

Report to the Future Melbourne (Planning) Committee

Agenda item 6.3

Planning Scheme Amendment C190 Arden-Macaulay

2 August 2016

Presenter: Emma Appleton, Manager Urban Strategy

Purpose and background

1. The purpose of this report is to provide an assessment of the independent panel's recommendations regarding Amendment C190 and propose that the Future Melbourne Committee recommend Council adopt the Amendment, incorporating the changes recommended by management.
2. The *Arden-Macaulay Structure Plan 2012* (Structure Plan) is the Council adopted comprehensive plan for the urban renewal of the Arden-Macaulay area. Attachment 2 provides an update on other work being undertaken to achieve the five key directions of the Structure Plan.
3. Amendment C190 seeks to implement the Structure Plan's recommendations for the use and development of land in the Stage 1 area (generally north of Macaulay Road) through the establishment of planning scheme controls.
4. Amendment C190 has been through a public exhibition process in 2012 and 2015 and an independent Panel hearing that was held from 8 July to 31 July 2015. The Panel report was released in October 2015 (Attachment 3).

Key issues

5. The Panel generally supports Amendment C190. Many of the Panel's recommendations propose to simplify the structure of the planning controls rather than change their intent. The Panel's support for controls on mandatory street wall heights and mandatory overall building heights is a significant achievement and will ensure that Council's objectives for a mid-rise neighbourhood are achieved.
6. The Panel report made some recommendations that management does not support. These include the rezoning of VicTrack land to the Mixed Use Zone; the removal of proposed street wall height and setback controls along existing laneways; and the panel's suggested exemption from the absolute maximum building height for areas 6 and 7 on the basis of the provision of additional open space contributions. Management does not support these panel recommendations as they would potentially compromise Council's ability to achieve the strategic directions of the Arden Macaulay Structure Plan 2012 and/or the land use and built form outcomes sought for the area.
7. This management report provides a detailed assessment of the Panel's recommendations and management's response in Attachment 4. The changes to the Schedule to the Design and Development Overlay as recommended by the Panel are at Attachment 5 and those recommended by management are at Attachment 6.
8. Management proposes that Council request that the Minister for Planning, prior to approval of Amendment C190 (Attachment 7), ensure the following:
 - 8.1. Implementation of a mechanism to contribute toward the infrastructure necessary to support the population growth resulting from Amendment C190. It is proposed that a suitable interim control for requiring development contributions be put in place by the Minister in conjunction with the approval of Amendment C190. This will allow time for a permanent Infrastructure Contributions Plan to be developed.
 - 8.2. The setting aside of land adjacent to Moonee Ponds Creek for future recreational purposes. As identified in the Arden Macaulay Structure Plan 2012, the Moonee Ponds Creek corridor is strategically important in achieving the open space aspirations for the area. The City of Melbourne would continue to work with the Metropolitan Planning Authority, Melbourne Water and other key stakeholders to determine how this outcome can be achieved.

Recommendation from management

9. That the Future Melbourne Committee recommends Council:
 - 9.1. adopt Planning Scheme Amendment C190 as shown in Attachment 7 to this report.

- 9.2. submit the adopted Amendment to the Minister, requesting that Amendment C190 be approved in conjunction with a Ministerial Amendment under section 20(4) of the *Planning and Environment Act 1987* that introduces a suitable interim development contributions control over the area affected by Amendment C190
- 9.3. request the Minister identify and secure open space along the Moonee Ponds Creek for future recreational purposes, consistent with the Arden Macaulay Structure Plan 2012.

Attachments:

1. Supporting Attachment (Page 3 of 193)
2. Arden-Macaulay Structure Plan Directions (Page 4 of 193)
3. Panel report (Page 10 of 193)
4. Management response to Panel recommendations (Page 105 of 193)
5. Panel recommended changes to the post-exhibition DDO Schedule (Page 126 of 193)
6. Management recommended changes to the post-exhibition DDO Schedule (Page 146 of 193)
7. Management recommended amendment documents for adoption (Page 166 of 193)

Supporting Attachment

Legal

1. Section 29(1) of the *Planning and Environment Act 1987* (Act) provides that after complying with Divisions 1 and 2 of the Act in respect of a planning scheme amendment, the planning authority may adopt the amendment with or without change.
2. The decision to adopt the Amendment cannot be made under delegation.
3. Section 20(4) of the Act permits the Minister to exempt himself from the requirements under the Act if the Minister considers that that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate.

Finance

4. Under Section 6 of the *Planning and Environment (Fees) Interim Regulations 2014* a fee is to be paid when requesting the Minister approve an amendment and give notice in the Government Gazette of approval of an amendment. Once the planning scheme amendment is approved, a notice will also be required to be placed in a newspaper circulating in the local area. These costs can be met within the Urban Strategic Branch's budget.

Conflict of interest

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

Stakeholder consultation

6. Amendment C190 Arden-Macaulay was exhibited in accordance with the Act between 1 November and 14 December 2012, including: public notices in the local papers and Government Gazette; direct notification to property owners of land subject to the amendment and owners of land in the surrounding area who may be affected, to the prescribed Ministers, to a range of stakeholders (authorities, industry associations/organisations and resident associations), and all those who had previously made a submission to the Arden-Macaulay Structure Plan 2012; public information sessions at the North Melbourne Town Hall and at the Holy Rosary School; and, information on City of Melbourne's and the Department's websites. One hundred and seventy seven submissions were received during that period and the Future Melbourne Committee resolved on 4 June 2013 to make changes to the Amendment in response to these submissions and to submit the revised Amendment together with the public submissions to an independent panel.
7. The public was provided with a further opportunity to make a late written submission on Amendment C190 from 4 May to 5 June 2015 prior to the panel reconvening its hearings, which had been placed on hold since 2013 due to the East-West Link proposal. This further consultation included: direct notification to the owners and occupiers of properties within and surrounding the area affected by the amendment, to residents groups and to submitters to the Amendment and to submitters to the Arden Macaulay Structure Plan; a public information session at the Kensington Town Hall; and, information on City of Melbourne's Participate Melbourne website. Twenty nine submissions were received and provided to the independent panel.
8. Management has also consulted with Department of Environment, Land, Water and Planning regarding the final form of the Amendment.

Relation to Council policy

9. Amendment C190 implements the land use and built form components of the Arden-Macaulay Structure Plan 2012.

Environmental sustainability

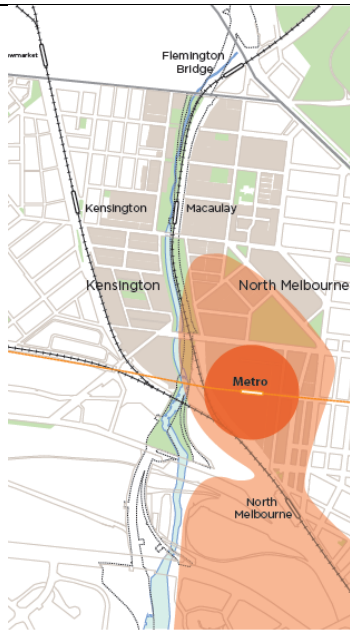
10. The controls set out in Amendment C190 are consistent with the framework for the future sustainable development of stage one of the Arden-Macaulay Precinct as described in the Arden-Macaulay Structure Plan 2012.
11. Amendment C190 applies the Environmental Audit Overlay to ensure the potential contamination of former industrial land is assessed and remediated so that it is suitable for residential and other sensitive uses.
12. Clause 22.19 Energy Water and Waste Efficiency policy and Clause 22.22 Wastewater Management (Water Sensitive Urban Design) policy of the Melbourne Planning Scheme will apply to planning permit applications on land subject to Amendment C190.

ARDEN-MACAULAY STRUCTURE PLAN – KEY DIRECTIONS

Five key directions were identified for the urban renewal of Arden-Macaulay. These provided the overarching future direction for development and set out how the evolution was envisaged.

Direction 1:

Develop Arden Central as a new extension of Melbourne’s Central City



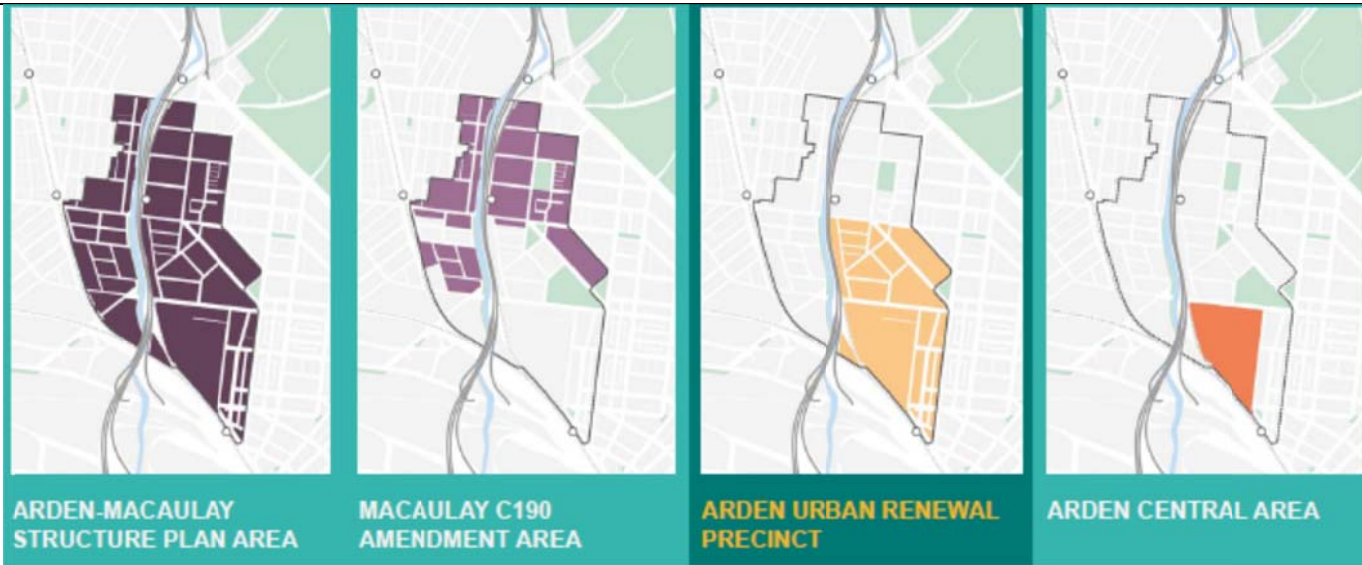
Objective

A new extension to Melbourne’s capital city is proposed in the south eastern end of Arden-Macaulay.

This will bring significant investment and employment opportunities to the area. Arden Central will accommodate 14,000 jobs, 4,000 residents and 12,000 students within an active, mixed use precinct. The viability of this centre is dependent upon the extension of a high quality rail service connecting Arden Central directly to Melbourne.

Update:

The State Government has begun work on the Melbourne Metro Rail Project, which will include a new underground station, Arden, in North Melbourne. With this new underground station as a catalyst, the Minister for Planning has charged the Metropolitan Planning Authority (MPA) with leading the strategic planning process for the Arden Urban Renewal Precinct and the MPA has been working closely with the City of Melbourne and other government agencies. The aim is to deliver a high-quality living and working environment and a productive extension to the Central City. The draft Arden Vision and Framework builds on the City of Melbourne’s Arden Macaulay Structure Plan 2012 and is expected to be released for public comments in June 2016.



With regard to the employment and estimated resident population forecasts, these have recently been updated by the MPA & MMRA as follows:

Precinct	Employment			Change	
	2011	2031	2051	2011-2031	2031-2051
Arden	3,000	9,000	34,000	6,000	25,000
Macaulay	3,000	5,000	9,500	2,000	4,000

Precinct	ERP			Change	
	2011	2031	2051	2011-2031	2031-2051
Arden	500	5,000	15,000	4,500	10,000
Macaulay	3,000	5,000	10,000	2,500	5,000

Direction 2:

Develop three new local centres within a mixed use neighbourhood



Objective

To meet the local and everyday needs of the new community, three new local centres containing retail, commercial, community services and other facilities will be located at Macaulay, Flemington Bridge and North Melbourne stations. This will create a local hub of activity, jobs and community gathering spaces.

Update:

The development of two of these local centres and of a mixed use neighbourhood is being implemented through Amendment C190's proposed rezonings to Commercial Zone and Mixed Use Zone, respectively.

With regard to its community assets and the provision of community services within the precinct, the City of Melbourne is investigating a number of community infrastructure development options for the North Melbourne Community Hub and the Macaulay Hub, including the potential to integrate infrastructure and services with education, public housing and health services.



Direction 3:

Expand transport connectivity to and within Arden-Macaulay



Objective

A new metro railway station and transport interchange will be located in Arden Central, within a new active, mixed use precinct. This will be connected to a high frequency bus service on an extended Boundary Road.

Macaulay and Flemington Bridge railway stations and connections to them will be upgraded. Pedestrian and bicycle networks will be enhanced to create accessible neighbourhoods.

Update:

As previously mentioned, work has begun on the new Arden Station, which will provide a prime new public transport asset for the whole Arden-Macaulay precinct.

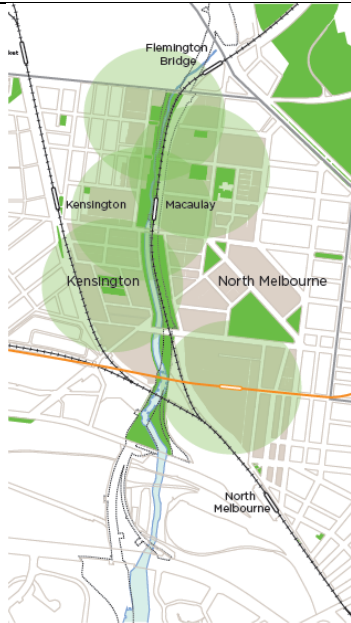
In addition, as part of the work being undertaken for the Arden Urban Renewal Precinct, the State Government is looking at ways to complement train travel with local bus/tram links and at innovative solutions for freight to reduce traffic impacts.

With regard to pedestrian networks, City of Melbourne's Walking Plan sets out a hierarchy of streets and shared road space to cater for pedestrians and improve pedestrian amenity.

With regard to cycling networks, the City of Melbourne's Bicycle Plan for 2016-2020 has an extensive program for upgrading the local bicycle network through Arden-Macaulay.

Direction 4;

Upgrade the Moonee Ponds Creek parkland corridor and establish five new parks



Objective

New parkland will be established along an upgraded Moonee Ponds Creek. The creek banks will be redesigned to create recreation areas, habitat protection and improved walking and cycling links. This redesign will contribute to flood mitigation.

Five new parks will be established to ensure that all dwellings are within a 300m walking distance of green open space.

Update:

The Moonee Ponds Creek corridor currently functions mainly as a drainage and transport corridor, including the CityLink, Upfield train line and Capital City shared path, and it presents great opportunities to enliven the space and redefine how the creek is used and experienced by existing and future residents and workers, with a number of spaces presenting the potential to be enhanced for passive and active recreation. The City of Melbourne and the various government agencies that own and manage the creek and adjacent spaces, will work collaboratively. The City of Melbourne will prepare a Moonee Ponds Creek Master Plan in the 2016/2017 financial year.

With regard to the new local parks, these will be created using various mechanisms as appropriate, including through in-kind open space land contribution from the development of large sites in appropriate locations or the purchased of land and conversion to open space.

The City of Melbourne and the State Government are also investigating various options in relation to the land managed by VicTrack, which the City of Melbourne would like to see integrated into the upgrade of the Moonee Ponds Creek Parkland Corridor.

Direction 5:**Make Arden-Macaulay energy, water and waste efficient****Objective**

New sustainable infrastructure will be incorporated into the overall renewal of Arden-Macaulay to establish local energy generation, to harvest and reuse stormwater and to create smart, networked distribution systems.

Update:

As part of their work on the Arden urban renewal precinct, the Arden Macaulay Intergovernmental Coordination group, which consists of the Metropolitan Planning Authority (MPA), Melbourne Water and other Government agencies to develop a floodplain management strategy and an appropriate implementation method, that takes into account the new standards required for sustainable infrastructure development. As a first step, flood modelling has been undertaken by Melbourne Water taking into account potential sea level rise and the effects of changed rainfall patterns due to climate change. This work has resulted in the updating of the 1 in 100 year flood levels and will lead to a separate planning scheme amendment to revise the Land Subject to Inundation Overlay (LSIO) and the Special Building Overlay (SBO) across the municipality, including Arden-Macaulay. In the interim, between approval of Amendment C190 and authorisation to exhibit a planning scheme amendment to amend the extent of the LSIO and SBO, applications within the area affected by Amendment C190 will be referred to Melbourne Water in accordance with the Planning and Environment Act 1987.

Clause 22.23 Stormwater Management will require new development consider water sensitive urban design.

Clause 22.19 Energy Water and Waste Efficiency policy will require new development achieve minimum energy, water and waste standards and consider precinct systems.



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23 October 2015

Ms Giselle Pratt
Senior Strategic Planner
City of Melbourne
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Dear Ms Pratt

**Melbourne Planning Scheme Amendment C190–
Arden-Macaulay Structure Plan Implementation**

Please find enclosed the report of the Panel appointed to consider Amendment C190 to the Melbourne Planning Scheme, together with a copy of the report on CD in Word and PDF formats.

Once Council has formally considered this Amendment it would be appreciated if a copy of the Council Report (or a link to it) be emailed to Planning Panels Victoria.

If you have any queries please contact Planning Panels Victoria on (03) 8392 6397 or planning.panels@delwp.vic.gov.au.

Yours sincerely

Lester Townsend
Panel Chair

Enc.

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Planning and Environment Act 1987

Panel Report

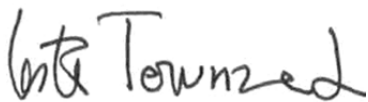
Melbourne Planning Scheme Amendment C190 Arden–Macaulay Structure Plan Implementation

23 October 2015

Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act
Melbourne Planning Scheme Amendment C190
Arden–Macaulay Structure Plan Implementation

23 October 2015



Lester Townsend, Chair



Ann Keddie, Member



Peter McEwan, Member

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List of Abbreviations

C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
EAO	Environmental Audit Overlay
ESD	Environmentally Sustainable Development
IN1Z	Industrial 1 Zone
IN3Z	Industrial 3 Zone
LMA	Linking Melbourne Authority
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
PAO	Public Acquisition Overlay
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
PUZ4	Public Use Zone 4
SPPF	State Planning Policy Framework
<i>Structure Plan</i>	<i>Arden–Macaulay Structure Plan 2012</i>
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

Overview

Amendment Summary

The Amendment	Melbourne Planning Scheme Amendment C190
Common Name	Arden–Macaulay Structure Plan Implementation
Planning Authority	City of Melbourne
First Exhibition	1 November to 14 December 2012
Re-exhibition	The Amendment was placed on hold for two years pending resolution of the East West Link Project. 4 May to 5 June 2015
Submissions	A total of 209 submissions were received. See Appendix A

Panel Process

The Panel	Lester Townsend (Chair), Ann Keddie, Peter McEwan
Directions Hearings	8 July 2013, 26 August 2013, 27 August 2013, 5 September 2013, 19 May 2014, 15 June 2015. All at Planning Panels Victoria.
Panel Hearing	Planning Panels Victoria 8–10, 13–15, 23, 24, 27, 28, 30, 31 July 2015
Further submissions	Written submissions were received on proposed Council changes to the Amendment until 18 August 2015
Site Inspections	The Panel made a number of unaccompanied site visits.
Appearances	See Appendix A
Date of this Report	23 October 2015

Executive Summary

The Amendment rezones land and applies built form controls to facilitate urban renewal in the Arden-Macaulay area. There is clear policy support for urban renewal in this area in existing State and local policies.

The *Arden-Macaulay Structure Plan 2012 (Structure Plan)* has been adopted by Council as the detailed strategic justification of the Amendment.

The Amendment was placed on hold for two years as the land it covered may have been affected by the now cancelled East West Link.

Issues with the Amendment are primarily in relation to built form.

The Amendment introduces a set of built form controls that:

- set an overall building height
- set a street wall height and setback above that height
- set 'interface controls' with existing residential areas
- identify new laneway links and introduce setbacks from those laneways.

Some controls are poorly drafted, and the suggested changes from Council during the course of the Hearing have not improved clarity or sense. For example, the latest version of the controls submitted by Council require, in parts, that 'the maximum height at street edge must be equal to 10.5 metres' which implies a positive obligation to construct part of a building at this height. Many aspects of the exhibited controls can only be understood by surveying adjoining properties to determine where buildings begin or determining relative ground levels.

A fundamental issue is that the controls have been prepared and justified in terms of broad and admirable aims, but will be experienced on a site-by-site basis. The application at this detailed level has not always been clear or appropriate.

While the overall design principles in the Amendment may be justified, their detailed application appears ad hoc. It is difficult to discern a systematic and rigorous approach to drafting many aspects of the built form controls.

Council has put forward various changes to the Amendment over its course and a number of these simply have no strategic justification. For example, Council and the *Structure Plan* make much of the aspirations for 'great streets' with a street wall height equal to the street width but arbitrarily departed from this principle in Macaulay Road.

Council has sought mandatory controls for overall height and street wall height and these are supported. The controls also remove all height restrictions on certain sites if development provides for a school or additional public open space. Some limited taller buildings in these areas could be accommodated while still achieving the identified built form vision, but not if all sites in these areas were developed for taller buildings. A developer is known to be willing to deliver land on one of these identified sites for a school and open space in return for a taller development. We think that this approach is a reasonable way of achieving broader community benefit while realising the limited opportunities for taller development.

There is broad support for the proposed rezoning, though there are some issues with the commercial buffer around Allied Mills and the rezoning of land to open space.

EG Funds contests the zoning and controls in the commercial buffer around Allied Mills. The policy for the buffer is part of the existing planning scheme. The commercial buffer needs to remain to avoid land use conflicts and the proposed Commercial 2 zone is appropriate.

Council proposes rezoning VicTrack land to public open space against the wishes of VicTrack. This cannot be justified. There is no general pool of 'government land' and no Council power unilaterally to zone the land of a state agency to a municipal purpose. If Council wants the VicTrack land for open space it will have to buy it.

Recommendations

Based on the reasons set out in this Report, we recommend:

Melbourne Planning Scheme Amendment C190 should be adopted subject to the following:

- 1 Change the Growth Area Framework Plan at Clause 21.04 to correctly colour the Arden–Macaulay North area as an 'Existing Urban Renewal Area', as identified in the key to the Plan and Clause 21.04-1.2.**
- 2 Apply the Mixed Use Zone (and overlay controls) to VicTrack owned land.**
- 3 Amend the Map of DDO60 to rationalise the number and extent of areas:**
 - **A1 to replace Area 2, Area 4**
 - **A2 to replace Area 8**
 - **A3 to replace Area 5**
 - **A4 to replace Area 3, Area 12, Area 13**
 - **A5 to replace Area 7**
 - **A6 to replace Area 6 east of Boundary Road**
 - **A7 to replace Area 6 west of Boundary Road**
 - **A8 to replace Area 1, Area 9, Area 10, Area 11.**
- 4 Amend DDO60 as shown in Appendix C.**

In addition to the above recommendations, we recommend the Council:

- C1 Prepare an Amendment to update the text of MSS as it relates to Arden–Macaulay.**
- C2 Review opportunities for open space provision in the renewal area as a matter of priority.**
- C3 Specifically address east-west pedestrian links when preparing the proposed master plan for the Moonee Ponds Creek.**
- C4 Commence negotiations with VicTrack for the purchase of their land.**
- C5 Undertake a precinct wide review of contamination issues with the view to refining the application of the Environmental Audit Overlay.**

1 Introduction

1.1 The Arden–Macaulay urban renewal area

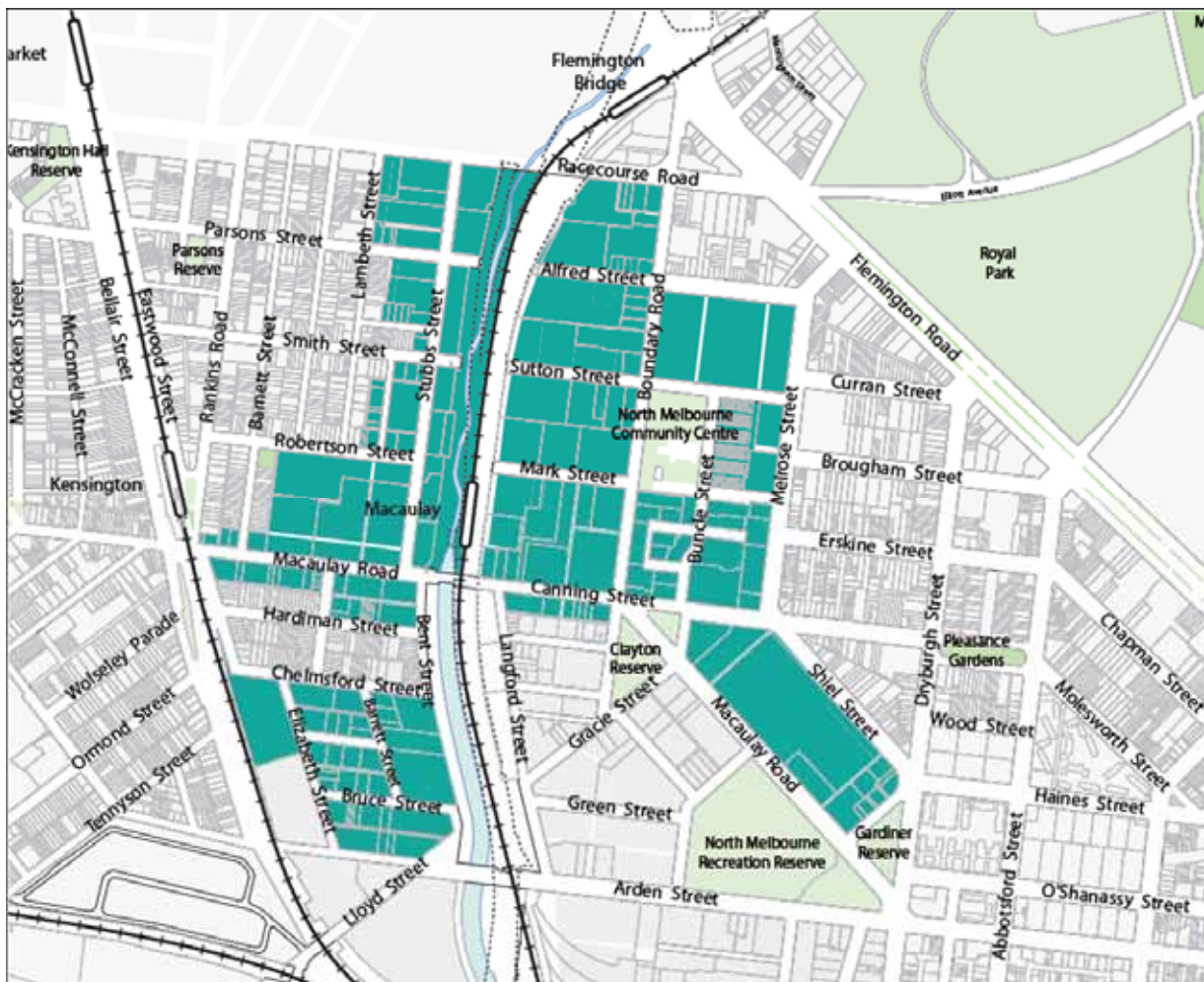
The MSS identifies five types of areas:

- The original city centre (the Hoddle Grid)
- Urban renewal areas
- Proposed urban renewal areas
- Potential urban renewal areas
- Stable residential areas.

The clear intention of the policy framework is that structure plans will be prepared for proposed renewal areas and the zone and overlay controls revised to facilitate urban renewal.

The area covered by the Amendment is identified as a ‘Proposed urban renewal area’. It is shown in Figure 1.

Figure 1: Area covered by the Amendment



The Amendment is required to facilitate redevelopment of the land in accordance with the objectives of the *Arden–Macaulay Structure Plan 2012 (Structure Plan)* adopted by Council in February 2012.

The *Structure Plan* has identified a sequence of development which will occur in two stages. The area generally north of Macaulay Road and parts of the south west quadrant of the *Structure Plan* area being considered for renewal in Stage 1. The area south of Macaulay Road and east of the creek will be considered for renewal in conjunction with the planning of the Melbourne Metro and has therefore been identified as Stage 2. Planning Scheme Amendment C190 implements the objectives and recommendation in relation to Stage 1.

The *Structure Plan* contains a number of key directions with strategies and an associated suite of short, medium and long term actions to implement the strategies. The key directions of the *Structure Plan* are:

- Develop Arden Central (an area in Stage 2 not covered by this Amendment) as a new extension of Melbourne’s Central City
- Develop three new local centres within a mixed use neighbourhood
- Expand transport connectivity to and within Arden–Macaulay
- Upgrade the Moonee Ponds Creek parkland corridor and establish five new parks
- Make Arden–Macaulay energy, water and waste efficient.

1.2 What the Amendment does

The Amendment, as exhibited, proposes to:

- rezone land from the Industrial 1 and 3 Zones to the Mixed Use Zone, Business 1, 2 and 3 Zones (now the Commercial 1 and 2 Zones) and Public Park and Recreation Zone, and from the General Residential Zone to the Mixed Use Zone
- apply building design controls for heights, boundary setbacks, active street frontages, weather protection and through block access links through the introduction of a new Schedule 60 to Design and Development Overlay (DDO)¹
- apply Schedule 26 to the Design and Development Overlay to land being rezoned from industrial to a zone that allows residential and other sensitive uses – this DDO will require new, refurbished or converted residential developments and other noise sensitive uses in the vicinity of existing industrial operations to include acoustic protection measures against noise arising from those existing industrial operations
- apply an Environmental Audit Overlay to manage potentially contaminated former industrial land where the rezoning will permit sensitive uses
- delete Incorporated Plan Overlays applying to the Hotham Estate and the north west corner of Mark and Melrose Streets because the requirements of these plans have been met.

