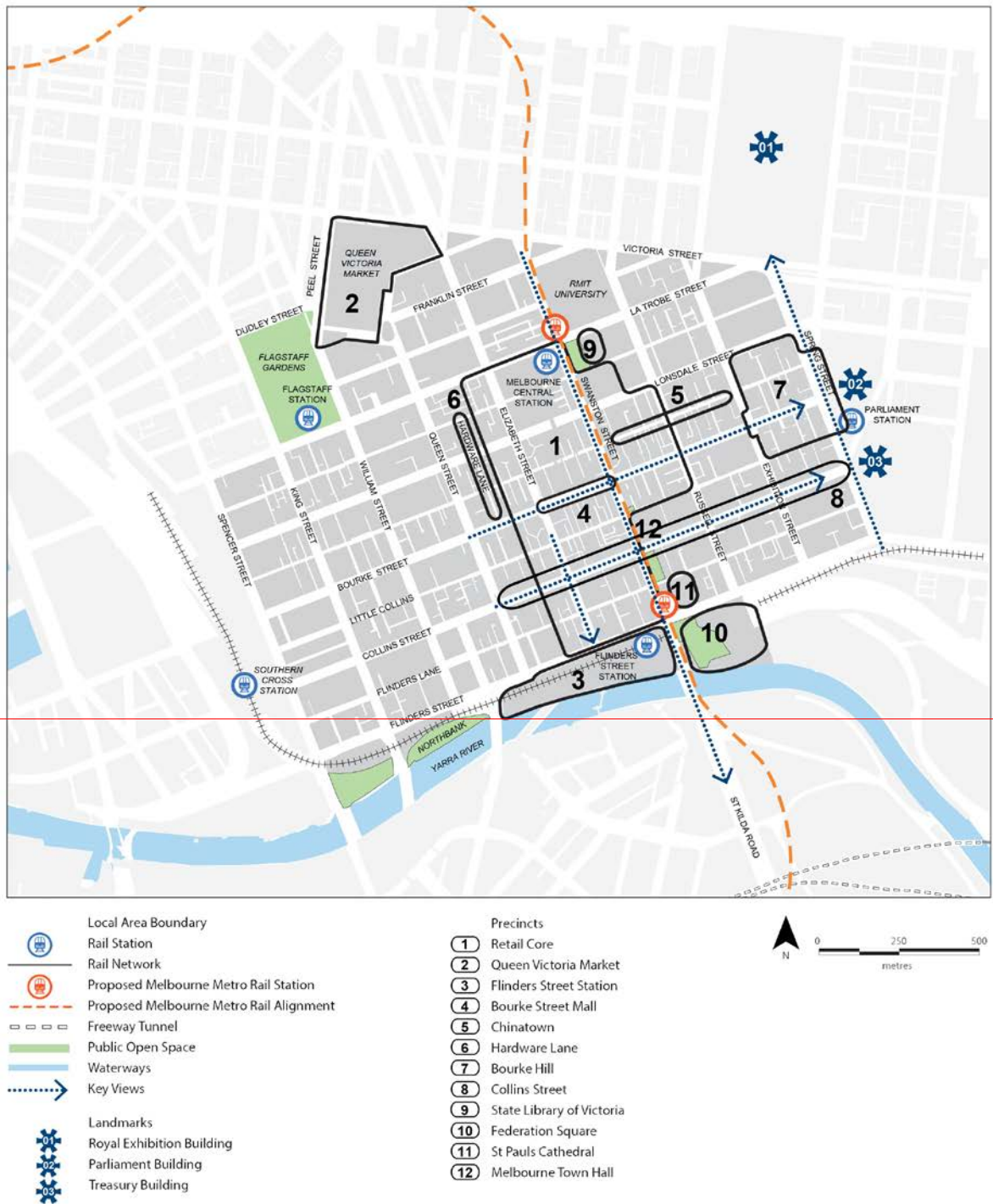
- Protect the regular grid layout, laneways, tree-lined boulevards and identified significant public open spaces.
- Protect the scale of important heritage precincts, boulevards and other unique precincts that rely on a consistency of scale for their image, including the Retail Core, Chinatown, Hardware Lane, Flinders Lane, Bourke Hill, Parliament, the Melbourne Town Hall, and the churches on Flinders and Collins Streets.
- Facilitate the civic and ceremonial function of Swanston Street.
- Enhance Swanston Street as part of a boulevard axis which runs from Princes Park to St Kilda Road.
- Maintain a low rise form and streetscapes in the Retail Core and along key views to ensure an intimate pedestrian scale and views to key buildings are maintained.
- Ensure a clear edge between the taller built form of the Capital City Zone and the Docklands Zone and the lower form of the surrounding areas.
- Ensure a strong contrast in scale of development along Elizabeth Street from the lower scale areas to the north of Victoria Street and the higher scale of the Capital City Zone.
- ~~▪ Ensure the area bounded by Latrobe and Victoria Streets and Elizabeth/Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.~~
- Ensure that development form and scale in the area south of the Queen Victoria Market Precinct achieves built form, urban design, and amenity outcomes consistent with those sought for the Hoddle Grid.

- Ensure that the design of tall buildings in the Hoddle Grid promote a human scale at street level especially in narrow lanes, respects the street pattern and provides a context for heritage buildings.
- Ensure that new tall buildings add architectural interest to the city's sky line.
- Ensure tower buildings are well spaced and sited to provide equitable access to an outlook and sunlight for all towers.
- Ensure high quality and robust public space design in arcade and laneway upgrades.
- Link arcades and laneways in the Hoddle Grid.
- Encourage arcade and laneway links between streets and public spaces.
- Ensure development fronting streets creates a continuous building edge and integrated streetscape.
- Ensure that security treatments for shop fronts allow for views into the premises at night and positively contribute to the streetscape.
- Ensure the ground level design of shop fronts on Swanston Street contribute to its role as a pre-eminent retail and lifestyle avenue and entry axis to the Retail Core.
- Ensure sunlight penetration in the middle of the day to key public spaces, appropriate to their role and function.
- Protect the Yarra River and its south bank from overshadowing throughout the year.

### **Transport**

- Ensure that pedestrian use is given priority in the Hoddle Grid.
- Facilitate the development of the Bourke Street Mall as a high quality pedestrian and retail space.
- Ensure that developments provide weather protection along key pedestrian routes and areas, where this does not conflict with building or streetscape integrity.
- Ensure that the design of buildings and public realm in the Hoddle Grid enhances the safety of pedestrians, visitors and occupants of buildings.
- Ensure streets and open space are physically and visually linked to the waterfront, where practicable.
- Develop better links between the south western edge of the Hoddle Grid and the Yarra River.
- Develop better links between the water side entertainment and recreational attractions of the north and south banks of the Yarra.
- Encourage the provision of pedestrian links to the Queen Victoria Market from surrounding areas.

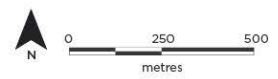
Figure 6: Hoddle Grid





- Local Area Boundary
- Rail Station
- Rail Network
- Proposed Melbourne Metro Rail Station
- Proposed Melbourne Metro Rail Alignment
- Freeway Tunnel
- Public Open Space
- Waterways
- Key Views
- Landmarks**
- Royal Exhibition Building
- Parliament Building
- Treasury Building

- Precincts**
- Retail Core
  - Queen Victoria Market
  - Flinders Street Station
  - Bourke Street Mall
  - Chinatown
  - Hardware Lane
  - Bourke Hill
  - Collins Street
  - State Library of Victoria
  - Federation Square
  - St Pauls Cathedral
  - Melbourne Town Hall



**22.02**

15/10/2015  
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[Proposed](#)  
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**SUNLIGHT TO PUBLIC SPACES**

This policy applies to public spaces such as parks and gardens, squares, streets and lanes, and includes privately owned spaces accessible to the public, such as building forecourts, atria and plazas within the municipality excluding the Docklands Zone.

**Policy Basis**

The State Planning Policy Framework sets out objectives for a high quality public realm. Similarly, the Municipal Strategic Statement sets out objectives for public realm quality. A fundamental feature of Melbourne's character, livability, comfort and attractiveness is its ability to offer sunlight to its streets and public spaces at the times of the year when the intensity of pedestrian activity is highest.

**Objectives**

- To ensure new buildings and works allow good sun penetration to public spaces.
- To ensure that overshadowing from new buildings or works does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians.
- To achieve a comfortable and enjoyable street environment for pedestrians.
- To protect and where possible increase the level of sunlight to public spaces during the times of the year when the intensity of use is at its highest.

**Policy**

It is policy that development proposals are assessed against the following standards:

**General**

- Development should not reduce the amenity of public spaces by casting any additional shadows on public parks and gardens, public squares, major pedestrian routes including streets and lanes (including all streets within the retail core of the Capital City Zone), and privately owned plazas accessible to the public between 11.00 am and 2.00 pm on 22 September.

**Yarra River Corridor**

- Development in the Capital City Zone and Docklands Zone must not cast:
  - a shadow across the south bank of the Yarra River between 11.00 am and 2.00 pm on 22 June.
  - any additional shadow across the north bank of the Yarra River (15 metres north from its edge) between 11.00 am and 2.00 pm from 22 March to 22 September.

**Federation Square, City Square, Queensbridge Square, State Library Forecourt, Parliament House Steps and Forecourt, Shrine of Remembrance, [Flagstaff Gardens](#)**

- Development must not cast any additional shadows across St Paul's Square, the Plaza and the Atrium which are part of Federation Square, any open space of City Square, Queensbridge Square or the State Library forecourt, between 11.00 am and 2.00 pm from 22 March to 22 September. Development must not cast any additional shadows



across the Parliament House steps and 'forecourt', between 11.00 am and 4.00 pm on 22 September.

- Development must not cast any additional shadow across the Shrine of Remembrance and its northern forecourt between 11.00 am and 4.00 pm on 22 September.
- [New development should not cast any additional shadow across Flagstaff Gardens between 11am and 2pm on 21 June.](#)

### Definitions for the Purpose of this Policy

The south bank is the north edge of the existing physical boundary bordering the south side of the river.

The north bank is the south edge of the existing physical boundary bordering the north side of the river.

The Parliament House steps and forecourt is the area shown at Figure 1.

The Shrine of Remembrance and its northern forecourt is the area shown at Figure 2.

Figure 1: Parliament House Steps and Forecourt

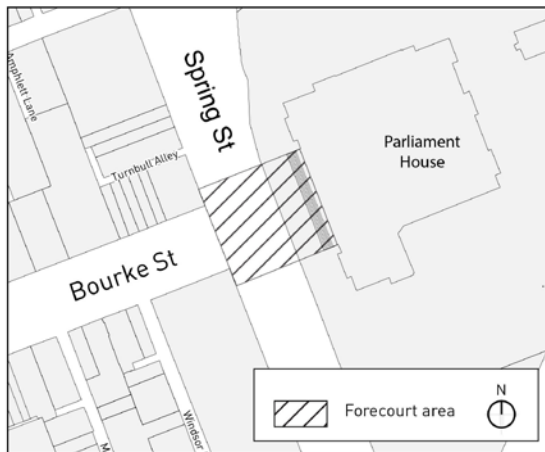


Figure 2: Shrine of Remembrance and its northern forecourt



**Policy Reference**

*Places for People (1994)*

*Bourke Hill Heritage, Planning and Urban Design Review, Department of Transport, Planning and Local Infrastructure, September 2014*

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C245**SCHEDULE 14 TO THE DESIGN AND DEVELOPMENT OVERLAY**Shown on the planning scheme map as **DDO14****QUEEN VICTORIA MARKET AREA****1.0 Design objectives**--/20--  
C245

- To ensure that development is suitable to its site context.
- To ensure the height of new buildings does not overwhelm the public domain.
- To allow daylight and sunlight to penetrate to the street and lower building levels.
- To ensure development supports high levels of pedestrian amenity including daylight, sky views, sunlight and protection from wind impacts.
- To ensure that new buildings respect the amenity and future development potential of adjacent sites and allow for an equitable spread of development potential on these sites.
- To ensure that development provides a high level of amenity for building occupants.
- To ensure that the scale and design of new buildings does not adversely affect the significance of the Queen Victoria Market as a historic and cultural landmark of adjoining or adjacent heritage buildings.

**2.0 Buildings and works**--/20--  
C245

Buildings and works should not vary the Preferred Requirements -specified in Table 1 -to this Schedule and ~~must-should~~ meet the Built Form Outcomes specified in Table 1 to this Schedule.

A permit cannot be granted for buildings and works which ~~exceed~~-do not meet the Mandatory Requirements specified in Table 2-1 to this Schedule.

An application must demonstrate to the satisfaction of the Responsible Authority how the development will achieve the Design Objectives and Built Form Outcomes of this Schedule and any local planning policy requirements.

"Podium height" is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the podium, with the exception of architectural features and building services.

"Street" is defined as a road reserve of 9 metres or greater in width.

"Laneway" is defined as a road reserve of less than 9 metres in width

Buildings and works should not cast a shadow across the Queen Victoria Market proposed public open space or the Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June. A permit may only be granted to vary this requirement if the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the ~~Queen Victoria Market proposed relevant~~ public open space.

