

**Committee report to Council**

**Agenda item 5.1**

**Council**

**Planning Scheme Amendment C380: Zoning corrections of public open space and anomalies in the Melbourne Planning Scheme**

**14 December 2021**

**Committee** Future Melbourne (Planning Portfolio)

**Presenter** Deputy Lord Mayor, Nicholas Reece

**Purpose**

1. The purpose of this report is to recommend that Council, having considered the Amendment C380 Panel's report and recommendations, adopts Planning Scheme Amendment C380.

**Consideration at Committee**

2. Following consideration by the Future Melbourne Committee (the Committee) on 30 November 2021 (refer to Attachment 1), the Committee made a recommendation to Council as presented below.

**Recommendation**

3. That Council:
  - 3.1 Considers the Amendment C380 Planning Panel report and recommendations (refer attachment 3 of the report from management).
  - 3.2 Adopts Planning Scheme Amendment C380 as shown in Attachment 4 of the report from management.
  - 3.3 Submits the adopted Amendment C380 to the Minister for Planning for approval.
  - 3.4 Authorises the General Manager, Strategy, Planning and Climate Change to make any further required editorial changes to the Amendment documentation prior to submitting to the Minister for Planning for approval and gazettal.

**Council Report Attachment:**

1. Future Melbourne Committee, Agenda item 6.3, 30 November 2021 (Page 2 of 67)

**Report to the Future Melbourne Committee****Agenda item 6.3****Planning Scheme Amendment C380: Zoning corrections of public open space and anomalies in the Melbourne Planning Scheme****30 November 2021****Presenter:** Sophie Handley, Director City Strategy**Purpose and background**

1. The purpose of this report is to present the Amendment C380 Planning Panel report (Attachment 2) for consideration, set out management's response to the Panel's recommendations (Attachment 3) and to propose that the Future Melbourne Committee recommends that Council adopt the Amendment with changes (Attachment 4).
2. Amendment C380 (the Amendment) proposes to:
  - 2.1. rezone Crown land and land vested in Council, which is currently used by the community as parks, to the Public Park and Recreation Zone (PPRZ)
  - 2.2. correct various mapping anomalies.
3. Following public exhibition of the Amendment, one submission from Development Victoria remained unresolved. On 18 May 2021 the Future Melbourne Committee resolved to refer the submission to a Planning Panel (Panel). The Panel convened a hearing on 10 August 2021 and issued its report, which was made public on 31 August 2021.

**Key issues**

4. The Panel was generally supportive of the Amendment concluding that it will remove confusion around existing and future use of land and improve the identification of public open space in the Melbourne Planning Scheme. It also found that the Amendment is consistent with, and makes proper use of, the Victoria Planning Provisions by applying the PPRZ to land to accurately reflect its use for open space and recreation. The Panel supported the rezoning of 31 Council open spaces and 49 Crown land open spaces to PPRZ; the rezoning of four private properties to the General Residential Zone; and the rezoning of two properties to the Public Use Zone.
5. The Panel did not support the rezoning of five Crown land open spaces in Docklands. These five sites were contested by Development Victoria on the basis that development within Docklands is incomplete. During the hearing Development Victoria provided new information to the Panel highlighting that the three Harbour Promenade sites are within areas subject to future master planning. The two other parks adjoin land which is also under review.
6. Development Victoria clarified that the quantum and quality of open space was not to be reduced in Docklands but that minor boundary changes may be required for reasons including to: annex additional open space from development sites, ensure the efficient development of neighbouring sites, and accommodate pedestrian or bicycle infrastructure. The Panel noted that rezoning these sites as part of this Amendment would mean that if there were subsequent adjustments to the boundaries, the land would potentially have to be zoned back from PPRZ to DZ. The Panel stated that until development of Docklands is resolved, the rezoning of the five sites is premature.
7. The reservation of the five Docklands parks is protected through other statutory mechanisms outside of the planning scheme which provides some comfort around future land use. Management is of the view that the Panel's recommendation to remove these five open spaces from the Amendment is not unreasonable and therefore supports the Panel's recommendation (Attachment 3).

## **Recommendation from management**

8. That the Future Melbourne Committee recommends Council:
  - 8.1. Considers the Amendment C380 Planning Panel report and recommendations (refer attachment 3 of the report from management).
  - 8.2. Adopts Planning Scheme Amendment C380 as shown in Attachment 4 of the report from management.
  - 8.3. Submits the adopted Amendment C380 to the Minister for Planning for approval.
  - 8.4. Authorises the General Manager, Strategy, Planning and Climate Change to make any further required editorial changes to the Amendment documentation prior to submitting to the Minister for Planning for approval and gazettal.

### **Attachments:**

1. Supporting Attachment (Page 3 of 66)
2. Panel report (Page 4 of 66)
3. Management response to Panel recommendation (Page 43 of 66)
4. Amendment documents (Page 47 of 66)

## 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 changes.
2. The decision to adopt an amendment cannot be made under delegation.

### Finance

3. Under section 6 of the *Planning and Environment (Fees) Regulations 2016*, a fee is payable when requesting the Minister approve an amendment, and give notice in the Government Gazette of approval of an amendment. Once the amendment is approved, a notice will also be required to be placed in a newspaper circulating in the local area. The costs for processing the Amendment are provided in the 2021-22 City Strategy 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 material or general conflict of interest in relation to the matter of the report.

### Health and Safety

5. The health and safety of the community will be enhanced by the Amendment. The provision of open space has significant benefits on physical and mental health of communities.

### Stakeholder consultation

6. The Amendment was exhibited from 3 December 2020 to 8 February 2021 to affected owners, occupiers and agencies.
7. A notice was sent to Traditional Custodian groups, the Boon Wurrung, Wurundjeri Woi Wurrung and the Bunurong on 26 November 2020. A briefing was offered to the three groups with the Boon Wurrung accepting a meeting which was held on 2 December 2020.
8. Management met with Development Victoria on 6 April 2021 and 22 April 2021.

### Relation to Council policy

9. In the Council Plan, Goal 8 (A City Planning for Growth) states, 'people have access to green spaces and recreation spaces'. While there are no new parks proposed, the Amendment supports the identification and retention of open space in the municipality.
10. The Municipal Public Health and Wellbeing Plan is integrated with the Council Plan. The Amendment supports the health and wellbeing priorities 'active living' and 'planning for people' by supporting the retention of open space which will benefit active lifestyles and maintain quality of life.
11. The Open Space Strategy Technical Report (2012) specifically states under 9.0 Implementation '...ensure the Melbourne Planning Scheme and other strategic documents, including structure plans, are consistent with this strategy'.

### Environmental sustainability

12. The Amendment seeks to promote a pleasant work and living environment for all Victorians and visitors by ensuring security of open space in the municipality. This has a direct benefit on the environmental sustainability of the City.

# Planning Panels Victoria

## Melbourne Planning Scheme Amendment C380melb Zoning corrections of public open space and anomalies

### Panel Report

*Planning and Environment Act 1987*

**17 August 2021**

**How will this report be used?**

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Melbourne Planning Scheme Amendment C380melb

**17 August 2021**



Lester Townsend

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## Glossary and abbreviations

C1Z	Commercial 1 Zone
CCZ	Capital City Zone
CLR Act	<i>Crown Land (Reserves) Act 1978</i>
Council	Melbourne City Council
DELWP	Department of Environment, Land, Water and Planning
DZ	Docklands Zone
GRZ	General Residential Zone
IN1Z	Industrial 1 Zone
MUZ	Mixed Use Zone
PE Act	<i>Planning and Environment Act 1987</i>
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
RDZ	Road Zone
RGZ	Residential Growth Zone



## Overview

### Amendment summary

The Amendment	Melbourne Planning Scheme Amendment C380melb
Common name	Zoning corrections of public open space and anomalies
Brief description	The Amendment proposes to rezone or correct boundary alignments for open spaces, and private land in the Public Park and Recreation Zone
Subject land	Various sites listed in Appendix C
Planning Authority	Melbourne City Council
Authorisation	3 October 2020
Exhibition	3 December 2020 to 8 February 2021
Submissions	Two in broad support that raised specific issues and were subsequently withdrawn One in support One opposed from Development Victoria

### Panel process

The Panel	Lester Townsend
Directions Hearing	A Directions Hearing was not required
Panel Hearing	10 August 2021 by video conference
Site inspections	Unaccompanied, various date
Parties to the Hearing	Development Victoria represented by Briana Eastaugh and Amelia Hunter of Maddocks Lawyers, calling expert evidence in Planning from Brendan Rogers of Urbis. Melbourne City Council represented by Nicola Collingwood of Counsel, with a supporting submission from Fiona Finlayson Manager Open Space Planning and Green Infrastructure at the City of Melbourne.
Citation	Melbourne PSA C380melb [2021] PPV
Date of this report	17 August 2021

## Executive summary

This is not a complicated matter. Council is simply applying a public use zone to public land (typically the Public Park and Recreation Zone to land it owns or manages), and removing a public use zone from private land. This should be supported. Where that land is reserved for a public purpose, rather than held in freehold for an operational purposes, there is merit in a public land zoning. This is particularly the case for public open space.

Public land use zones are not required to be applied to public land, but they can only be applied to public land. They are not a zone aimed at achieving a strategic intent – the strategic intent of public ownership already has to have been delivered by some other mechanism before the zone is applied.

The only submission opposed by the Amendment was from Development Victoria. The submission opposed the Amendment on the basis that some parcels of land identified in Docklands should not be rezoned until all adjacent public realm land can be rezoned and all abutting development sites completed.

Essentially whether Council or Development Victoria has the 'right' approach to these sites is one of perspective. From a detailed land management perspective (essentially the purpose of the Amendment) or municipal wide perspective Council is right. From a perspective focussed on the best way to manage the urban renewal area Development Victoria is right.

Many of the points raised in Development Victoria's submission to the exhibited Amendment were general in nature and not obviously relevant to the issue at hand. Ultimately the Panel is persuaded the sites should not be rezoned as part of the Amendment because:

- rezoning is not required to ensure the ongoing management of the land as promenades and parks
- as the government agency charged with managing the urban renewal of the area, Development Victoria advised that the planning of the area is not yet settled, or may not yet be settled, and so rezoning is premature.

In support of the second point Development Victoria:

- drew the Panel's attention to two cabinet in confidence reports that affect the Harbour Esplanade parcels<sup>1</sup>
- advised that Point Park has as yet unresolved interactions with the Fishermans Bend urban renewal area to the south and a vacant development parcel to the west.

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<sup>1</sup> It was not able to tell the Panel what was in these reports.

## **Recommendation**

**Based on the reasons set out in this Report, the Panel recommends that Melbourne Planning Scheme Amendment C380melb be adopted as exhibited subject to the following changes:**

- 1. Delete the following sites:**
  - **Site V3: 31 Doepel Way, Docklands (New Quay Promenade and Boatmans Landing)**
  - **Site V4: 1-71 New Quay Promenade, Docklands (New Quay Promenade and Monument Park)**
  - **Site V5: 1-91 Harbour Esplanade, Docklands (Docklands Park)**
  - **Site V6: 95-117 Harbour Esplanade, Docklands (Victoria Harbour Promenade)**
  - **Site V7: 104 Lorimer Street, Docklands (Point Park).**

# 1 Introduction

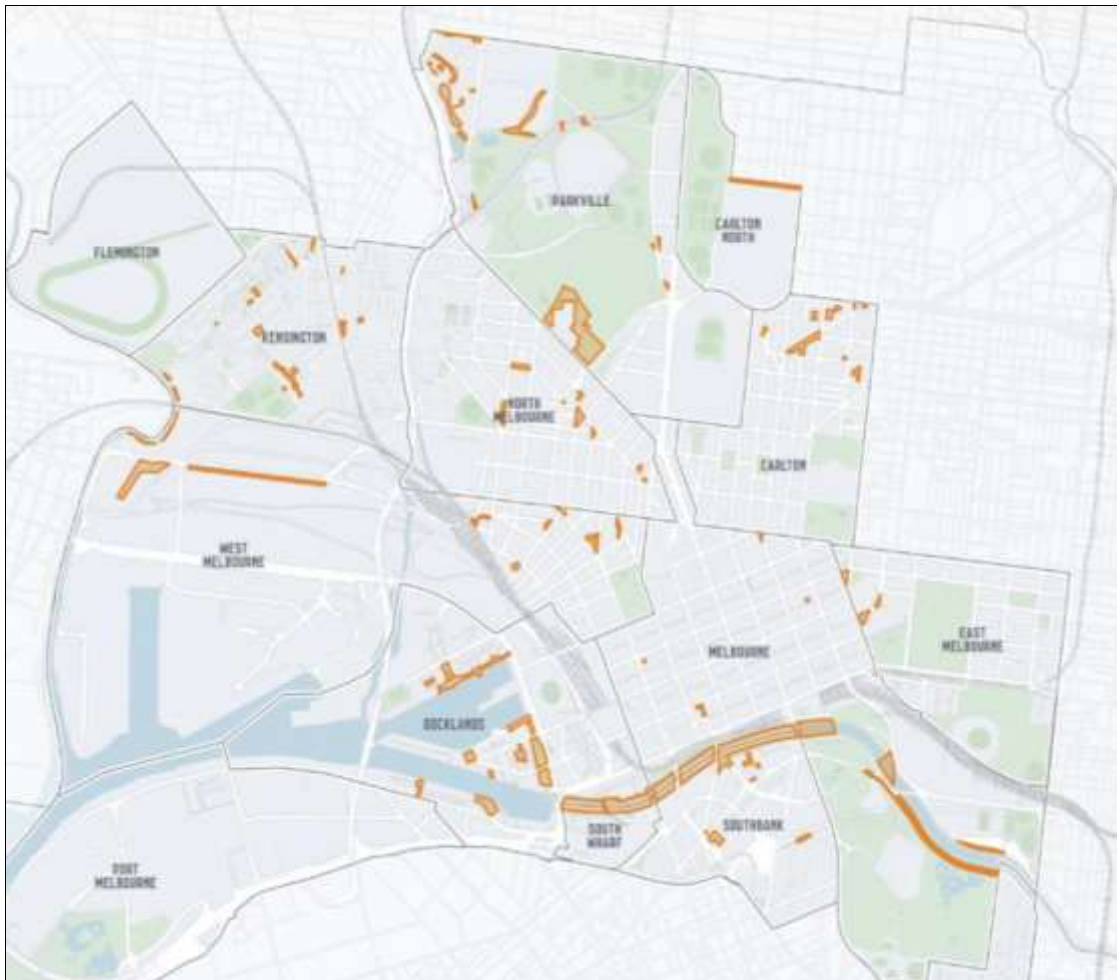
## 1.1 The Amendment

A review of open spaces across the municipality identified City of Melbourne (Council) open spaces and Victorian Government open spaces that were not zoned correctly and in the view of Council required correction.

The Amendment aims to:

- rezone to the Public Park and Recreation Zone (PPRZ), Council land currently used for public open space, and Crown land vested in Council and the Victorian Government currently being used as public open space
- correct boundary alignments and anomalies
- remove private land from a public land zone.

**Figure 1: Land affected by the Amendment**



Appendix C lists the properties to be rezoned. Specifically the Amendment aims to:

- rezone or correct boundary alignments of thirty-one Council open spaces to PPRZ
- rezone part of 230 Rathdowne Street, Carlton (Carlton Baths and Carlton Family Resource Centre) from the General Residential Zone (Schedule 1) to the Public Use Zone (Schedule 6) that applies to the balance of the site

- rezone part of the Upfield Railway near Royal Park Station from the PPRZ to the Public Use Zone (Schedule 4)
- rezone fifty-four Victorian Government open spaces that are reserved under the *Crown Land (Reserves) Act 1978* (CLR Act) to PPRZ or correct boundary alignments
- rezone private land at 66, 68, 70 and 72 Manningham Street, Parkville from the PPRZ to the General Residential Zone (Schedule 1).