¹ This DDO Schedule will be given a different number if the Amendment proceeds. We have referred to it as DDO60 for consistency.

1.3 Process

This Amendment had a long adjournment as the result of the proposed East West Link project.

The Amendment was initially exhibited between 1 November 2012 and 14 December 2012. In response to the exhibition of the Amendment the Planning Authority received 180 submissions.

The Public Hearing was scheduled to commence on Monday 26 August 2013. The August 2013 Hearing did not proceed because of the potential for the Amendment to be impacted by the then newly announced East West Link project.

Following its election in 2014, the new State Government determined to not proceed with the East West Link project. Following re-exhibition a further 29 submissions were received and Hearings were held in July 2015.

In closing, Council tabled suggested changes to the MSS. Parties were given additional time to respond to these in writing.

A more complete history of the various Directions Hearings and Panel Directions is set out in Appendix B.

1.4 Issues raised in submissions

Taken as a whole, the issues from all 209 submissions can be grouped under the following themes:

- public open space
- community facilities
- transport
- heritage
- permeability and connectivity
- built form issues
- proposed Business 3 Zone.

Concerns were raised by some submissions about the consultation process.

Public open space submissions contended that:

- additional open space is needed and that it is important that the proposed residential apartments have good quality access to well-designed public open space
- the land alongside Moonee Ponds Creek earmarked as open space is unusable for open space use by residents due to the regular flooding and its location under CityLink.

Community facilities:

- submissions queried whether the Amendment has been undertaken with a holistic view of community development and state that infrastructure and services must be available to support increased population density including schools, doctors and public transport.

Transport:

- submitters raised concerns about the current overcrowding of trains, traffic congestion and on-street parking problems saying that while the area has access to multiple forms of public transport, these services are currently inadequate
- submitters were concerned about the increase in local traffic congestion arising from the Amendment
- it was said that Macaulay and Racecourse Roads are already experiencing grid-lock as a result of through traffic volumes and existing bottlenecks from the two train crossings and the amendment will result in additional traffic volume
- concerns were expressed about car parking.

Heritage:

- submitters said the industrial and residential heritage must be protected via planning controls before any land is rezoned so the opportunity is not lost or left to the discretion of the developer².

Permeability and connectivity

- some submitters said there is a need for greater permeability and connectivity, including pedestrian permeability within the area and within existing residential neighbourhoods and in links to Moonee Ponds Creek, other are concerned about the prescriptive nature of controls for new connections.

Built form issues:

- some submitters opposed the discretionary nature of the height controls and would like to see these heights being made mandatory, others opposed mandatory planning controls because they limit flexibility needed for good design
- the proposed setback and height control were contested
- submissions were made suggesting a 'canyon' effect will be created along Macaulay Road and Stubbs Street and detrimentally impact on properties at the boundary of C190 – they said the proposed heights are inconsistent with the heritage buildings and streetscapes including industrial buildings.

Proposed Business 3 Zone:

- a number of submitters requested the area proposed to be rezoned to 'Business 3 Zone' be rezoned instead to a 'Mixed Use Zone'.

² This has happened by way of Amendment C207

1.5 Issues dealt with in this report

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

This report deals with the issues under the following headings:

- The strategic vision
 - The suitability of the area for renewal
 - The commercial buffer
 - Built form vision
 - Proposed parks
- MSS changes
- Zoning changes
 - New zones
 - Zoning in the commercial buffer
 - Public Park and Recreation Zone
- DDO60 Built form
 - Threshold issues
 - Objectives and built form outcomes
 - Overall height
 - Street wall heights
 - Interfaces
 - Active street frontages
 - Weather protection and Facade articulation
 - New laneway connections
 - Development adjacent to heritage buildings
- Environmental Audit Overlay.

2 The strategic vision

2.1 What are the issues?

A number of submissions touched on the strategic vision of the Amendment. Issues included:

- the suitability of the area for renewal
- the commercial buffer
- built form vision
- proposed parks.

2.2 The suitability of the area for renewal

It is not at issue that the area is clearly identified for renewal in the MSS and in *Plan Melbourne*.

Clause 21.04–1.3 Proposed Urban Renewal Areas states:

Arden–Macaulay

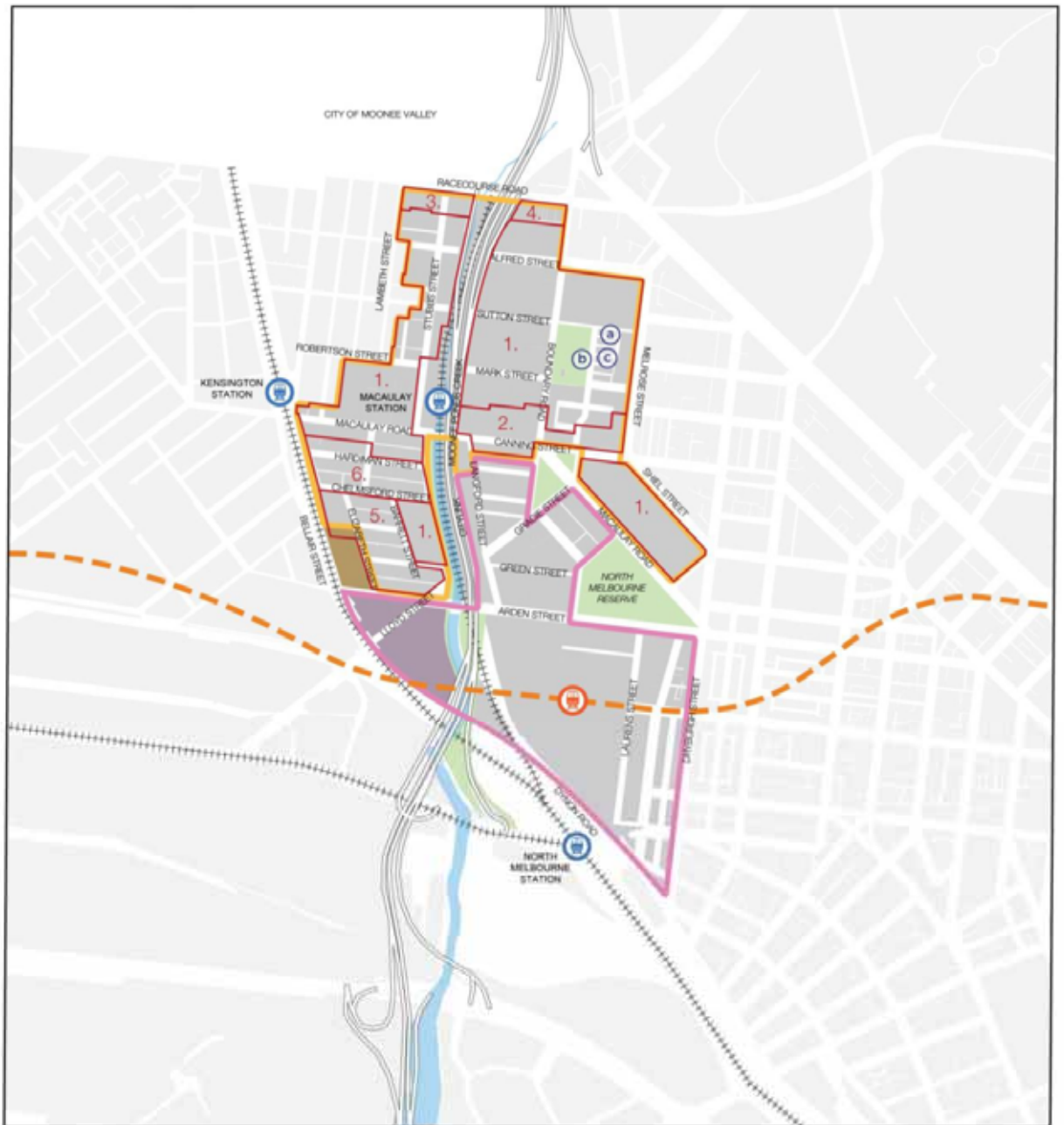
Arden–Macaulay is an area in transition. Since the 1880's, Arden–Macaulay has been primarily an industrial area supporting the city's economy through manufacturing and production. The profile of business activity in the area has been changing with some degree of land underutilisation given its potential in relation to its proximity to the central City.

The Melbourne Metro station project to be located between CityLink and Laurens Street will lead to major change east of the Moonee Ponds Creek. The Arden–Macaulay Structure Plan 2012 has been prepared and adopted by the City of Melbourne and will be implemented into the planning scheme via a planning scheme amendment. The directions of this plan for this local area are still to be inserted into the planning scheme.

Planning controls will address the interface between on-going industrial and residential areas, and the interface between new development and existing residential areas and large manufacturing industry will be protected from sensitive uses by a land use buffer of non-residential development and/ or non-sensitive land uses (depicted within Figure [11] as 'Commercial and Industrial Buffer'). The new planning controls will be introduced in two stages.

This text is repeated at 21.14-2, where the following map is also presented.

Figure 2: Arden–Macaulay Local Area Plan from the MMS (Figure 11)



- Local Area Boundary
- Rail Station
- Rail Network
- Proposed Melbourne Metro Rail Station
- Proposed Melbourne Metro Rail Alignment
- Freeway
- Public Open Space
- Waterways
- Stage 1 of Land Use Transition
- Stage 2 of Land Use Transition
- Large Manufacturing Industry subject to Melbourne Metro Project proceeding
- Commercial and Industrial Buffer

- Precincts
1. Mixed use areas
 2. Local activity hub
 3. Local activity corridor
 4. Flemington Bridge Commercial Centre
 5. Commercial and industrial buffer
 6. Residential area

- Existing Community Facilities
- Hotham Hub Children's Centre
 - North Melbourne Community Centre
 - Jean McKendry Neighbourhood Centre



2.3 The commercial buffer

(i) The issue

Allied Mills is a long established industrial operation immediately to the south west of the area subject to the Amendment. Current policy identifies land abutting Allied Mills as a commercial buffer. This designation (and the zoning to implement it) were challenged in submissions.

(ii) The history

It is true that, with changing industrial circumstances, industrial land in inner Melbourne has been rezoned to other purposes over the past twenty to thirty years. But such rezoning of industrial land to allow residential development cannot be assumed. The transition from industrial to residential needs to be considered on a precinct-by-precinct basis.

The rezoning of land needs to be guided by the relevant policies in the planning scheme.

The area around Allied Mills is a long standing industrial area. The current zoning is industrial and it was identified as industrial in the maps presented as part of the 1954 Melbourne Metropolitan Planning Scheme Report³.

MMS before 2013 revision

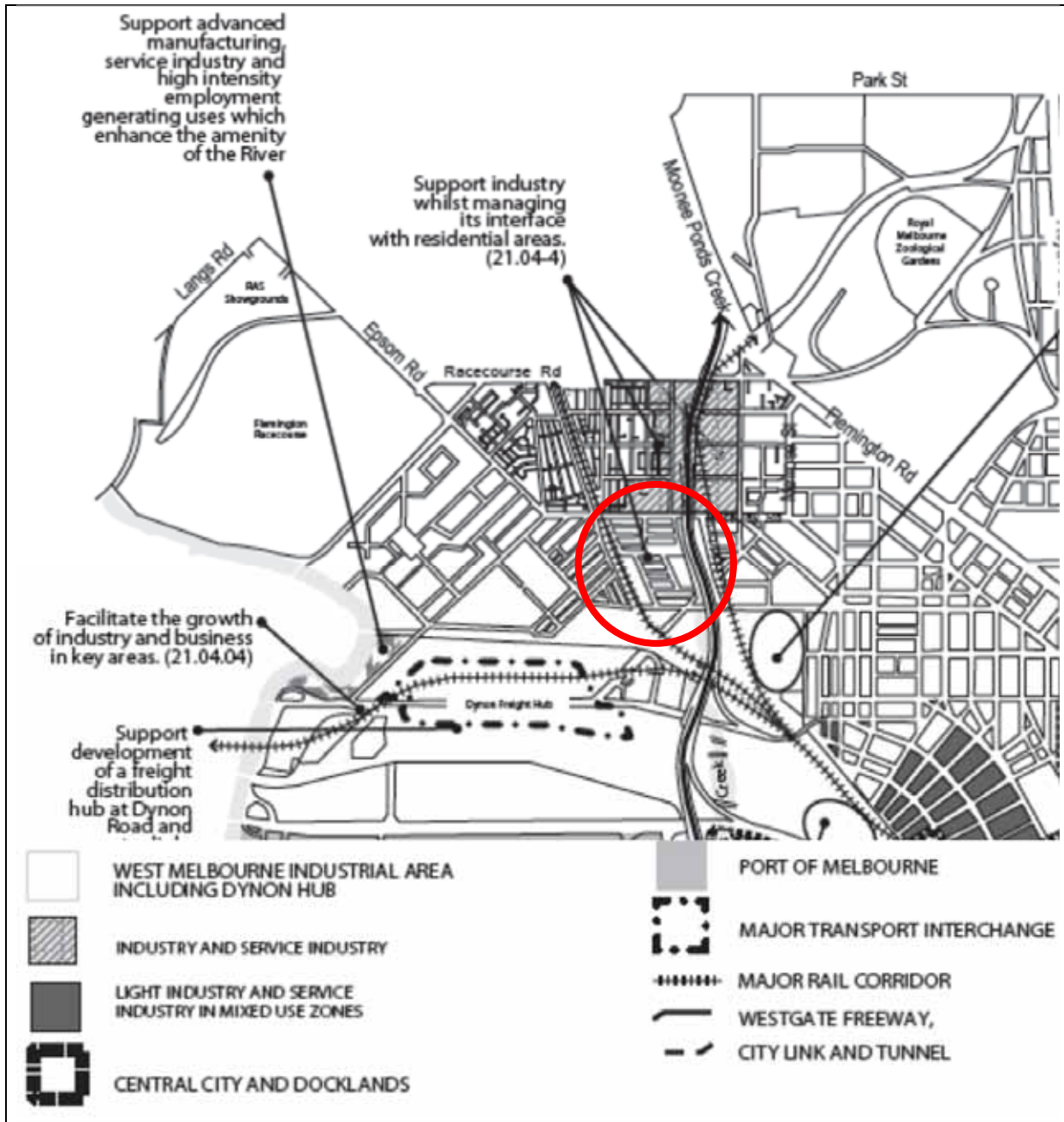
Before Amendment C162 which introduced a revised the MSS in September 2013, Clause 21.04-5 contained the strategy:

Strategy 10.5 Facilitate the growth of industry in identified parts of Kensington, West Melbourne Industrial Area and in West and North Melbourne.

An extract of the relevant figure from the MSS at that time is shown in Figure 3.

³ The houses between Chelmsford Street and Macaulay Road were also identified as industrial land.

Figure 3: The MSS before 2013 revision\



Source: MSS before 2013, Figure 7: Non-residential Uses – Advanced Manufacturing and Industry

Revising the MSS as part of Amendment C162

As part of Amendment C162, which implemented a revised MSS, Council exhibited a new growth framework plan as shown in Figure 4. Council received submissions opposed to framework plan as it applied to land around Allied Mills.

In response to submissions Council proposed changes to the exhibited growth framework plan, this change was exhibited during the panel process for the revised MSS. This is shown in Figure 5.

Figure 4: The framework plan exhibited as part of the MSS review (Amendment C162) (extract)

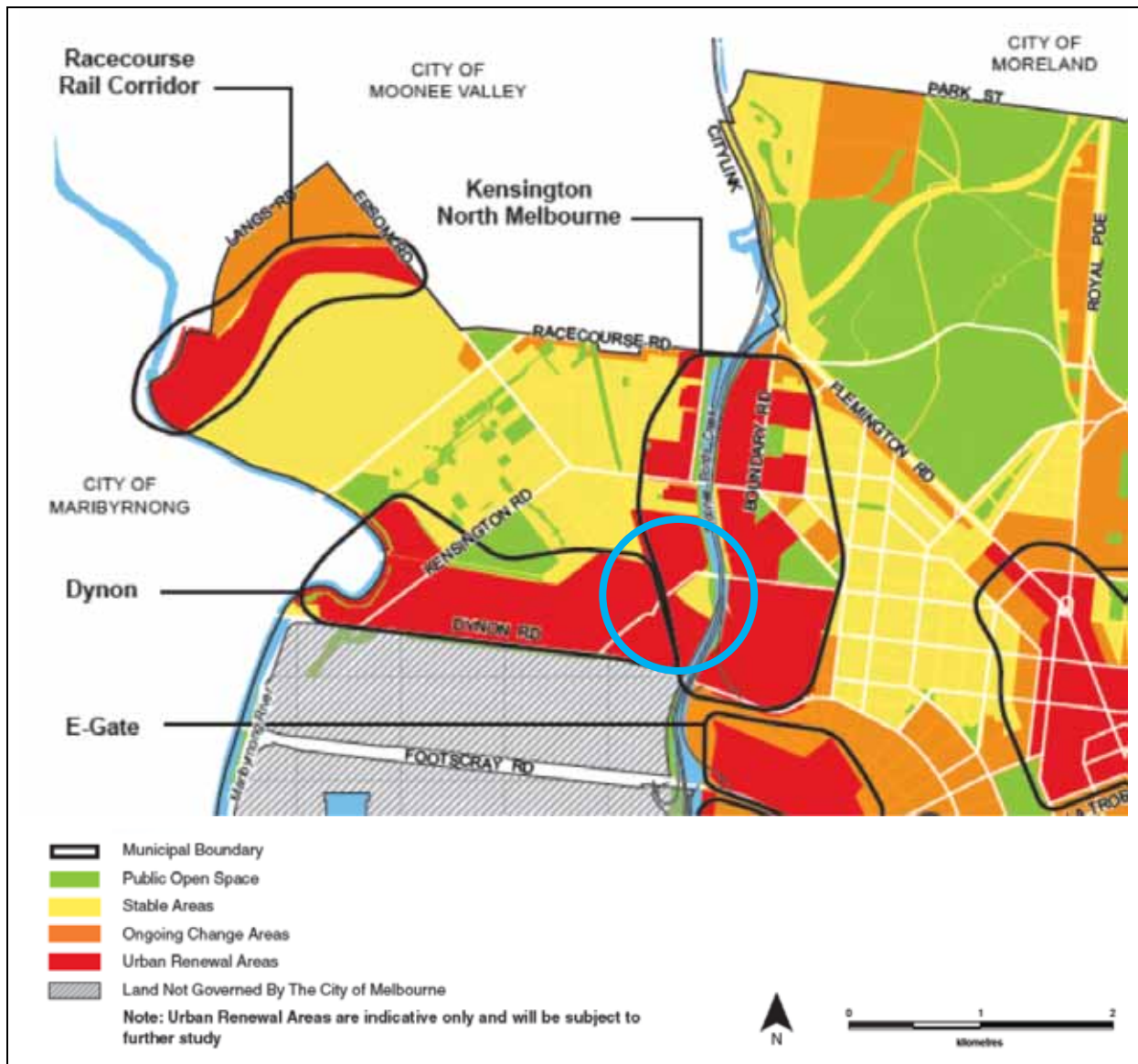
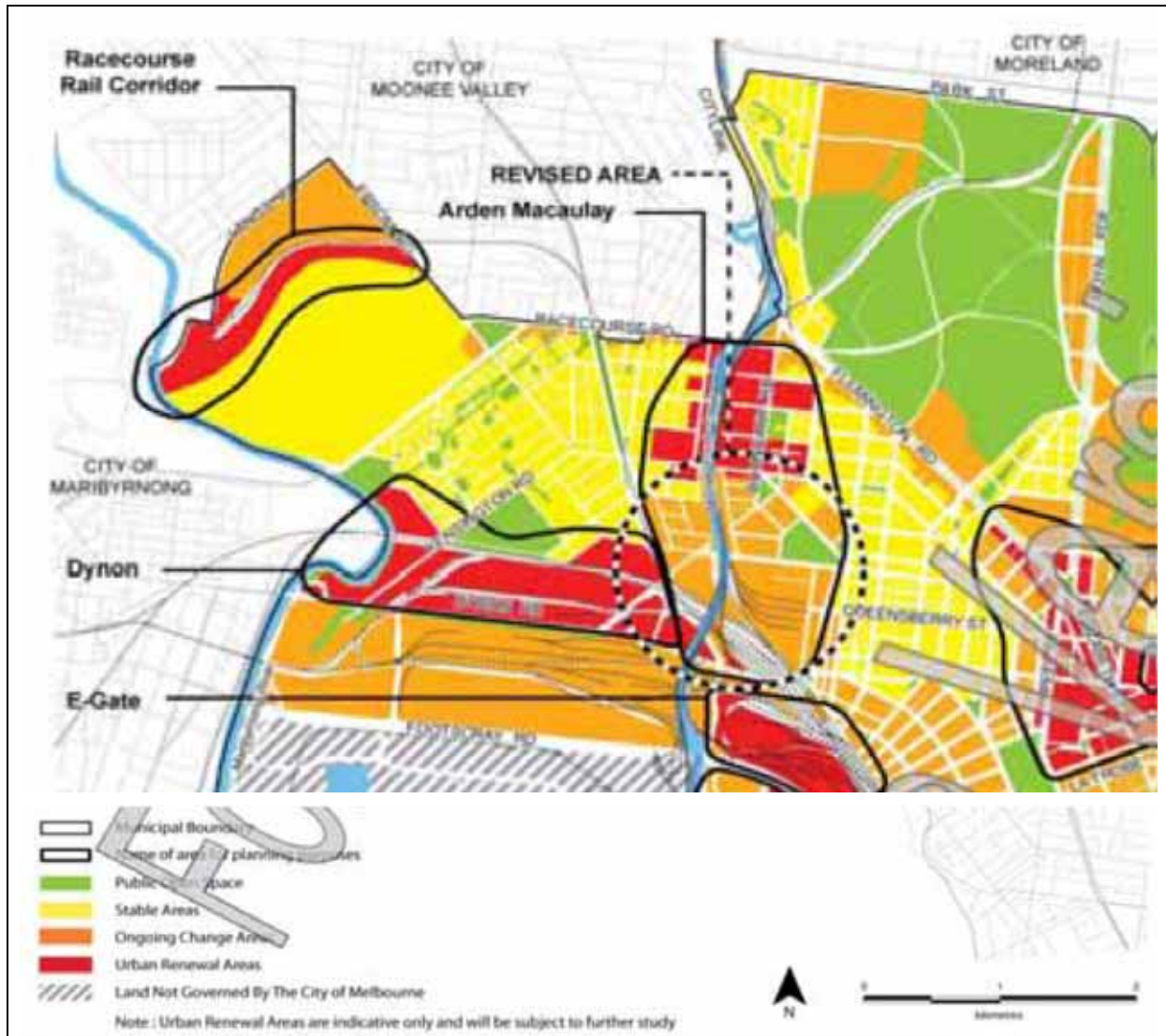


Figure 5: Revised MSS exhibited as part of the MSS review (Amendment C162) (extract)



The panel for Amendment C162 said⁴:

Many written and verbal submissions questioned the specific designation of sites and how interfaces would be treated. This was highlighted in locations such as Kensington where ‘urban renewal’ sites directly abut or isolate ‘stable’ sites within the Arden–Macaulay area.

We agree with submissions ... that further detailed work through the structure plan process is required prior to making such site specific designations.

This appears to be reiterated in Council’s own submissions. Mr O’Farrell put to us that “while the MSS identifies where change will be accommodated, the detailed planning for the needs of communities will occur at the next step of the planning process, being structure planning and urban design frameworks”.

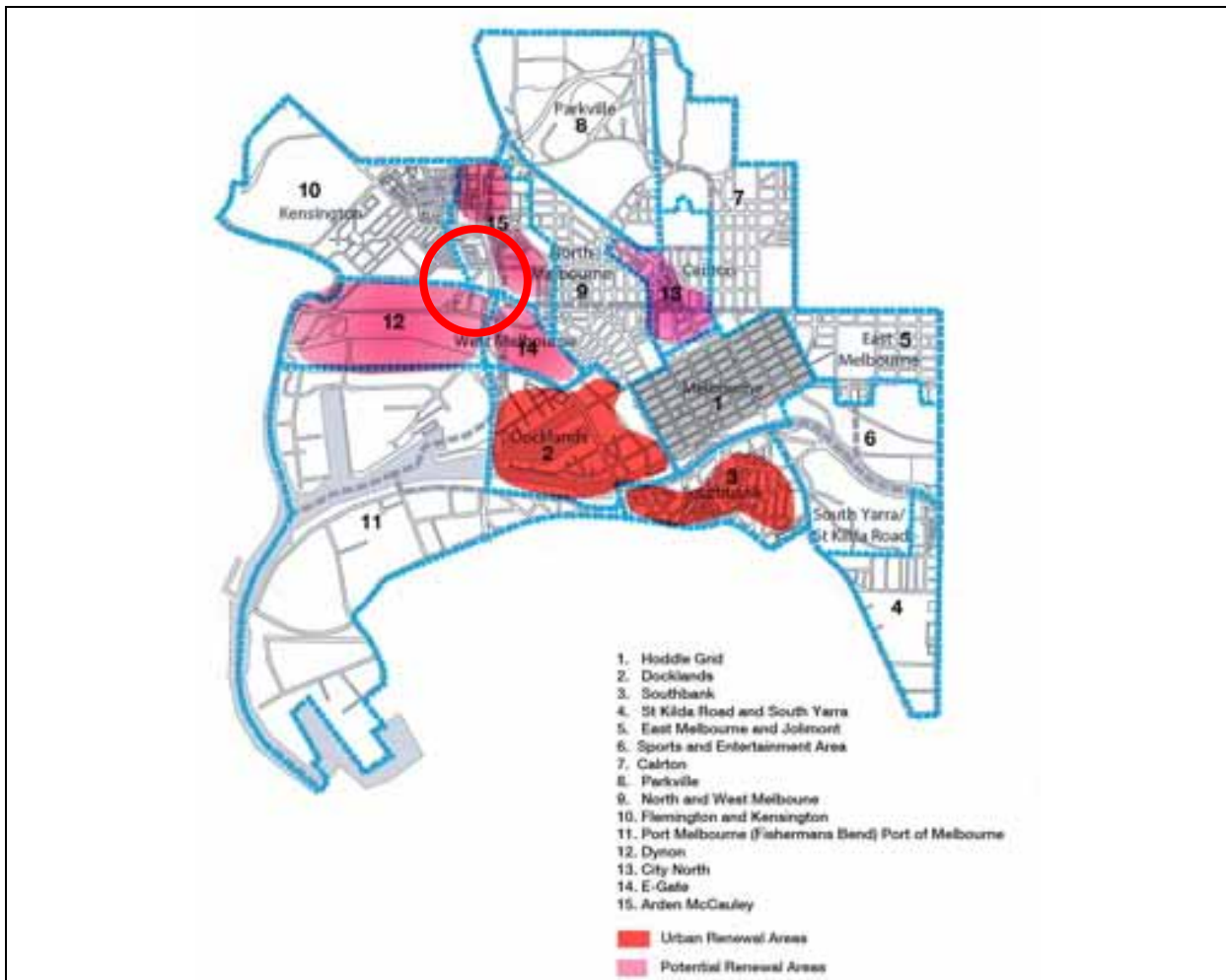
⁴ Amendment C162 panel report, page 16.

Therefore, whilst we agree with the concept of identifying broad areas as urban renewal, we find these areas should be conceptual in shape and form ...

These can form the basis of further site renewal as addressed through existing or proposed structure plans. These structure plans, that include analysis of infrastructure capacity and service needs can lead to a more detailed spatial interpretation of what, where and how renewal should occur in these areas.

As part of its report the panel for Amendment C162 recommended significant changes to the growth framework plan; these are shown in Figure 6. Specifically it recommended that the renewal designation be deleted from the area.

Figure 6: The MSS review Panel recommendation



The current MSS

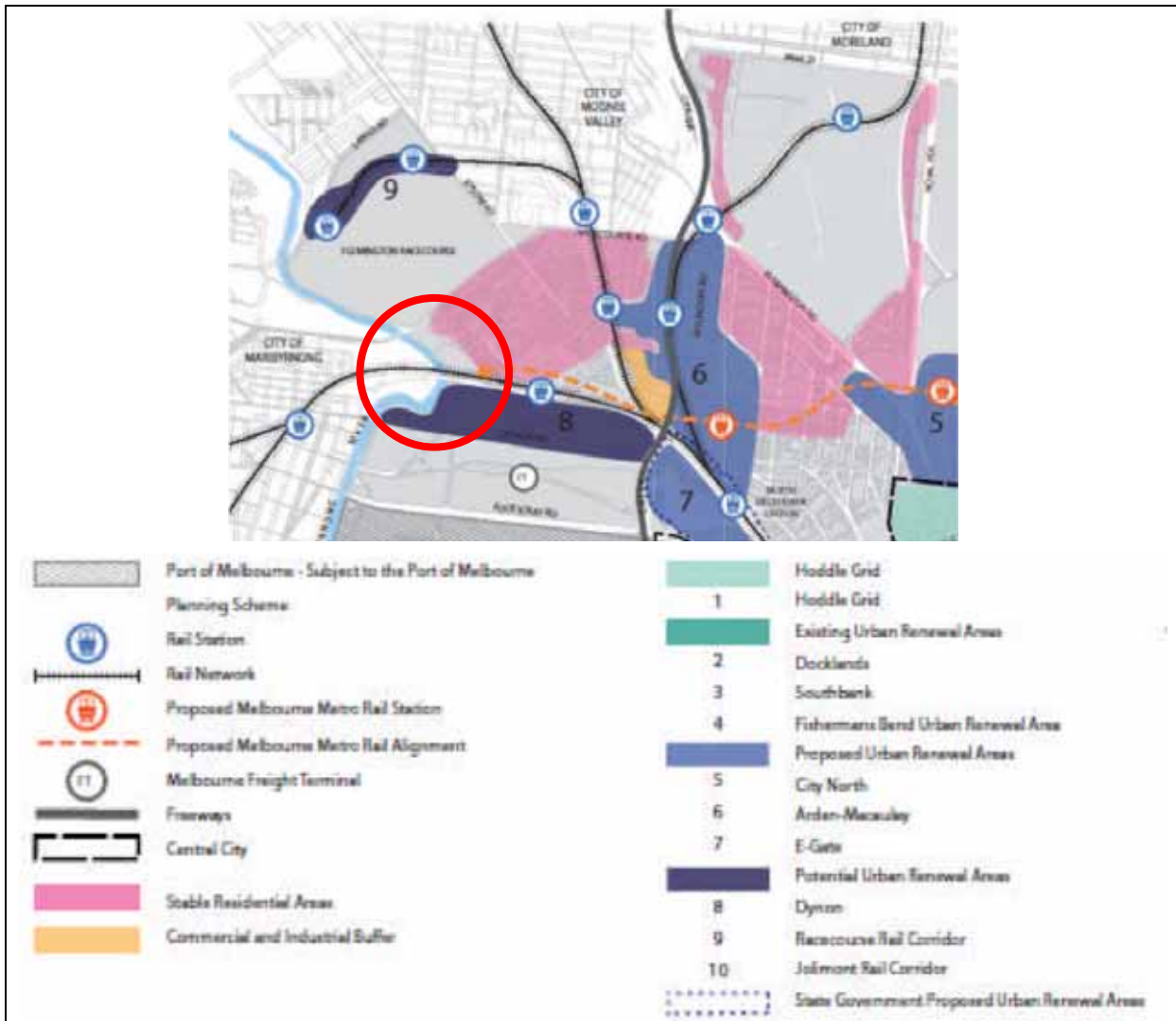
In response to the Amendment C162 panel recommendations Council substantially improved the growth framework plan. This progressed the Amendment C162 panel recommendation in a number of ways:

- general changes included:
 - including stable residential areas (the panel had recommended this but not depicted it graphically)

- refining boundaries of the urban renewal area
- distinguishing between ‘proposed’ and ‘potential’ urban renewal areas
- specific changes in relation to the area around Allied Mills were:
 - part of the area shown as proposed urban renewal
 - part of the area shown as a commercial and industrial buffer.