~~New development should not cast any additional shadows across Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June.~~

Buildings and works should be designed to be generally acceptable for short term stationary wind exposure at street level (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 13ms<sup>-1</sup>). However, if it can be demonstrated that the street frontage or trafficable area is only likely to be used as a thoroughfare for the life of the development, the building interface should be designed to be generally acceptable for walking (where peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 16ms<sup>-1</sup>).

Buildings and works to be occupied by a residential use should be designed to limit internal noise levels in habitable rooms to a maximum of 45dB in accordance with relevant Australian Standards for acoustic control.

Buildings and works should incorporate at least one mid-block publicly accessible pedestrian link where the length of a street block exceeds 100 metres. For street blocks exceeding 200 metres in length, two mid-block publicly accessible pedestrian links should be provided. New publicly accessible pedestrian links should be located to connect to the area's pedestrian network and enhance the pedestrian permeability of the public realm.

Where consistent with the heritage significance of existing buildings, continuous weather protection should be provided to the footpaths of all streets to promote pedestrian amenity and provide protection from rain, wind and sun.

An active frontage should be provided to the ground level of buildings fronting Queen Street, Franklin Street, A'Beckett Street and William Street, comprising:

- At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or
- At least 5 metres or 80% of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.

Vehicular ingress and egress to new development (excluding loading and unloading facilities) should not be constructed within a frontage to Queen Street, Franklin Street, A'Beckett Street or William Street, where vehicle access via an alternative frontage is possible.

### 3.0 No permit required

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C245

A permit is not required for:

- The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works provided they are not visible from any street, lane or public place.
- External works to provide disabled access that complies with all legislative requirements.
- Alterations to a building which have been authorised under the Heritage Act 1995 (Vic).
- Buildings and works at the ground level of an existing building, including an extension to the building at ground level, or a new outbuilding at single storey level.
- Buildings and works which do not alter the height or setback of any part of an existing building.

### 4.0 Exemption from notice and review

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C245

An application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review of rights of Section 82(1) of the Act.

### 5.0 Subdivision

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C245

A permit is not required to subdivide land.

### 6.0 Application requirements

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C245

An application for permit, other than an application for minor buildings or works as determined by the Responsible Authority, must be accompanied by a comprehensive site analysis and urban context report documenting the key planning influences on the

development. The urban context report must identify the development opportunities and constraints, and demonstrate how the development, addresses:

- State Planning Policy Framework and the Local Planning Policy Framework, zone and overlay objectives.
- The Design Objectives, Requirements and Built Form Outcomes of this Schedule.
- Built form and character of adjacent and nearby buildings.
- Heritage character of adjacent and nearby heritage places, and the Queen Victoria Market buildings.
- Microclimate including sunlight, daylight and wind effects on streets and public spaces.
- Energy efficiency and waste management.
- Ground floor and lower level street frontages, including visual impacts and pedestrian safety.
- Public infrastructure, including reticulated services, traffic and car parking impact.

An Application for permit, other than an application for minor buildings or works as determined by the Responsible Authority, must be accompanied by a wind effects assessment as demonstrated by a wind tunnel model study which must show how the proposal meets the requirements of Clause 2.0 of this Schedule.

An application for permit to construct a building or to construct or carry out works for a residential use, other than an application for minor buildings or works as determined by the Responsible Authority, must be accompanied by an Acoustic Assessment which must show how the proposal meets the requirements of Clause 2.0 of this Schedule.

## 7.0

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C245

### Decision guidelines

Before deciding on an application, the Responsible Authority must consider, as appropriate:

- Whether the development achieves the Built Form Outcomes contained in Table 1 ~~and Table 2~~ of this Schedule.
- Whether the development maintains and enhances the character and amenity of the streetscape.
- The wind effect at ground level of the development as demonstrated by a wind tunnel model study. ~~effects assessments.~~
- Whether the cumulative effect of development promotes a public realm which provides a comfortable pedestrian scale, has good daylight and reasonable access to sunlight throughout the year.
- Whether the development provides a high level of amenity for building occupants in relation to sunlight, good daylight, outlook and privacy to all habitable rooms.
- The impact of any overshadowing from the development on the public domain.
- Whether the development minimises loss of sky views from the public domain.
- Whether the development will deliver fine grain built form.

## 8.0 Reference documents

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C245

Queen Victoria Market Precinct Renewal Built Form Review & Recommendations, March 2015.

## 9.0 Expiry

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The requirements of this overlay cease to have effect after 30 June 2017.

Table 1 to Schedule 14 of the Design and Development Overlay

Building design feature	Requirement	Built Form Outcomes
Podium Height	<p><u>Preferred</u></p> <ul style="list-style-type: none"> <li><del>Podiums should have a minimum podium height of Preferred pPodium height 20 metres.</del></li> </ul> <p><u>Mandatory</u></p> <ul style="list-style-type: none"> <li><u>Maximum podium height 40 metres</u></li> </ul>	<p>Building podiums are designed so that they:</p> <ul style="list-style-type: none"> <li>are oriented to complement the street system and constructed to the street edge.</li> <li>are of a scale that provides an appropriate level of street enclosure having regard to the width of the street.</li> <li>complement adjoining building podiums.</li> <li>include high quality treatments to side walls where visible above adjoining buildings.</li> <li>are of a height, siting and detailing that does not adversely affect the <b>heritage</b> significance of <del>the Queen Victoria Market or any</del> adjoining <u>or adjacent</u> heritage building(s).</li> <li>are designed to internalise above ground car parking behind active uses such as dwellings or offices to ensure a visual relationship between occupants of upper floors and pedestrians to improve surveillance of the public realm.</li> <li>are able to mitigate wind impacts at street level in accordance with the wind amelioration design standards in clause 2.0 of this Schedule.</li> </ul>
<p><u>Street setback</u></p> <p><u>Street is defined as a road reserve of 9 metres or greater in width</u></p>	<p><u>Mandatory</u></p> <ul style="list-style-type: none"> <li><u>Above the podium height, towers must be setback a minimum of 5 metres to the street</u></li> </ul>	<p><u>Towers are setback to ensure:</u></p> <ul style="list-style-type: none"> <li><u>large buildings do not visually dominate the street or public space.</u></li> <li><u>the prevalent street wall scale is maintained.</u></li> <li><u>overshadowing and wind impacts are mitigated.</u></li> </ul>

<p>Tower separation</p>	<p><u>Preferred</u></p> <ul style="list-style-type: none"> <li><u>Proposed Towers</u> should be setback a minimum of 24 metres from <del>an</del> existing or <u>approved- likely future</u> tower(s) on adjoining site(s)</li> </ul> <p><u>Mandatory</u></p> <ul style="list-style-type: none"> <li><u>Within a site</u> towers must be setback separated a <u>minimum of 10 metres.</u></li> </ul>	<p>Towers are designed and spaced to:</p> <ul style="list-style-type: none"> <li>equitably distribute access to an outlook, sunlight between towers and ensure adequate sun penetration at street level.</li> <li>ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>
<p>Setbacks</p> <p><u>* Street is defined as a road reserve of 9 metres or greater in width</u></p> <p><u>^ Laneway is defined as a road reserve of less than 9 metres in width</u></p>	<p><u>Preferred</u></p> <ul style="list-style-type: none"> <li><u>Proposed Towers</u> should be setback a minimum of 10 metres from side and rear boundaries, <u>including streets and laneways.</u></li> </ul> <p><u>Mandatory</u></p> <ul style="list-style-type: none"> <li><u>For buildings up to or equal to 100 metres in height, a minimum tower setback of 5 metres from all boundaries (excluding streets) or from the centre of the laneway^ above the podium must be applied.</u></li> <li><u>For buildings in excess of 100 metres in height, a minimum tower setback of 5% of the overall building height must be applied to all boundaries (excluding streets) and from the centre</u></li> </ul>	<p>Towers are designed and spaced to:</p> <ul style="list-style-type: none"> <li>equitably distribute access to an outlook, sunlight between towers and ensure adequate sun penetration at street level.</li> <li>ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>

	<p><u>of the laneway above the podium height,</u></p> <p><u>— Above the podium height towers are setback a minimum of 5 metres to the street</u></p> <p><u>* Street is defined as a road reserve of 9 metres or greater in width</u></p>	
<p><u>Tower setbacks to all boundaries excluding street(s)*</u></p> <p><u>* Street is defined as a road reserve of 9 metres or greater in width</u></p> <p><u>△ Laneway is defined as a road reserve of less than 9 metres in width</u></p>	<p><b><u>Buildings up to or equal to 100 metres in height</u></b></p> <p><u>△ minimum tower setback of 5 metres from all boundaries or from the centre of the laneway<sup>△</sup> above the podium</u></p> <p><b><u>Buildings in excess of 100 metres in height</u></b></p> <p><u>△ minimum tower setback from all boundaries and from the centre of the laneway above the podium height of 5% of the overall building height</u></p>	



<p><u>Site Plot Ratio#</u></p> <p><u># For the purpose of this schedule plot ratio is defined as the gross floor area of all buildings on a site divided by the area of the site, excluding the gross floor area below ground level</u></p>	<p><u>24:1</u></p>	
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**Table 2 to Schedule 14 of the Design and Development Overlay**

<b>Building design feature</b>	<b>Requirement</b>	<b>Built Form Outcomes</b>
<p><b>Podium Height</b></p>	<p>Podiums must have a maximum podium height of 40 metres</p>	<p>Building podiums are designed so that they:</p> <ul style="list-style-type: none"> <li>— are oriented to complement the street system and constructed to the street edge.</li> <li>— are of a scale that provides an appropriate level of street enclosure having regard to the width of the street.</li> <li>— complement adjoining building podiums.</li> <li>— include high quality treatments to side walls where visible above adjoining buildings.</li> <li>— are of a height, siting and detailing that does not adversely affect the heritage significance of the Queen Victoria Market or any adjoining heritage building(s).</li> <li>— are designed to internalise above ground car parking behind active uses such as dwellings or offices to ensure a visual relationship between occupants of upper floors and pedestrians to improve surveillance of the public realm.</li> <li>— are able to mitigate wind impacts at street level in accordance with the wind amelioration design standards in clause 2.0 of this Schedule.</li> </ul>

<p><b>Tower separation</b></p>	<p>Proposed towers must be setback a minimum of 10 metres from an existing or likely future tower(s) on adjoining site(s).</p>	<p>Towers are designed and spaced to:</p> <ul style="list-style-type: none"> <li>▪—equitably distribute access to an outlook, sunlight between towers and ensure adequate sun penetration at street level.</li> <li>▪—ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>▪—ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>▪—encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>▪—ensure towers do not appear as a continuous wall at street level.</li> </ul>
<p><b>Setbacks</b></p>	<p>Proposed towers must be setback a minimum of 10 metres from the front boundary.</p>	<p>Towers are designed and spaced to:</p> <ul style="list-style-type: none"> <li>▪—equitably distribute access to an outlook, sunlight between towers and ensure adequate sun penetration at street level.</li> <li>▪—ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>▪—ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>▪—encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>▪—ensure towers do not appear as a continuous wall at street level.</li> </ul>

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C245

## SCHEDULE 14 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO14**

### QUEEN VICTORIA MARKET AREA

#### 1.0 Design objectives

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C245

- To ensure that development is suitable to its site context.
- To ensure the height of new buildings does not overwhelm the public domain.
- To allow daylight and sunlight to penetrate to the street and lower building levels.
- To ensure development supports high levels of pedestrian amenity including daylight, sky views, sunlight and protection from wind impacts.
- To ensure that new buildings respect the amenity and future development potential of adjacent sites and allow for an equitable spread of development potential on these sites.
- To ensure that development provides a high level of amenity for building occupants.
- To ensure that the scale and design of new buildings does not adversely affect the significance of adjoining or adjacent heritage buildings.

#### 2.0 Buildings and works

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C245

Buildings and works should not vary the Preferred Requirements specified in Table 1 to this Schedule and should meet the Built Form Outcomes specified in Table 1 to this Schedule.

A permit cannot be granted for buildings and works which do not meet the Mandatory Requirements specified in Table 1 to this Schedule.

An application must demonstrate to the satisfaction of the Responsible Authority how the development will achieve the Design Objectives and Built Form Outcomes of this Schedule and any local planning policy requirements.

"Podium height" is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the podium, with the exception of architectural features and building services.

"Street" is defined as a road reserve of 9 metres or greater in width.

"Laneway" is defined as a road reserve of less than 9 metres in width

Buildings and works should not cast a shadow across the Queen Victoria Market proposed public open space or the Flagstaff Gardens between 11.00 am and 2.00 pm on 21 June. A permit may only be granted to vary this requirement if the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the relevant public open space.

Buildings and works should be designed to be generally acceptable for short term stationary wind exposure at street level (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 13ms<sup>-1</sup>). However, if it can be demonstrated that the street frontage or trafficable area is only likely to be used as a thoroughfare for the life of the development, the building interface should be designed to be generally acceptable for walking (where peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 16ms<sup>-1</sup>).