### **Council open spaces**

These are Council owned sites that are used as public open space.

#### **230 Rathdowne Street, Carlton**

The land is used as the Carlton Baths and Carlton Family Resource Centre, which is owned by Council. The rezoning to PUZ is appropriate given its public use and ownership. The rezoning ensures only one zone is applied to the land.

#### **Upfield Railway near Royal Park Station**

The PPRZ extends into the railway crossing which is an anomaly that Council says needs correction. The PUZ4 is applied to the railway corridor, and the Amendment proposes rezoning the crossing to PUZ4.

### **Victorian Government open spaces**

These are sites that are reserved for Public Purposes, Public Recreation, Public Park, Ornamental Plantation, or Public Gardens under the CLR Act. The Amendment proposes to rezone them to PPRZ.

#### **Private land at 66, 68, 70 and 72 Manningham Street, Parkville from the PPRZ to the General Residential Zone (Schedule 1)**

The Amendment would correct an old zoning anomaly on privately owned properties containing dwellings at 66, 68, 70 and 72 Manningham Street, Parkville. These properties are incorrectly zoned PPRZ and require rezoning to the General Residential Zone (Schedule 1) which is consistent with the predominant zoning of Manningham Street, Parkville. This will ensure the land can be developed for private purposes and assessed against the correct provisions in the planning scheme.

The rezoning of 66, 68, 70 and 72 Manningham Street, Parkville restores development rights and makes proper use of the Victoria Planning Provisions. The Ministerial Direction the *Form and Content of Planning Schemes* makes it clear that public land zones cannot be applied to privately owned land.

## **1.2 Procedural issues**

There was no Directions Hearing for this matter.

Procedural issues are addressed in Appendix B.

## **1.3 The Panel's approach**

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

The Panel concludes that the Amendment will remove confusion around existing and future use of land and improve the identification of open space in the planning scheme.

The Amendment is consistent with, and makes proper use of, the Victoria Planning Provisions by applying the PPRZ to land to accurately reflect its use for open space.

Planning Practice Note 2 (Public Land Zones) states:

... a public land zone will normally be applied to public land owned or managed by a government department or public land manager, including national parks, state forests, coastal Crown land and land reserved under the Crown Land (Reserves) Act 1978.

The PPRZ recognises areas for public recreation and other open space uses. This is the most appropriate zone to be applied to properties which are used as open space. Removing the PPRZ from private land will address non-compliance with the relevant Ministerial Direction.

This report deals with the opposing submission in the next Chapters.

## 2 Background

### (i) Docklands urban renewal area

Docklands is an urban renewal area immediately to the west of the Melbourne Central Business District.

In 1989, the Victorian Government released the *Docklands Strategy — Melbourne Docklands: Strategy for Redevelopment* which recognised the importance of linking Melbourne to the Southbank and Victoria Harbour areas.

The planning scheme sets out policy for urban renewal areas in general and Docklands in particular:

#### 21.04-1.2 Urban renewal areas

The urban renewal areas are Southbank, Docklands and the Fishermans Bend Urban Renewal Area. These areas have been planned and designed to provide for the expansion of the Central City in optimal living and working environments with a new mix of uses, higher density of development and excellent provision for walking, cycling and public transport services. Here change is guided by well-developed structure plans and master plans adopted by State Government and Council.

The design of the buildings, streets, public open spaces should be integrated over whole precincts with provision of utilities services to minimise the precinct's greenhouse gas emissions, optimise water management, mitigate the effects of extreme storm events, reduce the urban heat island and take precautions against sea level rise.

#### Docklands

Once one of Victoria's main ports, by the 1990s it was an industrial wasteland. Around 2000 Docklands urban renewal began its transformation into a new residential, commercial and visitor destination providing housing, office, industry, research, institutional, business, education, entertainment/leisure, marina and sporting uses and public spaces. Docklands is an extension of the Central City and it is intended that leisure-related retailing complementary to retailing in the Retail Core is also be provided.

Together, Places Victoria, the City of Melbourne and the Docklands community have been assessing the first decade of development and planning for the second. Where the first decade focussed on creating buildings and attracting investment, the second decade is now being planned to be a place where people want to work, live and visit with a diversity of businesses, activities, residents, public spaces and community infrastructure.

### (ii) Management of Docklands

In 1991 the *Docklands Act 1991* was gazetted with the purpose to facilitate the development of the docklands area (now commonly referred to as Docklands). The Docklands Authority (now Development Victoria) was established to oversee the regeneration of Docklands. Municipal powers were transferred from Council to the Docklands Authority.

Construction of the Docklands commenced in 1997.

In 2007, municipal powers were transferred back to Council and progressively since this time, land within Docklands reserved under the CLR Act has been transferred back to the Crown.

While some properties have been transferred back to the Crown, this is not the case for all public realm land within Docklands. Development Victoria advised that the surrender process is a complex and difficult process due to:

- the complexities associated with section 67 of the *Docklands Act 1991*, which to date has been the process by which land vested in Development Victoria is surrendered to the Crown
- the age of assets that require repairs to Council's satisfaction before Council is appointed as the Committee of Management
- locating historical handover information that in some cases is more than 10 years old.

Section 67 of the *Docklands Act* provides:

- transfer back to the Crown is by way of a Governor in Council order requiring land vested in Development Victoria to be surrendered to the Crown
- making the order for transfer back to the Crown requires the joint recommendation of the Minister and the Crown Land Minister – that recommendation may only be made if the Ministers are satisfied that the land is required for public purposes
- on transfer back, the Crown the land is deemed to be temporarily reserved under the CLR Act for public purposes
- the transfer order may provide that Council is deemed to be the Committee of Management under the CLR Act.

Many development projects within Docklands remain incomplete, with the Docklands development project as a whole forecast to be completed by approximately 2030.

### **Development Victoria**

Development Victoria was established in 2017 and operates under the *Development Victoria Act 2003*. Its powers and objectives in relation to the docklands area are further described in the *Docklands Act*.

Under section 9(1) of the *Docklands Act*, Development Victoria's primary objective is "*to promote, encourage and facilitate development of the docklands area*". It has been given the following statutory functions (section 10):

- (a) to develop the docklands area
- (b) to promote and encourage the involvement of the private sector in that development
- (c) to oversee and co-ordinate the development by others of the docklands area
- (d) to investigate development options and prepare and implement development strategies
- (e) to investigate infrastructure options and prepare and implement plans for infrastructure co-ordination
- ...
- (h) to encourage appropriate public involvement in that development
- (i) to promote, assist in and co-ordinate the economic, cultural and social development of the docklands area
- ...
- (l) to promote tourism to, in or for the benefit of the docklands area
- (la) to promote recreational, social and cultural activities in or for the benefit of the docklands area;
- ...

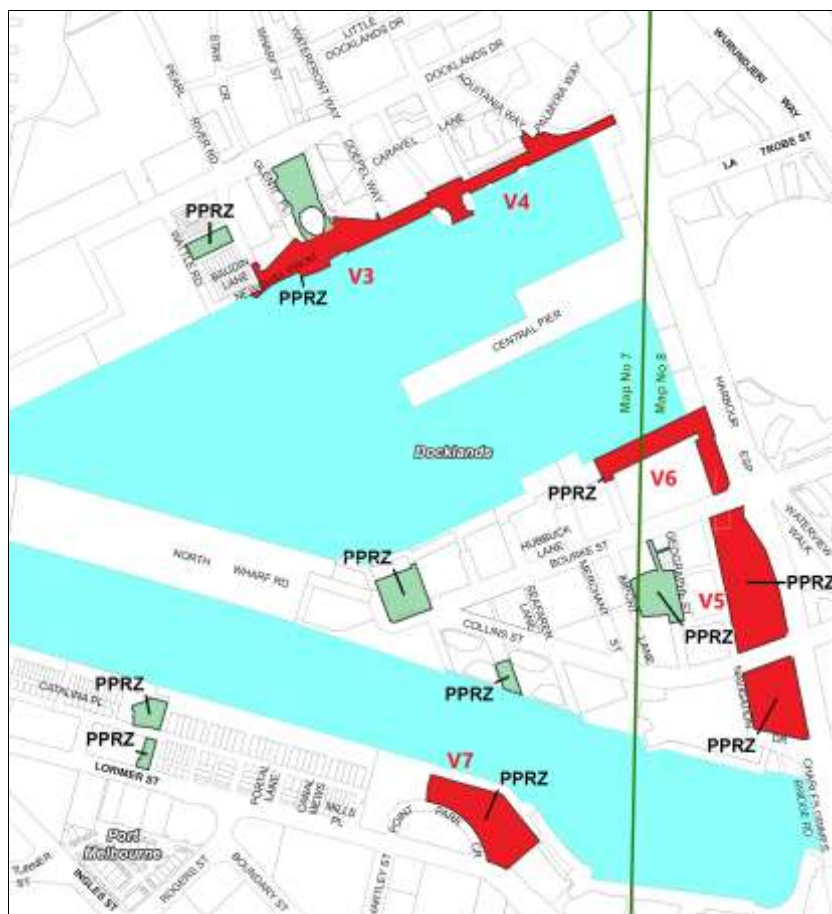
### **(iii) What is proposed**

The Amendment proposes to rezone some land in Dockland to the PPRZ. Development Victoria objects to the rezoning of some of these parcels, but not all. Figure 2 shows the land to be rezoned, distinguishing:



- ■ Land owned by Council – Development Victoria does not object to this land being rezoned
- ■ Crown land, temporarily reserved for public purposes with Council as the Committee of Management – Development Victoria objects to these sites being rezoned.

Figure 2: Land to be rezoned in Docklands



Source: Prepared by the Panel

#### (iv) Summary of Development Victoria's submission

Development Victoria submitted:

- progressing the rezoning of only a portion of the public realm to PPRZ within Docklands:
  - is a piecemeal approach due to the fragmented ownership arrangements
  - will lead to confusion by property owners, the development industry, and general public
  - is not appropriate because it is important to maintain a consistent approach to zoning, (that is the Docklands Zone (DZ)) as part of the process of transferring land back to the Crown
- a full and comprehensive review of zones in Docklands, including application of the PPRZ, is best undertaken when the project is closer to or at completion
- maintaining the DZ is of critical importance for the State to facilitate future master planning and renewal opportunities
- *“issues such as defining boundaries and resolving details regarding ownership and transfer back to the Crown”* identified in Amendment C92 remain outstanding.

**(v) The status of the land**

Development Victoria objected to the rezoning of the parcels that are Crown land, temporarily reserved for public purposes with Council as the Committee of Management. This status would not change with the Amendment.

It is worth noting that the CLR Act provides (Panel's emphasis):

- 14(2) Where any land has been reserved either temporarily or permanently under this Act and has not been granted to trustees the Minister may appoint a committee of management thereof and may at any time revoke any such appointment or remove any person appointed as a member of the committee.

**10 Revocation of temporary reservation**

The Governor in Council may revoke any temporary reservation of any land as to the whole or any part thereof by Order published in the Government Gazette but at least fourteen days before any temporary reservation is revoked notice of intention to revoke the reservation shall be published in the Government Gazette.

Council's responsible authority status is not changed by the Amendment. The Minister for Planning would remain the responsible authority for:

- development of land as part of a single project or multiple related projects, if it involves:
  - construction of a new building or buildings containing a total gross floor area of more than 25,000 square metres;
  - construction or the carrying out of works (including extensions, alterations or additions to a building or buildings) which will directly create an additional floor area of more than 25,000 square metres of a building or buildings; or
  - demolition or removal of a building or buildings or part of a building or buildings, if that demolition or removal is to be carried out to enable development within the meaning of one of the sub-paragraphs above.

## 3 General issues

### 3.1 What are the issues?

Development Victoria stated that while it supported the principle of aligning existing uses of land with the most appropriate zone, it considered the Amendment to be “*premature*”, “*piecemeal*”, and not “*strategically justified at this point in time*” presenting several reasons that the Panel has assessed as general in nature and relate to:

- the nature of Development Victoria’s in principle support
- the need for the rezoning
- the applicability of the PPRZ to the promenades
- the implications of Docklands as a State significant precinct
- the need for a full and comprehensive review of zones
- whether the Amendment represents a piecemeal approach resulting in potential confusion
- the need for consistent zoning
- what the panel for Amendment C92 concluded
- the need for flexibility.

### 3.2 The nature of Development Victoria’s in principle support

#### (i) Submissions

In its initial submission Development Victoria stated:

Development Victoria supports the principle of aligning existing uses of land with the most appropriate zone ...

The Council report commented:

The purpose of the amendment is to provide consistency between the existing use of land for a public park and the zoning of that land.

#### (ii) Panel discussion and conclusion

While it seems that Council and Development Victoria are of one mind here, there are differences in emphasis. Development Victoria’s use of ‘appropriate zone’ could mean any zone; Council is more precise in specifying alignment between use as a public park and the PPRZ.

Development Victoria’s submission is unfortunately worded. On one reading the submission implies uses should align to the zone. This is the reverse of the principle the Amendment applies to open space land – namely, aligning the zoning with existing use of the land. Development Victoria’s position becomes less clear when it expressed concern (in procedural matters) about characterising the Amendment as a ‘housekeeping’ amendment (see Appendix B).

To the Panel the Amendment clearly is a housekeeping Amendment aimed at recognising public parks in the planning scheme. The issues are whether this housekeeping is timely, or has unintended consequences.

### 3.3 The need for the rezoning

#### (i) Submission and evidence

Development Victoria submitted arguments about the need for rezoning under the heading “*Informal outdoor recreation is already permitted in the existing zoning of V3-V7*”.

Development Victoria submitted that Council failed to recognise that the DZ already contemplates and encourages the use of land for public recreation.

Ms Finlayson, Council’s Manager Open Space Planning and Green Infrastructure, presented on the importance of parks in general and in Docklands.

In his evidence for Development Victoria, Mr Rogers stated:

58. A review of aerial photography of the city cross referenced with the planning scheme zoning maps and the sites considered under the current amendment has indicated that there are a number of sites currently used as parks or public spaces which are not currently, nor proposed by the current amendment, to be zoned PPRZ. These include, but are not limited to:

- Federation Square (Capital City Zone 1)
- State Library Forecourt (Capital City Zone 1)
- Richard Pratt Gardens (Capital City Zone 7)

This demonstrates that there are a number of zones which apply to parks and public spaces that are being used and enjoyed by the public.

Council made submissions and asked questions of Mr Rogers as to what might be permitted under the DZ compared to the PPRZ. This is addressed in Chapter 3.10 ‘The need for flexibility’.

#### (ii) Panel discussion and conclusion

The Panel has not reviewed the controls over Informal recreation in all Victoria Planning Provisions zones, but observes that it is a Section 1, no permit required, use in the Industrial 2 Zone which is the zone that supports uses probably most inimical to informal recreation.

The Panel considers that it perfectly reasonable for Council, wearing its open space planning hat, to seek to elevate the status of open space land in the planning scheme by applying the PPRZ for all the reasons Ms Finlayson outlined in her presentation on behalf of Council. However, the Panel agrees with the broad conclusion that there is no need to rezone the land to allow its continuing use. This is hardly surprising, as these uses were established under the DZ or equivalent earlier planning controls.

Mr Rogers’ evidence identified examples of public open space not being rezoned. However these areas are not reserved for public purposes, or controlled by an agency who must provide open space. While this may reinforce the point that there is no need to rezone the land it does not mean that it is unwise to rezone the land. Identifying these sites does not mean that the background work in identifying sites for rezoning was haphazard or incomplete. Rather, these sites do not fall under the criteria expressed in the Explanatory Report:

Rezone to PPRZ, Council land currently used for public open space, and Crown land vested in Council and the Victorian Government currently being used as public open space.