The approved version of the MSS also includes specific local area policy.

Figure 7: The current MSS (extract)



(iii) Evidence and submissions

The policy framework and its weight

Mr Wren for Allied Mills stated that:

... through Amendment C162, the Arden-Macaulay Structure Plan and this amendment there is a consistent intention that the Allied Mills site be protected from the establishment and encroachment of sensitive uses.

Mr Wren referred to clause 21.04-1.3:

Planning controls will address the interface between on-going industrial and residential areas, and the interface between new development and existing residential areas and large manufacturing industry will be protected from sensitive uses by a land use buffer of non-residential development and/or non-sensitive land uses (depicted within Figure 10 as 'Commercial and Industrial Buffer'). The new planning controls will be introduced in stages.

Mr Wren went on to detail support for the continued operation of industrial uses such as Allied Mills in the *Structure Plan*. In particular, he referred to statements in relation to the south west quadrant on Page 26, which refers to protection of the Allied Mills site from encroaching sensitive uses.

Mr Wren took the Panel through the objectives, principles, strategies and actions for mixed use development. He concluded that:

The strategy plan was predicated on the assumption that Allied mills would be protected from the possibility of exposure to expectations built upon such mixed-use aspirations.

Mr Monahan, for EG Funds, accepted that policy in the scheme carries weight, but submitted that policy that has not been tested carries less weight. He was referring to the introduction of a 'commercial and industrial buffer' area in clause 21.14-2 and Figure 11 and Figure 1, Growth Area Framework Plan, clause 21.04-1 by the Council after the panel hearing for Amendment C162. Mr Monahan maintained that:

... the policy carries less weight because the strategic justification for this policy has never been properly tested and it has not been applied following proper process.

Mr Monahan submitted that it was therefore open and indeed appropriate to take a wider look at the EG Funds sites and the south west quadrant and not be unduly constrained by the MSS. In his view the south west quadrant is identified in the planning scheme as an area of proposed urban renewal.

The matter for this panel is how to implement the next stage of the urban renewal policy for the south west quadrant through land use and development controls.

In relation to the weight that should be given to the *Structure Plan*, Mr Monahan acknowledged that it had been through public consultation, but:

... it is only adopted policy: it is not a reference or incorporated document in the planning scheme. The Structure Plan should of course carry weight, but this panel should not see its role as one of strict adherence to the Structure Plan.

Mr Clarke provided town planning evidence for EG Funds. He concluded that there are competing policy outcomes at both a State and municipal level between policy that seeks to encourage urban residential consolidation and policy that seeks the protection of remnant industry.

Managing interfaces

Mr Monahan submitted that the interface issues with Allied Mills can be effectively managed via the application of appropriate planning controls.

EG Funds fully accepts that the onus is on it, as agent of change, to demonstrate that the Sites are not required as buffers.

EG Funds relied upon the evidence of Mr Burton, Dr Bellair and Mr Maina in this regard. Dr Bellair was unable to attend the panel for cross-examination. His evidence is not a determining factor in our consideration.

Mr Burton in evidence submitted that the sites could be developed for residential purposes with a number of design techniques to attenuate noise from the Allied Mills, CityLink and the adjoining railway line.

Dr Bellair's evidence was that there was little risk of an increase in odour emissions because Allied Mills processes do not generate significant odours and there is no odour control equipment to fail. He recommended a number of design features to the southern facade of any residential apartments within 50 metres of the Allied Mills site.

Mr Maina gave evidence on traffic that the risk of interface traffic conflicts could be addressed through traffic management measures, including a Traffic Management Plan for the Allied Mills operations.

Mr Clarke, in planning evidence, submitted that land use separation techniques such as buffers are only one method of avoiding such conflicts and such a technique would normally need to be justified by empirical evidence. He considered that if the need for such a buffer could be avoided then it is preferable that it be avoided in favour of achievement of a higher and better use.

With respect to the 1-7 Elizabeth Street site, Mr Monahan submitted that this property has no direct sensitive interfaces in terms of amenity impacts.

Mr Henshall gave evidence about the opportunities that could be expected of properties in this inner city location.

Mr Wren submitted that Allied Mills is particularly concerned to protect its 24 hour, 7 day a week operation that is already subject to limitation pursuant to a s.173 Agreement. The company intends to consolidate its Victorian operations on this site, which it believes to be strategically well located with regard to road and rail access:

Allied Mills is acutely conscious of the implications associated with inappropriate sensitive uses being located within the sphere of influence of its current operation.

Mr Wren expressed a concern about gentrification of former industrial sites leading to increased expectations of future residents. He supported the concept of "reverse amenity" to protect existing businesses from sensitive uses causing complaints about the operation of the existing industry by new residents whose expectations are based on a residential paradigm inconsistent with the established industrial norm.

In particular, Mr Wren expressed opposition to the submission by EG Funds to allow for residential development and to exceed the DDO60 height limits:

New residents using Elizabeth Street to Arden Street will constantly come into contact with slow moving manoeuvring semi-trailers whose swept paths require virtually the entire width of Elizabeth Street to undertake their manoeuvres. This is not uncommon in industrial areas.

It is submitted that the Local Area Traffic Management (LATM) provisions are likely to cause traffic to prefer accessing south and east via Arden Street rather than attempting to navigate through to Macaulay Road. Should this be realised, the obvious conflicts that are likely to arise with Allied Mills traffic are self-evident.

Mr Wren explained that Allied Mills cannot change its current arrangement of truck movements into and out of the site.

The recommendations in the expert evidence on acoustic provisions by Mr Burton and air quality by Dr Bellair for EG Funds were also challenged by Mr Wren.

The effect of Mr Burton's recommendations will see future residents living in hermetically sealed dwellings reliant upon air conditioning with effectively no access to fresh air via normal window openings or balconies. Dr Bellair would equally enclose such residents to protect them from fugitive emissions of dust and/or odour rather than adopt conventional techniques of separating sensitive uses from potential amenity problems.

Mr Wren referred to Mr Czarny's response to cross examination by Mr Monahan stating that:

Mr Czarny's view was that invariably such acoustic and like measures is not a great look and is not of a high quality in appearance. They are a second best response.

The exemplar projects by EG funds on other sites were challenged by Mr Wren as irrelevant since:

... they are all predicated on the collapse of major industries and the consequent dilapidation of an area's urban fabric. It fails to recognise the presence of the existing and still viable major manufacturer that hasn't collapsed and is not dilapidated.

Mr Wren concluded:

Given that Allied Mills is not proposing to move having only recently refurbished its premises at enormous cost, the problem has been correctly addressed by Council's proposal to adopt a C2Z as the buffer.

(iv) Discussion

The EG funds site in combination with the Allied Mills site would make a good redevelopment site (along the lines of the EG Funds Summer Hill development in Sydney),

but by itself it is only part of the redevelopment opportunity to transform the area from its industrial past. Allied Mills is the other part, and this site is not available at this time.

The MSS clearly establishes a policy of a commercial buffer around Allied Mills.

Clause 21.14-2 states that large manufacturing industry will be protected from sensitive uses by a land use buffer of non-residential development and/ or non-sensitive land uses (depicted in Figure 11 in the MSS as 'Commercial and Industrial Buffer').

Furthermore, under the heading of 'Economic Development' the following policy intents are listed:

- Provide a buffer between the existing industrial use on the Allied Mills site and new residential uses to the east, and existing residential uses to the north (Precinct 5 on Figure 11).
- Support commercial and industrial uses generally south of Chelmsford Street, north of Arden Street and west of Barrett Street (Precinct 5 on Figure 11).

We reject the notion that how a policy entered the scheme is a relevant consideration as to its weight. In any case the site has always been zoned industrial, and a review of the Amendment C162 process shows that it is not so much the case that the current policy was not tested as part of Amendment C162, but that designating the site for renewal was tested and found wanting. It was also tested as part of the abandoned Amendment C177.

We accept that from time to time policies in planning schemes become outdated, but this is hardly the case here. The new policy is relatively fresh, and indeed this Amendment is seeking to implement it. It is clear from the evidence presented by Allied Mills that the operations of Allied Mill are such that a buffer is warranted.

The role of a panel is to provide advice to a planning authority on how it ought to respond to submissions. It is not the role of a panel to stand in the shoes of the authority and recommend a different strategic direction. It is one thing to challenge the application of a vision, it is another to challenge the vision itself. EG funds would need to show that the application of the strategic logic of the *Structure Plan* was flawed and that its site had the same characteristics as other sites to be rezoned as Mixed Use. Given the proximity to Allied Mills this is clearly not the case.

We accept that there are a number of dwellings in the commercial buffer area. We do not think that these dwellings undermine the buffer to such an extent that it no longer serves its purpose.

(v) Conclusion

We conclude:

A commercial buffer around Allied Mills has been part of the planning scheme since it was introduced and allowing further residential development in the buffer would be contrary to policy and sound planning practice.

2.4 Built form vision

(i) Evidence and submissions

Mr Townsend referred to the MSS which seeks to accommodate long-term worker and residential growth in urban renewal areas rather than in established residential areas where it seeks to largely maintain the existing residential character.

Amendment C190 is based on this principle in the MSS.

In urban renewal areas, development densities will be higher and will create compact walkable environments. This will generate sustainable communities that occupy less land and are within walking distance of good community and retail services, open space and public transport. A building height of 20m is generally proposed because:

- it is consistent with the vision for sunny, tree lined streets;*
- it is generally in keeping with existing development in the precinct; and*
- it can be modified at sensitive interfaces with existing residential development so that it does not affect the amenity of nearby dwellings.*

The approach to determining heights in the C190 area has been localised, that is, each precinct has been reviewed in relation to its specific context, lot structure and abutting roads. Heights are performance-based to protect the amenity of adjoining low scale residential areas and create safe and well scaled streets with sunlight and open sky views. This is particularly nuanced west of Stubbs Street where there is a variety of different circumstances and where the line between the C190 area and existing residential development is not as distinct as to the east. In assessing development proposals, the proposed new DDO60 (which sets the building envelope) and the existing Urban Design outside the Capital City Zone policy will be used. The former will set the building envelope to manage overshadowing and visual bulk. The latter will be used to manage issues related to the specific context and appearance of the building.

The proposed height controls will ensure that new development does not overshadow existing or proposed public open spaces between the hours of 11am and 2pm at the equinox (in accordance with the City of Melbourne's Sunlight to Public Places policy).

Mr Czarny gave strong support for the ambition of the *Structure Plan*:

... for a mid-rise urban renewal precinct that celebrates its former robust industrial character.

Mr Czarny considered that the overarching urban form concept “*is a sound one*”. He found that it had emerged from a well-considered body of background research and analysis that responded to the built form character, infrastructure and landscape attributes of Arden–Macaulay’s industrial and residential areas as well as an urban renewal area that is affected in part by sensitive low scale residential interfaces.

Mr Yeoman gave expert evidence on the process for, and assumptions underlying the population target of 20,300 people for the Arden–Macaulay precinct. The assumptions included:

- buildings were constrained by the height and setback controls
- no development of heritage sites
- built form on only 70 per cent of the available site
- no development of land subject to body corporate control.

Mr Yeoman concluded that the overall capacity enabled in the *Structure Plan* and the Amendment is not likely to be fully developed over the time frame analysed (2031). The level of supply provided in terms of capacity, is more than sufficient to provide for the expected demands of the community.

Mr Kiriakidas gave evidence on traffic and transport. He noted that in the initial exhibition of the Amendment, 73 submissions related to public transport, 89 related to traffic and 46 related to car parking. The further notification period resulted in an additional 11 submissions relating to transport.

Mr Kiriakidas concluded that the Principles, Objectives and Strategies set out in support of the *Structure Plan*:

... are considered appropriate and consistent with current day best practice.

He confirmed that research undertaken by GTA Consultants for the Integrated Transport and Access review found that 90 per cent of traffic has neither an origin nor destination in the Arden–Macaulay precinct. The research indicated that the proposed population and employment growth envisaged for the Arden–Macaulay can be satisfactorily accommodated. He went on to conclude that the preparation of a car parking strategy and ultimately a car parking overlay is considered appropriate.

Mr Kiriakidas noted that VicRoads in its submission had flagged the importance of careful consideration and consultation for any changes or downgrading to the key arterial roads of Boundary Road and Macaulay Road. He noted that none of the matters raised cast any doubt over the adoption of the proposed amendment.

Mr Townsend informed the panel that in the light of submissions made throughout the Hearing and the winter overshadowing that is likely to be the result of the Haines Street developments, the planning authority is considering whether to adopt a different standard to ensure greater direct sunlight at mid-winter and at the equinox.

Mr Townsend concluded that there is a choice between:

- a) the coordinated and structured approach embraced by the Planning Authority in which built form outcomes match the demographic requirements of the Arden–Macaulay area and encourages development in a manner that safeguards the amenity and living standards of existing and future residents; and*
- b) an ad hoc, site-specific approach in which development is more likely to be concentrated in hot-spots of urban renewal, but have the potential to deny the outcomes sought to be achieved in the Structure Plan.*

(ii) Discussion

We agree that a legitimate role for planning authority is to set a vision for an area. But this vision cannot be set at a whim, or without strategic justification. In considering whether a vision is appropriate it is important to consider (at least) whether the vision is:

- capable of delivering a quality public environment and quality private environments
- neither an overdevelopment nor underdevelopment of the area in terms of local infrastructure capacity: on the one hand it can be serviced, and on the other it makes efficient use of infrastructure and location attributes and is economically viable
- appropriate given the metropolitan and local role expected of an area
- likely to be robust over time.

Planning Schemes in Victoria must seek to achieve the objectives of planning in Victoria as set out in Section 4(1) of the *Planning and Environment Act 1987*. These objectives include:

To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.

Clearly many different types of area deliver on this objective and Victorians enjoy a range of living environments from high-rise central city apartments, through mixed-use areas to leafy suburbs, and beyond into a range of regional options.

Not only should new areas deliver a quality public environment, but new development should also ensure that it does not undermine those elements of adjoining areas that deliver a quality environment to such an extent that particular impacts are unacceptable or that broader impacts negate the community benefit of the development to such an extent that a net community benefit is not achieved.

Unlike other renewal areas in Melbourne, this part of Arden–Macaulay is not an extension of the CBD. The area has a future as a mid-rise precinct that is part of the broader North Melbourne and Kennington areas. We do not think that the area lends itself to an intensity of renewal that one might find adjacent to the CBD:

- while well-located it is not adjacent to the Hoddle Grid and all the amenities and employment that offers
- the redevelopment areas (in Arden–Macaulay North) are not large enough to create a separate high-rise district – we think that they would only ever be a few isolated towers on the edge of a low-rise suburb.

We think it is appropriate to seek to create a new development that fits with the existing highly valued character of the area. This can be achieved by limiting the built form so that it is not so different to the form of the existing area and that there is a transition to taller forms.

Connection with the existing area can also be achieved by delivering public facilities in association with taller development so that the connection between the old and the new is cemented with a shared use of community infrastructure.

It is important to draw a distinction between the character of a district and the form of isolated buildings within it. District character is set by the predominant form of buildings.

We think that within a mid-rise context there could (in theory) be a few high structures without changing the mid-rise feel of the area. This is in contrast to other cities with relatively flat topography and uniform building heights. This is particularly the case in Arden–Macaulay where there are already higher buildings with the housing estate towers.

It is not clear how much taller development could be built before the character started to be read as a higher-rise area. Part of the answer is how visible the higher forms are from the immediate streets around them, and from the wider context. We broadly agree with the evidence of Mr Milner and Mr Sheppard that there are locations that could accept taller structures without much, or any, visual impact on the immediate surrounds.

Critical to delivering a quality urban environment, particularly at higher densities, is a quality public realm with attractive and accessible public spaces and parks.

It almost goes without saying that local infrastructure should be able to meet the demands that development will place on it, but whether or not development is an ‘overdevelopment’ is often contested at panels or the Tribunal.

The *Structure Plan* examined the ability of local services to meet the demands placed upon them by the development it envisaged. It concluded that the services were capable of meeting the projected demand. A number of submitters thought that the number of dwellings would be higher than proposed, and some land owners seemed to favour more intensive development. The development envisaged in the *Structure Plan* is not an overdevelopment in terms of its ability to be serviced.

(iii) Conclusion

The vision of a mid-rise area that relates to the existing residential areas is a sound basis for development of the area.

2.5 Proposed parks

(i) What is the issue

The *Structure Plan* presents an approach to open space that has been superseded by more recent Council approaches.

(ii) Evidence and Submissions

Council advised that when it adopted the *Structure Plan* it also resolved not to use the public acquisitions controls in the planning scheme and instead would negotiate provision of open space through the development process and transfer of other public land.

Council also advised that it will prepare a master plan for land along the Moonee Ponds Creek to revitalise it as a recreational and environmental corridor.

Eamonn Fennessy provided evidence that:

Despite not having a compulsory acquisition approach to the acquisition of land, the City of Melbourne is pursuing a range of methods to secure additional open space to implement the Open Space Strategy. These include:

- *Negotiated land contributions from the Victorian Government for new Capital City open space and Municipal open space.*
- *Land contributions sought from developers at Council's discretion.*
- *Re-purposing existing Council controlled public land to open space where appropriate, primarily road space.*
- *Purchase of additional land using open space contribution.*
- *A combination of the above.*

Mr Fennessy gave examples of these approaches in his evidence.

(iii) Discussion

There is a tension between what the *Structure Plan* presents in terms of open space and Council's current approaches. The *Structure Plan* identifies specific land parcels and tailors controls based on these identified parcels. Council's current approach is more nimble, and seeks to identify cost effective opportunities as they arise.

If the nominated locations of open space in the *Structure Plan* are strategically important, then Council should move to acquire them; if open space can be provided by a range of other mechanisms, as was presented at the Hearing, then Council must accept that open space locations may change. It is not appropriate to introduce planning controls to restrict development of land to preserve the amenity of 'open space' that Council has not committed to buying. Council has the ability to compulsorily acquire land, and it is not right to set two standards: one for the private sector where the open space location is said to be fixed and landowner's development potential decreased; and another for Council where open space location is flexible and it need not commit to purchase by applying a Public Acquisition Overlay.

We accept Council's current approach to open space delivery. On the basis of this approach, the open space planning for the area should be revisited to better refine needs and identify the pros and cons of a wider range of opportunities than are considered in the *Structure Plan*.

These opportunities could include:

- Better development of the current open space role of land in Alfred Street that is part of the public housing estate, but is not well developed for open space. The *Structure Plan* proposes building on this existing open space area. We are not sure that this is the most appropriate approach for this land.
- A review of open space planning around the North Melbourne Community Centre. Activities in buildings may able to be located on the lower levels of a mixed use building, or above grade or semi-basement parking proving an opportunity to improve the area for sporting use.
- Shared space in association with new schools.

We accept the *Structure Plan* and *Open Space Strategy* vision for improved open space along Moonee Ponds Creek. We note that the *Structure Plan* identifies access to the Moonee Ponds Creek from east of the rail line and a bridge over the creek at Sutton Street. Such a link will play an important part in the connectivity of the renewal area, but it is not obvious how the link can be achieved given the flood protection works in the area. We were told

that Council will prepare a masterplan for the Moonee Ponds Creek in the near future. This plan should explicitly identify east-west links, otherwise there is a risk that the open space along the creek will be effectively cut off from the new residents in the renewal area to the east of the rail line.

Open space is important in the renewal area and Council should review open space opportunities in light of its current approaches.

(iv) Conclusion

We conclude:

The parks shown in the *Structure Plan* may not eventuate and their depiction is likely to be a source of confusion.

There are a number of opportunities for open space improvement that the structure plan does not recognise including:

- **Recognising the current open space role of land in Alfred Street as part of the public housing towers.**
- **Relocating the North Melbourne Community Hub into new mixed use buildings to create a larger unencumbered reserve.**

We recommend Council:

Review opportunities for open space provision in the renewal area as a matter of priority.

Specifically address east-west pedestrian links when preparing the proposed master plan for the Moonee Ponds Creek.

3 MSS changes

(i) The issues

The Amendment did not propose any changes to the MSS. Some draft changes were mooted before the Hearing and Council submitted proposed changes during its closing submission.

(ii) Evidence and Submissions

Mr Townsend tabled a draft revised version of clause 21.4-2 Arden–Macaulay for the information of the panel. Mr Townsend noted that this was not part of the Amendment and would be subject to a separate process.

In closing Council presented a more detailed draft of proposed changes to the MSS. Parties were given an opportunity to provide further written comments on these changes.

Mr O’Farrell provided a useful submission on how we ought to view the procedural fairness of what had transpired:

It is submitted that the procedural unfairness caused by the Council’s attempt to introduce new matters cannot be overcome through further written submissions. Such a step is not sufficient to afford natural justice in the context of the Amendment procedure under the Planning and Environment Act 1987, this Amendment and the procedure that the Panel adopted during the course of the hearing. In this respect, it is noted that the Panel allowed:

- *A hearing to be conducted in an adversarial form*
- *An order of proceedings whereby the Council was to present its case ahead of other submitters so that other submitters could be made aware of the Council’s case*
- *Expert evidence*
- *Cross-examination.*

Further, the new items that the Council has sought to introduce would have been very significant matters in the hearing had they formed part of the Amendment. It is submitted that this adds a further layer to the importance of natural justice considerations here.

(iii) Discussion

The Melbourne Planning Scheme states at Clause 21.04–1.3:

The Proposed Urban Renewal Areas have been broadly identified as the locations for the next generation of the city’s urban renewal. Once the structure plans for each of these areas are incorporated into the planning scheme the plan for the relevant local area will be updated with new objectives and strategies and the Growth Area Framework Plan will be updated to show the areas as ‘Existing Urban Renewal Areas’

For consistency with the clear distinctions drawn in the MSS Arden–Macaulay Stage 1 should move from a ‘proposed urban renewal areas’ to a ‘renewal area’.

We note that

- Amendment C228 changed the Growth Area Framework Plan at Clause 21.04 to correctly colour the Fishermans Bend area as an ‘Existing Urban Renewal Area’, as identified in the key to the Plan and Clause 21.04-1.2, but
- Amendment C196 which implements the City North *Structure Plan* did not propose to correctly colour the City North area as an ‘Existing Urban Renewal Area’.

It would be desirable to update the text relating to the renewal area as part of this Amendment, but care would need to be taken that this is done properly. The draft presented at the close of the Hearing does not demonstrate the level of care or precision required. Particularly troubling, for example, are:

- the deletion of the identification of Allied Mills, so that here is a commercial buffer, but no indication of what use is being buffered
- statements about overshadowing Moonee Ponds Creek that may have significant impacts are unanalysed and untested.

While we accept the submissions made that any changes to the MSS should be properly advertised to all affected people and be subject to a full hearing; we do think that the framework plan should be updated to avoid confusion.

(iv) Conclusion

We conclude:

The MSS clearly states that local area policy will be updated as structure plans are introduced.

We recommend:

Change the Growth Area Framework Plan at Clause 21.04 to correctly colour the Arden–Macaulay North area as an ‘Existing Urban Renewal Area’, as identified in the key to the Plan and Clause 21.04-1.2.

We recommend Council:

Prepare an Amendment to update the text of MSS as it relates to Arden–Macaulay.

4 Zoning changes

4.1 New zones

Since the exhibition of the Amendment there have been changes to the VPP, with the number of commercial zones reduced and the Mixed use Zone updated:

- Business 1 has become Commercial 1
- Business 2 has become Commercial 1
- Business 3 has become Commercial 2.

These revised zones will apply in place of the exhibited Business Zones.

A potentially significant change is that the Commercial 2 Zone allows for motel or residential hotel subject to a permit whereas the Business 3 Zone did not. This affects the proposed buffer around Allied Mills.

4.2 Zoning in the commercial buffer

The Amendment would rezone properties bounded by Elizabeth Street, Chelmsford Street, Barrett Street, Bruce Street, Lloyd Street and Arden Street as well as the land at 2-50 Elizabeth Street from Industrial 1 Zone and Industrial 3 Zone to the Commercial 2 Zone (exhibited as Business 3 Zone).

The Commercial 2 Zone seeks to develop commercial areas for offices and appropriate manufacturing and industries and limited retail uses that do not affect the safety and amenity of adjacent, more sensitive uses.

(i) Evidence and Submissions

Mr Wren submitted that with the replacement of the Business 3 Zone by the Commercial 2 Zone (as a result of the introduction of the reformed zones):

... the thrust of Council's policy of prohibiting any form of residential development has been negated.

The Commercial 2 Zone allows limited residential land use in the form of a motel or residential hotel subject to a permit. Mr Wren sought an additional site specific provision to be inserted into the Amendment to remove the opportunity for a permit application for these uses. He suggested this be achieved by including reference to an incorporated document within the schedule at clause 52.03 that prohibits the accommodation uses within the Commercial 2 Zone.

A number of submitters requested the area proposed to be rezoned to Business 3 Zone be rezoned instead to a Mixed Use Zone. They believe that this zoning would better reflect the type of use that currently exists in the area which they say is predominately residential and that these existing uses have had no adverse effects on the operations of Allied Mills and other commercial businesses.

Mr Townsend explained to the Panel that the proposed zoning to Business 3 Zone was in accordance with Council's then adopted new MSS, which has since been gazetted, and the

need to protect existing industry, particularly Allied Mills, from encroachment by residential uses which are sensitive to the impacts of industrial operations.

It is therefore an appropriate zone to use as a 'buffer' between industrial operations such as Allied Mills and both existing residential uses north of Chelmsford Street and proposed new residential uses east of Barrett Street.

Mr Townsend went on to explain that under the Commercial 2 Zone, all forms of accommodation uses are prohibited except for caretaker's house, residential hotel and motel, which are permit required uses.

In addition, to ensure residential uses and sensitive uses are prohibited under the Commercial 2 Zone, a planning scheme mechanism such as Clause 52.03 and Schedule to Clause 81.01 could be utilised as suggested by solicitors for Allied Mills.

However, should residential and other sensitive uses not be prohibited through the use of Clause 52.03 and the Schedule to Clause 81.01 or another planning scheme mechanism, the Environmental Audit Overlay (EAO) and Schedule 26 to the Design and Development Overlay (DDO26) should be applied to this area.

The Kensington Association supported the proposed Commercial 2 Zone for the YoungHusband Woolstore complex.

The Kensington Association expressed concern that existing residential properties in Bruce and Elizabeth Streets:

... are in the centre of the intended MSS buffer. To remove any conflict we ask that these homes be removed from the buffer by rezoning them to a conforming land use, thus removing the current inconsistencies in the application of the MSS.

Ms Ingram submitted that the Amendment overlooks a small residential precinct of 11 homes (3 of which have heritage overlays) in Bruce Street and Elizabeth Street directly opposite Allied Mills:

In seeking to bring a buffer into effect, the Planning Authority has been in error by simply applying a blanket zoning of Commercial 2 Zone to our area.

Ms Ingram sought a more refined approach so that a "granular and nuanced outcome can be achieved to realise the strategy".

In support Ms Ingram submitted that the Amendment has included sensitive uses in the buffer were in direct and material contradiction to the MSS requirements, quoting clause 21.04-1.3 and clause 21.14-2:

Planning controls will address the interface between ongoing industrial and residential areas ...

Ms Ingram sought for the existing houses to be rezoned to a conforming zone and also sought appropriate built form controls on the rear boundary and side setbacks of any new development to protect the amenity of existing residential properties in this precinct.

(ii) Discussion

We have concluded (in Section 2.3) that a Commercial buffer around Allied Mills is justified. In any reasonable interpretation of the appropriate planning tools this implies the use of an Industrial Zone or a Commercial 2 Zone. The Mixed Use Zone is recognised as a residential zone and so can hardly be used to deliver a commercial buffer.

We do not see the need to specifically exclude the few sensitive uses in the Commercial 2 Zone by way of a specific exclusions clause. To our mind this is coming close to trying to amend a standard zone in the VPP. For good or ill the Commercial 2 Zone is drafted as it is. There is clear policy support in the SPPF and MSS to refuse a permit for a sensitive use in this area.

We do not support the spot rezoning of individual properties. This is not accepted planning practice and would be contrary to policy.