Buildings and works to be occupied by a residential use should be designed to limit internal noise levels in habitable rooms to a maximum of 45dB in accordance with relevant Australian Standards for acoustic control.

Buildings and works should incorporate at least one mid-block publicly accessible pedestrian link where the length of a street block exceeds 100 metres. For street blocks exceeding 200 metres in length, two mid-block publicly accessible pedestrian links should be provided. New publicly accessible pedestrian links should be located to connect to the area's pedestrian network and enhance the pedestrian permeability of the public realm.

Where consistent with the heritage significance of existing buildings, continuous weather protection should be provided to the footpaths of all streets to promote pedestrian amenity and provide protection from rain, wind and sun.

An active frontage should be provided to the ground level of buildings fronting Queen Street, Franklin Street, A'Beckett Street and William Street, comprising:

- At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or
- At least 5 metres or 80% of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.

Vehicular ingress and egress to new development (excluding loading and unloading facilities) should not be constructed within a frontage to Queen Street, Franklin Street, A'Beckett Street or William Street, where vehicle access via an alternative frontage is possible.

### 3.0 No permit required

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C245

A permit is not required for:

- The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works provided they are not visible from any street, lane or public place.
- External works to provide disabled access that complies with all legislative requirements.
- Alterations to a building which have been authorised under the Heritage Act 1995 (Vic).
- Buildings and works at the ground level of an existing building, including an extension to the building at ground level, or a new outbuilding at single storey level.
- Buildings and works which do not alter the height or setback of any part of an existing building.

### 4.0 Exemption from notice and review

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C245

An application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review of rights of Section 82(1) of the Act.

### 5.0 Subdivision

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C245

A permit is not required to subdivide land.

### 6.0 Application requirements

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C245

An application for permit, other than an application for minor buildings or works as determined by the Responsible Authority, must be accompanied by a comprehensive site analysis and urban context report documenting the key planning influences on the development. The urban context report must identify the development opportunities and constraints, and demonstrate how the development, addresses:

- State Planning Policy Framework and the Local Planning Policy Framework, zone and overlay objectives.
- The Design Objectives, Requirements and Built Form Outcomes of this Schedule.
- Built form and character of adjacent and nearby buildings.
- Heritage character of adjacent and nearby heritage places, and the Queen Victoria Market buildings.
- Microclimate including sunlight, daylight and wind effects on streets and public spaces.
- Energy efficiency and waste management.
- Ground floor and lower level street frontages, including visual impacts and pedestrian safety.
- Public infrastructure, including reticulated services, traffic and car parking impact.

An Application for permit, other than an application for minor buildings or works as determined by the Responsible Authority, must be accompanied by a wind effects assessment as demonstrated by a wind tunnel model study which must show how the proposal meets the requirements of Clause 2.0 of this Schedule.

An application for permit to construct a building or to construct or carry out works for a residential use, other than an application for minor buildings or works as determined by the Responsible Authority, must be accompanied by an Acoustic Assessment which must show how the proposal meets the requirements of Clause 2.0 of this Schedule.

## 7.0

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C245

### Decision guidelines

Before deciding on an application, the Responsible Authority must consider, as appropriate:

- Whether the development achieves the Built Form Outcomes contained in Table 1 of this Schedule.
- Whether the development maintains and enhances the character and amenity of the streetscape.
- The wind effect at ground level of the development as demonstrated by a wind tunnel model study.
- Whether the cumulative effect of development promotes a public realm which provides a comfortable pedestrian scale, has good daylight and reasonable access to sunlight throughout the year.
- Whether the development provides a high level of amenity for building occupants in relation to sunlight, good daylight, outlook and privacy to all habitable rooms.
- The impact of any overshadowing from the development on the public domain.
- Whether the development minimises loss of sky views from the public domain.
- Whether the development will deliver fine grain built form.

## 8.0 Reference documents

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C245

Queen Victoria Market Precinct Renewal Built Form Review & Recommendations, March 2015.

## 9.0

### Expiry

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C245

The requirements of this overlay cease to have effect after 30 June 2017.

Table 1 to Schedule 14 of the Design and Development Overlay

Building design feature	Requirement	Built Form Outcomes
Podium Height	<p><i>Preferred</i></p> <ul style="list-style-type: none"> <li>Podium height 20 metres.</li> </ul> <p><i>Mandatory</i></p> <ul style="list-style-type: none"> <li>Maximum podium height 40 metres</li> </ul>	<p>Building podiums are designed so that they:</p> <ul style="list-style-type: none"> <li>are oriented to complement the street system and constructed to the street edge.</li> <li>are of a scale that provides an appropriate level of street enclosure having regard to the width of the street.</li> <li>complement adjoining building podiums.</li> <li>include high quality treatments to side walls where visible above adjoining buildings.</li> <li>are of a height, siting and detailing that does not adversely affect the significance of adjoining or adjacent heritage building(s).</li> <li>are designed to internalise above ground car parking behind active uses such as dwellings or offices to ensure a visual relationship between occupants of upper floors and pedestrians to improve surveillance of the public realm.</li> <li>are able to mitigate wind impacts at street level in accordance with the wind amelioration design standards in clause 2.0 of this Schedule.</li> </ul>
Street setback	<p><i>Mandatory</i></p> <ul style="list-style-type: none"> <li>Above the podium height, towers must be setback a minimum of 5 metres</li> </ul>	<p>Towers are setback to ensure:</p> <ul style="list-style-type: none"> <li>large buildings do not visually dominate the street or public space.</li> <li>the prevalent street wall scale is maintained.</li> <li>overshadowing and wind impacts are mitigated.</li> </ul>

<p>Tower separation</p>	<p><i>Preferred</i></p> <ul style="list-style-type: none"> <li>Towers should be setback a minimum of 24 metres from existing or approved tower(s) on adjoining site(s)</li> </ul> <p><i>Mandatory</i></p> <ul style="list-style-type: none"> <li>Within a site towers must be separated a minimum of 10 metres.</li> </ul>	<p>Towers are designed and spaced to:</p> <ul style="list-style-type: none"> <li>equitably distribute access to an outlook, sunlight between towers and ensure adequate sun penetration at street level.</li> <li>ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>
<p>Setbacks</p>	<p><i>Preferred</i></p> <ul style="list-style-type: none"> <li>Towers should be setback a minimum of 10 metres from side and rear boundaries,</li> </ul> <p><i>Mandatory</i></p> <ul style="list-style-type: none"> <li><b>For buildings up to or equal to 100 metres in height</b>, a minimum tower setback of 5 metres from all boundaries (excluding streets) or from the centre of the laneway<sup>^</sup> above the podium must be applied.</li> <li><b>For buildings in excess of 100 metres in height</b>, a minimum tower setback of 5% of the overall building height must be applied to all boundaries (excluding streets) and from the centre of the laneway above the podium height,</li> </ul>	<p>Towers are designed and spaced to:</p> <ul style="list-style-type: none"> <li>equitably distribute access to an outlook, sunlight between towers and ensure adequate sun penetration at street level.</li> <li>ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>

Site Plot Ratio#  <i># For the purpose of this schedule plot ratio is defined as the gross floor area of all buildings on a site divided by the area of the site, excluding the gross floor area below ground level</i>	24:1	



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C245**SCHEDULE 11 TO THE DEVELOPMENT PLAN OVERLAY**Shown on the planning scheme map as **DPO11****QUEEN VICTORIA MARKET ENVIRONS****Site Description**

The development plan overlay applies to the land outlined in red (extent of overlay) in Figure 1 to this Schedule.

**1.0**--/20--  
C245**Requirement before a permit is granted**

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the Responsible Authority provided the Responsible Authority is satisfied that the grant of a permit will not prejudice the future use or development of the land in an integrated manner.

**2.0**--/20--  
C245**Conditions and requirements for permits**

- Any permit issued for the use, subdivision or development of the land must be consistent generally in accordance with the *Queen Victoria Market Precinct Framework Plan 2015* at Figure 1, and the Vision in Clause 3.0 of this Schedule.
- Any permit issued for the use, subdivision or development of the land:
  - ~~and must achieve all of the mandatory built form following design requirements in Table 1 to this Schedule;~~
  - ~~- Should achieve the built form Preferred Requirements and Built Form Outcomes in Table 12 to this Schedule; and~~
  - ~~- Should achieve the other requirements specified below in Clause 2 of this Schedule; and~~
  - ~~- Must achieve the Mandatory Requirements in Table 1 to this Schedule.~~
- New development should not cast a shadow across the Flagstaff Gardens or the proposed public open space in Figure 1 between 11.00 am and 2.00 pm on 21 June, unless the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the proposed public open space
- The design of the first 10 metre rise of podiums, and any flanking walls, in Parcel A and B (as shown on Figure 1) should area:
  - ~~— New development should not cast any additional shadows across Flagstaff Gardens between 11.00 am and 2.00 pm on 22 September.~~
  - ~~— Podiums fronting Therry Street and Queen Street north of Franklin Street should have a minimum podium height of 10 metres and must have a maximum podium height of 20 metres, manage the heritage sensitivities in this location, including by the detailed design and treatment of the podium façade directly referencing the Queen Victoria Market opposite and providing an appropriate pedestrian experience.~~
  - ~~-~~
- ~~— Podiums fronting other streets should have a minimum podium height of 20 metres and must have a maximum podium height of 40 metres.~~
- The design of the building to be constructed on Parcel C (as shown on Figure 1) should be reviewed by an independent Design Review Panel and should demonstrate:
  - ~~- architectural excellence and high quality environmental performance;~~
  - ~~- transparency and activation at ground level and a sense of address to both Queen Street and the proposed public open space in Figure 1; and~~
  - ~~- pedestrian permeability and connectivity through the building from Queen Street to the proposed public open space in Figure 1.~~

- ~~—~~
- ~~▪ All building podiums should:~~
    - ~~be oriented to complement the street system and constructed to the street edge.~~
    - ~~be of a scale that provides an appropriate level of street enclosure having regard to the width of the street.~~
    - ~~complement adjoining building podiums.~~
    - ~~include high quality treatments to side walls where visible above adjoining buildings.~~
    - ~~be of a height, siting and detailing that does not adversely affect the heritage significance of the Queen Victoria Market or any adjoining heritage building(s).~~
    - ~~be designed to internalise above ground car parking behind active uses such as dwellings or offices to ensure a visual relationship between occupants of upper floors and pedestrians to improve surveillance of the public realm.~~
    - ~~be able to mitigate wind impacts at street level in accordance with the wind amelioration design standards of this Schedule.~~
  - ~~Tower setbacks must be at least:~~
    - ~~Towers facing New Franklin Street—10 metres behind the northern masonry facades of the existing sheds (but may cantilever over the rear half of the existing sheds);~~
    - ~~Towers fronting the former alignment of Franklin Street—6 metres from front of podium;~~
    - ~~Towers fronting all other streets—10 metres from front of podium;~~
    - ~~Side and rear boundaries—10 metres from side and rear boundaries.~~
  - ~~Towers should be setback a minimum of 24 metres from an existing or likely future tower on an adjoining site(s), and must be set back a minimum of 10 metres. Towers should be designed and spaced to:~~
    - ~~equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level.~~
    - ~~ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.~~
    - ~~ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.~~
    - ~~encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.~~
    - ~~ensure towers do not appear as a continuous wall at street level.~~
  - New development adjoining the proposed public open space shown on Figure 1 and the frontages of Therry Street, Queen Street, the southern side of the New Franklin Street and Peel Street should be designed to be generally acceptable for short term stationary wind exposure (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 13ms<sup>-1</sup>).
  - New development adjoining all other public spaces should be designed to be generally acceptable for walking (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 16ms<sup>-1</sup>).
  - Buildings to be occupied by a residential use should be designed to limit internal noise levels in habitable rooms to a maximum of 45dB in accordance with relevant Australian Standards for acoustic control.
  - Buildings and works should incorporate at least one mid-block publicly accessible pedestrian link where the length of a street block exceeds 100 metres. For street blocks exceeding 200 metres in length, two mid-block publicly accessible pedestrian links should be provided. New publicly accessible pedestrian links should be located to connect to the area's pedestrian network and enhance the pedestrian permeability of the public realm, generally as shown on Figure 1 to this Schedule.
  - Where consistent with the heritage significance of existing buildings, continuous weather protection should be provided to the footpaths of Therry Street, Queen Street, Peel Street and to the southern side of the New Franklin Street to promote pedestrian amenity and provide protection from rain, wind and sun.
  - An active frontage should be provided to the ground level of buildings fronting Therry Street, Queen Street, the southern side of New Franklin Street and Peel Street, comprising:

- At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or
- At least 5 metres or 80% of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.
- Vehicular ingress and egress to new development (excluding loading and unloading facilities) should not be constructed within a frontage to Therry Street, Queen Street, Peel Street or the southern side of the New Franklin Street, where vehicle access via an alternative frontage is possible.
- For the purposes of this Schedule, "podium height" is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the podium, with the exception of architectural features and building services and "Laneway" is defined as a road reserve of less than 9 metres in width.