### 3.4 The promenades

In giving evidence for Development Victoria, Mr Rogers questioned the appropriateness of the PPRZ for the promenades (a question that also occurred to the Panel). However, applying the PPRZ to promenade land is an established approach in the application of zones – parts of Southbank are zoned this way – and the Panel concludes it would be appropriate in principle.

### 3.5 The implications of Docklands as a State significant precinct

#### (i) Submissions

In its initial submission Development Victoria referenced:

Docklands being a State-significant project and the importance of maintaining momentum in its delivery.

At the Hearing Development Victoria submitted that one reason the Amendment was premature was:

- 27.1 there is significant strategic background to the development of Docklands, which contemplates its planning and development as an integrated whole.

Development Victoria went on to explain:

43. Any planning decision-making for Docklands must be made in light of this strategic context and with regard to the often unique and complex issues precinct-scale planning present. To spot rezone specific and centrally-located areas in Docklands in the fragmented way that the Amendment proposes, represents a failure to appreciate this strategic background.
44. Similarly to the sentiments expressed above, Development Victoria submits that the rezoning of V3-V7 is inappropriate in light of the current development status in Docklands.

The Council report commented:

The Amendment is limited to rezoning Council owned land and other public land reserved for open space to reflect the current land use and to correct anomalies.

#### (ii) Panel discussion and conclusion

Development Victoria's original submission does not say how the rezoning would impede the delivery of the project. One could argue it would do the opposite by recognising that parts of the project are fully completed.

Council points out the rezoning will not affect land still under the control of Development Victoria. Clearly Development Victoria does think it will affect its ongoing work.

The Panel concludes the rezoning would not affect the momentum of the Docklands project as a whole, but might impact specific sites – this issue is discussed in Chapter 4.

No doubt there is significant strategic information that refers to planning the precinct as a whole, but it is not clear how this function is impeded by the rezoning, any more than the need to co-ordinate a myriad of private interests and public authorities.

## 3.6 The need for a comprehensive review of zones

### (i) Submissions

In its initial submission Development Victoria stated:

As of 2021, the Docklands project is two-thirds complete with the current forecast for completion being 2030. Development Victoria suggests that a full and comprehensive review of zones in Docklands, including application of the Public Park and Recreation Zone (PPRZ), is best undertaken when the project is closer to or at completion.

The Council report commented:

Under the planning scheme, the PPRZ recognises areas for public recreation and other open space uses. This is the appropriate zone to be applied to parks and open spaces.

At the Hearing Council submitted:

89. Development Victoria suggests that the Amendment is premature and should be made when the urban renewal of Docklands is 'nearing completion'. The precinct is substantially built out, a fact that Development Victoria expressly acknowledged in its objection. But whether the broader Precinct is substantially constructed is not informative of whether the proposed rezoning of the open space identified by Development Victoria is likely to prejudice adjacent or nearby development.

### (ii) Panel discussion and conclusion

In the Panel's view, the fact that the Docklands renewal project is two-thirds complete is not the point. The critical issue is whether the land affected by the Amendment is complete. The nub of the issue is that Council thinks it is (they have been given the land to manage) but Development Victoria thinks it isn't. It sees the need for more master planning – a point that was only really made clear in the evidence of Mr Rogers.

The suggestion that a full and comprehensive review of zones in Docklands, including application of the PPRZ, is best undertaken when the project is closer to or at completion, assumes a full comprehensive review will be required. The need for a full and Comprehensive rezoning rather than the progressive transfer of land to final zones is not explained.

A pattern of zoning that maintained the DZ and rezoned public parks and promenades to the PPRZ would be consistent with the pattern of zoning elsewhere in the Central City. It is not obvious to the Panel that a comprehensive review will ever be required, but this is not the point. The point that Development Victoria needs to establish is that ahead of such a review, the rezoning of this land will work against achieving agreed policy outcomes or government aspirations.

## 3.7 A piecemeal approach resulting in confusion?

### (i) Submission

In its initial submission Development Victoria stated:

Progressing the rezoning of only a portion of the public realm to PPRZ within Docklands is considered a piecemeal approach ... which will lead to confusion by property owners, the development industry, and general public.

The Explanatory Report states:

The amendment provides a number of positive social and economic benefits by securing open space across the municipality, which will provide [for the PPRZ land]:

- Long term confidence in the future use of the land.
- Minimise confusion about the existing and future use of land and improve the identification of open space.
- Expedited delivery of improvements to open space and associated buildings and works by removing planning permit requirements.

The Council report commented:

The amendment ... secures existing valued open space into perpetuity. This provides clarity and certainty for communities and stakeholders about the future use and retention of the land as open space.

At the Hearing Council submitted:

97. ... The Amendment will create certainty for developers and the community alike. This is important given the need to preserve open space to service the increased population anticipated within the Precinct over the next decade and beyond.

## **(ii) Panel discussion and conclusion**

Where Development Victoria says "*Progressing the rezoning of only a portion of the public realm to PPRZ within Docklands is considered a piecemeal approach*", it can only mean progressing the rezoning of portions of two significant areas of the public realm is piecemeal. If Development Victoria were concerned about piecemeal zoning across all of Docklands it would have opposed the rezoning of the Council owned land; it did not. Its reference to the public realm cannot be the public realm in general but the two significant areas of public realm affected by the Amendment. The submission could have been more precise.<sup>2</sup>

The nature of the purported confusion is not explained, and not compared to the other source of potential confusion, namely reserved open spaces that are not recognised as such in the planning scheme.

There is merit in recognising the land that has already been formally transferred for open space purposes. It is not confusing to identify open space as open space. The fact that further land may come into the public realm in the future does not mean that Council should not act now to clarify the zoning of land where it does properly understand its status. In any area undergoing significant change, be it an urban renewal area or a growth area, rezoning will be needed from zones intended to guide development, to zones intended to manage established areas. It is not inherently confusing if this happens over time.

The Panel agrees with Council that the rezoning of the land would reduce confusion. However, this is only the case if the land is intended to remain as open space in perpetuity. This is ultimately a matter for the land owner (Council or the Victorian Government), not the planning scheme. Open space land can be rezoned and sold. The planning zone does not protect open space. Rather, policies ensuring appropriate open space is delivered to communities (and requirements in the *Local Government Act* on directing the proceeds of sale of open space land to other open space needs) protect open space.

Whether or not the specific parcels in dispute should be rezoned is dealt with in Chapter 4.

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<sup>2</sup> If Development Victoria did mean the whole Precinct and the whole public realm their acceptance the rezoning of some parcels should have been explained.

## 3.8 The need for consistent zoning

### (i) Submissions

In its initial submission Development Victoria stated:

... while the land identified in the Amendment has been transferred back to the Crown, this is not the case for all delivered public realm in Docklands. Development Victoria considers it is important to maintain a consistent approach to zoning – that is, Docklands Zone – as part of this process.

The Council report commented:

In the same way that there will be other road closures, there may be further land transferred to the Crown, however this is outside of the scope of the amendment. If in the future land is transferred, a rezoning can be considered at the time through a future planning scheme amendment.

### (ii) Panel discussion and conclusion

Development Victoria does not say why it is important to maintain a consistent approach. Development Victoria does not object to some rezonings – only those that involve Crown land. If it is important that Crown land is treated consistently, the objection does not deal with the clear fact that the Amendment is predicated on taking a consistent approach to zoning of Council controlled land across the whole municipality. The Panel thinks there is benefit for uses and decision makers in planning schemes being as internally consistent as possible and Council's municipal wide approach to consistency is more compelling.

## 3.9 What the panel for Amendment C92 concluded

### (i) Submission

Development Victoria's submission referred to the Panel Report for Amendment C92 to the Melbourne Planning Scheme.

The issue of rezoning key parkland within Docklands was discussed in section 6.12 of that Panel Report. It concluded:

The Panel agrees with [the Department of Sustainability and Environment] that this rezoning is best approached as a separate matter where all relevant issues can be comprehensively addressed. The rezoning of parkland, if it is to be pursued, should be the subject of a future planning scheme amendment process.

Development Victoria submitted:

50. ... the unresolved issues making rezoning inappropriate back then, remain unresolved today.

The Council report commented:

Amendment C92 was gazetted in the planning scheme on 29 June 2012. Since that time two thirds of Docklands has been developed and the land use in the vicinity of the proposed rezoning resolved. The amendment only applies to those parts of Docklands where the land use has been resolved.

### (ii) Panel discussion and conclusion

Reference to Amendment C92 would have more weight if the department (albeit with a different name) that opposed the rezoning then had not authorised the current Amendment.



Amendment C92 was some time ago and Development Victoria must accept that the issues around defining boundaries in resolving details of ownership have since been settled for the parcels identified for rezoning to which it raises no objection.

On the face of it, it would appear that these details are also settled for the land that Development Victoria opposes rezoning. This would indeed be the case if it weren't for the fact that Development Victoria as the urban renewal authority for the area specifically states they are not settled (or rather they may be 'unsettled' in the future).

### 3.10 The need for flexibility

#### (i) Submission

Development Victoria submitted that the DZ provides greater flexibility in the activation and use of these spaces than the PPRZ. However it noted:

- 27.3 Development Victoria is currently and will continue to perform its statutory duty to develop Docklands, which includes the provision of public open space for recreation.
- 27.4 Properties V3-V7 are not at risk of inappropriate development as they are reserved under the CLR Act for public purposes, and Council is the Committee of Management.
- 64. Any concerns that the properties are at risk of inappropriate development if not rezoned is misplaced. Properties V3-V7 are reserved Crown Land and Council has been the Committee of Management in respect of all of them since 2016. The land is subject to the Melbourne Planning Scheme and in particular, clause 21.13 (Urban Renewal Precincts) which champions the provision of public open space in Docklands.

Development Victoria submitted:

- 58. The PPRZ, while clearly recognising and facilitating the use of land for public recreation and open space, is very narrow in its focus, requiring the vast majority of uses to be either:
  - 58.1 conducted by or on behalf of the public land manager (section 1 uses); or
  - 58.2 associated with the public land use (section 2 uses).
- 59. While there is no dispute that the primary focus of the subject spaces should be for public use, including leisure, recreation and thoroughfare / connective functions, Development Victoria submits that in the context of an evolving and 'live' urban renewal area, maximum flexibility should be maintained to utilise these spaces for public activation, development and use. Mr Rogers highlights this at paragraph 52 of his evidence (page 15). The Docklands Zone was designed, and indeed has successfully operated, to provide this flexibility whilst establishing these open spaces as they stand today.

Ms Finlayson submitted for Council:

- 3. This Amendment is important for Docklands as a neighbourhood. It seeks to ensure that parks in Docklands are recognised in the same way as parks elsewhere in the municipality. If the parks in Docklands are excised from this Amendment or treated differently, it means that the planning systems response to competing preferences of park zoning favours a development authority over community living, working and playing in that neighbourhood with an investment in that neighbourhood, generally, in the medium to long term.
- 4. This Amendment seeks to afford the community in Docklands the same level of security as other communities enjoy which includes from encroachment by other uses. The application of the PPRZ as proposed will ensure that the subject parks are properly identified and formally become part of the open space network in the City of Melbourne; these assets being critical to the status Melbourne enjoys as being one of the most liveable cities in the world.

**(ii) Panel discussion and conclusion**

If the Amendment proceeds, the planning considerations for the land would change under the planning scheme but Council would remain in control by virtue of its ownership of the land or (in the case of the Crown land) its Committee of Management role. Council is the relevant land manager for all the affected land and so nothing can happen on the land under any zoning without Council's consent.

It is not a formal requirement in the DZ that the public land manager's consent is required, whereas in the PPRZ a permit application must be accompanied by a statement of formal consent of the public land manager. This seems to be more directed at efficient operation of the scheme than a policy outcome. For practical purposes there seems to be no change made by the rezoning.

The Panel does not agree with Development Victoria's contention as to strictures of the PPRZ. In the PPRZ the following uses are prohibited:

- Brothel
- Cinema based entertainment facility
- Corrective institution
- Display home centre
- Funeral parlour
- Industry
- Saleyard
- Transport terminal (other than Heliport)
- Veterinary centre
- Warehouse (other than Store).

No permit is required for:

- Informal outdoor recreation
- any non-prohibited use if it is *"conducted by or on behalf of a public land manager"*.

For uses not conducted by or on behalf of a public land manager a permit can be obtained, but the following uses must be *"associated with the public land use"*:

- Contractor's depot
- Heliport
- Office
- Retail premises
- Store.

The Panel does not think that placing the land in the PPRZ will hinder open space planning or activation efforts. The PPRZ has enough flexibility to address activation (as evidenced by the KereKere Green in the Fitzroy Gardens, for example).

There was cross examination of Mr Rogers and submissions at the Hearing about the nature of constructed recreational facilities that could be permitted under the DZ or PPRZ. These discussions were highly speculative and of little use to the Panel in understanding the policy implications, or decision making implications, of the change in zone.

The Panel accepts that the impact of development of adjoining land on the parcels might be treated differently if the land were in the PPRZ as opposed to the DZ. To the extent (if any) that a decision maker would consider impacts on public realm in the DZ to be less important than impacts on the public realm in the PPRZ the rezoning could make a material difference.

The Panel agrees with Development Victoria that any concerns that the properties are at risk of inappropriate development if not rezoned is misplaced because the planning scheme “*champions the provision of public open space in Docklands*”. However, the reference by Development Victoria to Council as the Committee of Management could be taken to imply that there might be some risk it were just up to Development Victoria.

Development Victoria’s submissions says, or comes close to saying, it has a better grasp of protection of open space in Docklands compared to the protections afforded by the application of the PPRZ. Specifically it says the PPRZ is “*very narrow*” and would not allow these areas to reach their full potential as open space areas. The Panel does not agree with this submission. If the PPRZ is appropriate for the City Square and Southbank Promenade it is appropriate for Docklands. If the Panel had not been advised that re-master planning was possible on this land (discussed in the next chapter), it would have recommended the application of the PPRZ as being the most appropriate zone to manage these areas.







## 4 Implications for re-master planning the specific sites

### 4.1 Context

At the Hearing Development Victoria submitted:

- 27.2 development within Docklands is incomplete and is, in some areas, anticipated to be subject to re-master planning during which boundaries may be realigned and more public open space areas added

The day after the Hearing Development Victoria presented a mapped version of the areas being re-master planned. Based on a plan initially presented by Council, Development Victoria submitted Figure 3 that shows:

-  PPRZ – Development Victoria does not object to this land being rezoned
-  PPRZ – sites subject to the opposing submission
-  Developments completed as of 2011
-  Developments completed since 2011
-  Developments not yet commenced or completed
-  “Undeveloped, and are subject to either
  - An approved development Plan by master planning underway
  - Opportunity for infill / urban renewal
  - A lease.”

**Figure 3:** The area covered by master planning or leases



Source: Development Victoria with Panel making the mapping correction referred to in accompanying text by Development Victoria and identifying areas subject to submission

As previously noted, Development Victoria objects to the rezoning of certain Crown land open space sites within Docklands, but not the Council owned open space (shown more precisely in Figure 2).

It is not clear that Docklands Studios and Docklands Stadium are “undeveloped” as presented by Development Victoria in Figure 3. That said, the Panel understands there are plans afoot for the redevelopment of the stadium and construction underway at the studios.

## 4.2 Master planning in general

In its initial submission Development Victoria stated:

Maintaining the Docklands Zone is of critical importance for the State to facilitate future master planning and renewal opportunities.