(iii) Conclusion

We conclude:

The proposed zoning changes to Commercial and Mixed Use Zones are appropriate.

4.3 Public Park and Recreation Zone

The Amendment seeks to rezone VicTrack owned the land along the Moonee Ponds Creek to Public Park and Recreation Zone (PPRZ). The land is currently within the Industrial 1 Zone. It is indistinguishable from adjoining private land.

(i) Evidence and submissions

Mr Townsend for the Council submitted that:

As it is not possible to rezone land in private ownership to PPRZ only the land along the Moonee Ponds Creek which is in public ownership has been rezoned. The City of Melbourne will prepare a master plan for this land to:

- *revitalise the Moonee Ponds Creek environs as a recreational and environmental corridor; and*
- *provide improved pedestrian and cycle connections between the northern suburbs, E-Gate, Docklands and the CBD.*

Mr Cicero for VicTrack noted that the two parcels of VicTrack land measure 10,719 square metres. Since VicTrack is a self-funded statutory corporation he confirmed the land is not Crown Land and that VicTrack:

... cannot gift land. Government Land Monitor Guidelines stipulate that public land cannot be sold at less than the market value as determined by the Valuer General.

If it was rezoned to PPRZ the Council could then seek to impose a Public Acquisition Overlay in circumstances where the value of the land would have significantly been impacted by the rezoning.

Mr Cicero went on to examine the purposes of the Public Use Zone and submitted that if there was to be a change in zone to a public land zone, “it ought to be PUZ4”. He said:

However, the position of VicTrack is that if there is to be a change in zone, it should be to the Mixed Use Zone (MUZ) ... the same zone as the land immediately to the west of its land holding.

Mr Cicero made reference to *Planning Practice Note No 2 (June 2015): Public land Zones*, quoting the test for considering whether a public land zone is appropriate. He submitted that the northern parcel which is developed with relatively recently constructed buildings on land deemed in 2011 to be surplus does not warrant any public land zone:

In relation to the balance of its holdings, VicTrack does not need any level of flexibility protection or exemption, different from the surrounding zone provisions.

(ii) Discussion

Council’s approach in this matter is wrongheaded. We can only imagine what Council’s approach would be if VicTrack sought to rezone some Council land for transport purposes but did not seek to acquire it. There is no generic pool of ‘government land’ that makes land owned by a state government entity available for municipal purposes without acquisition. There has been the case for at least 25 years, and probably much longer.

If the City of Melbourne wants the land for open space it will need to acquire it. If the land is strategically important Council can apply a Public Acquisition Overlay. Until Council buys the land or applies a PAO the land should be treated the same as adjoining land.

A rezoning to Mixed Use Zone was not exhibited, and so caution must be taken in what changes can be made to the Amendment. For this land there is a strong case for rezoning to Mixed Use:

- there is clear policy support for the rezoning
- it would be an inconsistent application of the strategic work not to rezone the land
- the land is indistinguishable from the adjoining private land
- leaving the land in the Industrial 1 Zone would create two site-specific zones based only on ownership
- it would be inequitable to VicTrack not to rezone the land
- there is no credible alternative zone for the land, unless it is purchased by Council.

(iii) Conclusion

We recommend the Amendment be changed to:

Apply the Mixed Use Zone (and overlay controls) to VicTrack owned land.

We recommend Council:

Commence negotiations with VicTrack for the purchase of their land.

5 DDO60 Built form

5.1 Threshold issues

5.1.1 Further changes to DDO60

During the Hearing Council suggested a number of changes to DDO60 including requirements that:

Public and Private Open Space

Public open space must receive a minimum of 3 hours of direct sunlight between 9am and 3pm during mid-winter and at least 5 hours of direct sunlight between 9am and 3pm on September 22. Where this minimum is not currently met, the development must not create additional overshadowing of the open space.

Development must include pervious area, which is as large as possible but no less than 30 per cent of the site area.

These are significant changes and should have been considered in the original drafting. Open space is a critical part of the planning any area and one would expect it to have been considered as part of preparing DDO60. The 'pervious area' requirement was part of material in the *Structure Plan*, and so again, ought to have been considered.

We conclude:

A number of the changes proposed by Council at the hearing would have far reaching ramifications for some land owners and if they were to be pursued should only be done so through a transparent process with notice to all affected parties.

5.1.2 Mandatory or discretionary requirements

(i) Policy context of the issue

Mandatory controls in Victorian Planning Schemes are an exception. They need to be explicitly justified.

Practice Note 59: The role of mandatory provisions in planning schemes (September 2010) observes:

Planning schemes based on the Victoria Planning Provisions (VPP) are predominantly performance based. Planning schemes specify the objective that needs to be achieved and provide a degree of freedom on how it is achieved. Mandatory provisions in the VPP are the exception. The VPP process is primarily based on the principle that there should be discretion for most developments and that applications are to be tested against objectives and performance outcomes rather than merely prescriptive mandatory requirements.

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

This practice note sets out criteria that can be used to decide whether mandatory provisions may be appropriate:

- *Is the mandatory provision strategically supported?*
 - *Does the proposed measure have a sound strategic basis having regard to the planning objective to be achieved and the planning policy framework generally?*
 - *Does the proposed mandatory measure clearly implement a policy or achieve an objective rather than just being a prescriptive tool?*
- *Is the mandatory provision appropriate to the majority of proposals?*
 - *Has the scope of the proposed mandatory provision been carefully considered to ensure that it will be appropriate in the vast majority of cases to limit the unnecessary loss of the flexibility and opportunity available in a performance based system?*
 - *Will the considered application of planning policy to be implemented by the proposed measure lead to the outcome prescribed by the measure in the vast majority of cases or is it merely one of a number of possible outcomes?*
- *Does the mandatory provision provide for the preferred outcome?*
 - *Does a proposed mandatory provision resolve divergent opinions within the community as to a preferred outcome when a consistent outcome is necessary?*
 - *Does a proposed mandatory provision avoid the risk of adverse outcomes in circumstances where there is likely to be constant pressure for development inconsistent with planning policy?*
 - *Is there real evidence of development exceeding the proposed control?*
- *Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?*
 - *Will the majority of proposals not in accordance with the requirements fail to meet the objectives of the control?*
 - *Will the majority of proposals not in accordance with the requirements lead to unacceptable planning outcomes?*
 - *Will the mandatory provision reduce administrative costs?*
 - *Will the proposed mandatory provision reduce costs imposed on councils, applicants and the community to the extent that it significantly outweighs the benefit of a performance based provision?*

(ii) Evidence and submissions

Mr Townsend submitted that:

The proposed overall building heights are proposed to be mandatory in that a permit cannot be granted to increase the heights by more than 30 per cent of the preferred maximum building heights nominated in the table in DDO60.

Any increase above the nominated preferred height must be visually recessive and must not increase shadowing above that of the preferred height.

As Amendment C190 will enable infill development on a large scale the contextual issues are important. It is for this reason that height limits should be set. The proposed heights are generous and provide an envelope in which exemplary buildings are more likely.

Mr Townsend submitted that:

... the depth of analysis underpinning the Amendment and the cohesion of its constituent parts comprises an exception contemplated by Practice Note 59.

Mr Townsend went on to argue that the proposed mandatory height controls will assist in the even spread of development across the Arden–Macaulay precinct:

If these larger sites are able to draw too much oxygen from other parts of the precinct, it may mean that parts remain undeveloped for many years.

Mr Townsend submitted that Practice Note 59 contemplates the use of mandatory building controls where there are strong and consistent character themes:

... there will be circumstances where a mandatory provision will provide certainty and ensure a preferable and efficient outcome. Although these circumstances cannot be common practice, they may include areas of high heritage value, strong and consistent character themes, or sensitive environmental locations such as along the coast.

Mr Townsend submitted that there is nothing to suggest that this is limited to circumstances in which character has already been established. He said:

Rather, it is submitted that this reference to strong and consistent character themes can readily be applied to a situation such as in Arden–Macaulay in which the Planning Authority has articulated a clear and cohesive vision for an area of urban renewal.

Mr Townsend went on to list the following benefits:

- a) helping ensure that development matches the supply of open space and other infrastructure that can be reasonably be provided by the planning authority*
- b) helping achieve the high standard of amenity foreshadowed in the Structure Plan by preventing overshadowing of windows, open space, and the public realm*
- c) helping spread development over the entirety of the Arden–Macaulay area rather than concentrated in a smaller number of larger sites.*

Mr Townsend detailed numerous examples in the CBD and in West Melbourne where discretionary controls had been ineffective in achieving the built form desired by the planning authority:

Council's experience with discretionary height controls has not always been a happy one. Generally in the more stable parts of the municipality, applicants consider the discretionary height as a starting point and approvals are within two to three storeys of the preferred height. In areas with large land parcels such as West Melbourne or where there is development pressure such as close to the Queen Victoria Markets, the discretionary heights are often largely ignored.

Ms Hodyl in expert evidence submitted that mandatory controls for street walls were essential because:

... the quality of the public realm is foremost determined by the quality of the street.

She illustrated the subsequent loss of sky views if the 1:1 ratio is exceeded. Ms Hodyl went on to demonstrate compromised solar access to lower building levels and the reduction of natural light within buildings.

Mr Czarny considered that:

While the basis of the VPPs has by no means changed, I believe that the thinking in relation to the application of mandatory controls has shifted somewhat.

Mr Czarny noted the adoption of mandatory height controls in the Neighbourhood Residential Zone to protect neighbourhood character and in specific locations in the General Residential Zone in relation to height, number of storeys and related measures. Selected Neighbourhood Activity Centres in metropolitan Melbourne have mandatory height controls to achieve a balance between the achievement of moderate change while reinforcing prevailing character and image attributes. He also referred to Fishermans Bend, which has interim mandatory height controls, and the Bourke Hill precinct in the CBD, and said:

As long as the proposed (mandatory) parameters are generous enough to accommodate capacity, I believe that there is real benefit in providing confidence to landowners, stakeholders and decision-makers. This is my view preferential to an adversarial system of assessment.

While the Structure Plan seeks a combination of discretionary and mandatory measures (and some flexibility with respect to preferred and absolute heights) it is important ... that there should be locations where greater flexibility and scale may be realised.

Some submitters opposed the discretionary nature of the height controls and would like to see these heights being made mandatory. They feel that six storeys (and most likely eight given the discretion) is too high in already established residential areas of Kensington. They say there is no detail on how the discretionary heights of an additional 30 per cent will be handled.

Other submitters opposed mandatory planning controls because they limit flexibility needed for good design.

Ms Oddie submitted that the preferred maximum heights and setbacks and the 30 per cent allowance should be abandoned in favour of lower and more mandatory built form controls, particularly at the interfaces with existing residential areas and public open spaces, and proposed open spaces, such as the Moonee Ponds Creek Corridor.

The Kensington Association was strongly in support of mandatory height controls in order to provide certainty to existing residents.

Mr Little for B A Glen Investments and Haines Street Holdings Pty Ltd strongly opposed the mandatory street wall and building height controls for their property and across the Arden–Macaulay precinct.

Mandatory built form controls of this nature limit the redevelopment of the urban renewal area, and are submitted to be contrary to Plan Melbourne and the appropriate Planning Practice Note 59.

Ms Schroor for Chubb Properties Pty Ltd submitted that:

...the Flemington Bridge local centre is a good example of an area where mandatory controls are inappropriate. This area has a diverse site and urban context. The size of the land (5,620 square metres) provides an excellent opportunity for a wholly integrated design approach ... it is unlikely that a traditional 'block building' typology would be appropriate.

Mr Peake submitted that mandatory height and setback controls are inappropriate in what is generally a brownfield urban renewal precinct. In support of his position he cited the panel report for Amendment C171 – Southbank *Structure Plan*, which recommended that the proposed mandatory controls not be included in that Amendment:

It is submitted that the built form outcome should be supported by policy but that the heights both in terms of street walls and building height should be discretionary.

Mr Peake went on to add that should the panel decide to recommend mandatory height limits then there need to be exceptions for parapets, antennas, lift overruns, structure associated with rooftop open space, plant and equipment and architectural features.

(iii) Discussion

There are numerous aspects of the controls that are drafted to imply a mandatory control. In the version tendered in its closing submission Council proposed mandatory controls for:

- maximum building height
- maximum street wall height
- precise street wall height in some area
- active street frontage
- open space overshadowing
- impervious areas.

There has been no explicit justification for a number of the mandatory aspects proposed by Council and some may simply be the result of poor drafting; it can make no sense to require

streets walls to be a precise height, and not say 1 metre lower, in the Arden–Macaulay context.

There is no doubt that mandatory provisions are the exception rather than the rule in the Victorian planning system, but this does not mean there is no place for them. Practice Note 59 sets out the grounds for when they are appropriate.

The proposed mandatory controls relating to overshadowing of open space seem to be a knee jerk reaction to some recent planning applications. We have no difficulty with controls to protect sunlight to open space, but this should have been considered as part of the *Structure Plan*. Council cannot have it both ways: they cannot claim on the one hand that the depth of analysis justifies mandatory controls, but on the other seek to introduce late changes to the Amendment in relation to overshadowing open space implying that this factor had been overlooked in the analysis.

Two aspects of the controls have been subject to significant scrutiny: overall building height and street wall height. These are the two aspects that are unambiguously mandatory in the proposed DDO.

We note that other Panels have not accepted mandatory controls where they apply to urban renewal areas in the Capital City Zone. We also note that mandatory controls have been applied in a number of schemes notably a DDO in Port Phillip that applies mandatory controls to achieve a consistent street wall.

We think that this part of the Arden–Macaulay renewal area can justify some mandatory controls in relation to overall height and street wall height in some locations. A detailed case was not presented for why other aspects of the Amendment justified mandatory controls and our preliminary assessment against the Practice Note indicates that they are not likely to be justified.

We note the number of examples in other parts of the City of Melbourne of buildings exceeding discretionary height control, and recognise that in some settings in Melbourne if height controls are to mean anything over the longer term they may need to contain mandatory component.

We have recommended mandatory provisions for overall height and street wall height and a detailed assessment against the Practice Note is presented as part of the discussion on the controls themselves.

(iv) Conclusion

We conclude:

Mandatory controls have not been justified for:

- **Active street frontage**
- **Open space overshadowing**
- **Impervious areas.**

5.1.3 Clearly defined controls

A number of controls have been drafted with reference to an existing street width and 45 degree angle. This might be acceptable as a design principle, but it presents a number of obvious issues in its practical application:

- a designer will need to determine the street width, when this could simply be specified in the control
- it is not clear whether the 45 degree angle shown in the diagrams is at the same level as the subject site or the level of the site opposite.

Interface controls have been constructed with reference to a line of line of sight from an unspecified location in adjoining properties.

We recommend:

Amend DDO60 as shown in Appendix C.

Table 1 shows the various controls and our calculations of what they might mean in practice.

The lack of clear specification as to what the controls mean in actual setbacks in the control is significant. These controls should really be rejected solely on the basis that they do not specify with any precision what requirement a developer is supposed to meet. On face value they require a designer (and then presumably the assessing planner) to survey the private spaces of adjoining properties (building location and presumably height).

This rear line of site control depends on knowing where the rear of an adjoining dwelling is, and presumably its natural ground level. As exhibited the controls will be difficult to apply in practice and the precise controls will change over time if adjoining dwellings construct or demolish buildings.

Ms Hodyl recommended a specific measurement of 6 metres from the rear boundary of low-scale residential development from which the view line should be generated. No compelling evidence was presented as to how this figure was delivered.

Council adopted Ms Hodyl's suggestion in its closing submission and while this would make the relevant setback angle more or less precisely defined, it still leaves the basic geometry calculations to be carried out for each application.

As exhibited, the controls will require measurement and calculations each time they are to be applied. If they were to proceed, they would need be reduced to a conventional expression of height and set back that refers only the subject site making the application of the controls clear and not subject to variation over time.

(i) Conclusion

DDO60 should be changed to:

Express any proposed setbacks in a clearly defined way that does not require on-site measurement to know what controls apply.

We recommend:

Amend DDO60 as shown in Appendix C.

Table 1: Rear and side setback controls

Diagram from controls	Panel interpretation
	<p>Diagram 4 Should be set back 1.60 metres for every metre of height above 7.2 metres. An angle of 32 degrees</p>
	<p>Diagram 5 Should be set back 1.60 metres for every metre of height above 5.33 metres. An angle of 32 degrees</p>
	<p>Diagram 10 Should be set back 1 metre for every metre of height above 4 metres up to 9 metres and then 1.89 metres for every metre of height above 9 metres. An angle of 45 degrees and then 28 degrees</p>
	<p>Diagram 6 (Assumes property is 6 m wide) Should be set back 1.07 metres for every metre of height above 7.2 metres An angle of 43 degrees</p>
	<p>Diagram 7 (Assumes property is 6 m wide, lane is 3 metres wide) Should be set back 1.60 metres for every metre of height above 7.2 metres An angle of 32 degrees</p>

5.1.4 Storeys or metres

(i) Evidence and Submissions

There was considerable discussion at the hearing about how the controls expressed in metres translated into a buildable number of storeys.

Mr Peake, for Vision Australia, noted the 1:1 relationship for street wall heights did not work for streets 15 metres in width. He submitted that heights should be expressed as a number of storeys:

... being generally 6 to 8 storeys in areas where the preferred height is 20 metres.

In [areas with 15 mete wide streets] the height control should be 5 storeys (if the panel decides to recommend mandatory height limits).

(ii) Discussion

There is considerable debate about whether heights should be expressed in metres or storeys. Part of the debate stems from the fact that a different floor to ceiling height might be appropriate in different circumstances, depending on use. Where protection of views or the creation of a consistent built edge is required then specification in metres is appropriate. When the issue is one of pedestrian-friendliness or maintaining low scale development, then perhaps specification in storeys is appropriate. In some cases, it may be necessary to specify both.

The use of storeys to give the community and designers a visual impression of the height of development that is promoted in each sub-precinct is appropriate.

These height levels are proposed based on character and broad strategic issues, as opposed, to say, the Shrine vista controls that are set on a more precise basis of a view line. Given that the controls are aimed primarily at achieving a character outcome we believe the controls could be expressed in storeys.

Storey is defined in the VPP:

That part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine.

A control expressed in storeys needs to be careful that it does not count basements in the permitted height and allows for service floors that are not habitable. We think any reasonable reading of the controls will allow for roof structures and architectural features above the top floor but this could be made clear in the controls. Setback controls need to be expressed in metres simply because one cannot setback a building a number of storeys.

(iii) Conclusion

DDO60 should be changed to:

Express the proposed heights in storeys.

We recommend:

Amend DDO60 as shown in Appendix C.

5.1.5 Structure of DDO60

DDO60 combines overall height, street wall, interface setbacks and built form outcomes in one table.

It is not clear from the controls where the various street wall controls apply. The application of the controls is presented verbally under the different areas of DDO60. This means there is no 'overall picture' of what is trying to be achieved.

At our request Council produced a plan (Document 4) that mapped where the various street wall controls apply. We think that this plan could form the basis of the application of controls without the need to list individual streets.

Separating out the various components of DDO60 will make it easier to use.

By restructuring DDO60, the number of areas identified can be rationalised and the two components of Area 6 placed in their own defined area.

DDO60 should be changed to:

Present built form outcomes and height controls in separate tables.

Present street wall and interface control by reference to a plan.

We recommend:

Amend the Map of DDO60 to rationalise the number and extent of areas:

- **A1 to replace Area 2, Area 4**
- **A2 to replace Area 8**
- **A3 to replace Area 5**
- **A4 to replace Area 3, Area 12, Area 13**
- **A5 to replace Area 7**
- **A6 to replace Area 6 east of Boundary Road**
- **A7 to replace Area 6 west of Boundary Road**
- **A8 to replace Area 1, Area 9, Area 10, Area 11.**

Amend DDO60 as shown in Appendix C.

5.1.6 Other technical issues

Council proposed introducing text relating to the definition of height:

Building height is the vertical distance between the footpath or, if no footpath, the natural surface level at the centre of the site frontage and the highest point of the building, with the exception of architectural features and building services.

We do not see the need to specify where height is measured from. Height is defined in the VPP and there is no need to specify a point from which it is measured. For the land between Shiel Street and Macaulay Road this definition would undermine the explicit justification for

the height in this area that the land falls away from the frontage. There is a need to exclude architectural features and building services.

In closing Council sought to add a specific reference to the *Structure Plan* and Housing Strategy in the text of DDO60:

... otherwise achieves exemplary compliance with the Objectives and Strategies of the Structure Plan, including the provision of: affordable housing (as defined by the City of Melbourne's housing strategy); public open space beyond minimum statutory requirements; and, through block connections

This drafting is contrary to the Practice Note on Incorporated and Reference Documents, and contrary to consistent advice from panels over many years that references to external documents in policy and controls should be avoided.

A number of requirements in DDO60 repeat other aspects of the Planning Scheme including material found in Clause: 22.17 Urban Design Outside the Capital City Zone.

We conclude:

There is no need to specify a point from which height is measured.

References to external documents should be avoided unless they are incorporated.

DDO60 should be changed to:

Remove requirements that are covered in other parts of the planning scheme.

We recommend:

Amend DDO60 as shown in Appendix C.

5.2 Objectives and built form outcomes

5.2.1 Objectives

(i) Evidence and Submissions

Ms Hodyl used recent permit applications in the Haines Streets to highlight what she said were some limitations of the Amendment as currently worded. These included:

- *Issues with the height, mass and insufficient setbacks from side and rear boundaries which compromise the internal amenity of apartments, particularly at lower floors.*
- *Upper level street setbacks that are not visually recessive, particularly on streets adjacent to low scale residential areas.*
- *Inappropriate levels of internal amenity for future occupants of proposed developments and potentially constraining the delivery (of) good levels of internal apartment amenity in the future development of adjacent sites.*

Ms Hodyl recommended additional objectives to DDO60:

- *To deliver building separation that ensures daylight and sunlight penetrate to the lower levels of existing and future residential development.*

- *To ensure that proposed built form elements taller than the street wall height are visually recessive and do not contribute to visual bulk.*

Mr Peake queried how this second objective could be assessed.

Mr Czarny recommended that the design objectives be reviewed to ensure they are more directly tied to the *Structure Plan*. As an example he cited the lack of reference to public open spaces:

Several of the objectives are of a generic nature and have the capacity to duplicate existing local policy.

Mr Sheppard considered that some of the objectives to be inappropriately specific, unnecessarily reducing the flexibility for creative design responses. In particular the specification of:

- *6-12 storey development*
- *smaller vertical sections in wide frontages (which is anyway repeated more appropriately as a discretionary requirement in clause 2.0)*
- *A visual link between the public realm and the first five levels of a building*

These prescriptions are only one way of achieving the objective and should not be specified in clause 1.0.

Mr Milner submitted that the design objectives as they reference to heritage should be amended to delete reference to new development respecting the character, form, massing and scale of heritage buildings and be replaced with an emphasis upon integration of land use, development and movements networks.

Residents About Integrated Development @ 3051 Inc (RAID 3051) supported urban consolidation but submitted that the preferred model for built form should be 4 to 6 storeys (nominally 12 to 20 metres high). Development in excess of 6 storeys should be confined to limited areas and rejected out of hand when in close proximity to existing low-rise areas and parks. In particular, the group detailed the negative impact of overshadowing from current development applications in Haines Street, which the group submits are consistent with what is proposed in the *Structure Plan*.

Mr Govenlock in expert evidence recommended a minor modification to the last Design Objective in relation visual links with the public realm to provide greater clarity.

(ii) Discussion

The objectives are in some ways the most fundamental aspect of the DOO; they set out what the controls are intended to achieve.

We do not think it is appropriate to contemplate wholesale changes to the objectives, or introduce objectives dealing with new issues, even if these were matters addressed in the *Structure Plan*. In preparing the Amendment, Council had every opportunity to cross check its drafting against its strategic documents, and major changes to such a fundamental part of the Amendment should not be made.

Only refinements to the exhibited controls should be contemplated.

The first objective reads:

To ensure the preferred character of Arden–Macaulay develops as a compact, high density, mid-rise, walkable and high amenity neighbourhood.

We agree with qualifying the preferred character as a predominately mid-rise neighbourhood. As discussed in Section 2.4 we think that some higher buildings in some locations may be acceptable. A separate objective should be added to make this clear and to reflect Council’s current position that some sites could accommodate higher buildings if a school or additional open space is provided. The first objective says “ensure the preferred character of Arden–Macaulay develops as”, this could simply be replaced with ‘create’ for clarity.

The reference to 6 – 12 storeys in the second objective could be made in the first objective when mid-rise is first mentioned.

We do not agree with Council’s suggestion that the second objective should refer to development stepping down to Moonee Ponds Creek. The *Structure Plan* does not present this as an approach to heights.

The third objective refers to the interface with existing area in terms of scale and context, and amenity. We think these are two separate issues: scale and context are important on the interface streets and amenity is important where development backs onto existing residential development. These separate issues would be clearer if amenity was addressed in a separate objective.

The modified objectives would read:

To create ~~ensure the preferred character of Arden–Macaulay develops as~~ a compact, high density, predominantly mid-rise, 6 – 12 storey, walkable and high amenity neighbourhood.

To provide for higher development that delivers identified public benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.

To provide for ~~mid-rise 6 – 12 storey~~ development, that steps ~~stepping~~ down at the interface with the low scale surrounding established residential neighbourhoods.

To ensure the ~~scale~~, height and setbacks of new development ~~buildings~~ at the interface with ~~the surrounding established~~ existing residential neighbourhoods is compatible with the ~~scale~~, amenity ~~and context~~ of these areas.

To ~~improve the~~ provide a highly walkable neighbourhood ~~walkability by introducing a fine grain network of laneways/through links, which is integrated with the pattern of development of adjacent areas, maximises permeability for pedestrian movement and accommodates vehicular and service access to developments.~~

To create urban streetscapes ~~within the area~~ that are defined by a generally consistent plane of building facades that collectively ~~enclose the sides of the~~

~~streetscapes whilst~~ but ~~allowing good levels of daylight and sunlight to penetrate to the streets and to lower building levels.~~

~~To create streetscapes that have a high level of pedestrian comfort in terms of their scale, access to sunlight, daylight and sky views.~~

To ensure the scale, height and setback of new development on existing residential streets is compatible with the scale and context of these streets.

We agree with Council that the objective about walkability can be shortened as explicit guidance is included in the body of DDO60 about what is to be achieved with the laneways.

~~To provide a highly walkable the neighbourhood walkability by introducing a fine grain network of laneways/through links, which is integrated with the pattern of development of adjacent areas, maximises permeability for pedestrian movement and accommodates vehicular and service access to developments.~~

We also agree that the objective on passive surveillance is too specific and should be changed to:

~~To promote a visual link of the public realm with the first five levels of the building and facilitate the passive surveillance of the public realm.~~

Though the controls require a setback above the street edge there is no specific objective on what is trying to be achieved. A specific objective should be added:

To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.

The quality of the internal amenity of apartments is an issue across all of Melbourne and needs to be tackled systematically, not by tacking on objectives to a local DDO on an opportunistic basis.

(iii) Conclusion

DDO60 should be changed to:

Update the objectives.

We recommend:

Amend DDO60 as shown in Appendix C.

5.2.2 Built form outcomes

The built form outcomes of each precinct were not subject to much contentious discussion at the Hearing and are generally consistent with the controls and *Structure Plan*.

Examining all the outcomes together reveals variations between different areas that seem to have no strategic basis. For example:

- Area 3* *A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.*
- Area 9* *Deliver a scale of development that provides street definition and a high level of pedestrian amenity, having regard to access to sunlight, appropriate sky views and a pedestrian friendly scale.*
- Area 10* *Deliver a scale of development that provides street definition and a very high level of pedestrian amenity suitable for a local activity centre, including access to sunlight to ground floor, sky views and a pedestrian friendly scale.*

These outcomes have several minor variations:

- 'having regard to' in some areas as opposed to 'including' in others
- 'access to sunlight' in some areas as opposed to 'access to sunlight to ground floors' in others
- 'high level of pedestrian amenity' as opposed to 'very high level of pedestrian amenity'
- 'sky views' in some as opposed to 'appropriate sky views' in others.

We think that the minor variations should be removed and the outcomes edited for clarity. Table 2 shows these changes.

Redundant objectives relating to open space and laneways should also be deleted.

In Area 7, Mr Czarny recommended additional built form outcomes be specified in DDO60 to address the type of built form outcomes that are preferred on the perimeter of the Office of Housing Estate. We agree with this.

DDO60 should be changed to:

Update the built form outcomes.

We recommend:

Amend DDO60 as shown in Appendix C.

(i) Evidence and submissions

Table 2: Panel changes to built form outcomes

Revised Area	Exhibited Area	Built form outcomes Note: Changes to minor variations between areas are not tracked.
A1	Area 2, Area 4	<p>Deliver a scale of development that complements the established low-scale residential area</p> <p>Protect the amenity of existing residential areas to the west and north/south of Little Hardiman Street by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
	Area 4	Deliver a scale of development that responds appropriately to the existing context.
A2	Area 8	Set back of higher building form along Melrose Street to deliver scale of development that responds appropriately to the existing context.
A3	Area 5	<p><u>Deliver</u> a scale of development that provides street definition as well as <u>and</u> a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
A4, A5	Area 3, Area 7, Area 12, Area 13	<p><u>Deliver</u> a scale of development that provides street definition as well as <u>and</u> a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential <u>development</u> that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Solar access is maintained to ground floors on western side of Thompson Street and southern side of Scarborough Place.</p> <p><u>Deliver the reintegration of Office of Housing estates into the surrounding urban fabric.</u></p>
A6, A7	Area 6,	<p><u>Deliver</u> a scale of development that provides street definition as well as <u>and</u> a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p><u>Provide limited opportunities for taller buildings that deliver significant public benefit outcomes.</u></p>
A8	Area 1, Area 9, Area 10, Area 11	<p><u>Deliver</u> a scale of development that provides street definition as well as <u>and</u> a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential <u>development</u> that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Provide increased density <u>in local centres compared to</u> relation to surrounding development within local centres.</p>
	Area 1	Protect the amenity of existing and future development to the south by avoiding unreasonable overlooking and overshadowing.
	Area 10	Development does not unreasonably overshadow public open space.
	All areas	Ensures new through connections and existing laneways have appropriate levels of access to daylight and sunlight.