A permit application must include the following:

- elevations and cross sections;
- specification of building materials and treatments;
- a wind tunnel model study that demonstrates that wind impacts will not adversely affect the amenity of the public realm;
- an acoustic assessment demonstrating how noise sensitive uses will be protected from impacts from noise generating uses in the area; and
- an Environmental Sustainable Design and Water Sensitive Urban Design Assessment that outlines the initiatives to be included.

3.0

**Requirements for development plan**

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C245

A development plan must be generally in accordance with the *Queen Victoria Market Precinct Framework Plan 2016* at Figure 1.

A development plan must be consistent with the following Vision:

- Development contributes to the Melbourne CBD's distinctive character by reinforcing the distinction between the Hoddle Grid and adjoining areas whilst not adversely affecting the heritage significance of the Queen Victoria Market.
- Use and development contributes to safe and activated streets and public spaces via appropriately scaled podiums that incorporate ground floor uses that foster interaction with the street and uses at upper levels that achieve passive surveillance of public spaces.
- Use and development defines and activates the Queen Victoria Market's edge as a special place by creating a taller built form around, and oriented towards, the Queen Victoria Market, which does not overwhelm the public domain and does not adversely affect its heritage significance.
- Solar access to the proposed public open space shown on Figure 1 to this Schedule is protected.
- Development is configured and designed to minimise negative amenity impacts of shadows on the Flagstaff Gardens
- Public spaces are protected from adverse wind impacts so they are comfortable to use for outdoor cafes, window shopping and walking.
- Development respects the future development potential of adjacent sites including access, privacy, sunlight, daylight and an outlook from habitable interiors and allow for an equitable spread of development potential on these sites.
- Development achieves a high standard of architectural quality and provides a high level of amenity for building occupants.

- Existing numbers of car parks associated with the Queen Victoria Market are relocated and maintained to service the ongoing viability of the Queen Victoria Market.
- Parcel A will be a new mixed use development that will accommodate retail, hospitality and community uses complementing the Queen Victoria Market. Development will not visually overwhelm the proposed open space or the market buildings to the north.
- Parcel B will provide a moderating transition to the public open space, the Market Cross and the future visitor centre.
- Parcel C will be a new building that will help to activate the new open space, and provide a home for visitor services. The building will be sympathetic to the heritage setting.
- Parcel D will be a mixed use development incorporating the Market's old Franklin Street stores. Development will not visually overwhelm the new open space or the stores.

A development plan must include the following:

- A comprehensive Site and Context Analysis Plan that identifies, among other things, the key attributes of the land, its context, and its relationship with existing and proposed use and development on adjacent land.
- A development concept plan that includes among other things, indicative:
  - Building heights and setbacks which achieve the mandatory and discretionary preferred built form and amenity provisions set out in this Schedule;
  - ~~Elevations and cross-sections;~~
  - ~~Building materials and treatments;~~
  - ~~Shadow diagrams for the hours between 9am and 3pm at the Equinox (22 September);~~
  - Shadow diagrams for the hours between 11:00am and 2pm at the Winter Solstice (21 June) demonstrating any shadow impacts on the proposed public open space and/or the Flagstaff Gardens, as relevant; and
  - The alignment of existing and new roads and pedestrian links.
- ~~A wind effects assessment that demonstrates that wind impacts will not adversely affect the amenity of the public realm.~~
- An Integrated Transport Plan which assesses the transport, traffic, pedestrian and bicycle access needs of development.
- ~~An Environmental Sustainable Design and Water Sensitive Urban Design Assessment that outlines the initiatives to be included in future development.~~
- A Heritage Impact Statement that demonstrates that the significance of the Queen Victoria Market will not be adversely affected by new development
- A Staging Plan, where the land is to be developed in stages, which demonstrates interface treatments with adjoining land.
- A planning report that demonstrates how the development plan is consistent with the design requirements and Vision of this Schedule.
- Indicative waste storage and collection points.
- A road management plan which provides details of the alignment, design and finish to new public roads as illustrated on Figure 1 to this Schedule.
- ~~An acoustic assessment demonstrating how noise sensitive uses will be protected from impacts from noise generating uses in the area.~~
- The existing 720 car parking spaces associated with the Queen Victoria Market located within the proposed public open space and New Franklin Street should be relocated to Parcels A and/or D on Figure 1.

- Where dwellings are proposed on land owned or controlled by the City of Melbourne, consideration should be given to incorporating affordable housing.
- A new community facility that may include a Victoria visitor centre, Queen Victoria Market management facilities, public amenities, Queen Victoria Market-related education facilities, and retail and hospitality uses should be located within Parcel C on Figure 1.

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#### 4.0

#### Decision guidelines

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C245

Before deciding on a request to approve a development plan or a request to amend a development plan, the Responsible Authority must consider:

- Whether the development plan or amendment is consistent with the objectives-visions in Clause 3.0 of this Schedule and will achieve the design requirements in Clause 2.0 of this Schedule.
- Clause 65 of the planning scheme.

#### 5.0

#### Reference documents

[Queen Victoria Market Precinct Renewal Built Form Review & Recommendations, April 2015.](#)

[Queen Victoria Market Precinct Renewal Master Plan, July 2015.](#)

**Table 1 to Schedule 11 of the Development Plan Overlay**

<u>Built Form</u>	<u>Requirements</u>	<u>Built Form Outcomes</u>
<u>Podium Height</u>	<p><del>Discretionary</del> <u>Preferred minimum minimum podium heights:</u></p> <ul style="list-style-type: none"> <li><u>Podiums fronting Therry Street and Queen Street north of the laneway CL1184 - 10 metres.</u></li> <li><u>Podiums fronting Queen Street south of the laneway CL1184 and fronting Franklin Street – 20 metres.</u></li> <li><u>Parcel D (as shown on Figure 1) podiums fronting Little Franklin Street (labelled "Formerly Franklin Street" on Figure 1) other than the ends of Parcel D as shown on Figure 1 – 10 metres.</u></li> <li><u>The ends of Parcel D (as shown on Figure 1) – 20 metres.</u></li> </ul> <p><u>Mandatory maximum podium heights:</u></p> <ul style="list-style-type: none"> <li><u>Podiums fronting Therry Street and Queen Street north of the laneway CL1184 - 20 metres.</u></li> <li><u>Podiums fronting Queen Street south of the laneway CL1184 and fronting Franklin Street – 40 metres.</u></li> <li><u>Parcel D (as shown on Figure 1) podiums fronting New Franklin Street where abutting the existing Franklin Street Stores – 20 metres.</u></li> <li><u>Parcel D (as shown on Figure 1) podiums fronting Little Franklin Street (labelled "Formerly Franklin Street" on Figure 1) other than the ends of Parcel D as shown on Figure 1 – 20 metres.</u></li> <li><u>The ends of Parcel D (as shown on Figure 1) – 40 metres.</u></li> </ul>	<p><u>All building podiums should:</u></p> <ul style="list-style-type: none"> <li><u>be oriented to complement the street system and constructed to the street edge.</u></li> <li><u>be of a scale that provides an appropriate level of street enclosure having regard to the width of the street.</u></li> <li><u>complement adjoining building podiums.</u></li> <li><u>include high quality treatments to side walls where visible above adjoining buildings.</u></li> <li><u>be of a height, siting and detailing that does not adversely affect the heritage significance of the Queen Victoria Market or any adjoining heritage building(s).</u></li> <li><u>be designed to internalise above ground car parking behind active uses such as dwellings or offices to ensure a visual relationship between occupants of upper floors and pedestrians to improve surveillance of the public realm.</u></li> <li><u>be able to mitigate wind impacts at street level in accordance with the wind amelioration design standards of this Schedule.</u></li> </ul>
<u>Tower setbacks</u>	<p><del>Discretionary</del> <u>Preferred minimum tower setbacks from front of podium:</u></p> <ul style="list-style-type: none"> <li><u>Parcel B (as shown on Figure 1) fronting Queen Street – 10 metres.</u></li> </ul> <p><u>Mandatory minimum tower setbacks from front of podium:</u></p> <ul style="list-style-type: none"> <li><u>Parcel A (as shown on Figure 1) – 10 metres.</u></li> <li><u>Parcel B (as shown on Figure 1) fronting</u></li> </ul>	<p><u>Towers should be designed and spaced to:</u></p> <ul style="list-style-type: none"> <li><u>equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level.</u></li> <li><u>ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</u></li> </ul>

	<p><u>Franklin Street – 5 metres.</u></p> <ul style="list-style-type: none"> <li>Parcel D (as shown on Figure 1) fronting the former alignment of Franklin Street – 6 metres.</li> <li>All other streets – 10 metres.</li> </ul> <p>Mandatory minimum tower setback from the northern masonry facades of the existing Franklin Street Stores (Parcel D (as shown on Figure 1)) – 15 metres.</p> <p>Mandatory minimum tower setback from side boundaries and rear boundaries (or from the centre line of an adjoining laneway) – 5 metres. However, for buildings up to 40 metres in height on Parcel B (as shown on Figure 1), the side boundary and rear boundary setbacks can be reduced to 0 metres where the applicant can demonstrate to the satisfaction of the Responsible Authority that the reduction will not cause an unreasonable impact on the future development potential or amenity of adjoining sites.</p> <p><u>*lane means a road reserve of a public highway 9 metres or less wide.</u></p>	<ul style="list-style-type: none"> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>
<p><u>Tower separation</u></p>	<p><del>Discretionary</del> Preferred minimum tower separation within a site and from existing or approved towers on adjoining sites – 24 metres.</p> <p>Mandatory minimum tower separation within a site and from existing or approved towers on adjoining sites – 10 metres.</p>	<p>Towers should be designed and spaced to:</p> <ul style="list-style-type: none"> <li>equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level.</li> <li>ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>
<p><u>Building height</u></p>	<p><del>Discretionary</del> Preferred maximum building heights:</p>	<ul style="list-style-type: none"> <li>Parcel A: Ensure development does not visually overwhelm the proposed open space or the market</li> </ul>

	<ul style="list-style-type: none"><li>• <u>Parcel A (as shown on Figure 1) – 100 metres.</u></li><li>• <u>Parcel B (as shown on Figure 1) – 40 metres.</u></li><li>• <u>Parcel C (as shown on Figure 1) – 7 metres.</u></li><li>• <u>Parcel D (as shown on Figure 1) – 100 metres.</u></li></ul> <p><u>Any application to exceed these heights must be supported by 3D modelling and an assessment of the visual impact on the proposed public open space shown on Figure 1 to this Schedule and on the public realm.</u></p> <p><u>Mandatory maximum building height:</u></p> <p><u>Parcel C (as shown on Figure 1) – 13 metres.</u></p>	<p><u>buildings to the north.</u></p> <ul style="list-style-type: none"><li>• <u>Parcel B: Ensure that development provides a moderating transition to the public open space, the Market Cross and the future visitor centre.</u></li><li>• <u>Parcel C: ensure that the building is sympathetic to its heritage setting.</u></li><li>• <u>Parcel D: Ensure that development does not visually overwhelm the new open space or the stores.</u></li></ul>
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FIGURE 1: QUEEN VICTORIA MARKET PRECINCT FRAMEWORK PLAN 2016