The Council report commented:

It is inappropriate for the open spaces and parks included in the amendment to be considered for ‘future master planning and renewal opportunities’ in Docklands. Securing land open space now and into the future is a key objective of the amendment.

As originally submitted Development Victoria’s point is somewhat vague. The submission does not say how the rezoning of these particular sites will affect overall master planning.

The Amendment proceeded on the basis that the status of the subject land is settled. This is evident from all the published material. If Development Victoria had specifically referenced the re-master planning of the specific sites in its submission its objection would have been a lot clearer.

The rezoning of the sites could proceed without affecting the overall master planning effort in Docklands if it were not for the need to re-master plan these site. The Panel notes Council’s contention that “*It is inappropriate for the open spaces and parks included in the amendment to be considered for ‘future master planning and renewal opportunities’*”, but this would seem to be a matter entirely up to Development Victoria to determine.

## 4.3 Re-master planning the specific sites

### (i) Submission and evidence

Mr Rogers made the clearest coherent statement against the Amendment:

**What is the status of planning and development in Docklands?**

49. Planning and development of the Docklands urban renewal area is ongoing – it may be almost a decade until the redevelopment is complete, based on the advice of the development agency responsible for this area. Development Victoria has stated that it estimates that almost two-thirds of the original development plans are now complete, but that some areas are undergoing re-master planning.
50. The boundaries, alignments and intentions for existing public spaces may be subject to change through ongoing master planning and development processes.
51. In the report to the Future Melbourne Committee regarding submissions the officer’s report makes the comment that it is inappropriate for the open spaces and parks included in the Amendment to be considered for future master planning and renewal opportunities in Docklands. This appears to suggest Council has interpreted Development Victoria’s submission as indicating these areas would potentially be subject to significant change.

52. It is not my understanding that Development Victoria has any intention of reducing the quantum or quality of public open space in Docklands, but rather, that any number of circumstances may warrant changes to such open space, including but not limited to:
- The potential development of a ‘folly’ or kiosk to provide activation in such public spaces, to re-arrange areas or introduce new facilities to better meet the future needs of the Docklands community, that would be more aligned to the Docklands Zone rather than the PPRZ
  - Future master planning may determine that open space boundaries should be realigned to improve the efficient development of neighbouring sites
  - To annex additional open space from development site to the existing open spaces
  - For pedestrian, cycle or vehicle infrastructure
53. In regard to the Docklands Park and Point Park sites, the role of these spaces is clearly intended to be parks, however Point Park is adjoined by two future development sites, and Docklands Park connects into the south end of Harbour Esplanade which is under review and is likely to undergo change.

At the Hearing Development Victoria submitted:

53. The sites where this [re-master planning] is brought into sharpest focus are the waterfront parcels – New Quay Promenade and Victoria Harbour Promenade. ... these parcels are flanked on all sides and connect directly with parcels which are still under the management and control of Development Victoria. These areas will be subject to future master planning as part of the City to Waterfront project, a precinct-wide masterplan referred to as the “City to Waterfront Blueprint” vision which was endorsed by Cabinet in November 2019 and the “City to Waterfront Strategic Value Capture and Creation” endorsed by Cabinet on 16 November 2020.

Council submitted:

92. Insofar as Development Victoria cites New Quay Promenade and Victoria Harbour Promenade as examples of sites that adjoin land that is within the control of Development Victoria, there is no suggestion that future development cannot respond to the PPRZ zoning of these areas. It appears that Development Victoria seek to retain the broadest possible development options in the event that it may seek, at some time in the future, to encroach upon these valuable public spaces through a further master planning process. This position is not strategically justified and represents a poor planning outcome.
94. It would inequitable to erode or diminish that open space without providing the opportunity to the local community to participate in the related decision-making processes. Where open space and its development context is well established the status of the open space should be protected and preserved. The prospect of ‘re-master planning’ surrounding land should not be given primacy in these circumstances.

## **(ii) Panel discussion and conclusion**

The sites subject to Development Victoria’s submission are temporarily reserved for public purposes. It is open to the Government to:

- remove Council and the Committee of Management
- remove the reservation status of the land.

These would be ‘big steps’, and are not envisaged by Development Victoria for all of the subject land but ‘tweaking’ might occur. Rezoning the land now as part of this Amendment would mean the land would potentially have to be zoned back from PPRZ to DZ. Such a rezoning would require an additional formal process that could involve the Amendment being struck out by either House of Parliament<sup>3</sup>.

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<sup>3</sup> Section 38(2) of the PE Act

Essentially this Hearing involved a difference of opinion between a public land manager in an urban renewal area and the urban renewal authority for that area.

If Development Victoria, as the urban renewal authority, says it may need the flexibility to refine these areas moving forward then the Panel thinks it ought to accept this advice unless it was clearly contrary to policy or some detailed structure plan or the like.

It is clear that there are implications for the future development of land within the parcels or land adjacent to the parcels as part of the rezoning. If this were not the case then Development Victoria would not have felt the needed to make a submission. The question therefore is balancing the implications of the rezoning for Development Victoria's management of the urban renewal area against Council's desire to protect the open space in its current configuration.

In terms of the potential strategic justification for re-master planning the Panel does not support Council's contention that *"This position is not strategically justified and represents a poor planning outcome"*. If the intention of the Amendment were to 'freeze' further planning work in Docklands in certain locations it would have needed to proceed on a firmer strategic basis than a self-described 'Zoning corrections of public open space and anomalies' amendment.

It is clear that the areas around Harbour Esplanade and Docklands Park are unfinished. The Panel has inspected the relevant areas and is broadly aware of the nature of the development proposals that have been proposed in the past for Marvel Stadium and Harbour Esplanade. Rather than saying that re-planning is not justified, current conditions on the ground would suggest that it is needed.<sup>4</sup>

Point Park has as yet unresolved interactions with the Fishermans Bend renewal area to the south and a vacant development parcel to the west.

The Panel accepts Development Victoria's submission that in finishing this work and finalising the plans for these area it might want to, or need to, make adjustments to the adjacent Crown land areas. This re-planning is being considered at the cabinet level of the Victorian Government. In the Panel's view, the benefits of placing the land in the PPRZ do not outweigh the risks of further complicating what will undoubtedly be a complicated process. The existing zone does not stop the effective management of these particular sites as part of the public realm.

This is not an Amendment that introduces new open space policy or strategies. Council is the Crown land manager, and in its role as a planning authority it is seeking to improve the operation of the planning scheme. However, Development Victoria is the urban renewal manager for the area. Development Victoria's development role in this instance 'trumps' Council's roles in relation to how specific land parcels ought to be managed in Docklands.<sup>5</sup> This will not always be the case and the time will come when this land should be rezoned to PPRZ.

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<sup>4</sup> This is not a criticism of the work of Development Victoria to date in Docklands. It is more an observation that as far as things have come, there is still further to go.

<sup>5</sup> For a broad strategic amendment this might not be the case.

## 4.4 Recommendation

The Panel recommends:

1. **Delete the following sites from the Amendment:**
  - **Site V3: 31 Doepel Way, Docklands (New Quay Promenade and Boatmans Landing)**
  - **Site V4: 1-71 New Quay Promenade, Docklands (New Quay Promenade and Monument Park)**
  - **Site V5: 1-91 Harbour Esplanade, Docklands (Docklands Park)**
  - **Site V6: 95-117 Harbour Esplanade, Docklands (Victoria Harbour Promenade)**
  - **Site V7: 104 Lorimer Street, Docklands (Point Park).**



## Appendix A Document list

No.	Date	Description	Provided by
1	18/5/21	Council report to the Future Melbourne Committee of 18 May 2021	Council
2	3/8/21	Evidence of Brendan Rogers for Development Victoria	Alexandra Deutscher
3	3/8/21	Submission from Fiona Finlayson Manager Open Space Planning and Green Infrastructure, for Council	Alexander Antoniadis
4	9/8/21	Development Victoria submission	Alexandra Deutscher
5	9/8/21	Council Part B submission	Alexander Antoniadis
6	11/8/21	Finlayson PowerPoint	Alexander Antoniadis
7	11/8/21	Map showing areas undergoing master planning	Amelia Hunter

## Appendix B Procedural issues

### Council's Part A submission

The Panel did not seek a Part A submission from Council. Having reviewed the Explanatory Report, submissions, and Council report to the Future Melbourne Committee of 18 May 2021, it was not clear that the Panel would benefit from more written material from Council. The Explanatory Report and Council report to the Future Melbourne Committee appeared to contain sufficient information when directions were issued.

### Circulation of the Council's Part B submission

The Directions issued by the Panel required parties to circulate their submissions to the other parties by noon on 9 August 2021.

Development Victoria circulated its submission at 12:34 pm on 9 August 2021. Council circulated its Part B submission later that day at 5:51 pm.

Development Victoria expressed concern that Council had time to read its submission and respond in its submission. To the Panel, this is not a bad thing. Council is the planning authority and is expected to respond to presentations made at a Hearing and typically does so by way of a closing submission.

The issue is whether Council's Part B submission raised new information that Development Victoria ought have the ability to respond to. In response to a question from the Panel Development Victoria specifically identified the points that Development Victoria might need further time to respond to. The Panel indicated it would afford Development Victoria an opportunity to advise at the close of the Hearing what additional time it might need to address these issues.

Development Victoria took the opportunity to present a revised plan near the close of the Hearing. It did not seek additional time to address any other issue. The Panel identified an obvious error in this plan and gave Development Victoria an opportunity to review it further before submitting it formally.

### Order of parties

#### (i) Objector to present first

On Wednesday, 14 July 2021, Maddocks emailed the parties, noting:

- Maddocks acts for Development Victoria
- Development Victoria has been scheduled to present its submission and evidence first, before Melbourne City Council as the Planning Authority.

Maddocks requested that:

... Council, as the Planning Authority and Proponent of the Amendment, be scheduled to present its submission and evidence first, in accordance with usual practice. The presentation order was not specifically dealt with in the Panel's proposed directions of 17 June 2021. Accordingly, Development Victoria had assumed the usual practice would be adopted in this matter and is not aware of any particular reason for the change.

The Panel responded on 15 July 2021, in part:

This is essentially a 'housekeeping' Amendment. The Panel does not require an elaboration of the strategic basis of the Amendment at the Hearing, and Council's response to the submission is articulated in the Council report of 18 May 2021. On this basis the Panel has determined that it does not need to hear further from Council before allowing Development Victoria to present its case.

The Panel accepts that Development Victoria may wish to draw to the Panel's attention to points from the cross examination of Council's witness, or respond to points not already articulated in the Council report or circulated evidence. If this is the case the Panel will give Development Victoria an opportunity for further submissions, potentially as part of a round table discussion between the parties and the Panel.

## **(ii) Request to the Panel to reconsider its ruling**

On 20 July 2021 Maddocks wrote to the Panel asking it to reconsider its ruling on the basis that:

Melbourne City Council (Council) is the Proponent and Planning Authority of the Amendment. Council is presenting its case on the Amendment by way of a Part B submission and has indicated an intention to call evidence in support of that case in relation to 'open space planning', which Development Victoria considers goes to the strategic basis of the Amendment.

We also note that our correspondence to the Panel on 14 July 2021 stated that '*[t]he presentation order was not specifically dealt with in the Panel's proposed directions of 17 June 2021.*' We have since noted that the Panel's proposed directions of 17 June 2021 did in fact state that:

- At the Hearing, the order will be:
  - Planning Authority
  - The submitter

We apologise for our error in that respect. Nonetheless, it is concerning to Development Victoria that the Panel has now:

- altered the presentation order without notice to the parties and seeking their views before issuing the Directions and Timetable; and
- formed conclusions that the Amendment is a 'housekeeping' amendment in advance of the submissions and evidence to be presented at the hearing.

The response to this request was addressed in preliminary matters and Development Victoria requested that this report give written reasons in response to this second request.

## **(iii) The Panel's reasons**

Maddocks' correspondence raised two issues:

- the implications of changing the order of the parties' presentations
- the assertion that the Panel pre-judged the nature of the Amendment as a 'housekeeping' amendment.

### **Changing the order of presentation**

Panels have the power to regulate their own proceedings and it is a matter for panels to determine the order in which they wish to hear from parties. A panel does not have to justify the order of parties.

A panel does need to afford natural justice to all parties. The letter of 15 July 2021 from the Panel made it clear that Development Victoria would have an opportunity to respond to any new material that Council raised.

Having reviewed the material before the Hearing, the Panel formed the view that it had a reasonable understanding of Council's position. It determined that an opening submission from Council would be of no benefit to it. Added to this was the fact that it had no real understanding of Development Victoria's position, on account of Development Victoria's submission being vague, inconsistent, and referencing facts that seemed to have no bearing of the matter.

On this basis the Panel determined it would be appropriate to hear from Development Victoria before Council so that the issues in contention could be properly understood earlier in the proceedings.

### **Pre-judgement that the matter is a 'housekeeping' amendment**

The point that the Panel had predetermined that the Amendment was a 'housekeeping' amendment has two potential implications.

The first implication is that the Panel had failed to consider the possibility that Council's evidence would address strategic justification issues and so ought to be presented first. Evidence was to be circulated in advance and so Development Victoria would have been able to address this in its submission and have its own witness respond to any issues raised in Council's evidence. As to what might have arisen in cross examination, the Panel made it clear in its correspondence of 15 July 2021 that Development Victoria would have an opportunity after Council presented its submission to address any such issues.

The second implication, which the Panel is not sure Development Victoria is making, is that the Panel may have predetermined how it would respond to Development Victoria's submission. This does not go to the order of the parties but relates to the implication that the Panel may have prejudged the issues. In response to this the Panel observes that it is clear from the Explanatory Report and the nature of the background material that the Amendment is intended to be a housekeeping Amendment.

The fundamental issue that Development Victoria raised in its submission is that in doing this housekeeping now, rather than later, there are unintended consequences for the proper redevelopment and renewal of the docklands area. Development Victoria's submission to the Amendment did not articulate what these adverse impacts were with any degree of specificity. At the Hearing Mr Rogers was able to provide coherent reason why the rezoning of the parcels in dispute should not proceed.

The Panel considers that Development Victoria, through its submissions at the Hearing and through the evidence of Mr Rogers, had ample opportunity to articulate its concerns, and that those concerns were properly explored.