5.3 Overall height

(i) What are the issues

Submissions raised concerns about:

- the overall height
- the proposal for a 30 per cent bonus
- the proposal for unlimited height in certain circumstances
- mandatory controls.

(ii) Evidence and submissions

The overall height

The Amendment sets up four height levels:

- 10.5 metres
- 14 metres
- 20 metres
- 28/30 metres.

A number of submitters considered that the proposed 20m and 30m heights are excessive and out of context with established Kensington neighbourhood. They oppose uniform height limits over wide areas. A more appropriate approach they say would be buildings with a variety of heights, varied street set-backs and other measures to produce an articulated and interesting built form.

The Kensington Association submitted:

Increases in the height of the site above 20 metres would be vigorously opposed.

The proposal for a 30 per cent bonus

The exhibited version specified a 'maximum building height' and set the requirement:

A permit cannot be granted to increase the maximum building height by more than 30 per cent of the maximum building height specified.

Ms Hodyl explained that the introduction of a 30 per cent cap on additional height on the preferred maximum height was introduced in order to meet one of primary objectives of the *Structure Plan* to ensure the development of a mid-rise precinct.

Without clarification on the extent of discretion suitable to achieve a mid-rise suburb, development proposals that significantly exceeded the preferred height controls could be considered.

Mr Czarny recommended that we consider the designation of selected key strategic development sites in Areas 3 and 6 of DDO60 where marginal increases in scale above the 30 per cent cap may be acceptable, "subject to additional design objectives and parameters". He said:

This is as much as acknowledged in the Council's suggestion in Area 6 for greater capacity on a site that can accommodate a Government School.

The Kensington Association submitted that the 30 per cent allowance in height is acceptable in non-interfacing areas; however, it sought a more subtle and lower approach where new development interfaces with existing residential properties.

Criteria to be used in considering a 30 per cent increase in building heights

The exhibited version of DDO60 did not set criteria around accessing the 30 per cent additional height. Council's post exhibition version of DDO60 stated:

A permit cannot be granted to increase the preferred maximum building height by more than 30 per cent. A permit can only be granted to increase the preferred maximum building height if it can be demonstrated that the development:

- (1) provides a demonstrable benefit to the broader community beyond the requirements in this scheme (for example but not limited to a public open space contribution greater than that prescribed, affordable housing, etc.)*
- (2) will not increase overshadowing of the public realm between 11am and 2pm at the equinox, and*
- (3) the upper storeys will be visually recessive when viewed from the adjoining public realm and private open space of adjoining low scale residential development.*

In exercising this discretion Ms Hodyl recommended that the definition of affordable housing be clarified by reference to the City of Melbourne Housing Strategy.

Mr Little for B A Glen Investments queried the criteria to be used in considering a 30 per cent increase in building heights. He submitted that the requirement for a demonstrating community benefit is not in the *Structure Plan*:

... and therefore there is a lack of strategic analysis to underpin what demonstrated community benefit is required and how it should be provided.

He said this lack of clarity:

... creates confusion and does not assist the decision making process.

Mr Little described it as a:

... pseudo development contribution.

Mr Chamberlain on behalf of the owners of 89-96 Stubbs Street submitted that the proposed 30 per cent limit is not supported as the criteria set up a de facto mandatory control that has not been substantiated.

Mr Chamberlain submitted that the specific tests under the criteria are flawed. He argued that the post-exhibition change which introduced 'demonstrable benefit' has no logical strategic basis. Mr Chamberlain went onto challenge the achievability of affordable housing in the absence of some form of national affordable housing scheme and applicability of the additional open space contribution, which would only work in areas with an identified need for public open space.

The proposal for unlimited height in certain circumstances

Mr Sheppard considered that the two EG Funds sites were Strategic Redevelopment Sites appropriate for large residential developments in accordance with clause 16.03-3. He submitted that the large areas also created the opportunity for taller development than envisaged by DDO60 because the sites are more able to contain the impacts of such development within the property.

Mr Milner, in expert evidence, in relation to a large site abutting CityLink between Sutton Street and Mark Street, noted that the area between Boundary Road and CityLink differed in strategic context from the remainder of the *Structure Plan* area. The strategic context of the height provisions in the *Structure Plan*, he submitted, has been influenced by the principle “to integrate new development with the surrounding character”. He argued that the urban context this corridor of land was different. It is devoid of small scale housing and was characterised by an urban context of free standing structures between 14 and 20 storeys, mostly Office of Housing towers.

Mr Milner suggested that DDO60 provisions should be amended to:

- *Encourage buildings that make a positive and considered response to the entrance of the capital city. This might take the form of taller structures.*
- *Vary the upper level setback above the street wall to 5 metres for land or developments that abut City Link.*
- *Provide for medium to higher rise development between CityLink and Boundary Road.*

Given the site area of 3,986 square metres for 89-96 Stubbs Street, Mr Chamberlain argued for ‘exceptional circumstances’ in relation to building height quoting Mr Czarny’s evidence.

The site is large enough to accommodate additional height without causing additional impacts – then quite simply this ought to be enough.

Mr O’Farrell submitted that this height could be more flexible and submitted that the following tests would be appropriate in considering additional height:

A permit can be granted to increase the preferred maximum building height by more than 30 per cent if the development responds appropriately to the objectives of this Schedule and any of the following can be demonstrated:

- *that the development provides a demonstrable benefit to the community (for example but not limited to a public open space contribution greater than that prescribed, provision of affordable housing, provision of other community infrastructure, architectural excellence, heritage restoration etc); or*
- *That the development is located on a site with an area greater than 1 hectare and the site does not adjoin the low scale surrounding established neighbourhoods; or*
- *That the development is located on a site with an interface to the CityLink viaduct and does not adjoin the low scale surrounding established neighbourhoods; or*

- *that the development respects the public realm and provides for reasonable access to sunlight throughout the year; or*
- *The development incorporates a high level of ESD;*
- *that the upper storeys of the development will be appropriately recessive to the context of the site.*

Buildings or works at street level should be built to street edge to provide a clearly delineated and fronted public realm.

(iii) Discussion

We have previously concluded that a built form vision of a mid-rise area that relates to the existing residential areas is a sound basis for development of the area.

As stated above, the Amendment sets up four height levels:

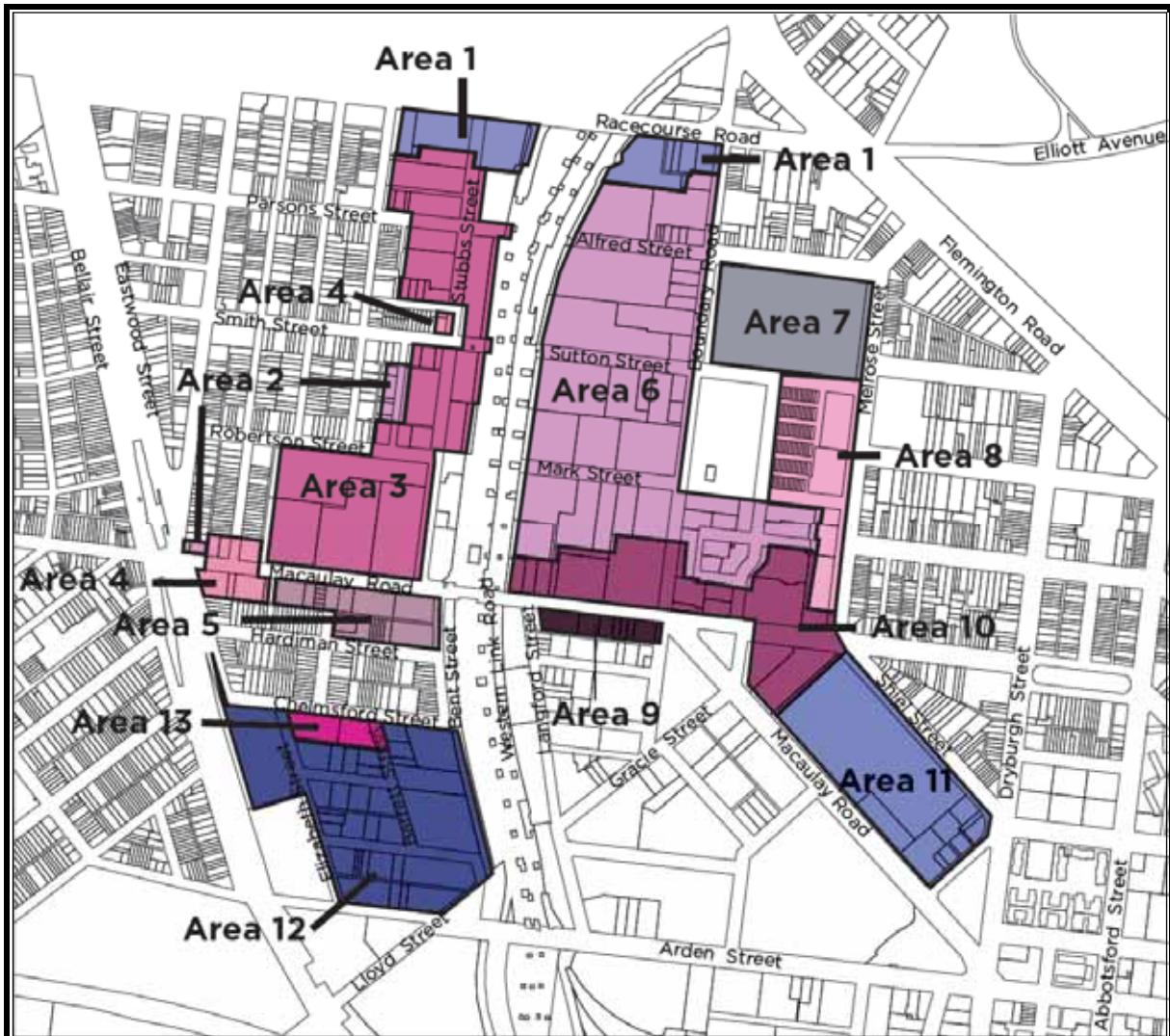
- 10.5 metres
- 14 metres
- 20 metres
- 28/30 metres.

Area 6 west of Boundary Road has a preferred maximum height limit of 28 metres; areas 11 and 10 set a preferred maximum height of 30 metres. There appears to be no justification for setting a height difference of 2 metres (about half a storey) between these areas. The 30 per cent increase adds to range of different height levels specified. Table 3 shows the heights.

Table 3: Proposed heights post-exhibition

Area	Preferred maximum height	Preferred height plus 30 per cent
Area 2, Area 4	10.5 metres	14 metres
Area 8, Area 13	14 metres	18.2 metres
Area 3, Area 5, Area 7, Area 9, Area 12	20 metres	26 metres
Area 6 – All land east of Boundary Road	20 metres	26 metres – This does not apply if the development contains a school
Area 6 – All land west of Boundary Road	28 metres	36.4 metres – This does not apply if the development contains a school
Area 1, Area 10, Area 11	30 metres	39 metres

Figure 8: DDO areas



Accessing the 30 per cent additional height

We agree with submissions that DDO60 should not be used to extract de facto development contributions. We also have concerns about its potential use as a de facto method of 'inclusionary zoning'. Whether buildings should exceed the preferred maximum height should be assessed on built form issues. The controls that apply to all the sites should not be used to try to lever broader development contributions.

As set out in Section 2.4, we think Arden–Macaulay can be distinguished from other renewal areas that have a stronger relationship with the CBD and hence lend themselves to a higher built form and development controls that apply in to land covered by the Capital City Zone.

We accept the broad approach of setting controls for this renewal area that:

- Set a 'preferred height' such that development up to the 'preferred height' will be acceptable on character grounds (provided other requirements including street wall setbacks are met) and in keeping with the strategic vision for the area

- Allows development 30 per cent above the preferred height recognising that care needs to be taken to ensure that the character (and amenity) objectives are achieved and achievement of broader planning policy can balance the downsides (even though these may not be great) of building above the preferred height.

We think that the criteria for exceeding the preferred maximum height need to be clearly articulated and relate solely to the critical design issue the renewal area is likely to face:

- the broader need for renewal area to deliver community benefit
- design quality
- the quality of the public realm
- high quality pedestrian links where needed
- solar access to the public realm.

We accept that some of these issues are not clearly defined and will be the subject of debate in relation to individual projects. We think such debate is part and parcel of a discretionary system. What is important is the criteria provide incentives for increased design quality.

Development above the 30 per cent additional height

We agree that some sites could support higher development than the 30 per cent cap without undermining the built form vision. The difficulty is that if this development opportunity were taken on all such suitable sites then the overall vision for a mid-rise extension to the existing residential areas would be lost. While there are opportunities for a few higher buildings within the context of a mid-rise neighbourhood, there needs to be an effective way to limit the extent of such development. Such a limit is required to:

- avoid development at a density not supported by the infrastructure and traffic investigations carried out as part of the structure planning process
- avoid the development of too many taller structures such that the area is no longer mid-rise but takes on a higher characteristic
- foster orderly development setting clear expectation for all developers in the area about the nature and pace of change expected.

Rather than restrict all higher development, or try to precisely identify specific sites favouring one land owner over another, we accept the general proposition that the limited opportunities for the higher development should be delivered to developments that make a specific positive contribution to the area.

All development is ultimately a partnership between private investors, government who provide necessary infrastructure and local communities who absorb new development and new community members. In this case we see it reasonable to set controls such that limited opportunities for more intensive private development are delivered to development that contributes more to this collaborative effort by the delivery of a new local school or additional public open space.

Amendment C209 seeks to introduce a public open space contribution requirement under the schedule to Clause 52.01 Public Open Space Contributions and Subdivision, and a new local policy (Public Open Space Contributions) at Clause 22.54. The Amendment was adopted by Council on 26 May 2015 and has been submitted to the Minister for approval. The Amendment proposes a contribution of 7.06 per cent for the Arden–Macaulay area.

If open space is to be the test for exceeding the mandatory height limit than a precise figure should be set. This should be more than the proposed contribution under Clause 52.01. We think a contribution total of 10 per cent would be the minimum for a consideration of extra height based on an open space contribution.

Specific sites

We are also concerned about the detailed application of some controls and whether they are justified for the specific sites. A number of these were raised during the Hearing.

It is not clear why land in Area 9 has a 20 metre height limit applied:

- the land opposite has a 30 metre height limit
- the land is on the south side of Macaulay Road, and so overshadowing the footpath is not an issue
- the land will be zoned Commercial 1
- land to the south is currently zones industrial and will be part of the stage 2 renewal area.

We are concerned about applying mandatory limits to the Office of Housing towers. These areas do not relate well to the existing urban fabric and were built to a now defunct design philosophy. There is great scope to incorporate these areas back into the urban fabric of the area. This has been done on other estates.

Such a reincorporation should be driven by a master planning process that can balance all relevant considerations, and not be locked in at this stage.

The height of Area 13 appears to have been set to protect 'open space' that Council has not committed to acquiring. It should be treated the same as Area 12.

(iv) Should overall heights be mandatory

We have assessed whether mandatory controls are applicable in terms of the tests set out under the Practice Note.

Is the mandatory provision strategically supported?

The exhibited overall height controls flow from a comprehensive structure planning process, that has been adjusted in response to submissions. We note that the height in Area 6 of 28 metres is higher than that proposed in the *Structure Plan* and that an even higher form is contemplated again if a school is provided.

Is the mandatory provision appropriate to the majority of proposals?

The proposed mandatory overall height controls will be appropriate, except in the area between Boundary road and CityLink where a limited number of taller buildings could be supported. As discussed above, the controls anticipate that these limited opportunities will be dependent on the provision of public facilities.

The proposed mandatory street wall height controls will be appropriate in the vast majority of cases, noting however, that an exemption in height should be made for architectural features and building services.

Does the mandatory provision provide for the preferred outcome?

The controls will resolve divergent opinions and ensure that a coherent built form outcome is achieved over time that may not be achieved with a site by site approach.

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

While a limited number of taller buildings would be appropriate in certain areas if the majority of proposals did not in accord with the requirements this would lead to the unacceptable planning outcome of the area failing to deliver the agreed built form vision.

Will the mandatory provision reduce administrative costs?

The mandatory provisions will reduce administrative costs imposed on Council, applicants and the community.

(v) Conclusion

We have previously concluded building height should be expressed in storeys.

We think a height regime that sets a discretionary limit with its inherent flexibility, but with a higher mandatory would provide the right balance in this area between allowing for renewal while creating an attractive outcome that will integrate well with the existing areas. Table 4 shows recommend heights expressed in storeys.

In providing for limited higher buildings and linking this with the provision of a public use that will serve existing and renewal areas the objective of integrating the new area with the existing areas will be achieved from a physical point of view (there will not be too many taller forms) and a social point of view.

Table 4: Recommended heights in storeys

Revised Area	Exhibited Area	Preferred maximum height	Absolute maximum height
A1	Area 2, Area 4	<u>3 storeys</u> 40.5 metres	<u>4 storeys</u> 14 metres
A2	Area 8, Area 13	<u>4 storeys</u> 14 metres	<u>6 storeys</u> 18.2 metres
A3, A4	Area 3, Area 5, Area 9 , Area 12, <u>Area 13</u>	<u>6 storeys</u> 20 metres	<u>8 storeys</u> 26 metres
A5	Area 7	<u>6 storeys</u> 20 metres	<u>8 storeys</u> 26 metres <u>This does not apply if the development is part of a master plan for the whole of Area 7 aimed at the reintegration of the area with the surrounding urban fabric.</u>
A6	Area 6 All land east of Boundary Road	<u>6 storeys</u> 20 metres	<u>8 storeys</u> 26 metres This does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education <u>or provides more than 10 per cent of the site area as public open space</u>
A7	Area 6 All land west of Boundary Road	<u>9 storeys</u> 28 metres	<u>12 storeys</u> 36.4 metres This does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education <u>or provides more than 10 per cent of the site area as public open space</u>
A8	Area 1, <u>Area 9</u> , Area 10, Area 11	<u>9 storeys</u> 30 metres	<u>12 storeys</u> 39 metres

DDO60 should be changed to:

Specify that a permit should only be granted to exceed the Preferred Maximum Height up to the Absolute Maximum Height if the development clearly demonstrates each of the following:

- Provides a demonstrable benefit to the broader community beyond the requirements in this scheme.
- Displays exceptional quality of design.
- Makes a positive contribution to the quality of the public realm
- Achieves the Design objectives of this clause and built form outcomes for the area.
- Provides high quality pedestrian links where needed
- Maintains good solar access to the public realm.

Apply a Preferred Maximum Height of:

- 9 Storeys in Area 9
- 6 storeys in Area 13.

Allow buildings to exceed the Absolute Maximum Height in Area 6 if a school or open space is provided, and in Area 7 if it is to implement a master plan that reintegrates the estate with the surrounding urban fabric.

We recommend:

Amend DDO60 as shown in Appendix C.

5.4 Street wall heights

We have already recommended (Section 5.1.5) that the street wall heights should be depicted by reference to a plan.

5.4.1 'Great Streets'

(i) Evidence and submissions

Mr Townsend submitted that the Amendment aims to create 'great streets' where the buildings make a positive streetscape for the people and so that the people in the buildings are close to the street which makes streets feel safer and more engaging:

Zero metre setbacks at ground floor level and the design guidelines in Amendment C190 which promote multiple entries and window facing the street will help provide this outcome.

Mr Czarny strongly supported the 1:1 street wall height, he submitted that it was important for the public realm providing excellent opportunities for solar access to street and open spaces and would provide a strong sense of enclosure and definition of the street form:

I support the mandatory nature of the street edge controls that will achieve the presentation of a clear (and uniform) street wall that reflects a human-scale and a good sense of enclosure.

Ms Hodyl proposed that built form provisions should more directly reflect the *Structure Plan* to enable the adaptable reuse of buildings by requiring a minimum ground floor height of 4 metres in all areas, with building levels above ground floor having a floor to floor height of 3.2 metres.

Mr Czarny considered it important to establish a consistent street wall:

... given the presently poorly defined streetscapes of the precinct.

A common building line creates continuity of frontage and provides definition and enclosure to the public realm. The proposed building height to street width ratio of up to 1:1 will in my opinion provide a good sense of enclosure and definition without being overbearing within the pedestrian field of vision.

Mr Czarny noted the potential to maintain solar access to public spaces:

... in particular to the south sides of many of Arden–Macaulay's wide streets.

He noted the preference for uniform 'mid-scale' building heights as a commonly accepted city planning approach in many successful international cities such as Paris, Barcelona and Washington DC:

I consider it to be a sound basis from which to set development parameters that will be used to guide the evolution of the Arden–Macaulay precinct.

Mr Milner also supported the 1:1 street wall to street width ratio.

While acknowledging the relationship between street width and street edge height as a sensible urban design principle, Mr Chamberlain submitted that:

... the inflexibility of a mandatory provision provides no opportunity for a performance or merits based assessment.

DDO60 does not specify from where the building or street edge height is to be taken, nor does it include any reference to 'exceptions' for architectural features and building services.

Mr Chamberlain went on to query the calculation of a street wall height of 20 metres, given the modern construction techniques and likelihood in many areas of no ground floor retail component. He recommended wider flexibility and for the height to be nominated in storeys.

Mr Chamberlain took the panel through an analysis of the application of a 45 degree angle above the 10.5 metre street height to Thompson Street, and said:

It would be a significantly more onerous requirement than the proposed treatment for narrower connections elsewhere in the precinct and there does not appear to be any strategic justification for this approach.

Mr Chamberlain on behalf of the owners of 89-96 Stubbs Street submitted that Thompson Street, which forms the western boundary of the site is not characterised by low-scale development. It is currently in the Industrial 3 Zone, but there is one existing dwelling opposite the site. It is a non-conforming land use. Mr Chamberlain submitted that the more stringent height and setback provisions set out in Figure 9 of DDO60 should not apply to this interface.

Mr Czarny expressed concerns that 'stepped' envelopes above will result in undesirable building profiles. Such tapering also impacts on the viability of 6-9 storey floor plates, although Mr Czarny noted that the intended building setbacks are discretionary and therefore specific site constraints and opportunities can be adequately addressed:

I would emphasise the need to avoid staggered upper levels in favour of single setbacks.

Mr Govenlock in giving his expert evidence for a large site in Alfred Street, North Melbourne queried the mandatory requirement for a 45 degree setback above the street wall height in favour of flexibility and discretion in relation to the final design outcome.

Submissions were made suggesting a 'canyon' effect will be created along Macaulay Road and Stubbs Street and detrimentally impact on adjoining properties. Submitters said the proposed heights are inconsistent with the heritage buildings and streetscapes including industrial buildings.

The Kensington Association submitted that:

The requirement that buildings are built to the street edge at ground level in all streets will not promote articulated built form and active pedestrian friendly streets. It is not accepted that because existing factories often have nil street setbacks, this condition should apply to urban renewal areas.

Mr Peake submitted that all built form controls should be discretionary, with the exercise of discretion guided by appropriate policy. Of particular concern to Vision Australia is the street wall height of 10.5 metres and the line of sight control proposed for Macaulay Road.

Mr Peake submitted that appropriate setbacks above street wall should be:

... to allow an acceptable level of solar penetration to the opposite side of the street having regard to the orientation of the street on the existing or likely uses on the opposite side. ... straight jacketing development into mandatory dimensions will stifle development that is otherwise in accordance with the structure plan.

(ii) Discussion

The majority of streets within the renewal area set a street wall height equal to the width of the street. We agree that this an appropriate approach given the nature of the area and the overall intensity of development proposed.

While the majority of the streets north of Macaulay Road are 20 metres wide, to the south a number are 15 metres wide.

We think that 1:1 ratio should generally be applied consistently to the streets that have renewal on both sides, but the controls should specify a defined height.

It is not clear why a different approach to setbacks above the street wall has been taken for Canning Street, and part of Boundary Road. These street sections should have a street wall the same as the 20 more wide streets. We recognise that Canning Street is wider in parts, but a consistent approach will help create the stronger and more consistent street wall.

For Haines Street DDO60 specifies that any part of building above 14 metres should have a setback of 14 metres. For practical purposes the 14 metres street wall will be the same as the 15 metre street wall in other parts of DDO60, namely 4 storeys. It is not clear why development on this street should have a different upper level setback to other renewal streets. Bringing the controls for this street into line with the other renewal streets will help reinforce the controls and address issues of solar access to open space.

We do not accept Council's approach to street wall height in Macaulay Road. The changes that Council is seeking to the Amendment post-exhibition are contrary to whole premise of the 1:1 street wall and the benefits it will deliver.

We accept the 45 degree setback above the street wall as a discretionary requirement.

(iii) Conclusion

DDO60 should be changed to:

Apply two explicit controls to renewal streets:

- **'20 and 30 metre wide renewal street', where**
Development at the frontage must not exceed a height of 6 storeys.
Development should be set back 1 metre for every metre of height above 20 metres
- **'15 metre wide renewal street', where**

Development at the frontage must not exceed 4 storeys
Development should be set back 1 metre for every metre of height above 15 metres

Apply '20 and 30 metre wide renewal street' requirements to all of Macaulay Road.

Apply the '15 metre wide renewal street' requirements to Haines Street.

We recommend:

Amend DDO60 as shown in Appendix C.

5.4.2 Interface streets

(i) Evidence and Submissions

Ms Oddie submitted that recent applications in Shiel Street and Haines Street in DDO60 – Area 11, the objectives of DDO60 and the built form provisions do not lead to the desired outcomes expressed in the *Structure Plan*. She cited a number of current applications in this area.

In relation to 3-15 Shiel Street, Ms Oddie submitted that the development fails to respond to the existing context of the surrounding, established low-scale, heritage neighbourhood and does not meet the DDO60 – Area 11 built form outcome:

A 7-storey blank wall on the western side of the development will face Shiel Street and will be highly visible to most of the street.

Ms Oddie reiterated the importance of public open space in existing residential areas and submitted that the June solstice should be made the applicable measure for sunlight in public places.

The RAID 3051 group called for a review of the Council's Sunlight to Public Open Spaces policy citing it as:

... wholly inadequate and has failed to protect Gardiner Reserve.

In response to concerns from residents in Shiel Street about the form of development being proposed in Haines Street, Ms Hodyl suggested that DDO60 provisions should be updated to make it clear that upper level setbacks apply on streets adjacent to existing low-scale residential within that view, not just development fronting that street.

Mr Sheppard, while accepting the purpose appears to be to respond appropriately to low-rise context, provide a transition in height and minimise the visual impact of the upper levels, could not accept that upper levels must be completely hidden from view:

No rationale is provided in the Structure Plan or the Amendment material to justify why additional levels above the street wall should be completely hidden from view. The employment of noticeable upper level setbacks and a distinct and more lightweight architectural treatment is an alternative way of accommodating greater height within a low-rise streetscape that is commonly accepted even in areas that contain sensitive heritage buildings.

Mr Sheppard recommended that this provision be deleted in favour of a requirement that additional built form above the street wall height be visually recessive in views from the street.

(ii) Discussion

We accept the basic principle that new development fronting existing established residential areas should provide a frontage that relates to the existing development.

The exhibited control the control proposes a built form envelope at an angle of about 20 degrees for a 20 metre wide street and lower if the street is wider. It means that the fourth floor would be setback about 7 metres from the frontage. We have considered the applicability of the control to the various streets where it is applied. It is an onerous control for an area where redevelopment is sought.

We agree with Mr Sheppard that setback and architectural treatment could achieve the desired built form objectives.

We think a requirement to set back development above the street wall by a set amount, coupled with a requirement that these upper levels be visually recessive would strike a good balance between maintaining the valued characteristics of the area without placing arbitrary restrictions on the new development. We think a setback for upper floors of 10 metres would ensure development met the objectives of the clause.

(iii) Should street wall controls be mandatory

Is the mandatory provision strategically supported?

The exhibited street wall height controls flow from a comprehensive structure planning process.

Is the mandatory provision appropriate to the majority of proposals?

The proposed mandatory street wall height controls (but not the setbacks above the street wall) will be appropriate in the vast majority of cases, noting however, that an exemption in height should be made for architectural features.

Does the mandatory provision provide for the preferred outcome?

The controls will resolve divergent opinions and ensure that a coherent built form outcome is achieved overtime that may not be achieved with a site by site approach.

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

The majority of proposals not in accordance with the requirements will fail to meet the objectives of the control of creating a defined street edge.

Will the mandatory provision reduce administrative costs?

The mandatory provisions will reduce administrative costs imposed on Council, applicants and the community to the extent that it significantly outweighs the benefit of a performance based provision?

(iv) Conclusion

We conclude:

Application of mandatory street wall controls is justified, but mandatory controls for setback above the street wall are not.

The proposed street wall of 3 storeys in interface areas is appropriate, but the setback above the street wall to a line of sight is too onerous.

DDO60 should be changed to:

Apply the following controls to interface streets:

- **'Residential interface streets', where:**

Development at the frontage must not exceed 3 storeys

Development above the street wall should be setback at least 10 metres and be visually recessive.

We recommend:

Amend DDO60 as shown in Appendix C.

5.5 Interfaces**(i) Evidence and submissions**

Ms Hodyl explained the rationale for building heights at the interfaces with low scale residential development. Upper level setbacks for new development are proposed so that these upper levels are visually recessive when viewed from a position at the rear wall of existing houses. This evolved over the various drafts of the *Structure Plan* into the principle that setback controls should ensure that the upper levels of new development are not visible within private spaces of low-scale residential development.

Mr Czarny noted that:

... this particular approach appears to be more onerous than the Requirements of ResCode.

He preferred the use of ResCode provision as an appropriate measure to address residential amenity in Areas 2, 3, 4, 5 and in parts of Area 8.

Mr Little submitted that the site at 135-137 Racecourse Road was subject to a site specific preferred setback on its southern boundary in response to the proposed PPRZ land. Given the VicTrack submission in relation to the proposed PPRZ, Mr Little submitted that:

... the land owned by B A Glen Investments should not be burdened by built form provisions that otherwise restrict the reasonable redevelopment potential of our clients land.