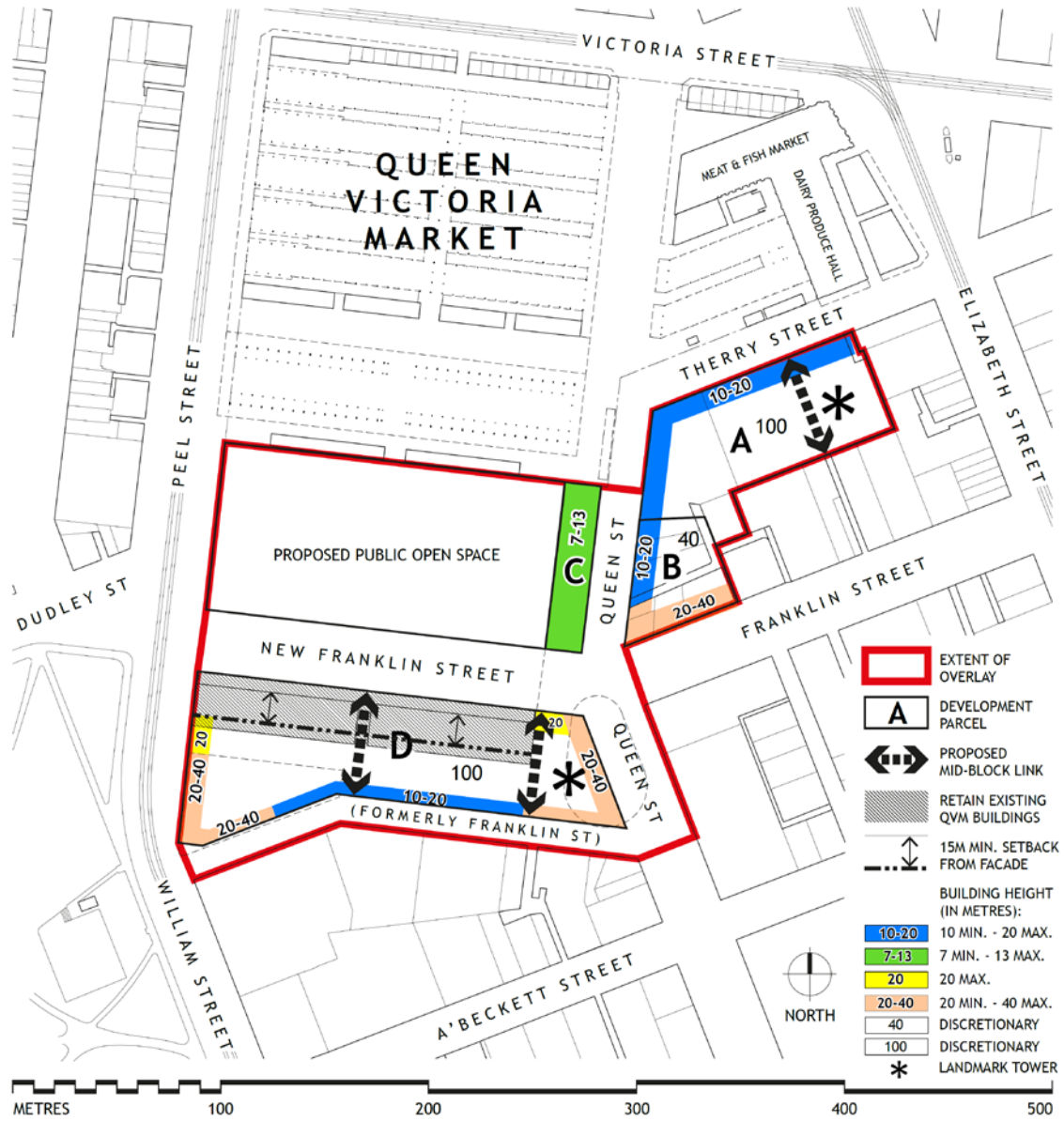
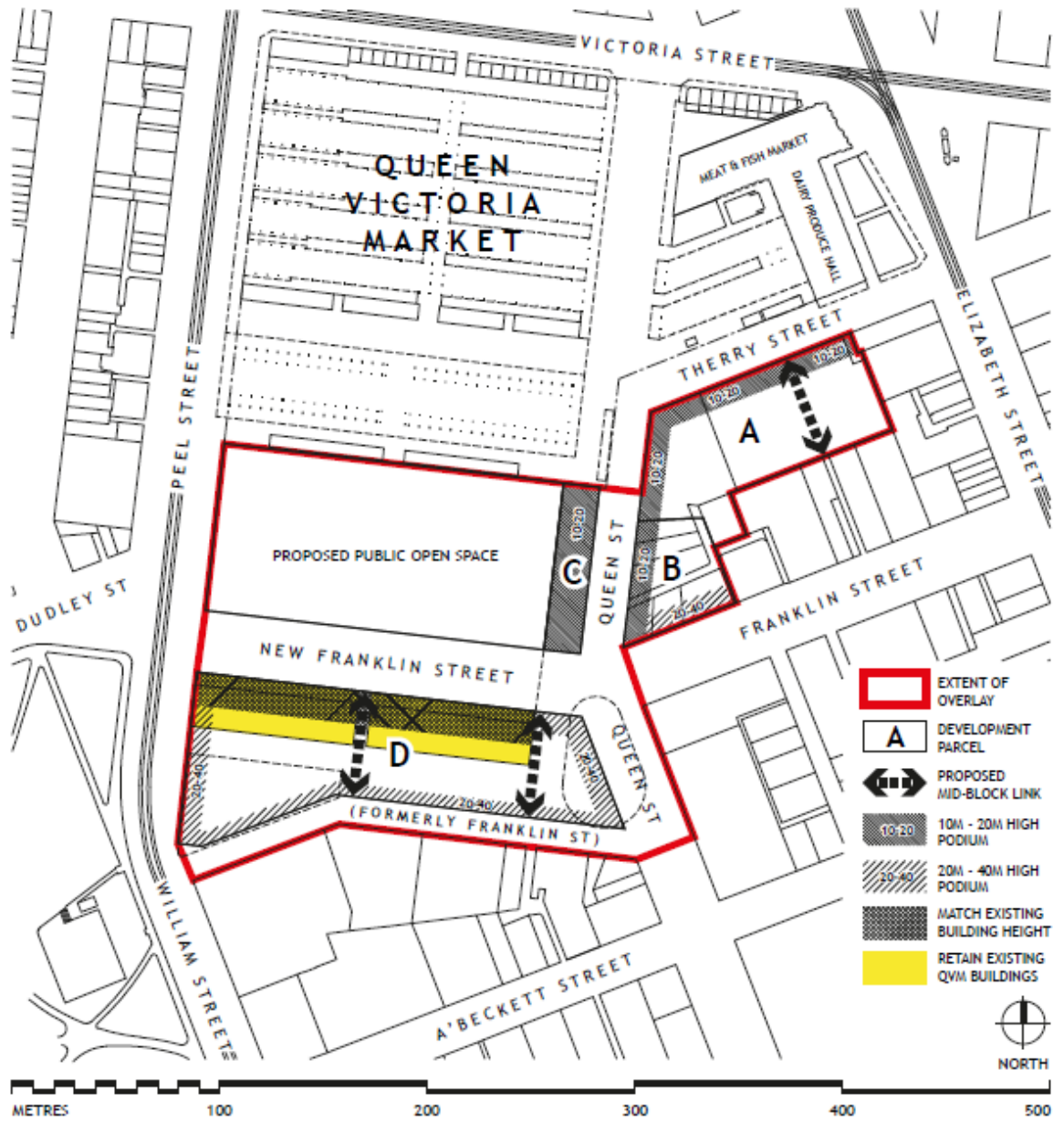


FIGURE 1: QUEEN VICTORIA MARKET PRECINCT FRAMEWORK PLAN 2015



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C245**SCHEDULE 11 TO THE DEVELOPMENT PLAN OVERLAY**Shown on the planning scheme map as **DPO11****QUEEN VICTORIA MARKET ENVIRONS****Site Description**

The development plan overlay applies to the land outlined in red (extent of overlay) in Figure 1 to this Schedule.

**1.0**--/20--  
C245**Requirement before a permit is granted**

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the Responsible Authority provided the Responsible Authority is satisfied that the grant of a permit will not prejudice the future use or development of the land in an integrated manner.

**2.0**--/20--  
C245**Conditions and requirements for permits**

- Any permit issued for the use, subdivision or development of the land must be generally in accordance with the *Queen Victoria Market Precinct Framework Plan 2016* at Figure 1, and the Vision in Clause 3.0 of this Schedule.
- Any permit issued for the use, subdivision or development of the land:
  - Should achieve the Preferred Requirements and Built Form Outcomes in Table 1 to this Schedule;
  - Should achieve the requirements specified below in Clause 2 of this Schedule; and
  - Must achieve the Mandatory Requirements in Table 1 to this Schedule.
- New development should not cast a shadow across the Flagstaff Gardens or the proposed public open space in Figure 1 between 11.00 am and 2.00 pm on 21 June, unless the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the proposed public open space
- The design of the first 10 metre rise of podiums, and any flanking walls, in Parcel A and B (as shown on Figure 1) should:
  - manage the heritage sensitivities in this location, including by the detailed design and treatment of the podium façade directly referencing the Queen Victoria Market opposite and provide an appropriate pedestrian experience.
- The design of the building to be constructed on Parcel C (as shown on Figure 1) should be reviewed by an independent Design Review Panel and should demonstrate:
  - architectural excellence and high quality environmental performance;
  - transparency and activation at ground level and a sense of address to both Queen Street and the proposed public open space in Figure 1; and
  - pedestrian permeability and connectivity through the building from Queen Street to the proposed public open space in Figure 1.
- New development adjoining the proposed public open space shown on Figure 1 and the frontages of Therry Street, Queen Street, the southern side of the New Franklin Street and Peel Street should be designed to be generally acceptable for short term stationary wind exposure (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 13ms<sup>-1</sup>).
- New development adjoining all other public spaces should be designed to be generally acceptable for walking (where the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector must not exceed 16ms<sup>-1</sup>).

- Buildings to be occupied by a residential use should be designed to limit internal noise levels in habitable rooms to a maximum of 45dB in accordance with relevant Australian Standards for acoustic control.
- Buildings and works should incorporate at least one mid-block publicly accessible pedestrian link where the length of a street block exceeds 100 metres. For street blocks exceeding 200 metres in length, two mid-block publicly accessible pedestrian links should be provided. New publicly accessible pedestrian links should be located to connect to the area's pedestrian network and enhance the pedestrian permeability of the public realm, generally as shown on Figure 1 to this Schedule.
- Where consistent with the heritage significance of existing buildings, continuous weather protection should be provided to the footpaths of Therry Street, Queen Street, Peel Street and to the southern side of the New Franklin Street to promote pedestrian amenity and provide protection from rain, wind and sun.
- An active frontage should be provided to the ground level of buildings fronting Therry Street, Queen Street, the southern side of New Franklin Street and Peel Street, comprising:
  - At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or
  - At least 5 metres or 80% of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.
- Vehicular ingress and egress to new development (excluding loading and unloading facilities) should not be constructed within a frontage to Therry Street, Queen Street, Peel Street or the southern side of the New Franklin Street, where vehicle access via an alternative frontage is possible.
- For the purposes of this Schedule, "podium height" is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the podium, with the exception of architectural features and building services and "Laneway" is defined as a road reserve of less than 9 metres in width.

A permit application must include the following:

- elevations and cross sections;
- specification of building materials and treatments;
- a wind tunnel model study that demonstrates that wind impacts will not adversely affect the amenity of the public realm;
- an acoustic assessment demonstrating how noise sensitive uses will be protected from impacts from noise generating uses in the area; and  
an Environmental Sustainable Design and Water Sensitive Urban Design Assessment that outlines the initiatives to be included.

### 3.0 Requirements for development plan

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G245

A development plan must be generally in accordance with the *Queen Victoria Market Precinct Framework Plan 2016* at Figure 1.

A development plan must be consistent with the following Vision:

- Development contributes to the Melbourne CBD's distinctive character by reinforcing the distinction between the Hoddle Grid and adjoining areas whilst not adversely affecting the heritage significance of the Queen Victoria Market.
- Use and development contributes to safe and activated streets and public spaces via appropriately scaled podiums that incorporate ground floor uses that foster interaction with the street and uses at upper levels that achieve passive surveillance of public spaces.
- Use and development defines and activates the Queen Victoria Market's edge as a special place by creating a taller built form around, and oriented towards, the Queen Victoria Market, which does not overwhelm the public domain and does not adversely affect its heritage significance.

- Solar access to the proposed public open space shown on Figure 1 to this Schedule is protected.
- Development is configured and designed to minimise negative amenity impacts of shadows on the Flagstaff Gardens
- Public spaces are protected from adverse wind impacts so they are comfortable to use for outdoor cafes, window shopping and walking.
- Development respects the future development potential of adjacent sites including access, privacy, sunlight, daylight and an outlook from habitable interiors and allow for an equitable spread of development potential on these sites.
- Development achieves a high standard of architectural quality and provides a high level of amenity for building occupants.
- Existing numbers of car parks associated with the Queen Victoria Market are relocated and maintained to service the ongoing viability of the Queen Victoria Market.
- Parcel A will be a new mixed use development that will accommodate retail, hospitality and community uses complementing the Queen Victoria Market. Development will not visually overwhelm the proposed open space or the market buildings to the north.
- Parcel B will provide a moderating transition to the public open space, the Market Cross and the future visitor centre.
- Parcel C will be a new building that will help to activate the new open space, and provide a home for visitor services. The building will be sympathetic to the heritage setting.
- Parcel D will be a mixed use development incorporating the Market's old Franklin Street stores. Development will not visually overwhelm the new open space or the stores.

A development plan must include the following:

- A comprehensive Site and Context Analysis Plan that identifies, among other things, the key attributes of the land, its context, and its relationship with existing and proposed use and development on adjacent land.
- A development concept plan that includes among other things, indicative:
  - Building heights and setbacks which achieve the mandatory and preferred built form and amenity provisions set out in this Schedule;
  - Shadow diagrams for the hours between 11:00am and 2pm at the Winter Solstice (21 June) demonstrating any shadow impacts on the proposed public open space and/or the Flagstaff Gardens, as relevant; and
  - The alignment of existing and new roads and pedestrian links.
- An Integrated Transport Plan which assesses the transport, traffic, pedestrian and bicycle access needs of development.
- A Heritage Impact Statement that demonstrates that the significance of the Queen Victoria Market will not be adversely affected by new development
- A Staging Plan, where the land is to be developed in stages, which demonstrates interface treatments with adjoining land.
- A planning report that demonstrates how the development plan is consistent with the design requirements and Vision of this Schedule.
- Indicative waste storage and collection points.
- A road management plan which provides details of the alignment, design and finish to new public roads as illustrated on Figure 1 to this Schedule.
- The existing 720 car parking spaces associated with the Queen Victoria Market located within the proposed public open space and New Franklin Street should be relocated to Parcels A and/or D on Figure 1.