## Appendix C Details of the land to be rezoned

Table 1: Council properties

Land affected	Existing zoning	Proposed rezoning	Mapping Reference
<b>Carlton</b>			
469 Cardigan Street, Carlton (Cardigan Street Park)	RGZ1	PPRZ	Map 5
68 Keppel Street, Carlton (Keppel Street Park)	RGZ1	PPRZ	Map 5
27 Palmerston Street, Carlton (Station Street Park)	RGZ1	PPRZ	Map 5
60-64 Palmerston Street, Carlton (Canning and Palmerston Street Reserve)	GRZ2	PPRZ	Map 5
174-176 Palmerston Street, Carlton (Neill Street Reserve)	GRZ1, PUZ2	PPRZ	Map 5
230 Rathdowne Street, Carlton (Carlton Baths/Carlton Family Resource Centre)	GRZ1, PUZ6	PUZ6	Map 5
15-23 Reeves Street, Carlton (Reeves Street Park)	RGZ1	PPRZ	Map 5
<b>Docklands (the rezoning of these sites were not in dispute)</b>			
1 Adela Lane Reserve, Docklands (Adela Lane Reserve)	DZ2	PPRZ	Map 7
898 Collins Street, Docklands (Buluk Park)	DZ2	PPRZ	Map 7
900 Collins Street, Melbourne (Dock Pavilion Site)	DZ2	PPRZ	Map 7
429-437 Docklands Drive, Docklands (New Quay Central Park)	DZ6	PPRZ	Map 7
70 Import Lane, Docklands (Victoria Green)	DZ2	PPRZ	Map 7 & 8
9-13 Pearl River Road, Docklands (Quay Park)	DZ6	PPRZ	Map 7

Land affected	Existing zoning	Proposed rezoning	Mapping Reference
71 South Wharf Drive, Docklands	DZ1	PPRZ	Map 7
72-74 South Wharf Drive, Docklands (Wharfs Landing)	DZ1	PPRZ	Map 7
<b>Kensington</b>			
74 Altona Street, Kensington (Altona Street Reserve)	GRZ1	PPRZ	Map 4
41-55 Bayswater Road, Kensington (Bayswater Road Park)	GRZ1	PPRZ	Map 4
2-20 Bellair Street, Kensington (Kensington Hall Reserve)	GRZ1, PPRZ	PPRZ	Map 4
1-19 Cuffe Walk, Kensington (Westbourne Road Reserve)	GRZ1, PPRZ	PPRZ	Map 4
113 Hobsons Road, Kensington (Maribyrnong River Bike Trail, part)	MUZ, PPRZ	PPRZ	Map 4
63-65 Kensington Road, Kensington (Warun Biik Park)	GRZ1	PPRZ	Map 4
14-18 Parsons Street, Kensington (Parsons Street Reserve)	GRZ1, PPRZ	PPRZ	Map 4
403A Racecourse Road, Kensington (Stock Route Reserve)	GRZ1, PPRZ	PPRZ	Map 4
30-42 Market Street, Kensington (Reserve Front)	GRZ1	PPRZ	Map 4
10-12 Robertson Street, Kensington (Robertson Street Reserve)	GRZ2	PPRZ	Map 4
12-18 Woodruff Street, Kensington (Council Reserve)	GRZ1	PPRZ	Map 4

Land affected	Existing zoning	Proposed rezoning	Mapping Reference
<b>Melbourne</b>			
22-26 Brown Alley, Melbourne (Merritts Place Reserve)	CCZ1	PPRZ	Map 8
104-106 Little Bourke Street, Melbourne (Chinatown Plaza)	CCZ1	PPRZ	Map 8
<b>Southbank</b>			
Reserve A, 7 Riverside Quay, Southbank (Eureka Reserve)	CCZ3	PPRZ	Map 8
135 Queens Bridge Street, Southbank (City Road Park)	CCZ3	PPRZ	Map 8
8-10 Riverside Quay, Southbank (Riverside Quay Reserve)	CCZ3	PPRZ	Map 8
207 City Road, Southbank (Boyd Community Hub/Boyd)	CCZ3	PPRZ	Map 8

Table 2: Victorian Government properties

Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
<b>Carlton</b>				
2-20 Neill Street, Carlton (Canning and Neill Street Reserve)	GRZ1, GRZ2, PPRZ	PPRZ	Map 5	City of Melbourne
<b>Carlton North</b>				
199-349 Macpherson Street, Carlton North (Hardy Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
<b>Docklands – these are the site subject to Development Victoria’s submission</b>				
31 Doepel Way, Docklands (New Quay Promenade/Boatmans Landing)	DZ6 & DZ7	PPRZ	Map 7	City of Melbourne
1-71 New Quay Promenade (New Quay Promenade/Monument Park)	DZ6, DZ7	PPRZ	Map 7	City of Melbourne
1-91 Harbour Esplanade, Docklands (Docklands Park)	DZ2	PPRZ	Map 8	City of Melbourne

Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
95-117 Harbour Esplanade, Docklands (Victoria Harbour Promenade)	DZ2	PPRZ	Map 7 & 8	City of Melbourne
104 Lorimer Street, Docklands (Point Park)	DZ1	PPRZ	Map 7	City of Melbourne
Reserve Rear, 2-66 Siddeley Street, Docklands	CCZ1	PPRZ	Map 8	City of Melbourne
<b>East Melbourne</b>				
74-108 Spring Street, East Melbourne (Gordon Reserve)	PUZ7	PPRZ	Map 8	City of Melbourne
1-33 Parliament Place, East Melbourne (Burston Reserve)	MUZ	PPRZ	Map 8	City of Melbourne
210-230 Spring Street, East Melbourne (Gillott Reserve/Tianjin Gardens)	C1Z, CCZ1	PPRZ	Map 8	City of Melbourne
<b>Kensington</b>				
69-81 Epsom Road, Kensington (Womens Peace Garden)	GRZ1, PPRZ	PPRZ	Map 4	City of Melbourne
Rear 41-63 Hobsons Road, Kensington (Maribyrnong River Bike Trail, part)	PPRZ, PUZ1	PPRZ	Map 4	City of Melbourne
160 Rankins Road, Kensington (Eastwood and Rankins Road Reserve)	GRZ2	PPRZ	Map 4	City of Melbourne
<b>Melbourne</b>				
Alexandra Avenue, Melbourne (Alexandra Park)	GRZ1, PPRZ	PPRZ	Map 8 & 9	City of Melbourne
Alexandra Avenue, Melbourne (Kings Domain)	GRZ1, PPRZ, RDZ1	PPRZ	Map 8 & 9	City of Melbourne
Batman Avenue, Melbourne (Stapley Parade Reserve)	CCZ1, GRZ1, PPRZ, RDZ1, RDZ2	PPRZ (GRZ1 to remain on Morell Bridge)	Map 9	City of Melbourne
Batman Avenue, Melbourne (Birrarung Marr) and Princes Wharf, Princes Walk, Melbourne	CCZ1, PPRZ	PPRZ	Map 8	City of Melbourne and Parks Victoria
431 Collins Street, Melbourne (Market Street Reserve)	CCZ1	PPRZ	Map 8	City of Melbourne



Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
Russell Street, Melbourne (Eight Hour Reserve)	MUZ	PPRZ	Map 8	City of Melbourne
Yarra River (between Montague Street Bridge and Swan Street Bridge), 469-503 Flinders Street, Melbourne (part) (Enterprize Park) and 2A Spencer Street, Melbourne (part) (Batman Park)	CCZ1, PPRZ	PPRZ	Map 8	Parks Victoria and City of Melbourne
<b>North Melbourne</b>				
2-8 Bedford Street, North Melbourne (Bedford Street Reserve)	MUZ	PPRZ	Map 5	City of Melbourne
Canning Street, North Melbourne (Pleasance Gardens)	GRZ2	PPRZ	Map 4 & 5	City of Melbourne
1A Chapman Street, North Melbourne (Chapman Street Reserve)	GRZ2	PPRZ	Map 5	City of Melbourne
1A Courtney Street, North Melbourne (Courtney Street Reserve)	MUZ	PPRZ	Map 5	City of Melbourne
166 Curzon Street, North Melbourne (Curzon Street Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
273-315 Dryburgh Street, North Melbourne (Gardiner Reserve)	GRZ1, PPRZ	PPRZ	Map 4	City of Melbourne
196-198 Errol Street, North Melbourne (Errol Street Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
Leveson Street, North Melbourne (Leveson Street Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
<b>Parkville</b>				
18 Bunjil Way, Parkville (Barring Walk)	GRZ1	PPRZ	Map 2	City of Melbourne
52-68 Flemington Road, Parkville (Royal Park)	PUZ3, PPRZ, GRZ1	PPRZ	Map 2 & 5	City of Melbourne
Park/Trin Warren Tamboore Wetland)	IN1Z, PUZ4			
1-63 Cade Way, Parkville (Parkville Gardens/Cade Square)	MUZ	PPRZ	Map 2	City of Melbourne
95 Cade Way, Parkville (Auckland Lane Reserve)	MUZ	PPRZ	Map 2	City of Melbourne
2-4 Carrangall Place, Parkville (Carrangall Place Reserve)	GRZ1	PPRZ	Map 2	City of Melbourne

Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
12-92 Galada Avenue, Parkville (Galada Avenue Reserve)	RGZ1	PPRZ	Map 2	City of Melbourne
1-17 Garrard Street, Parkville (Garrard Street Reserve)	PPRZ, PUZ3	PPRZ	Map 2	City of Melbourne
1 Manchester Lane, Parkville (Manchester Lane Reserve)	MUZ	PPRZ	Map 2	City of Melbourne
944-980 Park Street, Parkville (Park Street Reserve)	GRZ1	PPRZ	Map 2	City of Melbourne
8 The Avenue, Parkville (Clunies Ross Reserve)	GRZ6	PPRZ	Map 5	City of Melbourne
Upfield Railway (part)	PPRZ/PUZ4	PUZ4	Map 2	VicTrack
<b>Southbank</b>				
17 Cook Street, Southbank (Cook Street Reserve)	CCZ3, RDZ1	PPRZ	Map 8	City of Melbourne
25-45 Grant Street, Southbank (Grant Street Reserve)	MUZ	PPRZ	Map 8	City of Melbourne
1A Queens Bridge Street, Southbank (Queensbridge Square & Sandridge Rail Bridge)	CCZ1, CCZ3	PPRZ	Map 8	City of Melbourne
<b>West Melbourne</b>				
1 Anderson Street, West Melbourne (Railway Place and Miller Street Park)	MUZ, PPRZ	PPRZ	Map 4 & 7	City of Melbourne
163-365 Dynon Road, West Melbourne (Dynon Road Reserve)	IN1Z	PPRZ	Map 4	To be determined
92-108 Hawke Street, West Melbourne (Hawke & Adderley Street Park)	GRZ1	PPRZ	Map 7 & 8	City of Melbourne
Rear 160-174 Kensington Road, West Melbourne (Maribyrnong River Bike Trail, part)	PUZ1	PPRZ	Map 4	City of Melbourne
397-435 Dynon Road, West Melbourne (Wildlife Sanctuary)	IN1Z	PPRZ	Map 4	City of Melbourne
4A Hawke Street, West Melbourne (Hawke and Curzon Street Reserve)	GRZ1	PPRZ	Map 8	City of Melbourne
Hawke Street, West Melbourne (Hawke & King Street Reserve)	RDZ1	PPRZ	Map 5	City of Melbourne

Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
24-40 Sims Street, West Melbourne (Maribyrnong River Bike Trail, part)	PUZ1, PPRZ	PPRZ	Map 4	City of Melbourne
372-376 King Street, West Melbourne (Eades Park)	GRZ1, MUZ, PPRZ, RDZ1	PPRZ	Map 8	City of Melbourne
King and Victoria Street Reserve, King Street, West Melbourne	RDZ1	PPRZ	Map 5	City of Melbourne
383-389 William Street, West Melbourne (Howard & William Street Reserve)	MUZ	PPRZ	Map 5 & 8	City of Melbourne
26 Stawell Street, West Melbourne (Stawell Street Park)	MUZ, RDZ1	PPRZ	Map 4	City of Melbourne

Table 3: Private properties

Land affected	Existing zoning	Proposed rezoning	Mapping reference
<b>Parkville</b>			
66 Manningham Street, Parkville	PPRZ	GRZ1	Map 4
68 Manningham Street, Parkville	PPRZ	GRZ1	Map 4
70 Manningham Street, Parkville	PPRZ	GRZ1	Map 4
72 Manningham Street, Parkville	PPRZ	GRZ1	Map 4

# C380 ZONING CORRECTIONS OF PUBLIC SPACE AND ANOMALIES

## Attachment 3: Management Response to Panel Recommendations

This document is an aide to decision making by the Future Melbourne Committee and Melbourne City Council only and is to be read in conjunction with the amendment documentation. To the extent of any inconsistency, the amendment documentation prevails.

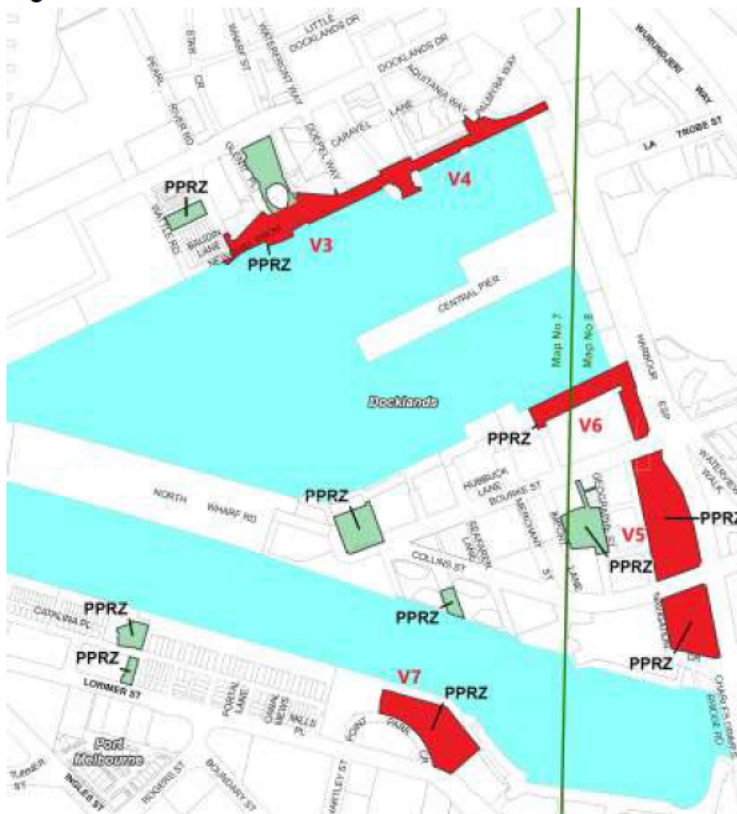
### Panel Recommendations:

That Melbourne Planning Scheme Amendment C380 be adopted as exhibited subject to the following:

Delete the following 5 Crown Land sites from the Amendment as shown in Figure 1:

- Site V3: 31 Doepel Way, Docklands (New Quay Promenade and Boatmans Landing)
- Site V4: 1-71 New Quay Promenade, Docklands (New Quay Promenade and Monument Park)
- Site V5: 1-91 Harbour Esplanade, Docklands (Docklands Park)
- Site V6: 95-117 Harbour Esplanade, Docklands (Victoria Harbour Promenade)
- Site V7: 104 Lorimer Street, Docklands (Point Park).