(ii) Discussion

There are interface height and setbacks specified for:

- rear boundaries with lanes
- rear boundaries without lanes

- Little Hardiman Street east of Abermarle Street, and the lane north of Bruce Street
- side boundaries
- side boundaries with lanes.

The lack of clear specification as to what the controls mean in actual setbacks is discussed in Section 5.1.3.

Rear boundaries

A reoccurring issue in planning is the appropriate interface between existing residential development and new higher forms to the rear.

The default setback in Clause 55.04-1 is:

1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.

In effect this gives a 45 degree angle setback above 6.9 metres. The controls in the Amendment are more onerous than ResCode for an area in which Council seeks renewal, imposing a setback angle of just over 32 degrees for rear setbacks.

The exhibited Amendment did not specify the setback in defined terms and people looking at the Amendment might have simply interpreted the diagrams visually. The diagram does not appear to be to scale, so this is potentially misleading.

For land in the Mixed Use Zone or a commercial zone it is difficult to see the justification for a 30 degree setback requirement. We have struggled to understand the logic of supporting higher development as part of a renewal area, but then constraining development with a 30 degree setback rule that is more onerous than would apply with a residential zone.

We can see no justification for departing from ResCode provisions in terms of rear interfaces.

Side boundaries

There is no logic for the differences in angle for side setbacks for a laneway and without a laneway.

Again, we cannot see the justification for departing from the accepted ResCode standards for residentially zoned land, certainly not a requirement that would create a more restrictive environment in an area identified for change.

Adjoining open space

As discussed in Section 2.5 we do not support applying setback control on land that Council has not committed to purchase for open space.

(iii) Conclusion

DDO60 should be changed to:

Delete the interface requirements at the rear of 135-137 Racecourse Road.

Apply the following controls to replace the proposed interfaces with existing low scale residential areas:

- **'ResCode Applies', with the requirement that:**

A new building not on or within 200mm of a boundary should be set back from the boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.

We recommend:

Amend DDO60 as shown in Appendix C.

5.6 Active street frontages**(i) Evidence and Submissions**

Ms Hodyl supported the Active Street Frontage controls:

.... that require well designed facades that consider the pedestrian experience [and] ... the requirement for active street frontages on primary streets.

Mr Peake submitted that the active street frontage control is unworkable and should be replaced by an appropriate policy:

The primary difficulty with this control is that it applies equally in both the Business 1 Zone within the proposed Macaulay Activity Centre east of Moonee Ponds Creek as it does to Macaulay Road, west of Moonee Ponds Creek which is proposed to be Mixed Use Zoning.

Mr Peake submitted that three large property holdings fronting the north side of Macaulay Road had a combined frontage of approximately 220 metres meaning that 176 metres would have to comply with the policy:

Whether this can be achieved in the Mixed Use Zone outside the activity centre, and having regard to the limited range of uses that are generally located in a MUZ is unknown. It is submitted that this is unlikely to be achievable in this location.

The Design Standards in DDO60 were sufficient in Mr Peake's view and proposed that for Macaulay Road west of Moonee Ponds Creek there should be a general rather than prescriptive policy.

(ii) Discussion

We agree with Mr Peake that the controls are not appropriate in a mandatory form. It is one thing to seek active frontages in an established retail setting or a Commercial Zone. It is another thing entirely to seek it in a mixed use zone in an area that does not have active frontages at present.

With regard to the Vision Australia site on Macaulay Road: assuming that this site could support a degree of commercial use, even the 176 metres of active frontage required by the Amendment, it is not clear that putting this frontage along Macaulay Road would always be a better outcome than some of this frontage activating a new midblock laneway, or along Stubbs Street which already displays an interesting and vibrant mix of uses.

(iii) Conclusion

We recommend the Amendment be changed to:

In DDO60 update the active street frontages controls to distinguish between:

- **Streets in a Commercial Zone**
- **'Primary streets' as identified in the plan in the DDO**
- **Other streets.**

5.7 Weather protection and facade articulation

(i) Evidence and Submissions

Ms Hodyl recommended alternative wording to the requirement under Building Works and Requirements: Facade Articulation, to better meet the overall aim of creating visually interesting streets fronted by well-designed buildings:

The articulation of a building facade should express a fine grain variety and modulation that assists in reducing the visual dominance of buildings, particularly a wide street frontage. Expressing the vertical elements is encouraged to further minimise the dominance of wide building frontages.

(ii) Discussion

We agree that wording in the exhibited amendment provided only a limited response to facade articulation. The wording suggested by Ms Hodyl provides a better, more flexible response to this objective.

(iii) Conclusion

We recommend the Amendment be changed to:

In DDO60 update the weather protection and facade treatment as shown in Appendix C.

5.8 New laneway connections

(i) Evidence and submissions

Mr Townsend noted that Clause 11.02-3 Structure planning includes the following as one of its strategies:

Facilitate the preparation of a hierarchy of structure plans or precinct structure plans that:

- *Take into account the strategic and physical context of the location.*

- *Provide the broad planning framework for an area as well as the more detailed planning requirements for neighbourhoods and precincts, where appropriate.*
- *Provide for the development of sustainable and liveable urban areas in an integrated manner.*
- *Assist the development of walkable neighbourhoods.*

Mr Townsend submitted that the *Structure Plan*:

... identifies the need to improve the neighbourhood walkability by introducing a fine-grain network of laneways and other through connections, integrated with the pattern of development of adjacent areas and maximising permeability for pedestrian movement whilst also providing vehicular and service access to developments. The Structure Plan lists the criteria against which the location of new through connections were determined and the characteristics against which the design and role of these through connections were determined. The proposed Design and Development Overlay 60 (DDO60) in C190 implements the Structure Plan's recommendations by identifying the location and required design of new through-connections.

Ms Hodyl provided the justification for the preferred locations of laneways.

Mr Townsend clarified the locations of laneways:

Where the location is on a property boundary (except for property boundaries with low-rise residential neighbourhoods), it is intended to be 50 per cent on each property and therefore has a precise location. Other laneways are not as precise, but are intended to be reasonably accurate – to say within a few metres.

Mr Townsend quoted from the panel report for Amendment C171. He noted that panel had concluded it was preferable to negotiate the outcome, rather than to mandate:

However, the reality is that in many cases, the council lacks the capacity to negotiate such outcomes and finds itself a bystander as an applicant appeals directly to VCAT and avoids the provision of a laneway by reference to site specific factors.

In relation to a large site abutting CityLink between Sutton Street and Mark Street, Mr Milner recommended that the midblock east west connection should be removed because the connection has marginal functionality:

A high level of accessibility and more generous attractive open spaces and routes can be created along the street frontage rather than by a narrow, back lane that serves no other purpose.

Mr Milner supported the mid-block north-south connections between Sutton Street and Mark Street.

In relation to another large site in Alfred Street, North Melbourne, Mr Govenlock in gave evidence that:

... three north-south pedestrian through links across the subject site would lead to an undesired dispersal of pedestrians.

He called for removal of the mandatory requirement for pedestrian through links in favour of a more discretionary provision in relation to their location and design.

Mr Little for Haines Street Holdings Pty Ltd, queried the requirement for provision of a laneway on its north-western boundary. Mr Little submitted that such a laneway was not feasible given the existence of an historic wall (VHR HO810) at the Macaulay Road end, the steep gradient along the route to Shiel Street and the design of the proposal for 3-5 Shiel Street which does not allow for a laneway:

In any event Haines Street will continue to be used by pedestrian and vehicles, which is located just 60 metres south of the proposed laneway.

Setbacks from lanes

Ms Burnett for Real Estate Prosperity Pty Ltd. submitted that Figure 4 of DDO60 should apply only to laneways and through connections which warrant pedestrian amenity controls. The property of 476 square metres at 114-116 Haines Street contains a 4-59 metre service laneway which Ms Burnett submitted does not contribute to the overall connectivity of the broader area and is not identified within the Structure Plan.

Ms Burnett submitted that the exhibited version of DDO60 includes Figure 4, but:

... the setback controls were not broadly applied to every existing and new laneway within Arden–Macaulay, but where a laneway/through connection is nominated as being required to provide for increased walkability and connectivity.

This has changed in the adopted version which:

... has unintentionally invoked setbacks requirements to every single laneway, accessway, easement or driveway, and that this approach deviates from the intention of the Structure Plan, suffers from a lack of strategic justification and undermines the original intent of the new through connections objective.

Ms Burnett noted that clause 22.20 of the Melbourne Planning Scheme provides for different built form outcomes for different classes of laneway, responding to the laneway usability and amenity expectations.

Ms Burnett submitted that the wording DDO60 should be refined to avoid amenity controls being applied to areas where pedestrians are not encouraged such as service laneways.

Ms Schroor on behalf of Chubb Properties Pty Ltd submitted that the DDO60 requirement for 'publicly accessible' laneways on private land without compensation is inequitable.

Chubb submits that the location of laneways and new through connections has not been optimised and would result in poorer urban design outcomes for the land than a more performance based approach.

Ms Schroor submitted that In relation to the Flemington Bridge local activity centre the proposed laneways do not logically connect places of interest, follow desire lines or reflect logical movement patterns. In relation to the Chubb site, Ms Schroor submitted that

residential development is unlikely to occur uniformly throughout the local precinct (A1 of DDO60) given the proposed commercial 1 zoning.

Mr Peake submitted that new laneway connections should not be prescribed in DDO60 but should evolve as sites are developed. Of particular concern is the proposed east-west laneway to the rear of 346 Macaulay Road:

It is submitted that there is no demonstrated need to have rear laneway access to small shops and food and drink premises in a Mixed use Zone... Whether an east-west laneway specifically to service access to any commercial uses fronting Macaulay Road is a matter for detailed design and should not be included in the structure plan.

Mr Peake also questioned the proposed link between Bent Street and Bruce Street adjacent to the Moonee Ponds Creek, submitting that whether such a direct link is either “*desirable or necessary*” has not been established. He went onto query a proposed laneway directly opposite the Vision Australia site, which he submitted was most unlikely to be redeveloped in the foreseeable future:

This laneway, if it is to be shown on a plan, should be relocated on the north or south of the Vision Australia land.

(ii) Discussion

A number of recent panels (e.g. Melbourne Southbank *Structure Plan* – C171, Melbourne City North *Structure Plan* – C196) have dealt extensively with the use of plans to mandate the location of pedestrian links. In both of these cases, the Panel was critical of their use because the links were not strategically targeted.

The new connections shown in DDO60 are identified as part of the overall character or type of development being sought. The links are not addressing obvious gaps in an existing network or providing dramatically improved pedestrian access to public transport or local facilities. In this regard it doesn’t really matter where precisely the links are, provided sufficient links are created. The exception to this is the link to the immediate east of the rail line which would shorten the distance to Macaulay Station for land west of Macaulay Road as new residents would not have to walk out to Boundary Road to get to the station.

The Amendment specifies:

Developments which are required to provide a new laneway/ through connection, as shown on Map 2 should provide laneway connections which are:

- *Safe, direct and attractive.*
- *Publicly accessible.*
- *Aligned with other lanes or pedestrian connections to provide direct routes through Kensington.*
- *At least 6 metres wide, to accommodate vehicular movements (including turning into private properties), waste collection and landscaping opportunities.*
- *Open to the sky.*

There is no need to specify a width in terms of accommodating vehicles, because if the lane is required to accommodate vehicles this can be assessed a technical traffic engineering grounds.

There was a degree of discussion at the Hearing as to whether connections had to open to the sky. We can see no imperative to be open to the sky apart from connections being more attractive when they are. There are many functional pedestrian links in Melbourne that are not open to the sky, or not open to the sky for their whole length.

We do not see the need to specify setbacks from laneways for all lanes. Some will have a purely service function and so setbacks are not needed. If the issue is sufficient spacing between buildings then this should have been specifically addressed in the controls.

The setback controls, as they are drafted, have only relatively narrow laneways in mind, if wider connections were to be provided such as in the award-winning Tip Top development in Brunswick East, then the controls would potentially work against good design outcome.

(iii) Conclusion

We conclude:

New pedestrian connections are important but their precise location does not need to be specified except for a north-south connection giving access to Macaulay and Flemington Bridge Stations.

DDO60 should be changed to:

Delete the map of proposed laneways.

Specify:

- **Development must provide for a high quality pedestrian link generally along the eastern side of CityLink to provide direct pedestrian connection to Macaulay and Flemington Bridge Stations for land between Macaulay Road and Racecourse Road.**
- **Development should provide for a fine-grained system of laneways and pedestrian connections that are:**
 - Safe, direct and attractive.**
 - Publicly accessible.**
 - Aligned with other lanes or pedestrian connections to provide direct through routes.**

We recommend:

Amend DDO60 as shown in Appendix C.

5.9 Development adjacent to heritage buildings

(i) Evidence and submissions

Some submitters say the industrial and residential heritage must be protected via planning controls before any land is rezoned so the opportunity is not lost or left to the discretion of the developer. An example is the YoungHusband Building, which is of State historic and cultural significance.

Further submitters suggest:

- development is a threat to the ambience and fabric of the heritage area and that the Amendment ignores Kensington's history and heritage. Kensington has a long history of coexisting residential and industrial uses and there is a rejuvenation of space currently happening with small workshops next to new 2-3 storey apartments
- the Amendment proposes a framework for land use change and growth in Kensington the scale, height and density of which is out of character with the neighbourhood
- buildings need to suit the heritage of the area and developments must be sympathetic to surroundings to protect character and heritage.

Mt Townsend submitted that both the *Structure Plan* and the Amendment recognise the importance of heritage to the character of the area:

The Structure Plan includes an action to investigate additional buildings for inclusion in heritage overlay to protect Arden–Macaulay's industrial heritage. To this effect, a heritage review has been completed and was implemented in the Melbourne Planning Scheme as Amendment C207, which has been adopted by Council.

An additional heritage review of the part of Kensington, which was formerly in the City of Moonee Valley and for which buildings were not afforded the same heritage protection as in the City of Melbourne, was also undertaken and implemented into the Melbourne Planning Scheme through Amendment C215, which has been adopted.

To ensure that new buildings do not undermine the heritage values of a site, Mr Townsend noted that the following requirement is included in Amendment C190:

When new developments adjoin heritage buildings located in a Heritage Overlay, the design of new buildings should have regard to the height, scale, rhythm of and proportions of the heritage buildings.

In response to submissions, Ms Hodyl suggested the introduction of a setback control on the rear boundary of new development within the Elizabeth/Fink/ Barrett/ Bruce Street block to protect the amenity of adjacent residential properties currently within a Heritage Overlay. She recommended a control similar to the one proposed in the Amendment for properties along Little Hardiman Street.

Mr Peake submitted that:

... the suggestion for further controls to protect isolated dwellings in an existing IN1Z and to extend sightline controls over multiple streets is extreme and unnecessary.

Mr Czarny in expert evidence noted submissions 183, 189 and 190 in relation to remnant residential stock in Bruce Street submitted that:

I accept that respect for existing traditional housing stock and tenure needs to be given due regard ... sensitivity to relevant Bruce Street properties should be assured and Amendment documentation modified accordingly.

Mr Czarny was:

generally satisfied that the Amendment adequately deals with the redevelopment of heritage sites as well as development of properties adjoining heritage places.

Mr Milner stated that where heritage places are to be retained it is desirable that they be integrated into the land use and functional context of their setting:

However there is no need or justification that they should overly influence the scale and form of development on adjoining sites.

The RAID 3051 group submitted that current development applications in Haines Street:

... will clumsily abut a fine grained historic area, making a mockery of the aspiration and ideals of the heritage principles in the Structure Plan.

(ii) Discussion

We agree it is important to protect the amenity of residences within the Commercial 2 Zone (currently Industrial 1 Zone). While these properties cannot expect the same level of amenity that would apply in a residential zone, they are heritage dwellings and so the planning system applies competing policy objectives.

It would be appropriate to specify that ResCode applies at the rear boundary of the dwellings in Bruce Street.

(iii) Conclusion

DDO60 should be changed to:

Apply the 'ResCode Applies' interface requirement to the rear of residential properties in Bruce Street.

We recommend:

Amend DDO60 as shown in Appendix C.

6 Environmental Audit Overlay

Mr Chamberlain on behalf of the owners of 89-96 Stubbs Street submitted that the blanket application of the EAO is both unnecessary and onerous:

The current mechanism that the City of Melbourne adopts to deal with this across North and West Melbourne (where the EAO has historically not been applied), is to require a preliminary assessment upfront, and to require (by permit condition) a more comprehensive assessment. This is a sensible and practical approach to potential site contamination that is working in practice.

The effect of an EAO would be to require, on each and every site, a certificate or a statement of environmental audit. These are issued subject to strict statutory requirements, are expensive to obtain, and will not be necessary for many sites within the Arden–Macaulay precinct.

We understand the difficulties associated with the Environmental Audit Overlay, but can see no other way forward at this stage to ensure contamination is properly managed. A precinct wide assessment by Council would help progress the redevelopment of the renewal area.

We conclude:

It is appropriate to apply the Environmental Audit Overlay to land being rezoned to Mixed Use.

The Environmental Audit Overlay is a very blunt planning tool and there will be broad benefits in undertaking a precinct wide analysis, not least for identifying land unsuitable for open space.

We recommend Council:

Undertake a precinct wide review of contamination issues with the view to refining the application of the Environmental Audit Overlay.

Appendix A Submitters and appearances

List of Submitters

No.	Submitter
1.	Irene Barberis
2.	Lisa Ingram
3.	Hadyn Sharples
4.	Michael Paszylka
5.	Andrew Thomas
6.	Francesca Bate
7.	Ian Urquhart and Alison Chapman
8.	Jarrold Sawers
9.	Paul and Andrea McAlpine
10.	Nikki Liddell and Yvonne Ericksson
11.	City West Water
12.	John Eldridge & Karen McKenzie
13.	Barrie Read
14.	Alberto DiMaggio
15.	Phil Quayle
16.	Pamela Frost
17.	Corin Warhurst
18.	Frank Golding
19.	Kate Greenwood
20.	DSE (Minister for Environment)
21.	Dennis Tong
22.	Cyrille Darrigrand
23.	Clarrie Pryor
24.	Adam Terrill
25.	Sarah Lauren
26.	Kymaree Raverty
27.	Bianca Schirripa
28.	Contour Consultants, on behalf of EG Funds Management Pty Ltd
29.	Tania Hunt
30.	Meg Dunley
31.	City of Moonee Valley
32.	Peta Murray
33.	Anne Anderson
34.	Meagan Walker
35.	Jason D'Cruz
36.	Carmelo Monsone
37.	Nigel Jones
38.	Michael Vernon Hughes
39.	Trieu Huynh & Bronwyn Thomas
40.	Hamish Head

No.	Submitter
41.	Sian Harris & Paul Cassar
42.	Naomi Fennell
43.	Bernard Stahr
44.	Rick Clarke
45.	Fiona Parkinson
46.	Andrew Mealor & Reannon Ryan
47.	Lexie Walker
48.	Jane Liefman & Stuart Tait
49.	Tanja Luckins
50.	Duncan Harrington
51.	Kate Harrigan
52.	Comdain Property
53.	Jan Lacey
54.	Neil & Veronica Matheson
55.	Vision Australia
56.	Margaret Baynes
57.	Ben and Momoko McCartney
58.	Anna Saalmans
59.	Julie Walsh
60.	Dr Ruth Sutherland
61.	Stan Jamce Cooke
62.	Sharon Brown
63.	Yvonne Ericksson
64.	Petra Muhlfait
65.	Mairead Hannan
66.	Antonio Tiganis
67.	Rory Tonkin
68.	Brent Hooley
69.	Michael Gunter
70.	Gabrielle Wilson
71.	Narelle Glynn
72.	Andrew McSweeney
73.	Scott Fraser
74.	David Wood
75.	Paul Kippin
76.	Ann Hood
77.	Jesson Tan
78.	Stephen Alomes
79.	Justine Kippin
80.	Fran Sciarretta
81.	Margaret Bradbeer
82.	Francis Mezzatesta
83.	Neil and Joss Tonkin

No.	Submitter
84.	Dr Lucy Firth
85.	Tony Dare
86.	Anna Dare
87.	Guy Sendy-Smithers
88.	Janice and Neville Keogh
89.	Rory Hannan
90.	Michelle Tonissen
91.	Peter Vogl
92.	Jenni Niggl
93.	Kathryn Boin
94.	Kylie Saxon
95.	Fiona Cubitt
96.	Tze Hao Lee
97.	Anne Badenhorst & David Coxsedge
98.	Sujata Joshi
99.	Leigh and Scott Stuckey
100.	Matthew Ritchie
101.	Darragh O'Brien
102.	Chris Dwyer
103.	Theo and Jacqui Byard
104.	Maritza Araneda
105.	Frances Lamb
106.	Gabriella Salmon
107.	Colleen and John Mitchell
108.	Tall Storey Partnerships c/- Sweett (Australia) Pty Ltd
109.	David Burnett
110.	Alexandra Lazarides
111.	Francisca Araneda
112.	Jonathan Stone
113.	James McInnes
114.	Anthony Hall and Julie Heller
115.	Despina Lazarides
116.	Luke Chamberlain and Elisabeth Hoebartner
117.	Matthew Leahy
118.	Jayne Connors
119.	Charlotte Gillam
120.	Teresa Chala
121.	Enid Hookey
122.	Ian Young
123.	Carmel T. O'Keeffe
124.	Susan Rushworth
125.	Jenn Kilby
126.	Ruth Baird
127.	Bronwen Harries and Brad Page

No.	Submitter
128.	VicRoads
129.	Peter Vernon
130.	Julie Pavlovic
131.	Kelly Brodie
132.	Brad Priest and Jane Whyment
133.	Allied Mills c/ Gadens Lawyers
134.	Robert Niggl
135.	Geoff Cox
136.	Therese Fitzgerald
137.	Barbara Ward
138.	Nikki Gaskell
139.	Alex Swain
140.	Marina J Slifirski
141.	North & West Melbourne Association
142.	Jane Murphy
143.	Natalie Spark
144.	Kensington Association
145.	Kerry Stuart
146.	Urbis on behalf of Fabcot Pty Ltd
147.	Andrew Hollow and Anna Grayson
148.	Andrea Carr and Tim Richter
149.	Glossop Town Planning on behalf of Clock Pty Ltd
150.	Gina Perry
151.	Daniel Firth
152.	Friends of Moonee Ponds Creek and Kaye Oddie
153.	Georgia Firth
154.	Deborah Cole
155.	Dr Kate Shaw
156.	Angela Weir
157.	Shara Berriman
158.	Dawn Lowery
159.	Chris Mackenzie
160.	Carol Clark
161.	Neil Spark
162.	Alison and Geoff Eaton
163.	Marg Leser
164.	Janet Graham
165.	Sarah Harrison
166.	HWD Alfred Street Developments Pty Ltd
167.	John Widmer
168.	Urbis on behalf of 64-90 Sutton Street Pty Ltd

No.	Submitter
169.	VicTrack
170.	Angela Williams
171.	Department of Transport
172.	City West Water
173.	Glenn Cotter
174.	A. Goetz
175.	No name provided
176.	Nadine Goetz
177.	Melbourne Water
178.	Cazz Redding
179.	RAID@3051
180.	Paul Kippin
181.	Andrew Gurney
182.	Helen Cooney
183.	Adam Lewis
184.	Gordon White
185.	Graeme Dobson
186.	Chris Buchanan
187.	David Rhodes
188.	David Payton
189.	Michael and Lisa Ingram
190.	Kerrin Rattray
191.	Kensington Association
192.	Department of Economic Development, Jobs, Transport and Resources
193.	Department of Treasury and Finance

No.	Submitter
194.	Gadens on behalf of Allied Mills
195.	John Widmer
196.	Joe Manariti
197.	Tract Consultants on behalf of Pierina Marini
198.	Meinhardt, for 114-116 Haines Street, North Melbourne
199.	Megan and Ben Cusack
200.	Juin Choo, SBA Law, on behalf of Dustday Investments Pty Ltd and Binrell Investments Pty Ltd
201.	SJB Planning on behalf of Chubb Properties Pty
202.	EG Funds
203.	Planning & Property Partners, c/o Haines Street Holdings P/L
204.	Planning & Property Partners, c/o B A Glen Investments P/L
205.	VicRoads
206.	James Hunt
207.	Peter Quattro
208.	City West Water
209.	Cera Stribley Architects for 369-399 Macaulay Road

Appearances

Party	Represented by
Melbourne City Council	Matthew Townsend of Counsel, calling evidence from: <ul style="list-style-type: none"> - Craig Czarny in urban design - Leanne Hodyl in urban design - Rodney Yeoman in development capacity and future growth potential - John Kiriakidas in transport planning - Eamonn Fennessy in open space planning
VicTrack	John Cicero of Best Hooper Lawyers
Friends of Moonee Ponds Creek	Kaye Oddie
Kaye Oddie	
Allied Mills	Chris Wren QC instructed by Gadens Lawyers, calling evidence from: <ul style="list-style-type: none"> - Stuart McGurn of ERM in town planning - Tim Pollock of GHD in air quality - Charmaine Dunstan of Traffix in traffic engineering
EG Funds Management	Joseph Monaghan of Holding Redlich, calling evidence from: <ul style="list-style-type: none"> - Andrew Clarke of Matrix Planning in town planning - John Henshall of Essential Economics in economics - Mark Sheppard of David Lock Associates in urban design - Peter Lovell of Lovell Chen in heritage - Robert Burton of Burton Acoustic Group in acoustics - John-Paul Maina of Cardno in traffic - Terry Bellair of Environmental Science Associates in air quality (not called)
Kensington Association	Francisca Araneda
Lisa and Michael Ingram	
Enid Hookey	
John Widmer	
Resident About Integrated Development @ 3051 (RAID 3051)	Peter Hogg
Dustday Investments and Binrell Investments	Peter O'Farrell of Counsel instructed by SBA Law calling evidence from: <ul style="list-style-type: none"> - Rob Milner in town planning

Party	Represented by
HWD Alfred Street Developments	Peter O’Farrell of counsel calling evidence from: - Jamie Govenlock in town planning
BA Glen Investments	Paul Little of Planning and Property Partners
Haines Street Holdings	Paul Little of Planning and Property Partners
Real Estate Prosperity	Alicia Burnett of Meinhardt
Chubb properties	Megan Schroor of Rigby Cooke Lawyers
James Hunt	Luke Chamberlain of Tract
Vision Australia	Graeme Peake of Counsel
North and West Melbourne Association	Geoff Leach

Appendix B Amendment timeline

1 November 2012 to 14 December 2012	Exhibition
4 June 2013	The Planning Authority changed the Amendment in response to submissions
6 June 2013	Planning Authority referred the Amendment to a planning panel
20 June 2013	This Panel to consider the Amendment was appointed pursuant to sections 153 and 155 of the <i>Planning and Environment</i> 1987 under delegation from the Minister for Planning
8 July 2013	Directions Hearing
9 August 2013	The Panel received a copy of a letter dated 5 August 2013 from Linking Melbourne Authority to the City of Melbourne seeking a deferral for that part of the Amendment west of CityLink and south of Macaulay Road and west of CityLink and east of Stubbs Street.
13 August 2013	<p>Planning Panels Victoria emailed the Linking Melbourne Authority letter and the following directions to parties to the Hearing</p> <p><i>The Panel will consider issues regarding the possible deferral of part of the Amendment at the beginning of the Hearing on 26 August 2013.</i></p> <p><i>The Panel will hear from any party with respect to the merit in proceeding with the Amendment as it applies:</i></p> <ul style="list-style-type: none"> - west of CityLink between Racecourse Road and Macaulay Road, - west of CityLink south of Macaulay Road, - east of CityLink, this area does not appear to be directly affected by the East West Link. <p><i>The Panel has formed a preliminary view that, at the least, it should proceed with the Amendment as it relates to the land east of CityLink</i></p>
26 August 2013	<p>The Panel considered possible deferral of part of the Amendment following submissions from a number of parties. The Panel found that:</p> <p><i>It would be premature to consider the Amendment as it relates to land west of CityLink before finalisation of the Comprehensive Impact Statement process for East West Link.</i></p> <p>This was anticipated to be August 2014.</p> <p>The Panel also directed that:</p> <p><i>Submitters to the Hearing do not need to make further submissions on matters specific to land west of CityLink.</i></p> <p>This advice was sent to Parties in writing with the Direction:</p> <p><i>The Panel will reconvene at 2:15 pm, 27 August 2013 and consider responses to this Direction and determine how best to proceed.</i></p>

27 August 2013 The Panel reconvened to consider responses to Directions and determine how to proceed with the Amendment. Concerns were raised about procedural fairness.

Following submissions and discussion the Panel made oral Directions that:

Submissions relating to land west of CityLink be deferred until a date to be fixed, being in approximately one month. At that date further submissions from parties will be considered as to how the Panel can meet its obligations with respect to submissions about land west of CityLink.

The Hearing will commence with the City of Melbourne's submission on 28 August 2013.

28 August 2013 The City of Melbourne tabled a Council resolution requesting a deferral of all of the Amendment. The Panel decided to adjourn until 10:00 am Thursday 5 September 2013 and at that date consider how it can properly discharge its obligations.

5 September 2013 Following submissions from Parties the Panel directed:

- 1. The Hearing for Amendment C190 is adjourned to a Directions Hearing on Monday, 19 May 2014. All parties have liberty to apply for an earlier Directions Hearing if circumstances warrant this.*

19 May 2014 A meeting of parties and the Panel Chair was held. The purpose of the meeting was to identify and address any issues that would prevent the Hearing for Amendment C190 recommencing in August 2014. A number of issues were identified. The Amendment is potentially affected by the release of *Plan Melbourne*, changes to public transport plans and release of decisions on East West Link. Appropriate dates for the progress of Amendment C190 were discussed, and parties agreed to dates to progress this matter.