- Where dwellings are proposed on land owned or controlled by the City of Melbourne, consideration should be given to incorporating affordable housing.
- A new community facility that may include a Victoria visitor centre, Queen Victoria Market management facilities, public amenities, Queen Victoria Market-related education facilities, and retail and hospitality uses should be located within Parcel C on Figure 1.

#### **4.0 Decision guidelines**

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C245

Before deciding on a request to approve a development plan or a request to amend a development plan, the Responsible Authority must consider:

- Whether the development plan or amendment is consistent with the visions in Clause 3.0 of this Schedule and will achieve the design requirements in Clause 2.0 of this Schedule.
- Clause 65 of the planning scheme.

#### **5.0 Reference documents**

Queen Victoria Market Precinct Renewal Built Form Review & Recommendations, April 2015.

Queen Victoria Market Precinct Renewal Master Plan, July 2015.

Table 1 to Schedule 11 of the Development Plan Overlay

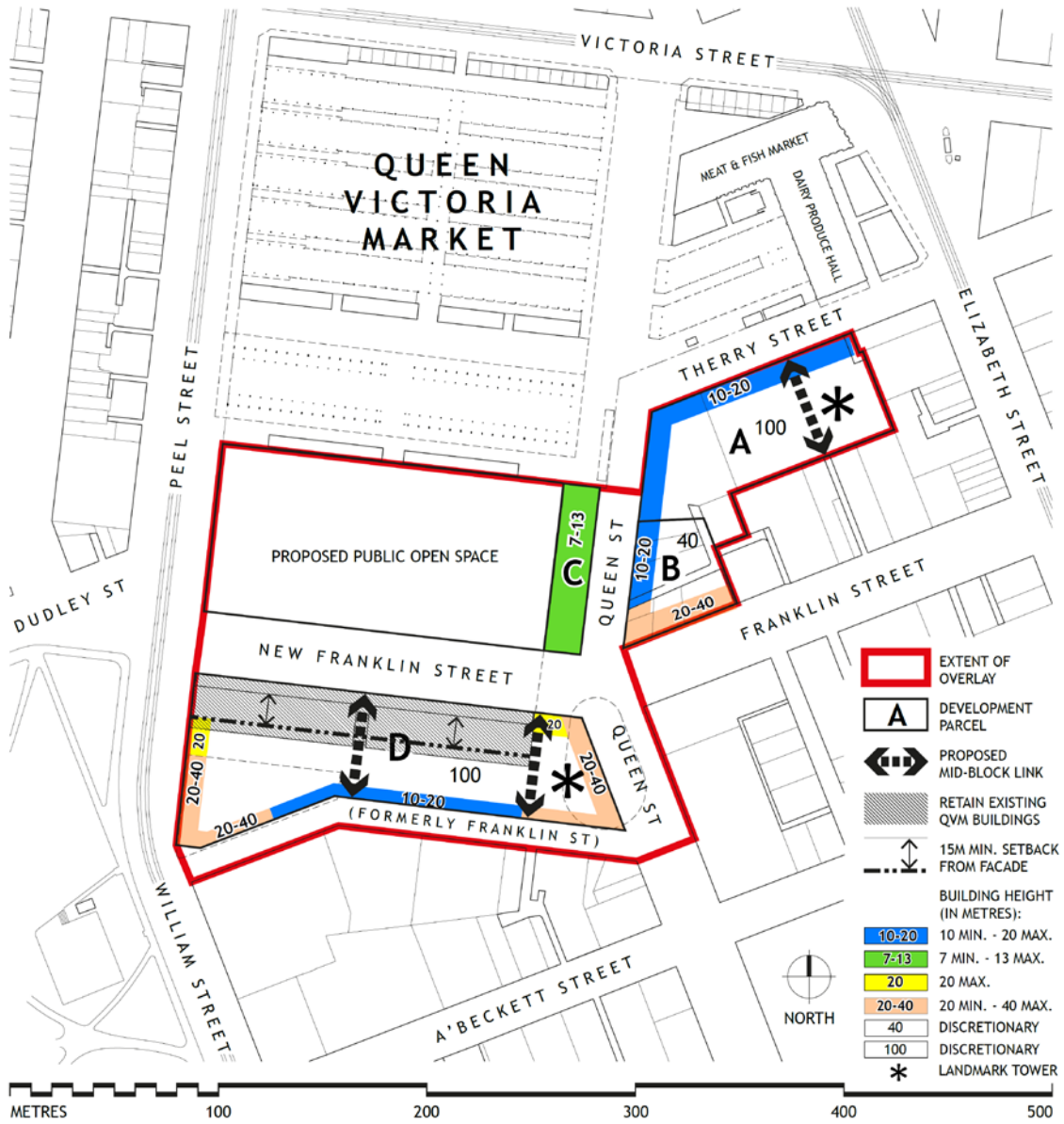
Built Form	Requirements	Built Form Outcomes
Podium Height	<p>Preferred minimum podium heights:</p> <ul style="list-style-type: none"> <li>• Podiums fronting Therry Street and Queen Street north of laneway CL1184 - 10 metres.</li> <li>• Podiums fronting Queen Street south of the laneway CL1184 and fronting Franklin Street – 20 metres.</li> <li>• Parcel D (as shown on Figure 1) podiums fronting Little Franklin Street (labelled "Formerly Franklin Street" on Figure 1) other than the ends of Parcel D as shown on Figure 1 – 10 metres.</li> <li>• The ends of Parcel D (as shown on Figure 1) – 20 metres.</li> </ul> <p>Mandatory maximum podium heights:</p> <ul style="list-style-type: none"> <li>• Podiums fronting Therry Street and Queen Street north of the laneway CL1184 - 20 metres.</li> <li>• Podiums fronting Queen Street south of the laneway CL1184 and fronting Franklin Street – 40 metres.</li> <li>• Parcel D (as shown on Figure 1) podiums fronting New Franklin Street where abutting the existing Franklin Street Stores – 20 metres.</li> <li>• Parcel D (as shown on Figure 1) podiums fronting Little Franklin Street (labelled "Formerly Franklin Street" on Figure 1) other than the ends of Parcel D as shown on Figure 1 – 20 metres.</li> <li>• The ends of Parcel D (as shown on Figure 1) – 40 metres.</li> </ul>	<p>All building podiums should:</p> <ul style="list-style-type: none"> <li>• be oriented to complement the street system and constructed to the street edge.</li> <li>• be of a scale that provides an appropriate level of street enclosure having regard to the width of the street.</li> <li>• complement adjoining building podiums.</li> <li>• include high quality treatments to side walls where visible above adjoining buildings.</li> <li>• be of a height, siting and detailing that does not adversely affect the heritage significance of the Queen Victoria Market or any adjoining heritage building(s).</li> <li>• be designed to internalise above ground car parking behind active uses such as dwellings or offices to ensure a visual relationship between occupants of upper floors and pedestrians to improve surveillance of the public realm.</li> <li>• be able to mitigate wind impacts at street level in accordance with the wind amelioration design standards of this Schedule.</li> </ul>
Tower setbacks	<p>Preferred minimum tower setbacks from front of podium:</p> <ul style="list-style-type: none"> <li>• Parcel B (as shown on Figure 1) fronting Queen Street – 10 metres.</li> </ul> <p>Mandatory minimum tower setbacks from front of podium:</p> <ul style="list-style-type: none"> <li>• Parcel A (as shown on Figure 1) – 10 metres.</li> <li>• Parcel B (as shown on Figure 1) fronting Franklin Street – 5 metres.</li> </ul>	<p>Towers should be designed and spaced to:</p> <ul style="list-style-type: none"> <li>• equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level.</li> <li>• ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> </ul>

	<ul style="list-style-type: none"> <li>Parcel D (as shown on Figure 1) fronting the former alignment of Franklin Street – 6 metres.</li> <li>All other streets – 10 metres.</li> </ul> <p>Mandatory minimum tower setback from the northern masonry facades of the existing Franklin Street Stores (Parcel D as shown on Figure 1) – 15 metres.</p> <p>Mandatory minimum tower setback from side boundaries and rear boundaries (or from the centre line of an adjoining laneway) – 5 metres. However, for buildings up to 40 metres in height on Parcel B (as shown on Figure 1), the side boundary and rear boundary setbacks can be reduced to 0 metres where the applicant can demonstrate to the satisfaction of the Responsible Authority that the reduction will not cause an unreasonable impact on the future development potential or amenity of adjoining sites.</p>	<ul style="list-style-type: none"> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>
<p>Tower separation</p>	<p>Preferred minimum tower separation within a site and from existing or approved towers on adjoining sites – 24 metres.</p> <p>Mandatory minimum tower separation within a site and from existing or approved towers on adjoining sites – 10 metres.</p>	<p>Towers should be designed and spaced to:</p> <ul style="list-style-type: none"> <li>equitably distribute access to an outlook, sunlight between towers and to ensure adequate sun penetration at street level.</li> <li>ensure habitable room windows do not directly face one another and that consideration has been given to the development potential of adjoining lots.</li> <li>ensure sunlight, good daylight and privacy and an outlook from habitable rooms for both existing and proposed development can be provided.</li> <li>encourage the reasonable sharing of access to daylight and an outlook, and the mitigation of wind effects.</li> <li>ensure towers do not appear as a continuous wall at street level.</li> </ul>
<p>Building height</p>	<p>Preferred maximum building heights:</p> <ul style="list-style-type: none"> <li>Parcel A (as shown on Figure 1) – 100 metres.</li> <li>Parcel B (as shown on Figure 1) – 40 metres.</li> <li>Parcel C (as shown on Figure 1) – 7</li> </ul>	<ul style="list-style-type: none"> <li>Parcel A: Ensure development does not visually overwhelm the proposed open space or the market buildings to the north.</li> <li>Parcel B: Ensure that development provides a moderating transition to the public open space, the Market</li> </ul>



	<p>metres.</p> <ul style="list-style-type: none"><li>Parcel D (as shown on Figure 1) – 100 metres.</li></ul> <p>Any application to exceed these heights must be supported by 3D modelling and an assessment of the visual impact on the proposed public open space shown on Figure 1 to this Schedule and on the public realm.</p> <p>Mandatory maximum building height:</p> <p>Parcel C (as shown on Figure 1) – 13 metres.</p>	<p>Cross and the future visitor centre.</p> <ul style="list-style-type: none"><li>Parcel C: ensure that the building is sympathetic to its heritage setting.</li><li>Parcel D: Ensure that development does not visually overwhelm the new open space or the stores.</li></ul>
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FIGURE 1: QUEEN VICTORIA MARKET PRECINCT FRAMEWORK PLAN 2016



--03/--09/2015  
 Proposed  
 C245GC36

## SCHEDULE TO CLAUSE 61.01

### 1.0

#### Responsible authority for administering and enforcing this scheme:

15/03/2011  
 VC78

The Council of the City of Melbourne is the responsible authority for administering and enforcing the scheme, except for matters specified in Clause 61.01-1 and matters listed in this schedule.

### 2.0

#### Responsible authority for administering and enforcing a provision of this scheme:

03/09/2015  
 GC36

The Minister for Planning is the responsible authority for administering and enforcing the scheme for:

- The Melbourne Casino Area as delineated in Schedule 1 of the *Casino Control Act 1991* as amended.
- The Special Use Zone - Schedule 1 Flemington Racecourse.
- The Special Use Zone - Schedule 2 Royal Melbourne Showgrounds
- Land at 235-249 A'Beckett Street, Melbourne, described in Title Vol. 5809 Fol. 796.
- Bio21 project area: land bounded by Flemington Road, Park Drive, Story Street, Parkville and abutting University High School and Royal Melbourne Hospital to the east, Title Vol.10565 Fol.172.
- Spencer Street Station redevelopment precinct generally bounded by Spencer Street, Collins Street, Wurundjeri Way and La Trobe Street Melbourne (excluding the Melbourne City Mail Centre).
- Land comprising public lands and sports and entertainment facilities within the area bounded generally by Swan Street, Punt Road, Batman Avenue and Boulton Parade, Melbourne.
- Land comprising the Melbourne Convention Centre Development Southbank and associated Northbank redevelopment Docklands, Precinct Plan area generally bounded by Wurundjeri Way, the north-south alignment of Siddeley Street and its prolongation south to the Yarra River, Charles Grimes Bridge, Montague Street, the southern alignment of the West Gate Freeway, Normanby Road and Clarendon Street, the Yarra River southbank including south wharf and Dukes Dock and Orrs Dock, and parts of the northbank of the Yarra River in the vicinity of the western end of Siddeley Street, and part of the intervening Yarra River.
- Land included in the Games Village project as shown in plan 18698/GV Version A, generally bounded by Oak Street to the east, Park Street to the north, the City Link Freeway to the west and Royal Park to the south-east, excluding the Mental Health Research Institute, in Parkville. This includes applications for subdivision or consolidation of land including buildings and airspace and other applications made under the *Subdivision Act 1988*.
- Land included in the 'The New Royal Children's Hospital Project Area', Flemington Road Parkville, generally bounded by Royal Park, Flemington Road, the tramway and the existing Royal Children's Hospital on the corner of Gatehouse Street and Flemington Road, Parkville.
- Land included in the Development Plan Overlay, Schedule 8 – Carlton Housing Precincts, comprising the following three areas:
  - Lygon/Rathdowne Precinct comprising the area generally bounded by Lygon Street, Princes Street, Drummond Street, Rathdowne Street and Neill Street, Carlton;

- Elgin/Nicholson Precinct comprising the area bounded by Elgin Street, Nicholson Street, Canning Street and Palmerston Street, Carlton;
- Keppel/Cardigan Precinct comprising the area bounded by Keppel Street, Cardigan Street, Cemetery Road East and Swanston Street, Carlton.
- Land included in the Melbourne Park Redevelopment Area - All land bounded generally by Olympic Boulevard between Batman Avenue and Punt Road to the south, Punt Road to the east, the rail corridor and William Barak Bridge to the north and Batman Avenue between William Barak Bridge and Olympic Boulevard to the west. The Area includes the proposed pedestrian bridge alignment and landings over Batman Avenue linking Birrarung Marr and Melbourne Park and the constructed pedestrian bridge over Olympic Boulevard linking Melbourne Park and AAMI Park.
- Hamer Hall Redevelopment Area comprising Hamer Hall and land bound by Princes Bridge, St Kilda Road, Yarra River and Southgate Avenue and the Arts Centre lawn.
- Land included in the Yarra Park Master Plan Area (Precinct 1 & Precinct 2) as hatched in Figure 1.
- Land comprising the northern bank of the Yarra River to the east and west of the Charles Grimes Bridge, and above the Yarra River under the Charles Grimes Bridge, as shown in Figure 2.