Figure 1: Land to be rezoned in Docklands



Source: C380 Panel Report 2021

## 1. Management Response to Panel Recommendations

Table 1: Panel recommendations and management response

Panel recommendation	Comments in relation to Panel recommendation	Overall Management Response	Management response and recommended changes to Amendment C380
<p>1. Remove the following three Harbour Promenade sites from the Amendment:</p> <p>New Quay Promenade and Boatman's Landing (31 Doepel Way)</p> <p>New Quay Promenade and Monument Park (1-71 New Quay Promenade)</p> <p>Victoria Harbour Promenade (95-117 Harbour Esplanade)</p>	<ul style="list-style-type: none"> <li>- Development Victoria as the government agency charged with managing the urban renewal of the area, advised the Panel that the planning of the area is not yet fully resolved.</li> <li>- New information was raised at the hearing regarding cabinet-in-confidence development proposals that affect the Harbour Promenade parcels. Specific details of the development proposals were not provided however the sites are within areas subject to future master planning as part of a precinct wide vision, "City to Waterfront Blueprint" recently endorsed by Cabinet.</li> <li>- At the hearing Development Victoria also advised they do not intend to reduce the quantum or quality of public open space in Docklands, however the open space areas may require boundary adjustment for, but not limited to, the following:               <ul style="list-style-type: none"> <li>- re-arrange areas or introduce new facilities to better meet the future needs of the Docklands community</li> <li>- annex additional open space from development sites;</li> <li>- ensure the efficient development of neighbouring sites; and</li> <li>- pedestrian, cycle or vehicle infrastructure.</li> </ul> </li> <li>- Rezoning the land as part of this Amendment would mean if there were subsequent adjustments to the boundaries, the land would potentially have to be zoned back from</li> </ul>	<p>Supported</p>	<p>In light of the new information provided by Development Victoria at the Panel hearing, it is accepted that the rezoning of these parks may be premature, potentially creating unnecessary complications if future boundary realignments are required.</p> <p>Given that the open space status of the land has existing statutory protection, management accepts the removal of these three sites from the Amendment.</p> <p>The following changes should be made to Amendment C380:</p> <p>Update Planning Scheme Amendment maps C380melb znMap07 and C380melb znMap07 to remove the proposed Public Park and Recreation Zone (PPRZ) from New Quay Promenade and Boatman's Landing (31 Doepel Way), New Quay Promenade and Monument Park (1-71 New Quay Promenade), and Victoria Harbour Promenade (95-117 Harbour Esplanade).</p>

Panel recommendation	Comments in relation to Panel recommendation	Overall Management Response	Management response and recommended changes to Amendment C380
	<p>PPRZ to DZ.</p> <ul style="list-style-type: none"> <li>- The open spaces in the Amendment are reserved for public purposes under the <i>Crown Land (Reserves) Act 1978</i> and Council is the Committee of Management.</li> <li>- The Panel concluded that Development Victoria require some flexibility in relation to undeveloped land as the State authority leading the renewal of Docklands and stated: <i>“Council is the Crown land manager, and in its role as a planning authority it is seeking to improve the operation of the planning scheme. However, Development Victoria is the urban renewal manager for the area. Development Victoria’s development role in this instance ‘trumps’ Council’s roles in relation to how specific land parcels ought to be managed in Docklands. This will not always be the case and the time will come when this land should be rezoned to PPRZ.”</i></li> </ul>		
<p>2. Remove the following two sites from the Amendment:</p> <p>Docklands Park (1-91 Harbour Esplanade)</p> <p>Point Park (104 Lorimer Street)</p>	<ul style="list-style-type: none"> <li>- Panel noted that <i>“it is clear that the areas around Harbour Esplanade and Docklands Park are unfinished.”</i> Docklands Park connects into the south end of Harbour Esplanade which is under review.</li> <li>- Panel also noted that Point Park has yet unresolved interactions with the Fishermans Bend urban renewal area to the south and a vacant development parcel to the west.</li> <li>- The Panel accepted Development Victoria’s submission that in finishing this work and finalising the plans for these areas it might want to, or need to, make adjustments to the adjacent Crown land areas.</li> <li>- The Panel therefore concluded that these two sites should</li> </ul>	Supported	<p>In light of the new information provided by Development Victoria at the Panel hearing, it is accepted that the rezoning of these parks may be premature, potentially creating unnecessary complications if future boundary realignments are required.</p> <p>Given that the open space status of the land has existing statutory protection, management accepts the removal of these two sites from the Amendment.</p> <p>The following changes should be made to Amendment C380:</p> <p>Update planning scheme amendment maps C380melb znMap07 and C380melb znMap07 to remove the</p>

<b>Panel recommendation</b>	<b>Comments in relation to Panel recommendation</b>	<b>Overall Management Response</b>	<b>Management response and recommended changes to Amendment C380</b>
	be removed from the Amendment.		proposed Public Park and Recreation Zone (PPRZ) for Docklands Park (1-91 Harbour Esplanade) and Point Park (104 Lorimer Street).

### **Who is the planning authority?**

This amendment has been prepared by the City of Melbourne, which is the planning authority for this amendment.

The amendment has been made at the request of the City of Melbourne.

### **Land affected by the amendment**

The amendment applies to thirty-one Council open spaces, 230 Rathdowne Street, Carlton, part of the Upfield Railway near Royal Park Station, forty-nine Victorian Government open spaces and 66, 68, 70 and 72 Manningham Street, Parkville.

Attachment 1 details the property addresses, each rezoning, and Planning Scheme map references.

### **What the amendment does**

The amendment proposes to:

- Rezone and/or correct boundary alignments of thirty-one Council open spaces to the Public Park and Recreation Zone (PPRZ).
- Rezone 230 Rathdowne Street, Carlton from the General Residential Zone (Schedule 1) and Public Use Zone (Schedule 6) to the Public Use Zone (Schedule 6).
- Rezone part of the Upfield Railway near Royal Park Station from the PPRZ to the Public Use Zone (Schedule 4).
- Rezone forty-nine Victorian Government open spaces which are reserved under the *Crown Land (Reserves) Act 1978* to PPRZ and/or correct boundary alignments.
- Rezone 66, 68, 70 and 72 Manningham Street, Parkville from the PPRZ to the General Residential Zone (Schedule 1); and
- Amend Planning Scheme Map Nos. 2, 4, 5, 7, 8 & 9 to reflect the above changes.

### **Strategic assessment of the amendment**

#### **Why is the amendment required?**

A review of open spaces across the municipality has identified thirty-one Council open spaces and forty-nine Victorian Government open spaces are not zoned correctly and require correction.

The amendment is required to:

- Rezone to the Public Park and Recreation Zone (PPRZ), Council land currently used for public open space, and Crown land vested in Council and the Victorian Government currently being used as public open space;
- Rezone 66, 68, 70 and 72 Manningham Street, Parkville from the PPRZ to the General Residential Zone (Schedule 1); and
- Correct boundary alignments and anomalies in the Melbourne Planning Scheme.



Amendment C380melb will remove confusion around existing and future use of land and improve the identification of open space in the planning scheme.

The amendment is required to correct a zoning anomaly at 230 Rathdowne Street, Carlton by rezoning the land from the General Residential Zone (Schedule 1) and Public Use Zone (Schedule 6) to the Public Use Zone (Schedule 6). The land is used as the Carlton Baths and Carlton Family Resource Centre, which is owned by the City of Melbourne. The rezoning to PUZ is appropriate given its public use and ownership. The rezoning ensures only one zone is applied to the land.

The amendment is required to correct a historical anomaly associated with the privately owned properties containing residential dwellings at 66, 68, 70 and 72 Manningham Street, Parkville. These properties are incorrectly zoned PPRZ and require rezoning to the General Residential Zone (Schedule 1) which is consistent with the predominant zoning of Manningham Street, Parkville. This will ensure the land can be developed for private purposes and assessed against the correct provisions in the planning scheme.

The amendment is required to rezone land from PPRZ to Public Use Zone (Schedule 4) on part of the Upfield Railway near Royal Park Station. The PPRZ extends into the railway crossing which is an anomaly that requires correction. The PUZ4 is applied to the railway corridor and therefore this is the most appropriate zone to correct the anomaly.

### **How does the amendment implement the objectives of planning in Victoria?**

The amendment supports the implementation of the objectives of as outlined in section 4 of the *Planning and Environment Act 1987*. In particular, the amendment responds to the following objectives:

a) *To provide for the fair, orderly, economic and sustainable use and development of land;*

The fair, orderly, economic and sustainable use and development of the land is met by ensuring the correct zoning is applied to land.

c) *Secure a pleasant, efficient and safe, work, living and recreational environment for all Victorians and visitors to Victoria;*

The amendment seeks to promote a pleasant work and living environment for all Victorians and visitors by ensuring security of open space in the municipality.

e) *Protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community;*

By rezoning the properties which are used as open space, the amendment secures that the land is reserved for public purpose, which benefits existing and future communities.

### **How does the amendment address any environmental, social and economic effects?**

#### *Environment Effects*

There are no significant environmental impacts arising from the amendment since it is not facilitating any new development opportunities.

#### *Economic and Social Effects*

The amendment provides a number of positive social and economic benefits by securing open space across the municipality, which will provide:

- Long term confidence in the future use of the land
- Minimise confusion about the existing and future use of land and improve the identification of open space.
- Expedited delivery of improvements to open space and associated buildings and works by removing planning permit requirements.
- Restored development rights for the properties at 66, 68, 70 and 72 Manningham Street, Parkville.

### **Does the amendment address relevant bushfire risk?**

The amendment will not increase the risk to life, property, community infrastructure and the natural environment from bushfire. The amendment affects land in an urban area which is not affected by bushfire risk.

### **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment complies with the requirements of:

- Ministerial Direction No 9 – Metropolitan Planning Strategy
- Ministerial Direction No 11 – Strategic Assessment of Amendments.
- Ministerial Direction on the Form and Content of Planning Schemes issued under section 7(5) of the Act.

### **How does the amendment support or implement the Planning Policy Framework and any adopted State policy?**

The amendment supports and is consistent with the requirements of the following clauses:

- Clause 15.01-4S (Healthy neighbourhoods): To achieve neighbourhoods that foster healthy and active living and community wellbeing.
- Clause 19.02-6S (Open space): To establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community.

### **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment supports and implements the following objectives and strategies contained within the Local Planning Policy Framework:

Clause 21.10 (Infrastructure)

*Clause 21.10-2 (Open Space):*

- Objective 1: To maintain, enhance and increase Melbourne's public open space network and promote greening of the City.
- Strategy 1.2: Ensure parks, gardens, waterways and open spaces remain a prominent element of the City's structure and character.
- Strategy 1.3: Ensure there is no net loss of the area of public open space and secure new public open space where opportunities arise
- Strategy 2.4: Discourage activities, buildings and works that are not specifically related to the park and its use and that lead to the alienation of the park.

Rezoning the properties to the PPRZ will secure the future land use to ensure strategy 2.4 is not compromised by misaligned zones.

### **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment is consistent with, and makes proper use of, the Victoria Planning Provisions (VPP) by applying PPRZ to land to accurately reflect its use for open space.

Planning Practice Note 2 (Public Land Zones) states '*a public land zone will normally be applied to public land owned or managed by a government department or public land manager, including national parks, state forests, coastal crown land and land reserved under the Crown Land (Reserves) Act 1978*'. The PPRZ recognises areas for public recreation and other open space uses. This is the most appropriate zone to be applied properties which are used as open space.

The rezoning of 66, 68, 70 and 72 Manningham Street, Parkville restores development rights and makes propose use of the VPPs. These properties are privately owned and contain residential dwellings and therefore are incorrectly zoned PPRZ and require rezoning to the General Residential Zone (Schedule 1) which is consistent with the predominant zoning of Manningham Street, Parkville. This will ensure the land can be developed for private purposes and assessed against the correct provisions in the planning scheme.

**How does the amendment address the views of any relevant agency?**

The views of relevant agencies will be sought during the exhibition of the amendment.

**Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment will not have a significant impact on the transport system.

**Resource and administrative costs**

**What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment will have a positive impact on the resource and administrative costs of the City of Melbourne by improving the identification of land in the planning scheme which will expedite delivery of open space and associated buildings and works by removing planning permit requirements

**Where you may inspect this amendment**

The amendment can be viewed on the City of Melbourne's Participate Melbourne website at: <https://participate.melbourne.vic.gov.au/Amendment-c380>

The amendment can be inspected free of charge at the Department of Environment, Land, Water and Planning website at: [www.planning.vic.gov.au/schemes-and-amendments/browse-amendments](http://www.planning.vic.gov.au/schemes-and-amendments/browse-amendments)

**Panel hearing dates**

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- Directions hearing: Week commencing 5 July 2021
- Panel hearing: Week commencing 9 August 2021

**Attachment 1 – Details of rezoning and Planning Scheme map references****Council properties**

<b>Land affected</b>	<b>Existing zoning</b>	<b>Proposed rezoning</b>	<b>Mapping Reference</b>
<b>Carlton</b>			
469 Cardigan Street, Carlton (Cardigan Street Park)	RGZ1	PPRZ	Map 5
68 Keppel Street, Carlton (Keppel Street Park)	RGZ1	PPRZ	Map 5
27 Palmerston Street, Carlton (Station Street Park)	RGZ1	PPRZ	Map 5
60-64 Palmerston Street, Carlton (Canning and Palmerston Street Reserve)	GRZ2	PPRZ	Map 5
174-176 Palmerston Street, Carlton (Neill Street Reserve)	GRZ1, PUZ2	PPRZ	Map 5
230 Rathdowne Street, Carlton (Carlton Baths/Carlton Family Resource Centre)	GRZ1, PUZ6	PUZ6	Map 5
15-23 Reeves Street, Carlton (Reeves Street Park)	RGZ1	PPRZ	Map 5
<b>Docklands</b>			
1 Adela Lane Reserve, Docklands (Adela Lane Reserve)	DZ2	PPRZ	Map 7
898 Collins Street, Docklands (Buluk Park)	DZ2	PPRZ	Map 7
900 Collins Street, Melbourne (Dock Pavilion Site)	DZ2	PPRZ	Map 7
429-437 Docklands Drive, Docklands (NewQuay Central Park)	DZ6	PPRZ	Map 7
70 Import Lane, Docklands (Victoria Green)	DZ2	PPRZ	Map 7 & 8
9-13 Pearl River Road, Docklands (Quay Park)	DZ6	PPRZ	Map 7
71 South Wharf Drive, Docklands	DZ1	PPRZ	Map 7
72-74 South Wharf Drive, Docklands (Wharfs Landing)	DZ1	PPRZ	Map 7

Land affected	Existing zoning	Proposed rezoning	Mapping Reference
<b>Kensington</b>			
74 Altona Street, Kensington (Altona Street Reserve)	GRZ1	PPRZ	Map 4
41-55 Bayswater Road, Kensington (Bayswater Road Park)	GRZ1	PPRZ	Map 4
2-20 Bellair Street, Kensington (Kensington Hall Reserve)	GRZ1, PPRZ	PPRZ	Map 4
1-19 Cuffe Walk, Kensington (Westbourne Road Reserve)	GRZ1, PPRZ	PPRZ	Map 4
113 Hobsons Road, Kensington (Maribyrnong River Bike Trail, part)	MUZ, PPRZ	PPRZ	Map 4
63-65 Kensington Road, Kensington (Warun Biik Park)	GRZ1	PPRZ	Map 4
14-18 Parsons Street, Kensington (Parsons Street Reserve)	GRZ1, PPRZ	PPRZ	Map 4
403A Racecourse Road, Kensington (Stock Route Reserve)	GRZ1, PPRZ	PPRZ	Map 4
30-42 Market Street, Kensington (Reserve Front)	GRZ1	PPRZ	Map 4
10-12 Robertson Street, Kensington (Robertson Street Reserve)	GRZ2	PPRZ	Map 4
12-18 Woodruff Street, Kensington (Council Reserve)	GRZ1	PPRZ	Map 4
<b>Melbourne</b>			
22-26 Brown Alley, Melbourne (Merritts Place Reserve)	CCZ1	PPRZ	Map 8
104-106 Little Bourke Street, Melbourne (Chinatown Plaza)	CCZ1	PPRZ	Map 8

<b>Southbank</b>			
Reserve A, 7 Riverside Quay, Southbank (Eureka Reserve)	CCZ3	PPRZ	Map 8
135 Queens Bridge Street, Southbank (City Road Park)	CCZ3	PPRZ	Map 8
8-10 Riverside Quay, Southbank (Riverside Quay Reserve)	CCZ3	PPRZ	Map 8
207 City Road, Southbank (Boyd Community Hub/Boyd)	CCZ3	PPRZ	Map 8

### Victorian Government properties

<b>Land affected</b>	<b>Existing zoning</b>	<b>Proposed rezoning</b>	<b>Mapping Reference</b>	<b>Crown Land Administrator</b>
<b>Carlton</b>				
2-20 Neill Street, Carlton (Canning and Neill Street Reserve)	GRZ1, GRZ2, PPRZ	PPRZ	Map 5	City of Melbourne
<b>Carlton North</b>				
199-349 Macpherson Street, Carlton North (Hardy Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
<b>Docklands</b>				
Reserve Rear, 2-66 Siddeley Street, Docklands	CCZ1	PPRZ	Map 8	City of Melbourne

Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
<b>East Melbourne</b>				
74-108 Spring Street, East Melbourne (Gordon Reserve)	PUZ7	PPRZ	Map 8	City of Melbourne
1-33 Parliament Place, East Melbourne (Burston Reserve)	MUZ	PPRZ	Map 8	City of Melbourne
210-230 Spring Street, East Melbourne (Gillott Reserve/Tianjin Gardens)	C1Z, CCZ1	PPRZ	Map 8	City of Melbourne
<b>Kensington</b>				
69-81 Epsom Road, Kensington (Womens Peace Garden)	GRZ1, PPRZ	PPRZ	Map 4	City of Melbourne
Rear 41-63 Hobsons Road, Kensington (Maribyrnong River Bike Trail, part)	PPRZ, PUZ1	PPRZ	Map 4	City of Melbourne
160 Rankins Road, Kensington (Eastwood and Rankins Road Reserve)	GRZ2	PPRZ	Map 4	City of Melbourne
<b>Melbourne</b>				
Alexandra Avenue, Melbourne (Alexandra Park)	GRZ1, PPRZ	PPRZ	Map 8 & 9	City of Melbourne
Alexandra Avenue, Melbourne (Kings Domain)	GRZ1, PPRZ, RDZ1	PPRZ	Map 8 & 9	City of Melbourne
Batman Avenue, Melbourne (Stapley Parade Reserve)	CCZ1, GRZ1, PPRZ, RDZ1, RDZ2	PPRZ (GRZ1 to remain on Morell Bridge)	Map 9	City of Melbourne
Batman Avenue, Melbourne (Birrarung Marr) and Princes Wharf, Princes Walk, Melbourne	CCZ1, PPRZ	PPRZ	Map 8	City of Melbourne and Parks Victoria
431 Collins Street, Melbourne (Market Street Reserve)	CCZ1	PPRZ	Map 8	City of Melbourne
Russell Street, Melbourne (Eight Hour Reserve)	MUZ	PPRZ	Map 8	City of Melbourne
Yarra River (between Montague Street Bridge	CCZ1, PPRZ	PPRZ	Map 8	Parks Victoria and City of Melbourne

and Swan Street Bridge), 469-503 Flinders Street, Melbourne (part) (Enterprize Park) and 2A Spencer Street, Melbourne (part) (Batman Park)				
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Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
<b>North Melbourne</b>				
2-8 Bedford Street, North Melbourne (Bedford Street Reserve)	MUZ	PPRZ	Map 5	City of Melbourne
Canning Street, North Melbourne (Pleasance Gardens)	GRZ2	PPRZ	Map 4 & 5	City of Melbourne
1A Chapman Street, North Melbourne (Chapman Street Reserve)	GRZ2	PPRZ	Map 5	City of Melbourne
1A Courtney Street, North Melbourne (Courtney Street Reserve)	MUZ	PPRZ	Map 5	City of Melbourne
166 Curzon Street, North Melbourne (Curzon Street Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
273-315 Dryburgh Street, North Melbourne (Gardiner Reserve)	GRZ1, PPRZ	PPRZ	Map 4	City of Melbourne
196-198 Errol Street, North Melbourne (Errol Street Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
Leveson Street, North Melbourne (Leveson Street Reserve)	GRZ1	PPRZ	Map 5	City of Melbourne
<b>Parkville</b>				
18 Bunjil Way, Parkville (Barring Walk)	GRZ1	PPRZ	Map 2	City of Melbourne
52-68 Flemington Road, Parkville (Royal Park/Trin Warren Tamboore Wetland)	PUZ3, PPRZ, GRZ1, IN1Z, PUZ4	PPRZ	Map 2 & 5	City of Melbourne



Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
1-63 Cade Way, Parkville (Parkville Gardens/Cade Square)	MUZ	PPRZ	Map 2	City of Melbourne
95 Cade Way, Parkville (Auckland Lane Reserve)	MUZ	PPRZ	Map 2	City of Melbourne
2-4 Carrangall Place, Parkville (Carrangall Place Reserve)	GRZ1	PPRZ	Map 2	City of Melbourne
12-92 Galada Avenue, Parkville (Galada Avenue Reserve)	RGZ1	PPRZ	Map 2	City of Melbourne
1-17 Garrard Street, Parkville (Garrard Street Reserve)	PPRZ, PUZ3	PPRZ	Map 2	City of Melbourne
1 Manchester Lane, Parkville (Manchester Lane Reserve)	MUZ	PPRZ	Map 2	City of Melbourne
944-980 Park Street, Parkville (Park Street Reserve)	GRZ1	PPRZ	Map 2	City of Melbourne
8 The Avenue, Parkville (Clunies Ross Reserve)	GRZ6	PPRZ	Map 5	City of Melbourne
Upfield Railway (part)	PPRZ/PUZ4	PUZ4	Map 2	VicTrack
<b>Southbank</b>				
17 Cook Street, Southbank (Cook Street Reserve)	CCZ3, RDZ1	PPRZ	Map 8	City of Melbourne
25-45 Grant Street, Southbank (Grant Street Reserve)	MUZ	PPRZ	Map 8	City of Melbourne
1A Queens Bridge Street, Southbank (Queensbridge Square & Sandridge Rail Bridge)	CCZ1, CCZ3	PPRZ	Map 8	City of Melbourne

Land affected	Existing zoning	Proposed rezoning	Mapping Reference	Crown Land Administrator
<b>West Melbourne</b>				
1 Anderson Street, West Melbourne (Railway Place and Miller Street Park)	MUZ, PPRZ	PPRZ	Map 4 & 7	City of Melbourne
163-365 Dynon Road, West Melbourne (Dynon Road Reserve)	IN1Z	PPRZ	Map 4	To be determined
92-108 Hawke Street, West Melbourne (Hawke & Adderley Street Park)	GRZ1	PPRZ	Map 7 & 8	City of Melbourne
Rear 160-174 Kensington Road, West Melbourne (Maribyrnong River Bike Trail, part)	PUZ1	PPRZ	Map 4	City of Melbourne
397-435 Dynon Road, West Melbourne (Wildlife Sanctuary)	IN1Z	PPRZ	Map 4	City of Melbourne
4A Hawke Street, West Melbourne (Hawke and Curzon Street Reserve)	GRZ1	PPRZ	Map 8	City of Melbourne
Hawke Street, West Melbourne (Hawke & King Street Reserve)	RDZ1	PPRZ	Map 5	City of Melbourne
24-40 Sims Street, West Melbourne (Maribyrnong River Bike Trail, part)	PUZ1, PPRZ	PPRZ	Map 4	City of Melbourne
372-376 King Street, West Melbourne (Eades Park)	GRZ1, MUZ, PPRZ, RDZ1	PPRZ	Map 8	City of Melbourne
King and Victoria Street Reserve, King Street, West Melbourne	RDZ1	PPRZ	Map 5	City of Melbourne
383-389 William Street, West Melbourne (Howard & William Street Reserve)	MUZ	PPRZ	Map 5 & 8	City of Melbourne
26 Stawell Street, West Melbourne (Stawell Street Park)	MUZ, RDZ1	PPRZ	Map 4	City of Melbourne

**Private properties**

<b>Land affected</b>	<b>Existing zoning</b>	<b>Proposed rezoning</b>	<b>Mapping Reference</b>
<b>Parkville</b>			
66 Manningham Street, Parkville	PPRZ	GRZ1	Map 4
68 Manningham Street, Parkville	PPRZ	GRZ1	Map 4
70 Manningham Street, Parkville	PPRZ	GRZ1	Map 4
72 Manningham Street, Parkville	PPRZ	GRZ1	Map 4

*Planning and Environment Act 1987*

**MELBOURNE PLANNING SCHEME**

**AMENDMENT C380melb**

**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 7 attached map sheets.

**Zoning Maps**

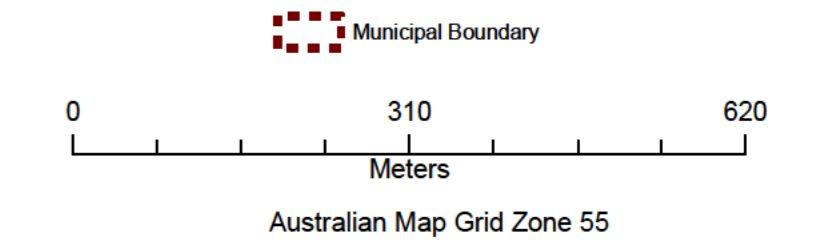
1. Amend Planning Scheme Map Nos. 2, 4, 5, 7, 8 & 9 in the manner shown on the attached maps marked "Melbourne Planning Scheme, Amendment C380melb".

End of document

# MELBOURNE PLANNING SCHEME - LOCAL PROVISION AMENDMENT C380melb



**LEGEND**  
 PPRZ - Public Park and Recreation Zone



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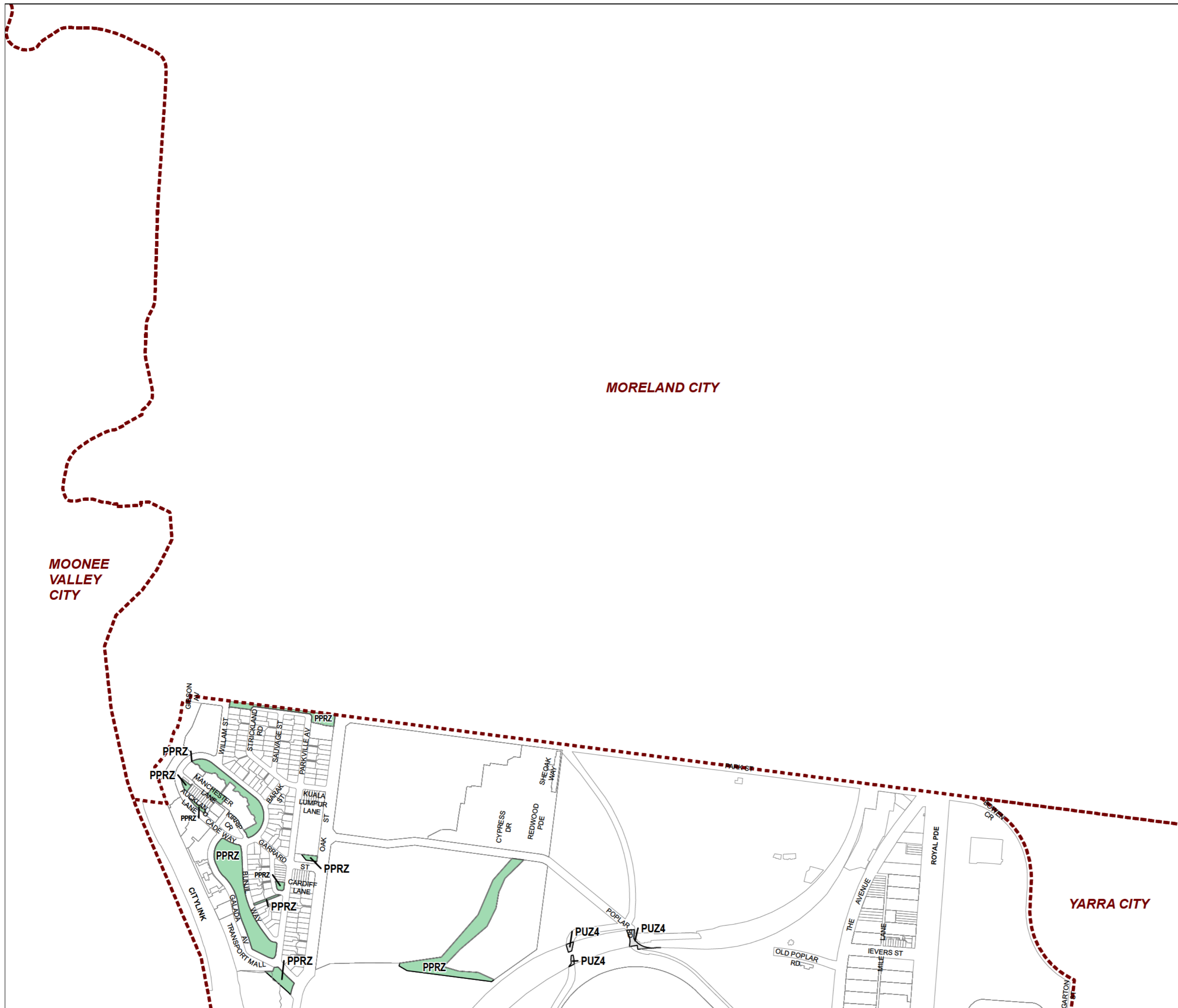
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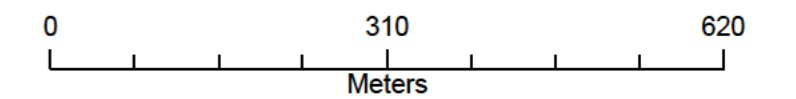
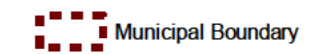
INDEX TO ADJOINING SCHEME MAPS



# MELBOURNE PLANNING SCHEME - LOCAL PROVISION AMENDMENT C380melb



- LEGEND**
- PPRZ - Public Park and Recreation Zone
  - PUZ4 - Public Use Zone - Transport



Australian Map Grid Zone 55

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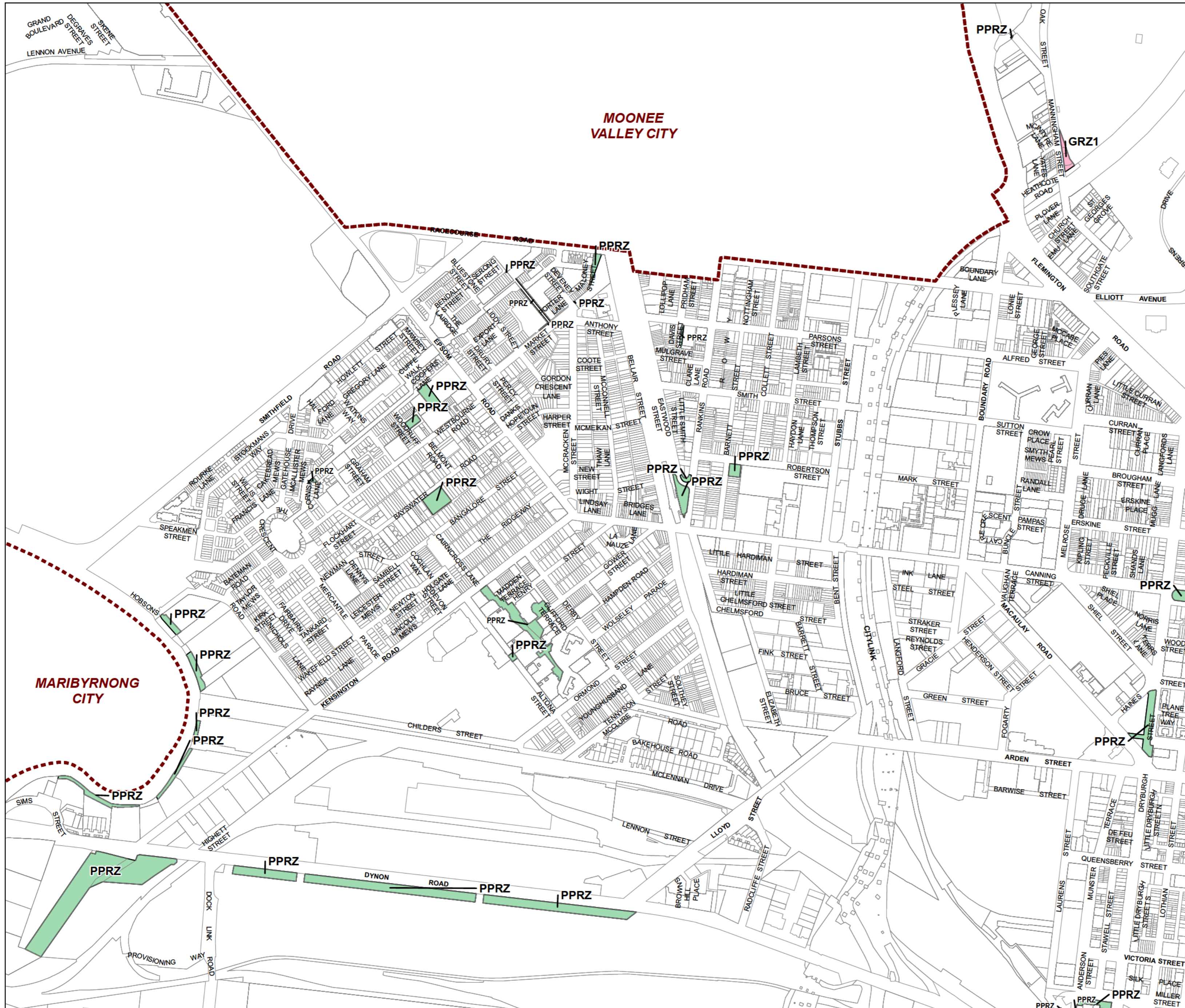
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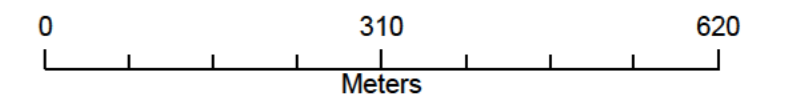