2 September 2104	<p>The Future Melbourne Committee of the City of Melbourne resolved:</p> <ol style="list-style-type: none"> 1. <i>That the Future Melbourne Committee:</i> <ol style="list-style-type: none"> 1.1. <i>authorises management to work with the Victorian Government and the Linking Melbourne Authority to influence the detailed resolution of the East West Link (Eastern Section) project in accordance with City of Melbourne's position outlined in its response to the Comprehensive Impact Statement</i> 1.2. <i>requests the Panel appointed to assess submissions on Amendment C190 to defer hearings until Council has had the opportunity to assess the impact of part B of the Project on the Amendment</i> 1.3. <i>request management to forward the SNRP interchange option ... to the LMA for its consideration.</i> <p>Given resolution 1.2 of Council, the panel advised parties that there was little to be gained by conducting another Directions Hearing in this matter at this time. Consideration of the Amendment will need to wait until the City of Melbourne as the planning authority is ready to proceed.</p> <p>The Panel directed:</p> <p style="text-align: center;"><i>The Hearing for Amendment C190 is adjourned to a date to be fixed.</i></p>
1 May, 2015	<p>The Panel advised parties that the City of Melbourne wished to reconvene the Hearings.</p>
4 May to 5 June 2015	<p>The Amendment was re-exhibited.</p> <p>Given the time that had elapsed in this matter, an opportunity was provided from 4 May to 5 June 2015 for owners and occupiers of directly and indirectly affected properties to make a submission. Previous submitters were also notified that the panel hearing was to be reconvened and invited to make a submission.</p> <p>Twenty nine further submissions have been received, of which 22 were new submitters, while the others added to their earlier submissions. These submissions were provided to the Panel.</p>
15 June 2015	<p>Directions hearing.</p>
8 July to 31 July 2015	<p>Panel Hearings.</p>
18 August 2015	<p>Closing date for further submissions of material presented in Council's closing.</p>

Appendix C DDO60 Panel version

This revised DDO is based on revised areas as follows:

Exhibited area	Revised Area
Area 1	A8
Area 2	A1
Area 3	A4
Area 4	A1
Area 5	A3
Area 6 east of Boundary Road	A6
Area 6 west of Boundary Road	A7
Area 7	A5
Area 8	A2
Area 9	A8
Area 10	A8
Area 11	A8
Area 12	A4
Area 13	A4

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C190

SCHEDULE 63 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO63**

ARDEN-MACAULAY AREA, KENSINGTON AND NORTH MELBOURNE

1.0

Design objectives

--/201-
C190

- To create a compact, high density, predominantly mid-rise, 6 – 12 storey, walkable and high amenity neighbourhood.
- To provide for higher development that delivers identified public benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.
- To provide for development, that steps down at the interface with the low scale surrounding established residential neighbourhoods.
- To ensure the height and setback of new development at the interface with existing residential neighbourhoods is compatible with the amenity of these areas.
- To provide a highly walkable neighbourhood.
- To create urban streetscapes that are defined by a generally consistent plane of building facades that enclose streets but allow daylight and sunlight to penetrate to the streets and to lower building levels.
- To ensure the scale, height and setback of new development on existing residential streets is compatible with the scale and context of these streets.
- To ensure buildings align to the street edge.
- To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.
- To provide shelter for pedestrians from the rain, wind and sun without causing detriment to building or streetscape integrity.
- To encourage the ground floor of buildings to be designed so that they can be used for a variety of uses over time.
- To ensure new development respects the character, form, massing and scale of adjoining heritage buildings and places.
- To ensure that development provides a high level of amenity for building occupants.
- To promote passive surveillance of the public realm.

Table 1: Built form outcomes

Area	To be deleted	Built Form Outcomes
A1	Area 2, Area 4	<p>Deliver a scale of development that complements the established low-scale residential area</p> <p>Protect the amenity of existing residential areas by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
A2	Area 8	<p>Set back higher building form along Melrose Street to deliver scale of development that responds appropriately to the existing context.</p>
A3	Area 5	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
A4, A5	Area 3, Area 7, Area 12, Area 13	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale.</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential development provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Solar access is maintained to ground floors on western side of Thompson Street and southern side of Scarborough Place.</p> <p>Deliver the reintegration of Office of Housing estates into the surrounding urban fabric.</p>
A6, A7	Area 6,	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Provide limited opportunities for taller buildings that deliver significant public benefit outcomes.</p>
A8	Area 1, Area 9, Area 10, Area 11	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential development provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Provide increased density in local centres compared to surrounding development.</p>

2.0

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C190

Buildings and works

A permit is not required for buildings and works that do not alter the height or setback of an existing building.

An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form Outcomes of this schedule, and any local planning policy requirements.

Architectural features and building services may exceed specified heights. Where a height is expressed in storeys this does not include floors used only to house or access plant and equipment; roof structures and a parapet may exceed the specified height limit.

Building Heights

Development should not exceed the Preferred maximum height in Table 2.

A permit cannot be granted to exceed the Absolute maximum height in Table 2.

Development that exceeds the Preferred maximum height in Table 2 must demonstrate each of the following:

- Provides a demonstrable benefit to the broader community beyond the requirements in this scheme.
- Displays exceptional quality of design.
- Makes a positive contribution to the quality of the public realm.
- Achieves the objectives of this clause and built form outcomes for the area.
- Provides high quality pedestrian links where needed.
- Maintains good solar access to the public realm.

Table 2: Building heights

Area	To be deleted	Preferred maximum height	Absolute maximum height
A1	Area 2, Area 4	3 storeys	4 storeys
A2	Area 8,	4 storeys	6 storeys
A3, A4	Area 3, Area 5, Area 12, Area 13	6 storeys	8 storeys
A5	Area 7	6 storeys	8 storeys This does not apply if the development is part of a master plan for the whole of Area 5 aimed at the reintegration of the area with the surrounding urban fabric.
A6	Area 6 All land east of Boundary Road	6 storeys	8 storeys This does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education or provides more than 10 per cent of the site area as public open space.
A7	Area 6 All land west of Boundary Road	9 storeys	12 storeys This does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education or provides more than 10 per cent of the site area as public open space.
A8	Area 1, Area 9, Area 10, Area 11	9 storeys	12 storeys

Street wall and setbacks

A permit cannot be granted to increase the Street Wall Height in Table 3.

Development should be set back from all streets identified in Map 1 in accordance with Table 3. This applies even if the site does not have frontage to the identified street.

Buildings should be built to street edge at ground level to provide a clearly delineated and fronted public realm.

Buildings should be set back from existing low scale residential development in accordance with Table 3.












Table 3: Street wall height and setbacks

Interface type shown on Plan	Street wall height Set back of buildings above street wall
20 and 30 metre wide renewal street	Development at the frontage must not exceed a height of 6 storeys. Development should be set back 1 metre for every metre of height above 20 metres
15 metre wide renewal street	Development at the frontage must not exceed a height of 4 storeys. Should be set back 1 metre for every metre of height above 15 metres.
Residential interface street	Development at the frontage must not exceed a height of 3 storeys. Development above the street wall should be setback at least 10 metres and be visually recessive.
Interface type shown on Plan	Set back from boundary with low scale residential development
ResCode Applies	A new building not on or within 200mm of a boundary should be set back from the boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.



COUNCIL TO REDRAW:

- Plan based on the following legend.
- Macaulay Road to be shown as a '20 and 30 metre wide renewal street'
- Area 9 to be shown as 9 storeys, Area 13 to be shown as 6 Storeys

Preferred maximum building height	Street wall height and setbacks
 3 Storeys	 20 and 30 metre wide renewal street Apply to 20 metres wide streets including Macaulay Road
 4 Storeys	 15 metre wide renewal street Apply only to 15 metre wide streets Merge to one notation
 6 Storeys Include Area 13	 Residential interface street Merge to one notation
 9 Storeys Merge to one notation Include Area 9	 Delete from plan
 Delete from plan	 ResCode Applies Merge to one notation
	 Delete from plan

Map 1 – Street wall heights and setbacks

Connectivity and laneways

Development must provide for a high quality pedestrian link generally along the eastern side of CityLink to provide direct pedestrian connection to Macaulay and Flemington Bridge Stations for land between Macaulay Road and Racecourse Road.

Development should provide for a fine-grained system of laneways and pedestrian connections that are:

- Safe, direct and attractive.
- Publicly accessible.
- Aligned with other lanes or pedestrian connections to provide direct through routes.

Active Street Frontages

A building in a Commercial Zone, with ground-level frontage should provide:

- At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or as other uses, customer service areas and activities, which provide pedestrian interest and interaction.
- Clear glazing (security grilles should be transparent).

A buildings with ground-level frontage to a street identified on the Map 2, should present an attractive pedestrian oriented frontage with commercial uses where practical.

Buildings with ground-level frontage to all other streets, should provide an active and physically connected street interface, for example by providing multiple entrances off the street.

Weather protection and facade treatment

A building with a frontage to a street identified on Map 2, should provide a veranda for weather protection over the footpath unless this would cause detriment to the integrity of a heritage building or streetscape.

The articulation of a building facade should express a fine grain variety and modulation that assists in reducing the visual dominance of buildings, particularly a wide street frontage. Expressing the vertical elements is encouraged to further minimise the dominance of wide building frontages.



Map 2 – Frontages to primary streets

3.0 Heritage

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When new developments adjoin heritage buildings located in a Heritage Overlay, the design of new buildings should have regard to the height, scale, rhythm of and proportions of the heritage buildings.

5.0 Reference documents

--/201-
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- The Arden–Macaulay Structure Plan 2012

MELBOURNE PLANNING SCHEME AMENDMENT C190 ARDEN-MACAULAY**INDEPENDENT PANEL RECOMMENDATIONS**

SUMMARY:

The panel generally supports the amendment and recommends Council adopt it with some changes:

Built form

- Supported - Mandatory controls for street wall heights and overall heights.
- Supported - On sites west of Boundary Road, east of Moonee Ponds Creek and without direct interface with established low scale residential areas, the panel supports accommodating some limited taller buildings if a development provides for a school or additional public open space (defined as being more than 10% of the site area). The latter ground for exemption was not included in Council-endorsed version and has been added by the Panel.
- Suggested change - The panel recommends that the number and extent of areas within the Design and Development Overlay (DDO) be rationalised (down to 8 areas instead of 13), that the heights be identified as a number of storeys rather than in metres and that setback requirements be streamlined.
- Not supported - Council's post-exhibition decision to lower building heights along part of Macaulay Road, as it considers THIS to be an arbitrary departure from COUNCIL'S aspiration for a 'great street' by setting maximum street wall heights that are equal to the street width.

Rezoning

- Supported – The general application of the Mixed Use and Business zones where proposed and the use of the Commercial 2 Zone (C2Z) as a buffer around the Allied Mills site.
- Not supported - Rezoning of VicTrack land to Public Park and Recreation Zone (PPRZ). Rezoning to the Mixed Use Zone is recommended instead. The panel recommends that Council commence negotiations with VicTrack for the purchase of their land.

New laneways

- Suggested change - The panel considers that new pedestrian connections are important but that their precise location does not need to be prescribed (with the exception for a north-south connection giving access to Macaulay and Flemington Bridge Stations).

Other matters

- The Panel recommends updating the Municipal Strategic Statement to identify the northern part of the Arden-Macaulay area (i.e. Stage 1 in the Structure Plan) as an 'Existing Urban Renewal Area'.
- Opportunities for open space provision in the renewal area should be reviewed as a matter of priority.
- East-west pedestrian links should be addressed when preparing the Moonee Ponds Creek Master Plan.

DETAILED PANEL RECOMMENDED CHANGES TO C190 AND MANAGEMENT RESPONSE

	SPECIFIC RECOMMENDATION	ACCEPT/REJECT	MANAGEMENT RESPONSE
Municipal Strategic Statement (MSS)	Change the Growth Area Framework Plan at Clause 21.04 to correctly colour the Arden–Macaulay North area as an ‘Existing Urban Renewal Area’, as identified in the key to the Plan and Clause 21.04-1.2.	Accept	The Growth Area Framework Plan at Clause 21.04-1 has been changed to identify stage 1 of the Arden-Macaulay area and City North area as existing Urban Renewal Areas. The text relating to Arden-Macaulay and City North has also been moved, from Clause 21.04-1.3 Proposed Urban Renewal Areas to Clause 21.04-1.2 Urban Renewal Areas.
	SPECIFIC RECOMMENDATION	ACCEPT/REJECT	MANAGEMENT RESPONSE
Zoning map	Apply the Mixed Use Zone (and overlay controls) to VicTrack owned land.	Reject	<p>In rejecting Council’s proposition to rezone the VicTrack land to PPRZ, the panel did comment on the strategic importance of the land as public open space.</p> <p>The land owned by VicTrack is considered to be strategically important to achieving the open space aspiration for the area.</p> <p>The land adjacent to Moonee Ponds Creek should be secured for future recreational purposes. The Moonee Ponds Creek corridor is strategically important in achieving the open space aspirations for the area. The City of Melbourne would continue to work with the Metropolitan Planning Authority and other key stakeholders to determine how this outcome can be achieved.</p> <p>It is therefore recommended that Council request the State Government work with the City of Melbourne to enable the VicTrack land to be made available for recreational use and integrated into the upgrade of the Moonee Ponds Creek Parkland Corridor.</p> <p>It should also be noted that a rezoning to Mixed Use Zone (MUZ) was not</p>

			<p>exhibited. Such a change to the Amendment at this stage of the process could be seen as denying stakeholders natural justice as they have not had the opportunity to comment on such a proposal.</p> <p>As stated by the panel: A rezoning to Mixed Use Zone was not exhibited, and so caution must be taken in what changes can be made to the Amendment.</p>
	SPECIFIC RECOMMENDATION	ACCEPT/REJECT	MANAGEMENT RESPONSE
Design and Development Overlay (DDO) map	<p>Amend the Map of DDO60 to rationalise the number and extent of areas:</p> <ul style="list-style-type: none"> • A1 to replace Area 2, Area 4 • A2 to replace Area 8 • A3 to replace Area 5 • A4 to replace Area 3, Area 12, Area 13 • A5 to replace Area 7 • A6 to replace Area 6 east of Boundary Road • A7 to replace Area 6 west of Boundary Road • A8 to replace Area 1, Area 9, Area 10, Area 11 	Accept	<p>A map of Panel’s recommended rationalisation of these DDO areas is included below.</p> <p>The two substantial changes that result from this rationalisation are addressed separately further below in this table. These are:</p> <ul style="list-style-type: none"> • Area 9, which was proposed to have a preferred maximum height of 20 metres (around 6 storeys), is now recommended by the Panel to be part of the new Area 8 together with areas previously referred to as Areas 1, 10 and 11, which have a preferred maximum height of 9 storeys (around 30 metres). • Area 13, which was proposed to have a preferred maximum height of 14 metres (around 4 storeys), is now recommended by the Panel to be part of Area 4 together with areas previously preferred to as Areas 3 and 12, which have a preferred maximum height of 6 storeys (around 20 metres).
	SPECIFIC RECOMMENDATION	ACCEPT/REJECT	MANAGEMENT RESPONSE

New DDO Schedule (Amend the proposed Schedule as shown in Appendix C of the panel report)	Express the proposed heights in storeys as follows:	Accept	Management accepts the Panel's recommendation to give the community and designers a visual impression of the height that is promoted in each sub-precinct, especially as the controls are aimed at achieving a character outcome as opposed to being based on a precise basis of view line as is the case, for example, for the Shrine vista control.																								
	<table border="1"> <thead> <tr> <th colspan="2">Preferred height</th> <th colspan="2">Absolute height</th> </tr> </thead> <tbody> <tr> <td>10.5m</td> <td>3 storeys</td> <td>14m</td> <td>4 storeys</td> </tr> <tr> <td>14m</td> <td>4 storeys</td> <td>18.2m</td> <td>6 storeys</td> </tr> <tr> <td>20m</td> <td>6 storeys</td> <td>26m</td> <td>8 storeys</td> </tr> <tr> <td>28m</td> <td>9 storeys</td> <td>36.4m</td> <td>12 storeys</td> </tr> <tr> <td>30m</td> <td>9 storeys</td> <td>39m</td> <td>12 storeys</td> </tr> </tbody> </table>	Preferred height		Absolute height		10.5m	3 storeys	14m	4 storeys	14m	4 storeys	18.2m	6 storeys	20m	6 storeys	26m	8 storeys	28m	9 storeys	36.4m	12 storeys	30m	9 storeys	39m	12 storeys		
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20m	6 storeys	26m	8 storeys																								
28m	9 storeys	36.4m	12 storeys																								
30m	9 storeys	39m	12 storeys																								
Present built form outcomes and height controls in separate tables	Accept	This is a drafting issue and helps simplify the control.																									
Present street wall and interface control by reference to a plan	Accept	A plan has been prepared, which shows overall height controls as well as street wall height and setback controls. This plan has been inserted in the DDO and both the panel recommended version and the management recommended version are included below.																									
Remove requirements that are covered in other parts of the planning scheme.	Accept	This technical recommendation is supported.																									
Update the objectives as follows: <i>To create ensure the preferred character of Arden-Macaulay develops as a compact, high density, predominantly mid-rise, <u>6 – 12 storey</u>, walkable and high amenity neighbourhood.</i>	Accept	These changes to the objectives, some of which were recommended and/or supported by Council's expert witnesses, are satisfactory as the sentiment of the original objectives is retained.																									

	<p><u>To provide for higher development that delivers identified public benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.</u></p> <p>To provide for mid-rise 6 – 12-storey development, <u>that steps</u> stepping down at the interface with the low scale surrounding established residential neighbourhoods.</p> <p>To ensure the scale, height and setbacks of new <u>development</u> buildings at the interface with the surrounding established <u>existing</u> residential neighbourhoods is compatible with the scale, amenity and context of these areas.</p> <p>To improve the <u>provide a highly walkable</u> neighbourhood walkability by introducing a fine-grain network of laneways/through links, which is integrated with the pattern of development of adjacent areas, maximises permeability for pedestrian movement and accommodates vehicular and service access to developments.</p> <p>To create urban streetscapes within the area that are defined by a generally consistent plane of building facades that collectively enclose the sides of the streetscapes whilst <u>but</u> allowing good levels of daylight and sunlight to penetrate to the streets and to lower building levels.</p>		
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	<p>To create streetscapes that have a high level of pedestrian comfort in terms of their scale, access to sunlight, daylight and sky views.</p> <p><u>To ensure the scale, height and setback of new development on existing residential streets is compatible with the scale and context of these streets.</u></p> <p>To ensure buildings align to the street edge.</p> <p>To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.</p> <p>To provide shelter for pedestrians from the rain, wind and sun without causing detriment to building or streetscape integrity.</p> <p>To encourage the ground floor of buildings to be designed so that they can be used for a variety of uses over time.</p> <p>To ensure new development respects the character, form, massing and scale of adjoining heritage buildings and places.</p> <p>To ensure that development provides a high level of amenity for building occupants.</p> <p>To promote a visual link of the public realm with the first five levels of the building and facilitate the passive surveillance of the public realm.</p>		
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	<p>Update the built form outcomes as shown in Table 2 of the Panel report.</p>	<p>Accept in part</p>	<p>Essentially the panel has:</p> <ul style="list-style-type: none"> • removed minor variations in language; • edited the outcomes for clarity; • deleted outcomes relating to open space in Area 10 and laneways in all areas; and, • added outcomes to address the type of built form that are preferred on the perimeter of the Office of Housing Estate. <p>The built form outcomes recommended by the Panel are very similar to those proposed by Council. The exceptions are:</p> <ol style="list-style-type: none"> 1. Area 4, now proposed by the Panel to be part of Area 1, where the specific mention of Little Hardiman Street has been deleted, i.e. <i>Protect the amenity of existing residential development south of Little Hardiman Street by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</i> <p>This change is acceptable as the built form outcome is to be applied to the whole of the mapped area, including “south of Little Hardiman Street”.</p> <ol style="list-style-type: none"> 2. In Area 10, now proposed by the Panel to be part of Area 8, the outcome relating to unreasonable overshadowing of public space has been deleted and the outcome relating to setbacks of higher built form along Melrose Street has been replaced with an outcome about appropriate scale of development at all interfaces with established low-scale residential. <p>This change to the built form outcome is satisfactory given that it is to be replaced with a built form outcome that applies to all interface</p>
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			<p>streets in the area, including Melrose Street.</p> <p>3. The panel has recommended deleting the built form outcome relating to laneways that was to apply to all areas, i.e. <i>Ensure new through connections and existing laneways have appropriate levels of access to daylight and sunlight.</i></p> <p>This deletion is not supported and instead management recommends this built form outcome be amended to read <i>Ensure existing laneways have appropriate levels of access to daylight and sunlight.</i></p>
	<p>Specify that a permit should only be granted to exceed the Preferred Maximum Height up to the Absolute Maximum Height if the development clearly demonstrates each of the following:</p> <ul style="list-style-type: none"> • Provides a demonstrable benefit to the broader community beyond the requirements in this scheme. • Displays exceptional quality of design. • Makes a positive contribution to the quality of the public realm. • Achieves the Design objectives of this clause and built form outcomes for the area. • Provides high quality pedestrian links where needed. 	<p>Accept</p>	<p>The wording recommended by the Panel has a similar intent to that contained in Council’s draft DDO, in terms of listing what the development must provide in order for a height greater than the preferred height to be considered.</p> <p>Management supports the recommended wording that “the development must <u>clearly</u> demonstrate <u>each</u> of the listed requirements to be allowed to go above the preferred maximum height and up to the absolute maximum height” (underlining added for emphasis). These two underlined words are critical, as simply displaying exceptional quality of design, for example, without addressing any of the other matters, would not be sufficient ground for consideration of higher built form.</p> <p>In its post-exhibition draft, Council had included examples of the types of “demonstrated benefit to the broader community beyond the requirements in this scheme”, i.e. affordable housing and public open space; however, the panel has not supported the inclusion of specific examples and has instead left it up to Council’s discretion to determine for each application what is an appropriate community benefit.</p>

	<ul style="list-style-type: none"> Maintains good solar access to the public realm. 		
	<p>Apply a Preferred Maximum Height of:</p> <ul style="list-style-type: none"> 9 Storeys in Area 9 6 storeys in Area 13 	Accept	<p>Area 9, now recommended by the Panel to be part of Area 8, was proposed to have a preferred maximum height of 20 metres, which equates to around 6 storeys. The Panel recommends this be increased to 9 storeys, consistent with properties along Macaulay Road east of Moonee Ponds Creek. This recommendation is accepted as management recommends applying the laneway controls apply to existing laneways (addressed further below in this table), including to developments on the northern side of the RoW located in this area.</p> <p>Area 13, now recommended by the Panel to be part of Area 4, was proposed to have a preferred maximum height of 14 metres, which equates to around 4 storeys. This height was intended to protect the amenity of land directly to the south which has been identified for future open space in the Structure Plan. The Panel recommends this be increased to 6 storeys, consistent with the proposed heights for properties to the west, south and east. The panel does not support applying height controls to protect adjacent properties that may become open space when there is nothing in the Planning Scheme to demonstrate a commitment to the land becoming open space. This recommendation is accepted as management recommends applying the laneway controls to existing laneways (addressed further below in this table), including to developments on both sides of the RoW located in this area.</p>
	<p>Allow buildings to exceed the Absolute Maximum Height in Areas 6 and 7 if a school or open space (more than 10%) is provided, and in Area 5 if it is to implement a master plan that reintegrates the estate</p>	Accept in part	<p>Under the proposed controls, Council will have the opportunity to negotiate for the provision of additional open space contribution, beyond the 7.06% required by the planning scheme, through the requirement to “provide a demonstrable benefit to the broader community” in order to exceed the</p>

	with the surrounding urban fabric.		<p>preferred maximum height.</p> <p>The exemption from the absolute maximum height was proposed by Council as an incentive to provide a much needed school in the area and was included on the expectation that this would apply to only one, or possibly two, of the sites, depending on the school requirements for the area as determined by the Department of Education. Expanding that height exemption to any site in Areas 6 and 7 that provides at least 10% open space (2.94% more than currently required by the MPS) means that we may see greater heights, and hence greater population, in Areas 6 and 7 than was anticipated in the Structure Plan, and will undermine the overall strategic aim of Arden Macaulay becoming a mid-rise suburb.</p> <p>The exemption from the Absolute Maximum Height in Areas 6 and 7 should only apply to the provision of a school. It should also not exempt the development from having to address other important built form matters. Management therefore recommends some additional wording to make it explicit that all developments must address these.</p> <p>With regard to the exemption from the Absolute Maximum Height for Area 5 on the basis of the implementation of a master plan that reintegrates the estate with the surrounding urban fabric, this is not supported given that the integration with the surrounding urban fabric should be part of any redevelopment of the estate. The Department of Human Services did not make a submission requesting a greater absolute maximum building height or requesting an exemption from it.</p>
	<p>Apply two explicit controls to renewal streets:</p> <ul style="list-style-type: none"> • '20 and 30 metre wide renewal street', where Development at the frontage must not exceed 	Accept in part	The majority of streets within the renewal area have a street wall height equal to the width of the street. The panel agrees that this is an appropriate approach given the nature of the area and the overall intensity of

	<p>a height of 6 storeys. Development should be set back 1 metre for every metre of height above 20 metres</p> <ul style="list-style-type: none"> • '15 metre wide renewal street', where development at the frontage must not exceed 4 storeys. Development should be set back 1 metre for every metre of height above 15 metres 		<p>development proposed.</p> <p>While the majority of the streets north of Macaulay Road are 20 metres wide, to the south a number are 15 metres wide.</p> <p>The panel considers that rather than refer to a 1:1 ratio the controls should specify a defined height.</p> <p>Management accepts the Panel's recommendation to specify a defined height instead of a 1:1 ratio (i.e. 6 storeys instead of 20 metres for 20 metre street and 4 storeys instead of 15 metres for 15 metre streets)</p> <p>The Panel does not believe a different street wall height should be applied to Canning Street and part of Boundary Road and therefore considers that these streets should have a street wall consistent with the majority of streets in the Amendment area, being 6 storeys. The Panel recognises that Canning Street is wider in parts, but believes that a consistent approach will help create a stronger and more consistent street wall.</p> <p>Because of the benefits of a consistent street wall management accepts the Panel's recommendation to apply the same street wall height and setback control to 30 metre wide streets (Canning and part of Macaulay Road) as that being applied to 20 metre wide streets.</p> <p>The panel recommends that the '15 metre wide renewal street' controls only apply to 15 metre wide streets; however, two renewal streets are around 10 metres wide (Thompson Street and Scarborough Place) and it is therefore unclear which street wall height and setback control should apply in this instance. Management recommends adding a specific street wall height and setback control for renewal streets that are between 10 and 15 metres wide as follows:</p>
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			<p>Development at the frontage must not exceed a height of 3 storeys.</p> <p>Development should be set back 1 metre for every metre of height above the street wall.</p>
	Apply '20 and 30 metre wide renewal street' requirements to all of Macaulay Road.	Accept	The panel's recommendation to apply a street wall height of 6 storeys along Macaulay Road west of Moonee Ponds Creek is consistent with the underlying premise of the Structure Plan of the 1:1 street wall to street width ratio to create 'great streets' which provide a sense of enclosure and definition of the street form whilst providing opportunity for solar access to the public realm at street level. This will also provide a consistent street wall height along Macaulay Road, both east and west of Moonee Ponds Creek.
	Apply the '15 metre wide renewal street' requirements to Haines Street.	Accept	The proposed Schedule to the DDO specified that any part of a building above 14 metres should have a setback of 14 metres. The panel considers that "for practical purposes the 14 metres street wall will be the same as the 15 metre street wall in other parts of DDO60, namely 4 storeys. It is not clear why development on this street should have a different upper level setback to other renewal streets. Bringing the controls for this street into line with the other renewal streets will help reinforce the controls and address issues of solar access to open space".
	<p>Apply the following controls to interface streets:</p> <ul style="list-style-type: none"> 'Residential interface streets', where: Development at the frontage must not exceed 3 storeys. Development above the street wall should be setback at least 10 metres and be visually recessive. 	Accept	<p>The proposed control for new development fronting onto a street separating it from an existing low-scale residential property (eg. west side of Melrose and Shiel streets) was a street wall height of 10.5m (around 3 storeys) and a line of sight setback, as shown in Figure 9 of the post-exhibition version of the DDO.</p> <p>Management accepts the panel's assessment that a requirement to set back development above the 3 storey mandatory street wall by 10 metres, coupled with a requirement that upper levels be visually recessive would</p>

			strike a good balance between maintaining the valued characteristics of the area without placing arbitrary restrictions on the new development.
	Delete the interface requirements at the rear of 135-137 Racecourse Road.	Accept	<p>The panel does not support applying setback controls to properties adjacent to land that Council has not committed to purchase for open space.</p> <p>Given that Clause 22.02 Sunlight to Open Space policy has an objective that protects sunlight to open space, this is acceptable. The City of Melbourne is currently working on updating this policy.</p>
	<p>Apply the following controls to replace the proposed interfaces with existing low scale residential areas:</p> <ul style="list-style-type: none"> • ‘ResCode Applies’, with the requirement that: A new building not on or within 200mm of a boundary should be setback from the boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres. 	Accept	<p>The panel sees no justification for departing from ResCode provisions in terms of rear and side interfaces with residentially zoned land. The Panel therefore recommends diagrams 4, 5, 6, 7 and 8, i.e. rear and side setback controls, be removed and replaced with ResCode requirements.</p> <p>Management agrees that this will make the application of the controls clear and not subject to variation over time and is more stringent than what Council had proposed.</p>
	<p>Update the active street frontages controls to distinguish between:</p> <ul style="list-style-type: none"> • Streets in a Commercial Zone • ‘Primary streets’ as identified in the plan in the DDO • Other streets. 	Accept	<p>The panel recommended this distinction on the basis that it considers that it is one thing to seek active frontages in an established retail setting or a Commercial Zone but is another thing entirely to seek it in a mixed use zone in an area that does not have active frontages at present. Management therefore accepts the panel’s recommendation that the active street frontages controls should be tailored to the purpose and character of the street.</p>