The Minister for Planning is the responsible authority for matters under Divisions 1, 1A, 2, and 3 of Part 4 and Part 4AA of the Act and matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority in relation to:

- Developments with a gross floor area exceeding 25,000 square metres.
- Development and use of land for or on behalf of a Minister of the Crown.
- Comprehensive Development Zone; Schedule 2 – Carlton Brewery.
- The approval and amendment of any development plan, pursuant to clause 43.04-3, in relation to Schedule 8 to the Development Plan Overlay (Carlton Housing Precincts).
- [The approval and amendment of any development plan, pursuant to clause 43.04-3, in relation to Schedule 11 to the Development Plan Overlay \(DPO11 Queen Victoria Market Environs\) and the determination of permit applications pursuant to DPO11.](#)

The Growth Areas Authority, now known as the Metropolitan Planning Authority, is the responsible authority for matters under Division 2 of Part 9 of the Act in relation to any agreement that makes provision for development contributions for land in the Fishermans Bend Urban Renewal Area as identified in Figure 3.

Despite anything to the contrary in this schedule, the Minister for Planning is the responsible authority for the purposes of clause 43.04 (schedules 2 to 7) where the total gross floor area of the buildings in the development plan exceeds 25,000 square metres.

Despite anything to the contrary stated in this schedule, the Council of the City of Melbourne is the responsible authority for administering and enforcing the scheme for applications for subdivision or consolidation of land including buildings or airspace and other applications made under the *Subdivision Act 1988* within the municipal district of the City of Melbourne, except for the 20.11 hectares of land included in the Games Village project as shown in plan 18698/GV Version A, generally bounded by Oak Street to the east, Park Street to the north, the City Link Freeway to the west and Royal Park to the south-east, excluding the Mental Health Research Institute, in Parkville.

The Minister for Planning is the responsible authority for administering and enforcing:

- Clause 52.03 of the scheme in respect of the “Regional Rail Link Project Section 1 Incorporated Document, March 2015”.
- Any other provision of the scheme as it applies to the use or development of land authorised by the Victorian Government for the Regional Rail Link Project.

**3.0 Person or responsible authority for issuing planning certificates:**

24/07/2014  
GC16

Minister for Planning

19/09/2014  
VC114

**Responsible authority for VicSmart applications:**

The Chief Executive Officer of the City of Melbourne Council is the responsible authority for considering and determining VicSmart applications to which Clause 91 applies, in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the Act.

Figure 1 – Yarra Park Master Plan Area

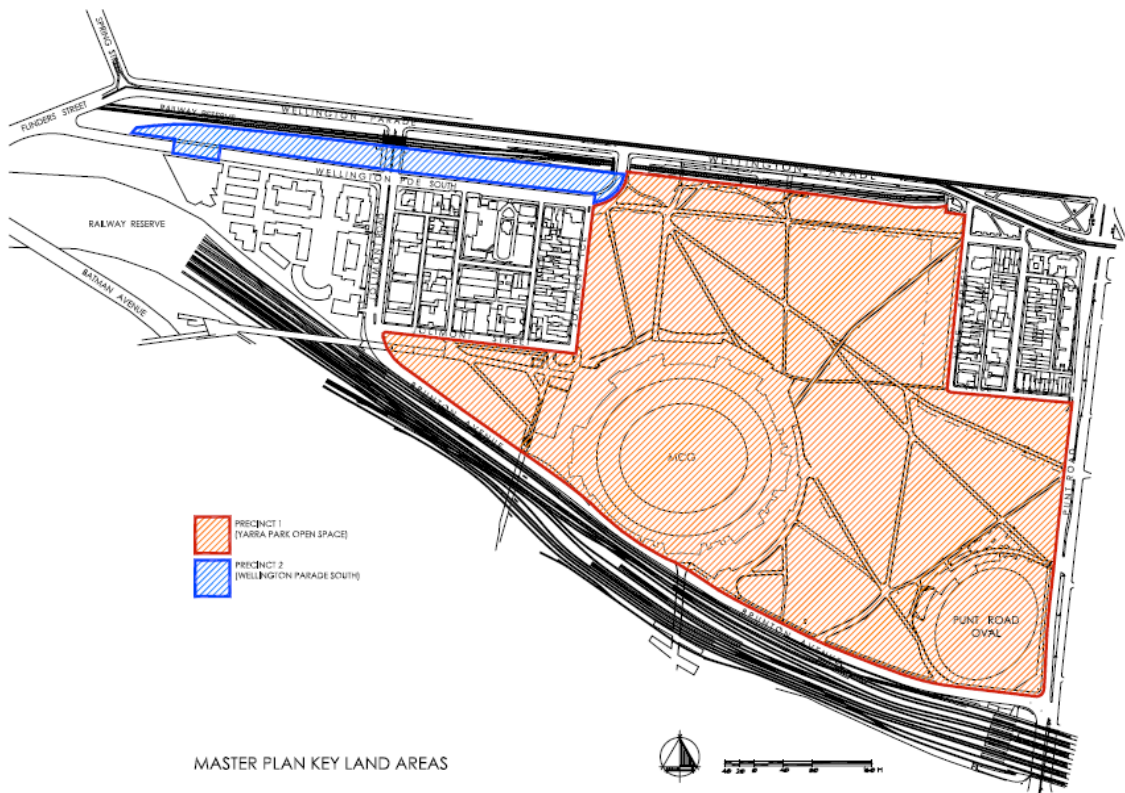


Figure 2 – Charles Grimes Bridge Underpass

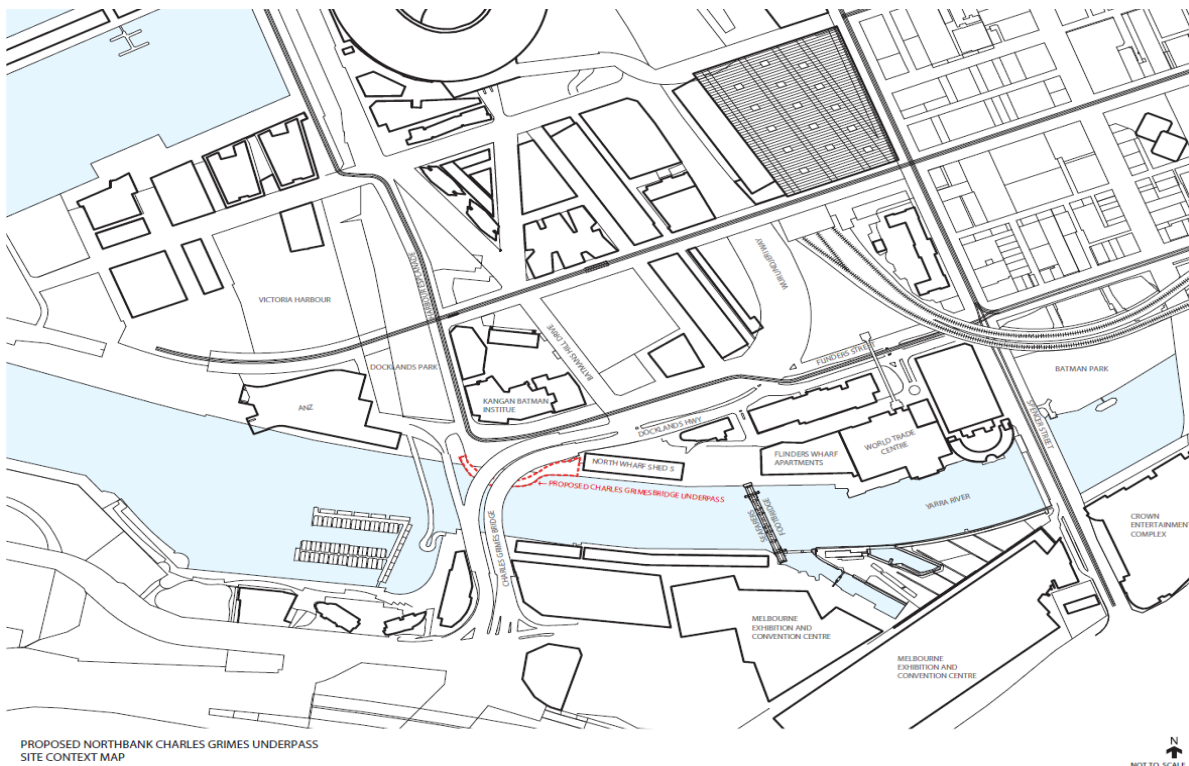
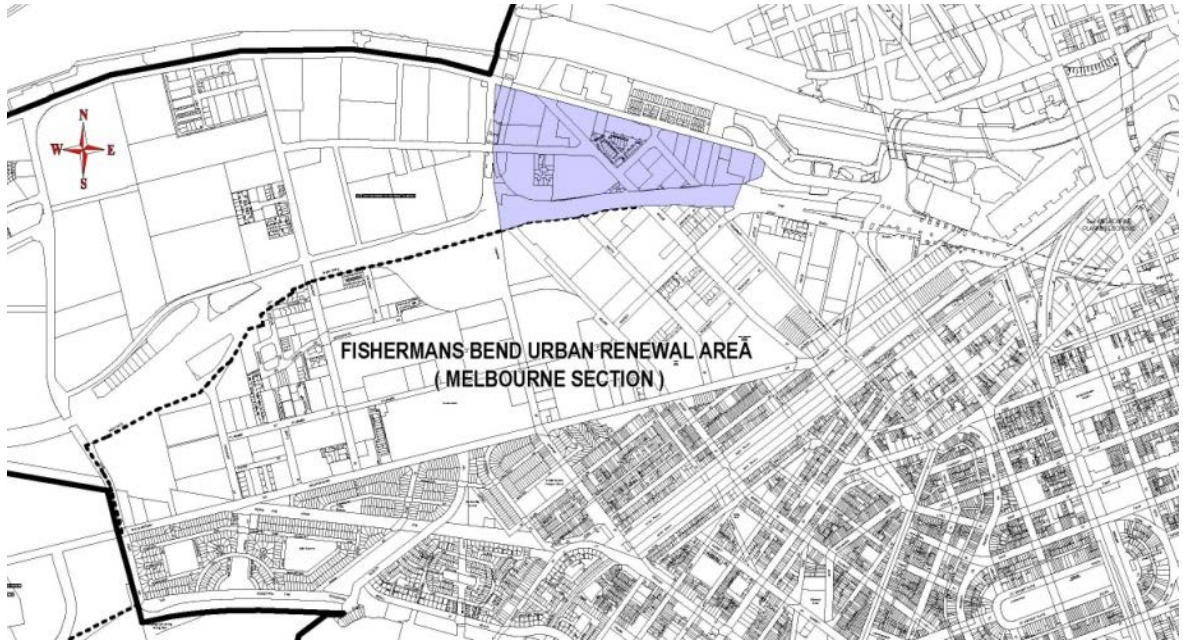
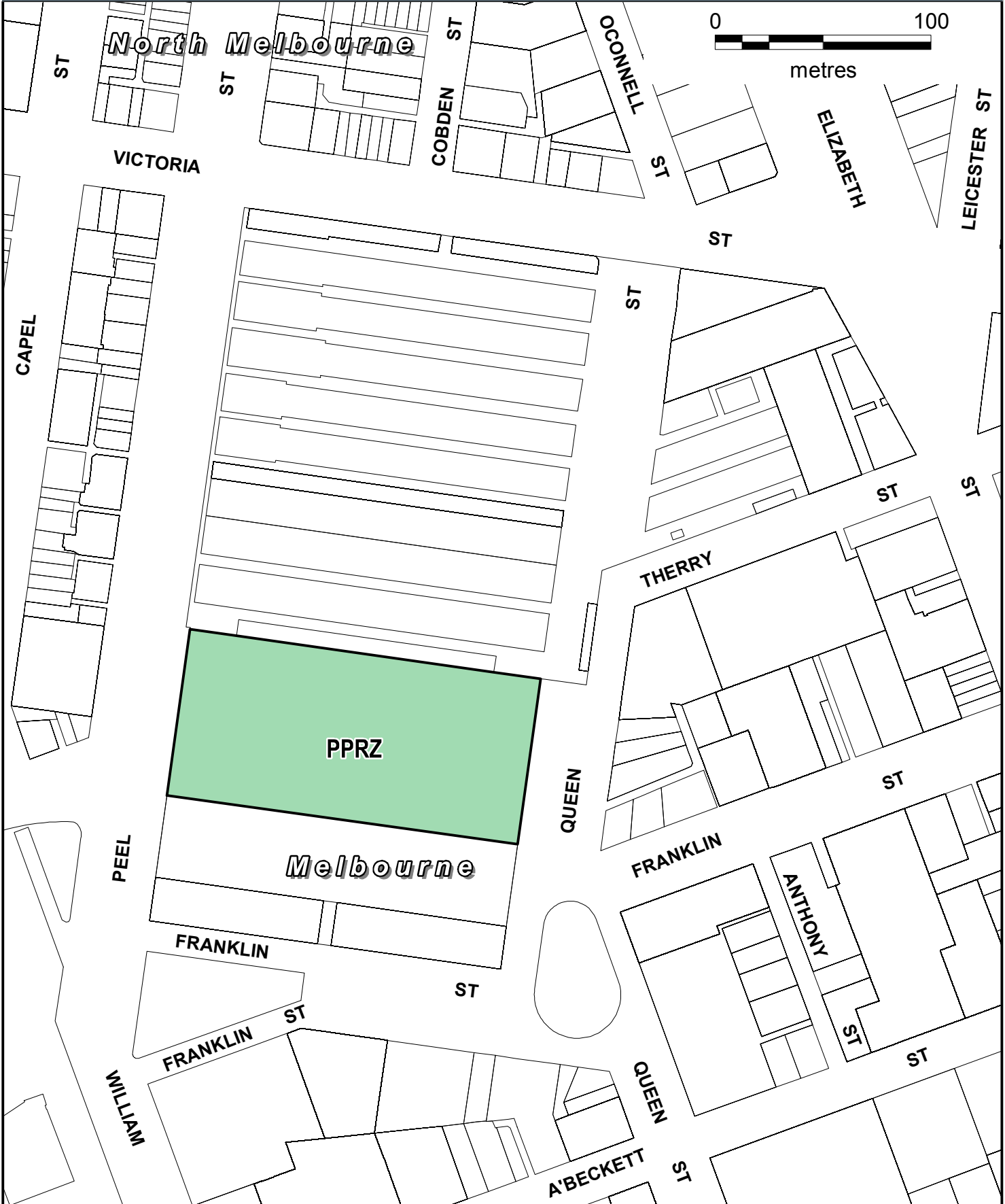