# MELBOURNE PLANNING SCHEME - LOCAL PROVISION AMENDMENT C380melb



**LEGEND**  
 GRZ - General Residential Zone  
 PPRZ - Public Park and Recreation Zone

Municipal Boundary



Australian Map Grid Zone 55

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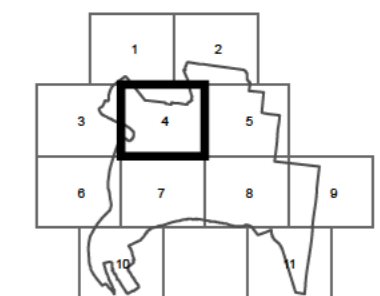
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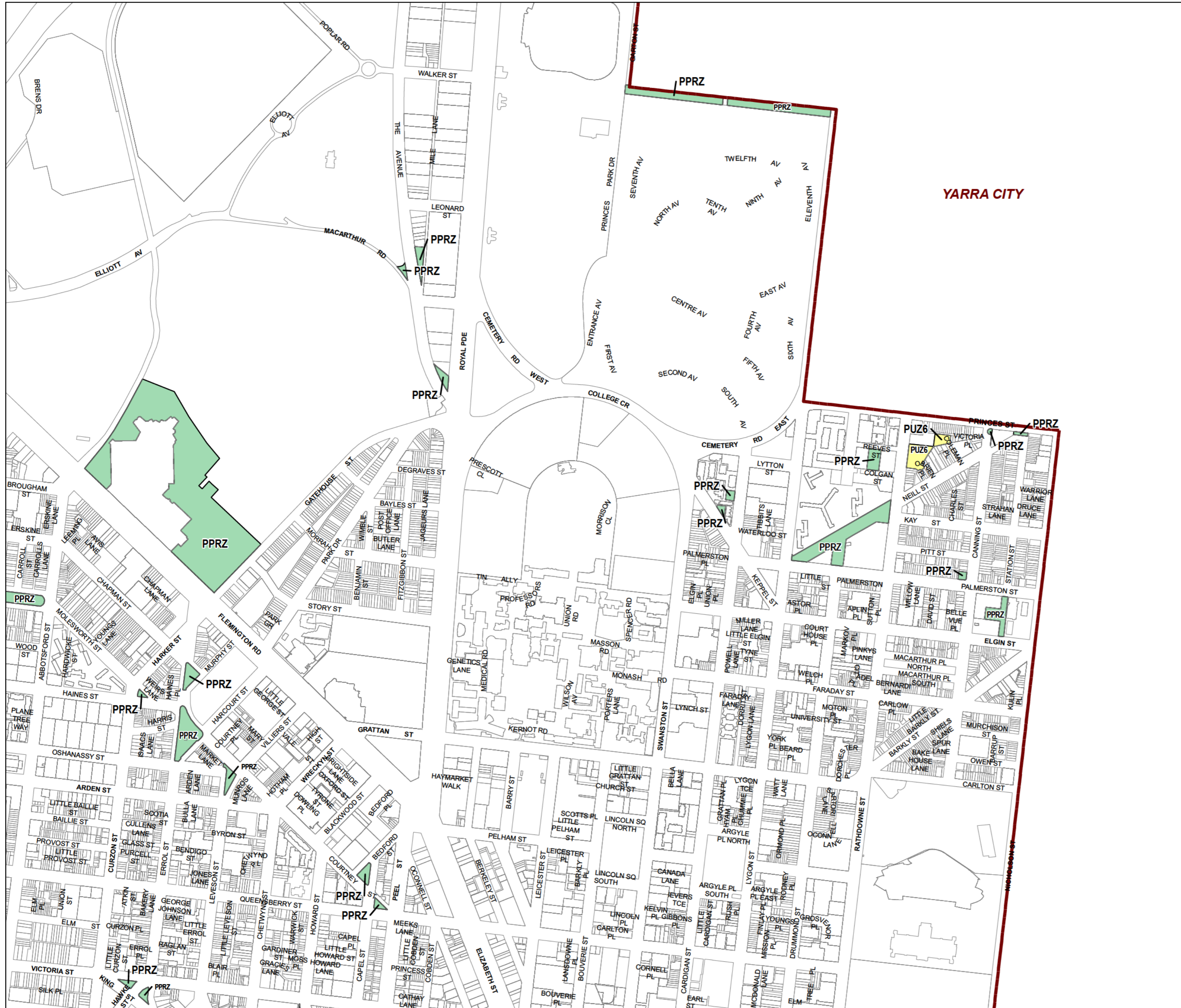
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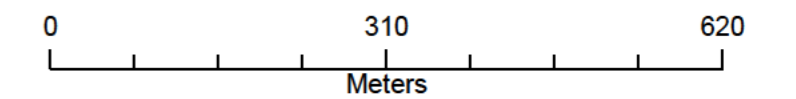
# MELBOURNE PLANNING SCHEME - LOCAL PROVISION AMENDMENT C380melb



### LEGEND

- PPRZ - Public Park and Recreation Zone
- PUZ6 - Public Use Zone - Local Government

Municipal Boundary



Australian Map Grid Zone 55

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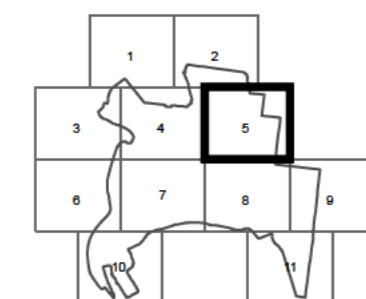
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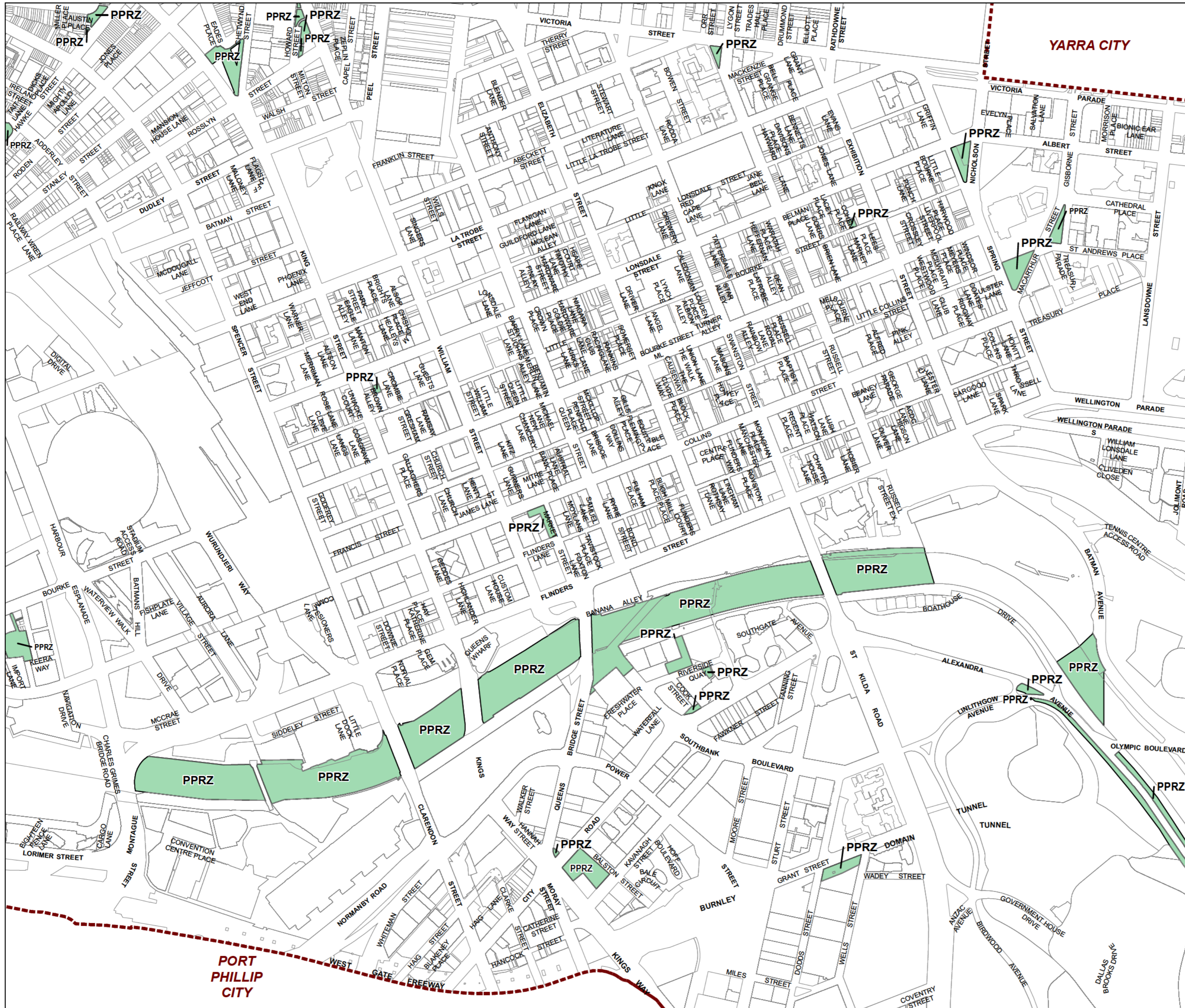


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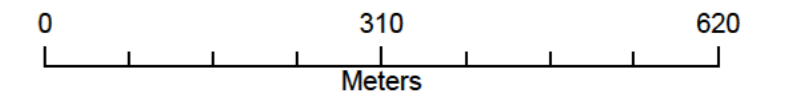


# MELBOURNE PLANNING SCHEME - LOCAL PROVISION AMENDMENT C380melb



**LEGEND**  
 PPRZ - Public Park and Recreation Zone

Municipal Boundary



Australian Map Grid Zone 55

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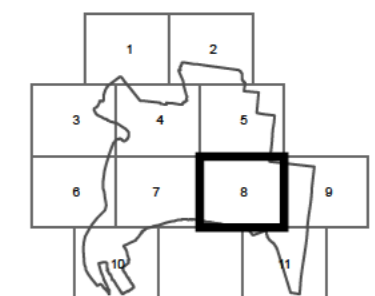
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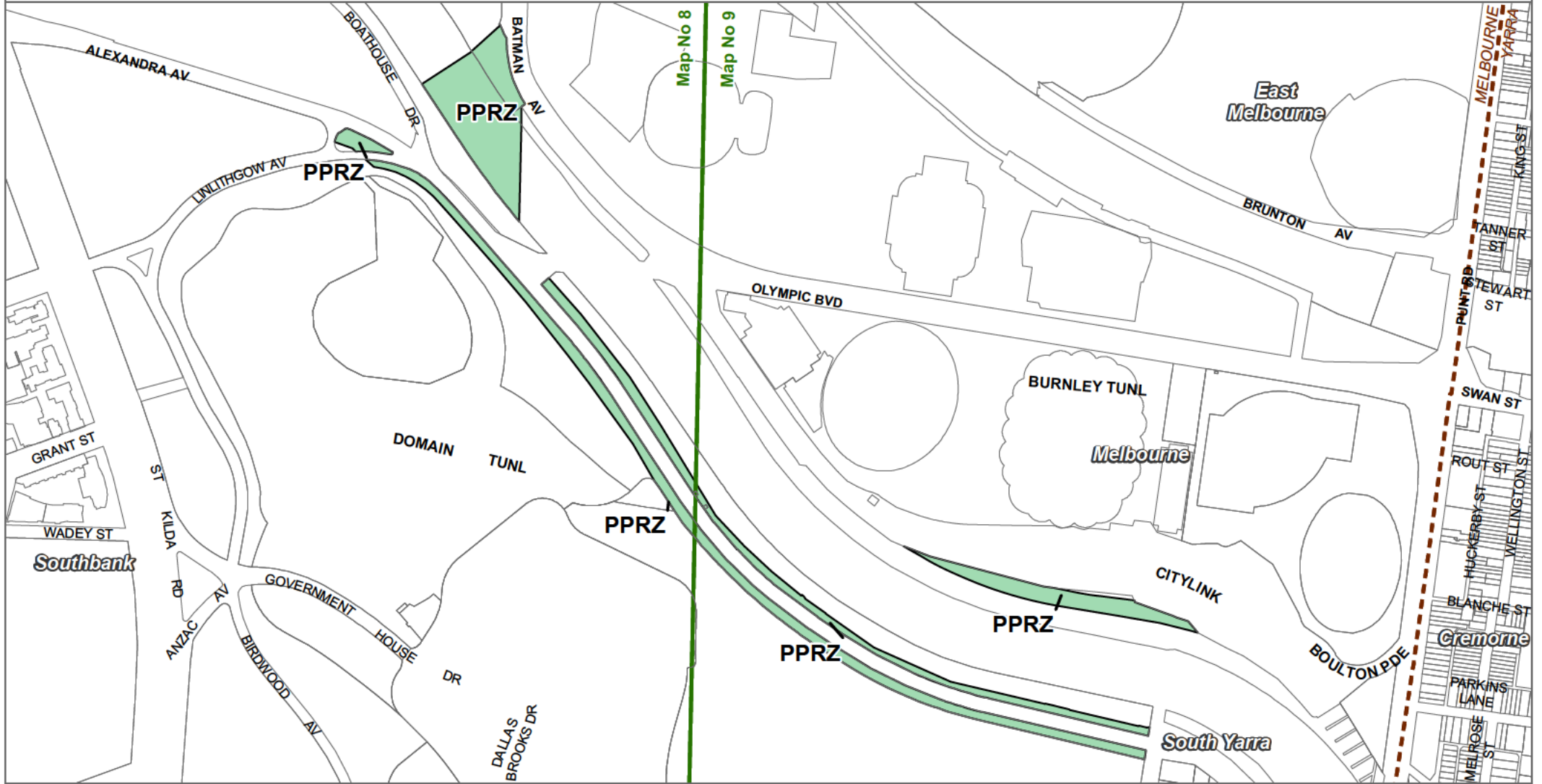
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- LEGEND**
- PPRZ - Public Park and Recreation Zone
  - Local Government Area

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NORTH

0      160      320  
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Part of Planning Scheme Maps 8 & 9