Figure 3 – Fishermans Bend Urban Renewal Area



# MELBOURNE PLANNING SCHEME

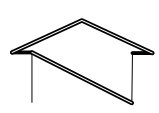


## LEGEND

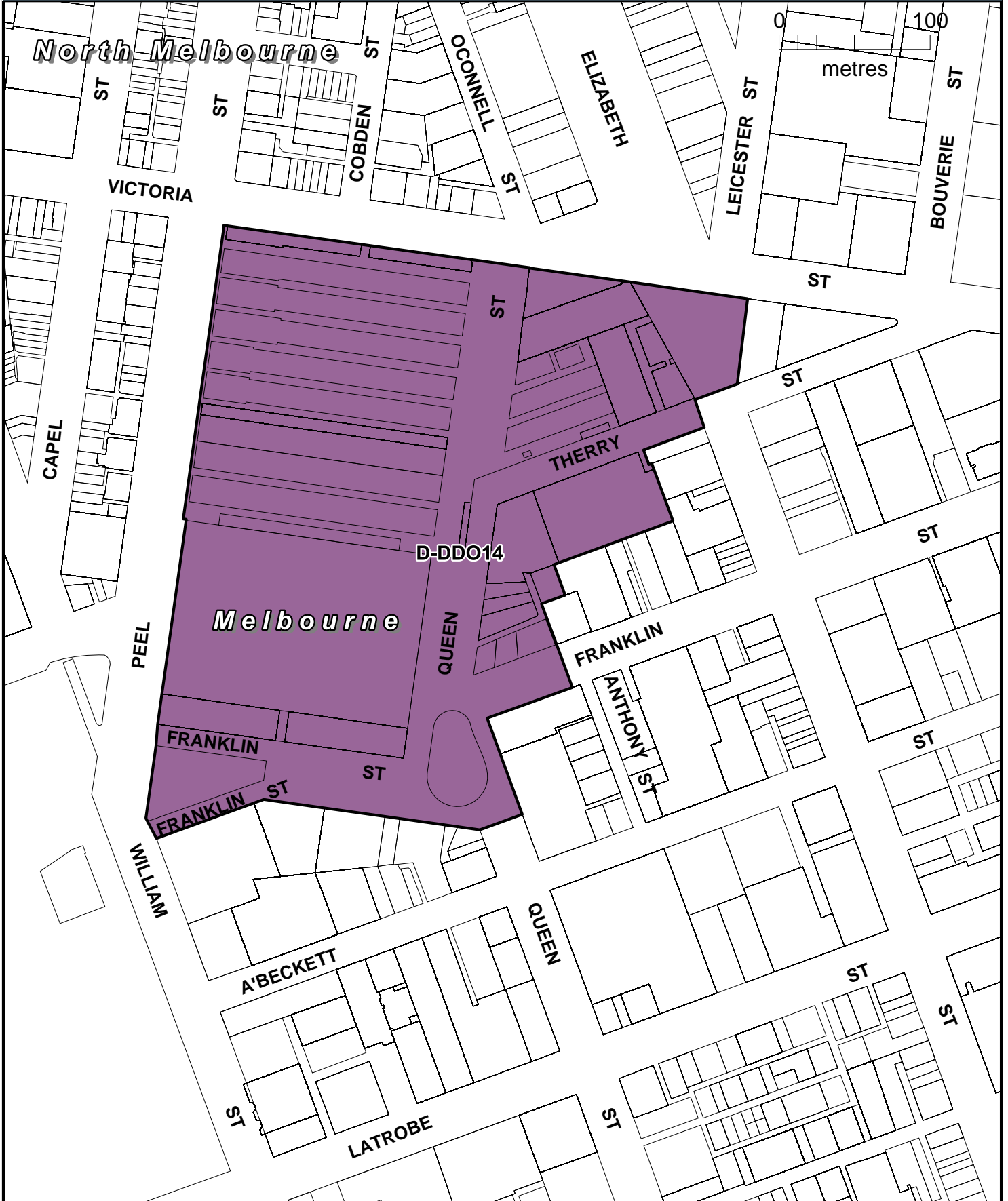
 PPRZ PUBLIC PARK AND RECREATION ZONE

Part of Planning Scheme Map 8

# AMENDMENT C245





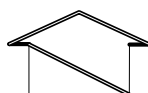


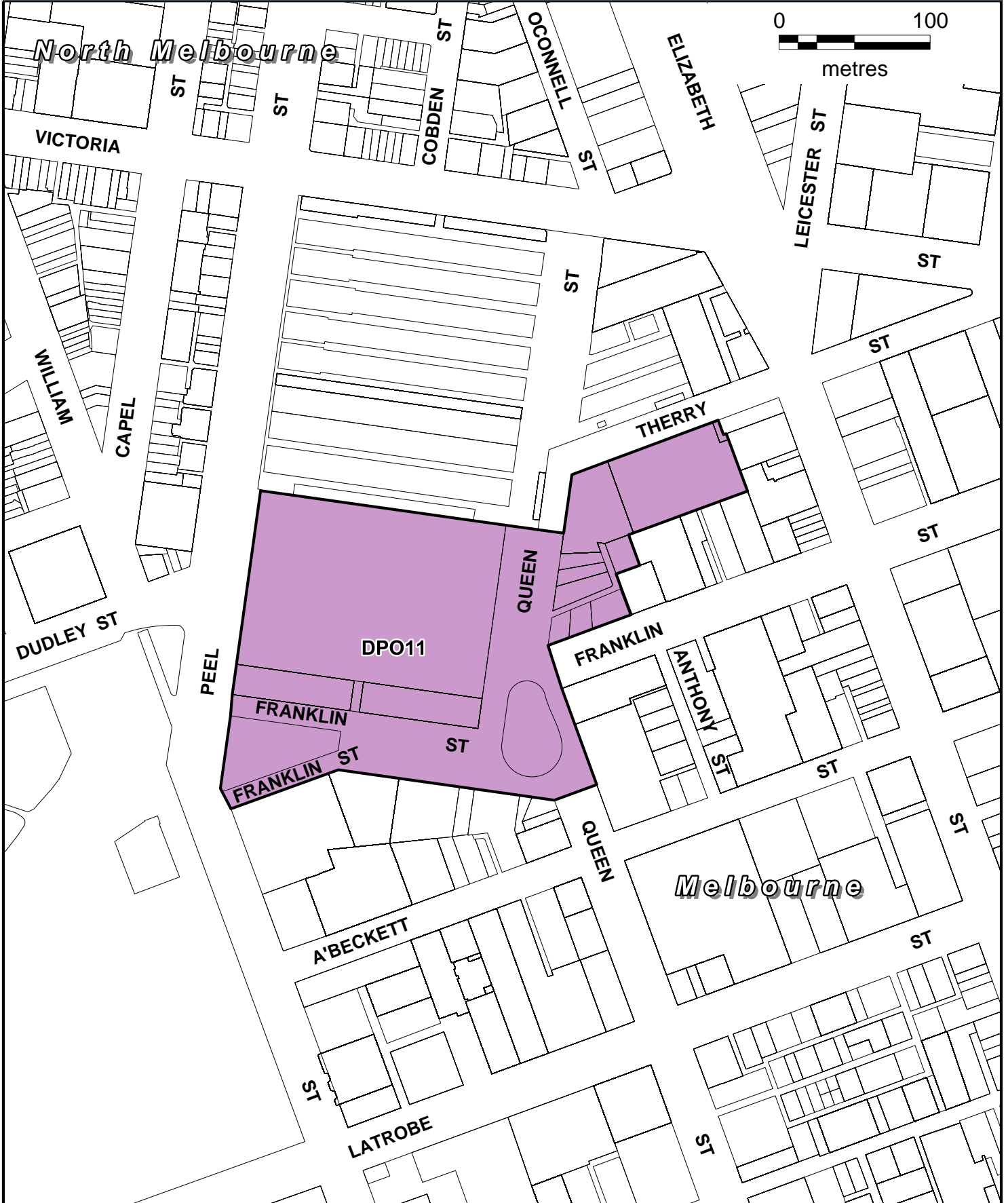
LEGEND

**D-DDO14** AREA TO BE DELETED FROM A DESIGN AND DEVELOPMENT OVERLAY

Part of Planning Scheme Map 8DDO2\_14

# AMENDMENT C245



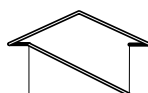


LEGEND

	DPO11 Development Plan Overlay - Schedule 11
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Part of Planning Scheme Map 8DPO

# AMENDMENT C245



*Planning and Environment Act 1987*

**MELBOURNE PLANNING SCHEME**

**AMENDMENT C245**

**INSTRUCTION SHEET**

The planning authority for this amendment is the City of Melbourne.

The Melbourne Planning Scheme is amended as follows:

**Planning Scheme Maps**

The Planning Scheme Maps are amended by a total of 3 attached maps.

**Zoning Maps**

1. Amend Planning Scheme Map No 8 in the manner shown on the 1 attached map marked "Melbourne Planning Scheme, Amendment C245".

**Overlay Maps**

2. Amend Planning Scheme Map No 8DDO 2\_14 in the manner shown on the 1 attached map marked "Melbourne Planning Scheme, Amendment C245".
3. Amend Planning Scheme Map No8DPO in the manner shown on the 1 attached map marked Melbourne Planning Scheme, Amendment C245".

**Planning Scheme Ordinance**

The Planning Scheme Ordinance is amended as follows:

4. In Local Planning Policy Framework – replace Clause 21.12 with an amended Clause 21.12 in the form of the attached document.
5. In Local Planning Policy Framework - replace Clause 22.02 with an amended Clause 21.12 in the form of the attached document.
6. In Overlays – Clause 43.02, replace Schedule 14 with a new Schedule 14 in the form of the attached document.
7. In Overlays – Clause 43.04, insert a new Schedule 11 in the form of the attached document.
8. In General Provisions – Clause 61.01, replace the Schedule with a new Schedule in the form of the attached document.

End of document