	<p>Update the weather protection and facade treatment as shown in Appendix C of the panel report.</p>	<p>Accept</p>	<p>The alternative wording better meets the overall aim of creating visually interesting streets fronted by well-designed buildings and provides a better, more flexible response to the façade articulation objective.</p>
	<p>Delete the map of proposed laneways.</p> <p>And instead, specify:</p> <ul style="list-style-type: none"> • Development must provide for a high quality pedestrian link generally along the eastern side of CityLink to provide direct pedestrian connection to Macaulay and Flemington Bridge Stations for land between Macaulay Road and Racecourse Road. • Development should provide for a fine-grained system of laneways and pedestrian connections that are: <ul style="list-style-type: none"> - Safe, direct and attractive. - Publicly accessible. - Aligned with other lanes or pedestrian connections to provide direct through routes. 	<p>Accept in part</p>	<p>The panel’s recommendation to remove the map of proposed new laneways and replace it with the suggested provisions is consistent with the recommendation from other recent panel hearings (eg. C171 Southbank and C196 City North). Council is doing further work on through block links to try to resolve this issue.</p> <p>Together with the removal of the map of proposed new laneways, the panel also recommended the removal of laneway controls along both proposed and existing laneways but did not explain why the street wall height and setback controls along existing laneways should be removed. Management does not support the removal of street wall height and set back controls on existing laneways. It is however recommended that the laneway controls (identified as figures 2 and 3 in the Council-endorsed post exhibition version) be translated into a more conventional expression of street wall height and set back as follows:</p> <p style="padding-left: 40px;">Development along the laneway must not exceed a height of 3 storeys.</p> <p style="padding-left: 40px;">Development above the street wall should be set back 4 metres. In addition, development on the northern side of an east-west laneway should be set back 1 metre for every metre of height above the preferred maximum height.</p> <p>Management also recommends adding a requirement under ‘Connectivity and laneways’ for new development along laneways and pedestrian connections to comply with the laneway street wall height and setback controls.</p>

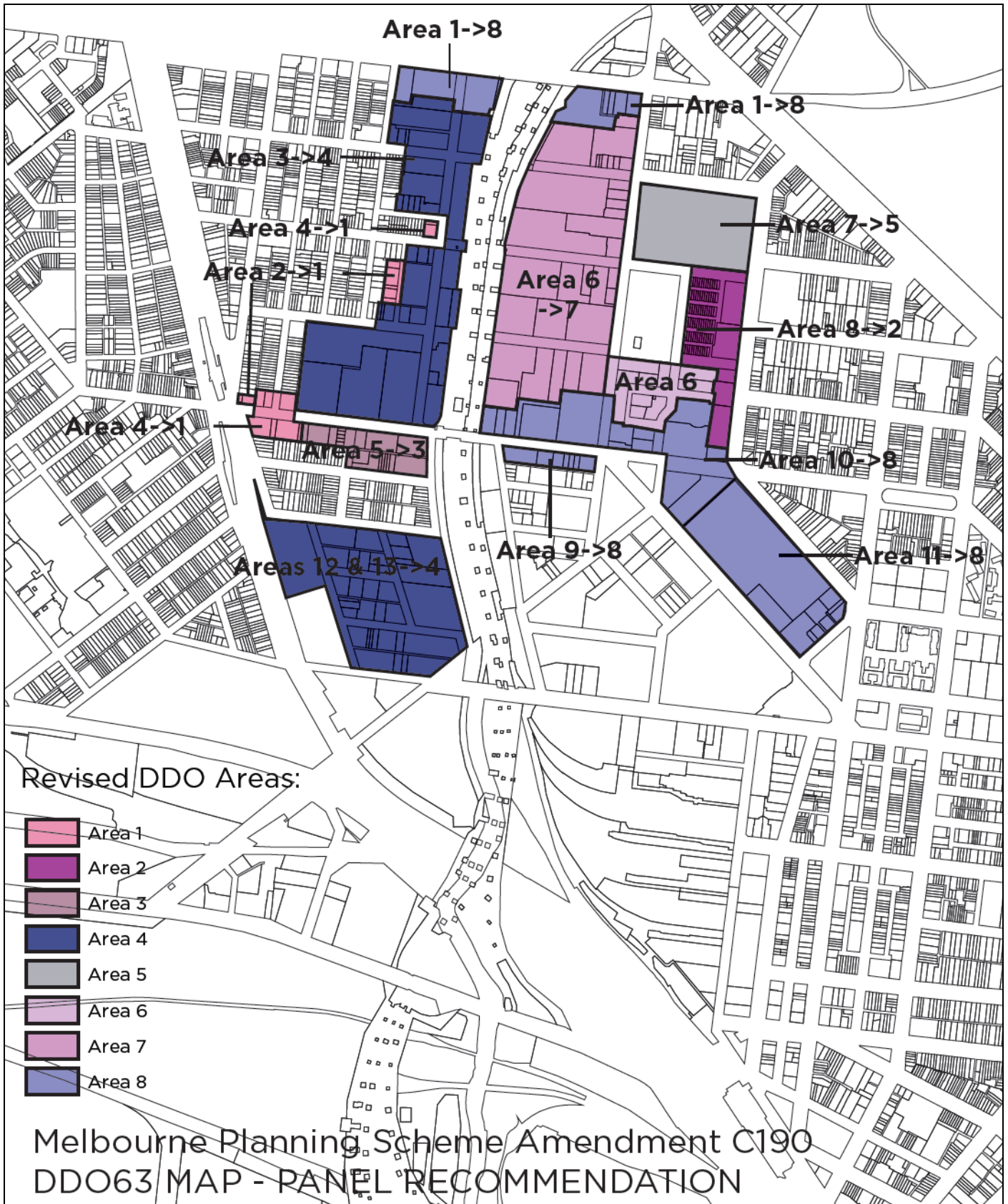
	Apply the 'ResCode Applies' interface requirement to the rear of residential properties in Bruce Street.	Accept	Even though they are not residentially zoned, there are a number of properties along this RoW which are used for residential purposes and their amenity should therefore be appropriate protected.
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Other Panel Recommendations

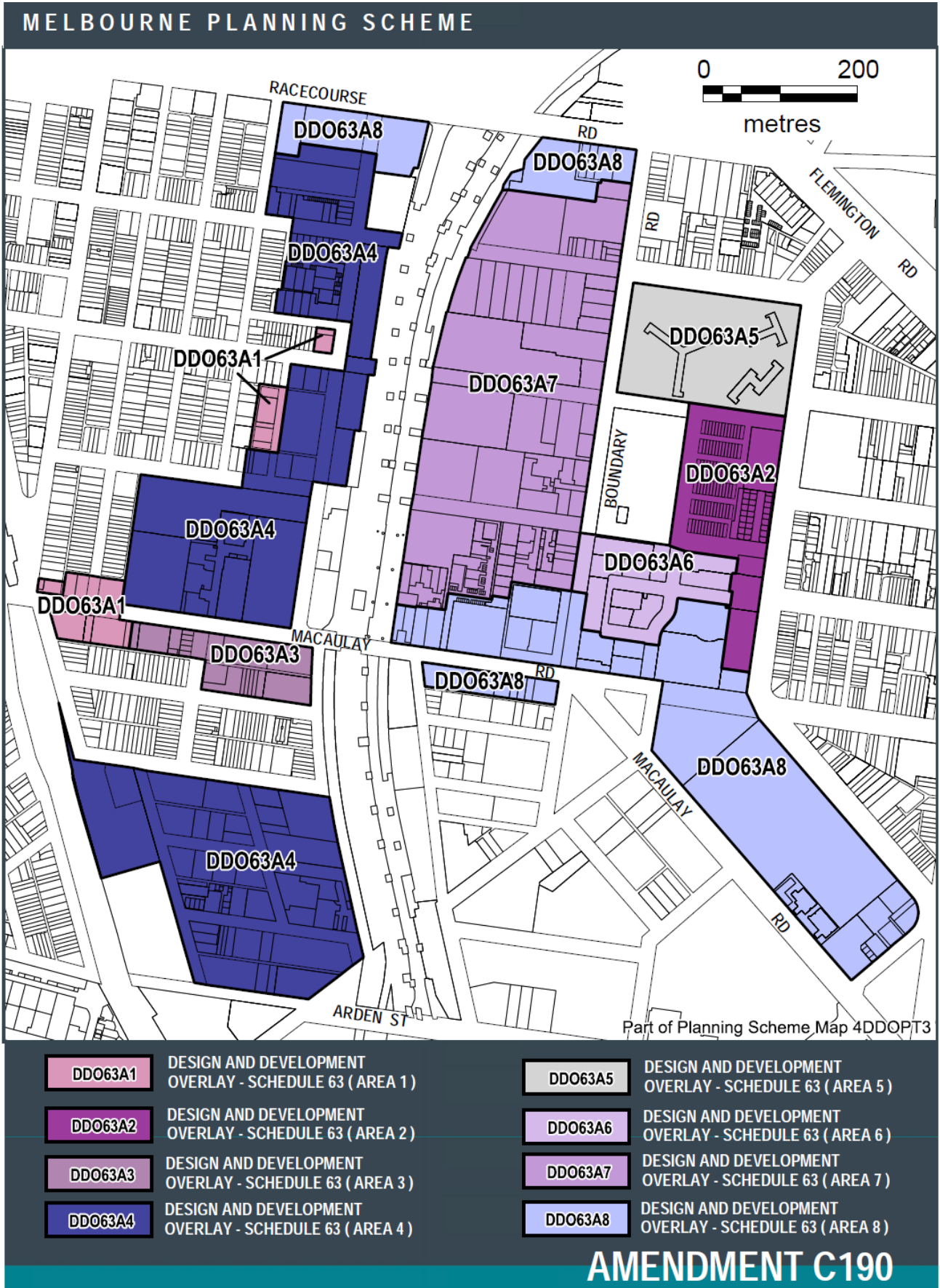
	<i>RECOMMENDATION</i>	<i>AGREE/DISAGREE</i>	<i>MANAGEMENT RESPONSE</i>
Future PSA to amend the MSS	Prepare an Amendment to update the text of MSS as it relates to Arden–Macaulay	Agree	<p>It is agreed that Clause 21.4-2 Arden-Macaulay should be amended to update the text and map to reflect and be in line with the broad policy directions of the Structure Plan and the controls in Amendment C190.</p> <p>This will be done as a separate planning scheme amendment.</p>
Open space provision	Review opportunities for open space provision in the renewal area as a matter of priority	Agree	<p>The Panel considers that there are a number of opportunities for open space improvement that the structure plan does not recognise including:</p> <ul style="list-style-type: none"> • Recognising the current open space role of land in Alfred Street as part of the public housing towers. • Relocating the North Melbourne Community Hub into new mixed use buildings to create a larger unencumbered reserve. <p>A review of opportunities for the open space provision in the Arden-Macaulay area as a whole is supported and is being considered in conjunction with the MPA as part of their work on the Arden Framework Plan.</p> <p>However, with regard to one of the open space opportunities suggested by the panel, it should be noted that the land around the public housing towers in Alfred St is owned and managed by DHHS, is part of the estate’s private open space and therefore has not been to date considered as part of publically usable open space.</p>

			With regard to the North Melbourne Community Hub, the City of Melbourne is currently considering a number of community infrastructure development options, including the possible integration with education, housing and health services.
Moonee Ponds Creek Master Plan	Specifically address east-west pedestrian links when preparing the proposed master plan for the Moonee Ponds Creek	Agree	<p>We note that the Structure Plan identifies access to the Moonee Ponds Creek from east of the rail line and a bridge over the creek at Sutton Street. Such a link, whether at Sutton Street or elsewhere, will play an important part in the connectivity of the renewal area.</p> <p>Scoping studies have been completed and a master plan for the Moonee Ponds Creek will be prepared in the 2016-2017 financial year. The Master Plan will consider the identification of east-west links to ensure the open space along the Creek is not cut off from the new residents in the renewal area to the east of the rail line.</p>
VicTrack Land	Commence negotiations with VicTrack for the purchase of their land	Partially Agree	The City of Melbourne and the State Government are investigating various options.
Environmental Audit Overlay (EAO)	Undertake a precinct wide review of contamination issues with the view to refining the application of the Environmental Audit Overlay	Disagree	<p>The Panel considers that it is appropriate to apply the Environmental Audit Overlay to land being rezoned to Mixed Use.</p> <p>However, it also notes that the Environmental Audit Overlay is a very blunt planning tool and there will be broad benefits in undertaking a precinct wide analysis, not least for identifying land unsuitable for open space.</p> <p>The EAO is the only planning tool available to ensure potential contamination is investigated and remedied by the applicant. It is considered to be appropriate for developers, rather than Council, to undertake this work if and when they wish to redevelop the land.</p>

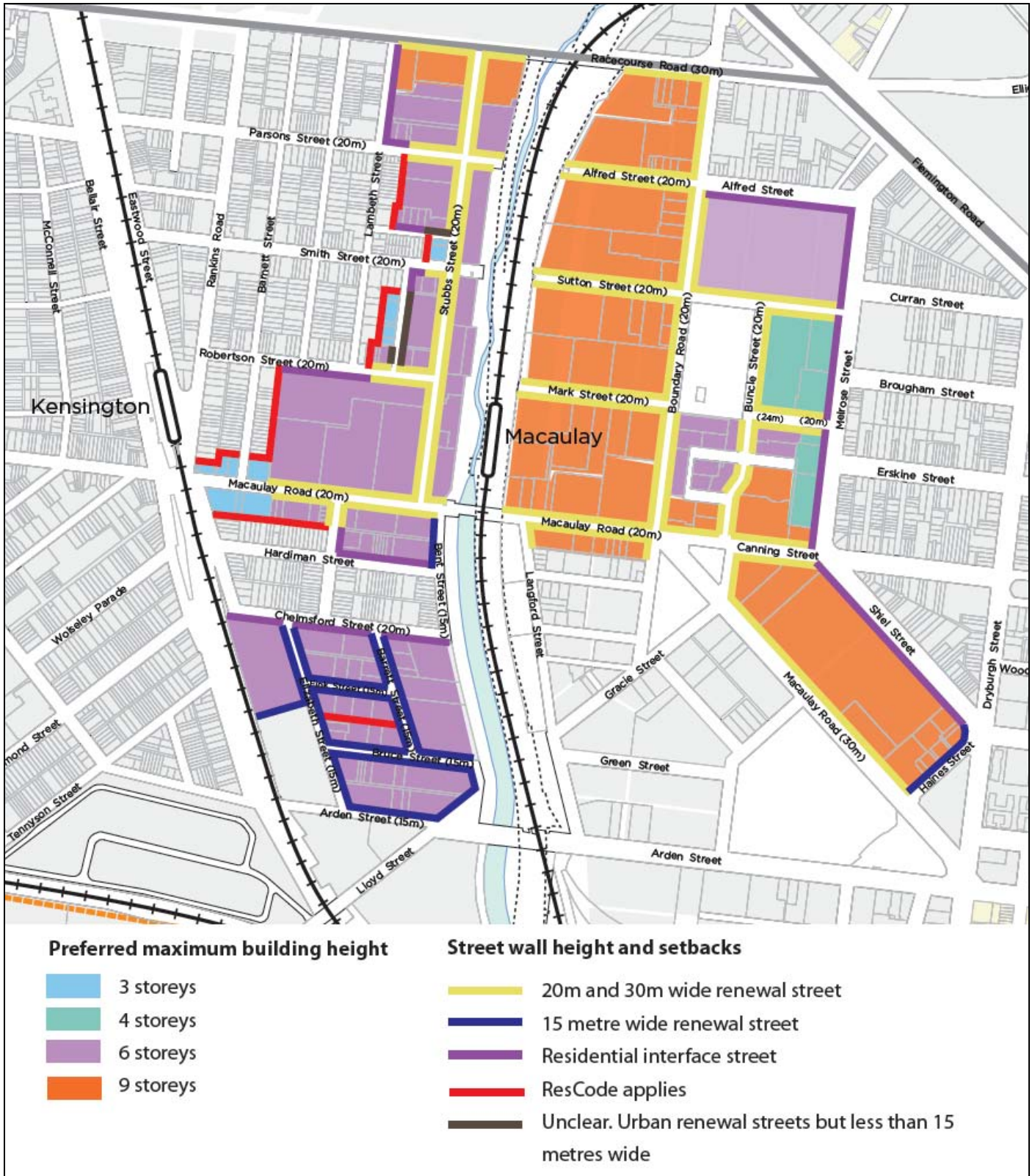
MAP OF THE PANEL'S RECOMMENDED DDO AREAS



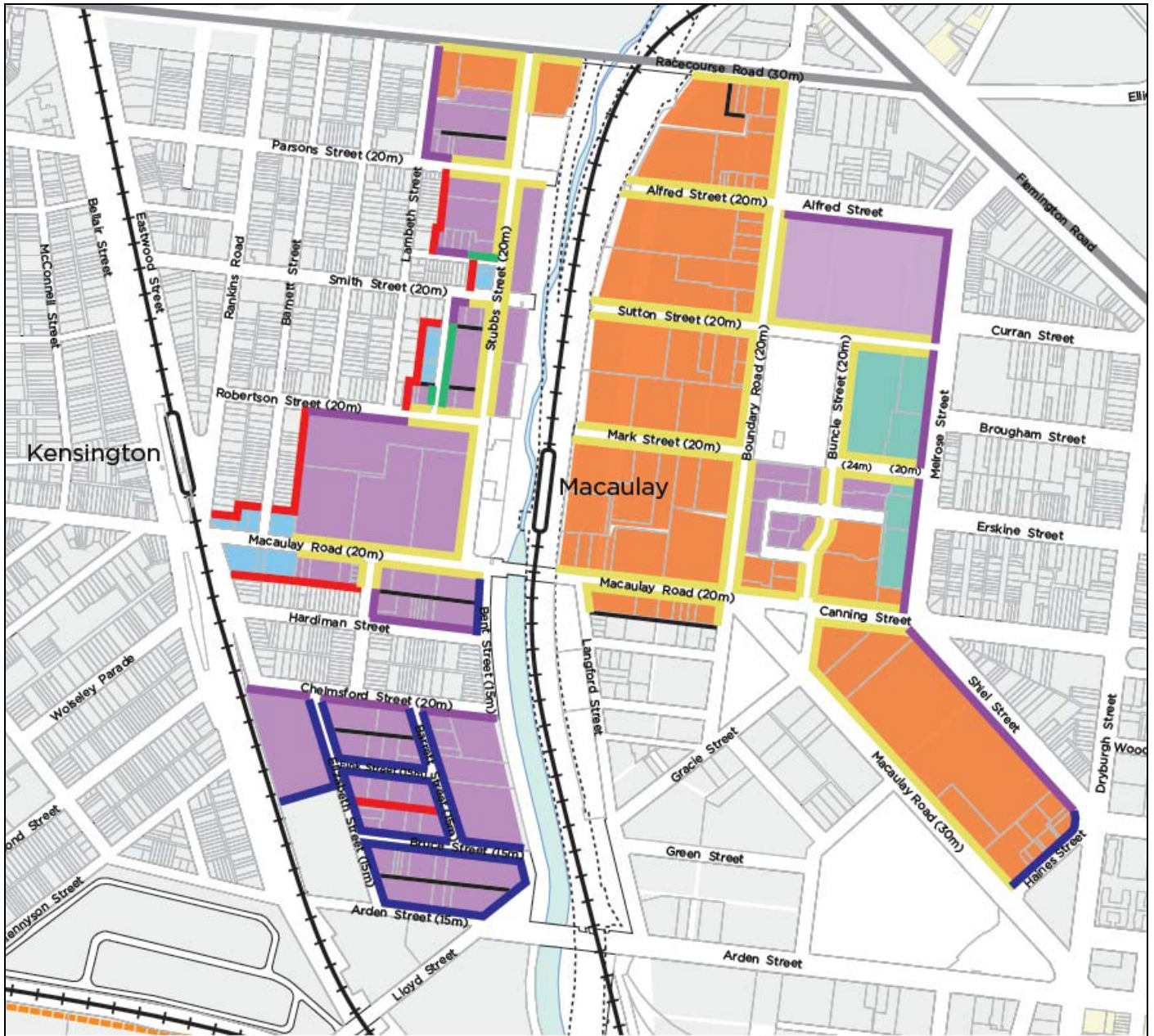
MANAGEMENT'S RECOMMENDED DDO AREAS



PANEL'S RECOMMENDED DDO MAP1 STREET WALL HEIGHT AND SETBACKS



MANAGEMENT'S RECOMMENDED DDO MAP1 STREET WALL HEIGHT AND SETBACKS



Preferred maximum building height

- 3 storeys
- 4 storeys
- 6 storeys
- 9 storeys

Street wall height and setbacks

- 20m and 30m wide renewal street
- 15 metre wide renewal street
- 10 to 15 metre wide renewal street
- Residential interface street
- ResCode applies
- Laneway

MELBOURNE PLANNING SCHEME

-/-/201-
C190**SCHEDULE 630 TO THE DESIGN AND DEVELOPMENT OVERLAY**Shown on the planning scheme map as **DDO630****ARDEN-MACAULAY AREA, KENSINGTON AND NORTH MELBOURNE****1.0**-/-/201-
C190**Design objectives**

- To ~~ensure the preferred character of Arden Macaulay develops as~~ **create** a compact, high density, mid-rise, 6 – 12 storey, walkable and high amenity neighbourhood.
- To provide for higher development that delivers identified public benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.
- To provide for ~~mid-rise 6 – 12 storey~~ development, ~~that~~ **step**ping down at the interface with the low scale surrounding established residential neighbourhoods.
- To ensure the ~~scale~~, height and setbacks of new ~~buildings~~ **development** at the interface with ~~the surrounding existing~~ established residential neighbourhoods is compatible with the scale, amenity and context of these areas.
- To provide a highly walkable neighbourhood.
- To create urban streetscapes ~~within the area~~ that are defined by a generally consistent plane of building facades that ~~collectively~~ enclose ~~the sides of the streetscapes whilst but~~ allowing good levels of daylight and sunlight to penetrate to the streets and to lower building levels.
- To ensure the scale, height and setback of new development on existing residential streets is compatible with the scale and context of these streets.
- ~~To ensure buildings align to the street edge.~~
- ~~To deliver a fine grain of built form creating architectural variety and interest along streets by encouraging buildings with wide street frontages to be broken into smaller vertical sections.~~
- ~~To create streetscapes that have a high level of pedestrian comfort in terms of their scale, access to sunlight, daylight and sky views.~~
- To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.
- To provide shelter for pedestrians ~~on primary streets~~ from the rain, wind and sun without causing detriment to building or streetscape integrity.
- ~~To improve the neighbourhood walkability by introducing a fine grain network of laneways/through links, which is integrated with the pattern of development of adjacent areas, maximises permeability for pedestrian movement and accommodates vehicular and service access to developments.~~
- ~~To create a streetscape microclimate where street trees will flourish.~~
- To encourage the ground floor of buildings to be designed so that they can be used for a variety of uses over time.
- To ensure new development respects the character, form, massing and scale of adjoining heritage buildings and places.

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- To ensure that development provides a high level of amenity for building occupants.
- To promote ~~a visual link of the public realm with the first five levels of the building and facilitate the~~ passive surveillance of the public realm.

2.0

—/—/201—
C190

Buildings and works ~~requirements~~

A permit is not required for buildings and works that do not alter the height or setback of an existing building.

An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form Outcomes of this schedule, and any local planning policy requirements.

Architectural features and building services may exceed specified heights. Where a height is expressed in storeys this does not include floors used only to house or access plant and equipment; roof structures and a parapet may exceed the specified height limit.

Table 1: Built form outcomes

Area	Built Form Outcomes
A1	<p>Deliver a scale of development that complements the established low-scale residential area</p> <p>Protect the amenity of existing residential areas to the west and north/south of Little Hardiman Street by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p> <p>Deliver a scale of development that responds appropriately to the existing context.</p>
A2	<p>Set back of higher building form along Melrose Street to deliver scale of development that responds appropriately to the existing context.</p>
A3	<p>Deliver a scale of development that provides street definition as well as and a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
A4, A5	<p><u>Deliver</u> a scale of development that provides street definition as well as and a pedestrian friendly scale.</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential <u>development</u> that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Solar access is maintained to ground floors on western side of Thompson Street and southern side of Scarborough Place.</p> <p><u>Deliver the reintegration of Office of Housing estates into the surrounding urban fabric.</u></p>

Comment [GP1]: Used to be Areas 2 and 4

Comment [GP2]: Applied to what used to be Area 4.

Comment [GP3]: Used to be Area 8

Comment [GP4]: Used to be Areas 5

Comment [GP5]: Used to be Areas 3, 12 and 13

MELBOURNE PLANNING SCHEME

Area	Built Form Outcomes
A6, A7	<p><u>Deliver</u> a scale of development that provides street definition as well as <u>and</u> a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p><u>Provide limited opportunities for taller buildings that deliver significant public benefit outcomes.</u></p>
A8	<p><u>Deliver</u> a scale of development that provides street definition as well as <u>and</u> a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential <u>development</u> that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Provide increased density <u>in local centres</u> compared to surrounding development within local centres.</p> <p>Protect the amenity of existing and future development to the south by avoiding unreasonable overlooking and overshadowing.</p> <p>Development does not unreasonably overshadow public open space.</p> <p>Ensure new through connections and existing laneways have appropriate levels of access to daylight and sunlight.</p>

Comment [GP6]: Used to be Area 6

Comment [GP7]: Used to be Areas 1, 9, 10 and 11

Comment [GP8]: Applied to what used to be Area 1.

Comment [GP9]: Applied to what used to be Area 10.

Comment [GP10]: Applied to all areas.

MELBOURNE PLANNING SCHEME

Building Heights and Setbacks Buildings or works requiring a permit should be built in accordance with the built form requirements and outcomes as specified in the table to this Schedule.

A permit cannot be granted to increase the maximum height at street of a permit cannot be granted to increase the preferred maximum building height by more than 30%. A permit can only be granted to increase the preferred maximum building height if it can be demonstrated that the development : (1) provides a demonstrable benefit to the broader community beyond the requirements in this scheme (for example but not limited to a public open space contribution greater than that prescribed, affordable housing, etc.) (2) will not increase overshadowing of the public realm between 11am and 2pm at the equinox, and (3) the upper storeys will be visually recessive when viewed from the adjoining public realm and private open space of adjoining low scale residential development. Development should not exceed the Preferred maximum height in Table 2.

A permit cannot be granted to exceed the Absolute maximum height in Table 2.

Development that exceeds the Preferred maximum height in Table 2 must demonstrate each of the following:

- Provides a demonstrable benefit to the broader community beyond the requirements in this scheme.
- Displays exceptional quality of design.
- Makes a positive contribution to the quality of the public realm.
- Achieves the objectives of this clause and built form outcomes for the area.
- Provides high quality pedestrian links where needed.
- Maintains good solar access to the public realm.

Table 2: Building heights

Area	Preferred maximum height	<u>Absolute maximum height</u>
A1	3 storeys 10.5 metres	4 storeys 14 metres
A2	4 storeys 14 metres	6 storeys 18.2 metres
A3, A4	6 storeys 20 metres	8 storeys 26 metres
A5	6 storeys 20 metres	8 storeys 26 metres <u>This does not apply if the development is part of a master plan for the whole of Area 5 aimed at the reintegration of the area with the surrounding urban fabric.</u>
A6	6 storeys 20 metres	8 storeys 26 metres This does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education <u>or provides more than 10 per cent of the site area as public open space.</u>
A7	9 storeys 28 metres	12 storeys 36.4 metres This does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the

Comment [GP11]: Used to be Areas 2 and 4

Comment [GP12]: Used to be Area 8

Comment [GP13]: Used to be Areas 3, 5, 12 and 13

Comment [GP14]: Used to be Area 7

Comment [GP15]: Used to be Area 6, land east of Boundary Road

Comment [GP16]: Used to be Area 6, land west of Boundary Road

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Area	Preferred maximum height	Absolute maximum height
		Victorian Department of Education or provides more than 10 per cent of the site area as public open space.
A8	9 storeys 30 metres	12 storeys 39 metres

Comment [GP17]: Used to be Areas 1, 9, 10 and 11

MELBOURNE PLANNING SCHEME

Street wall and setbacks

A permit cannot be granted to increase the Street Wall Height in Table 3.

Development should be set back from all streets identified in Map 1 in accordance with Table 3. This applies even if the site does not have frontage to the identified street.

Buildings ~~or works at street level~~ should be built to street edge at street level to provide a clearly delineated and fronted public realm.

Buildings should be set back from existing low scale residential development in accordance with Table 3.

Table 3: Street wall height and setbacks

<u>Interface type shown on Plan</u>	<u>Street wall height</u>
	<u>Set back of buildings above street wall</u>
<u>20 and 30 metre wide renewal street</u>	Development at the frontage must not exceed a height of 6 storeys. Development should be set back 1 metre for every metre of height above 20 metres
<u>15 metre wide renewal street</u>	Development at the frontage must not exceed a height of 4 storeys. Should be set back 1 metre for every metre of height above 15 metres.
<u>Residential interface street</u>	Development at the frontage must not exceed a height of 3 storeys. Development above the street wall should be setback at least 10 metres and be visually recessive.
	<u>Set back from boundary with low scale residential development</u>
<u>ResCode Applies</u>	A new building not on or within 200mm of a boundary should be set back from the boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.

Table to Schedule 60

Area	PREFERRED — Maximum Building Height, MAXIMUM HEIGHT AT STREET EDGE, PREFERRED — MAXIMUM HEIGHT AT SIDE AND REAR — PROPERTY BOUNDARIES — & PREFERRED — BUILDING ENVELOPE	BUILT FORM Outcomes
4	Preferred — maximum building height: 30 metres Maximum — street — edge	Deliver scale of development that provides street definition, a pedestrian friendly scale; and appropriate access to sunlight and daylight.

Comment [GP18]: Replaced by Tables 1, 2 and 3 and Map 1.

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	<p>height: equal to the width of the street.</p> <p>Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1.</p> <p>Preferred height and setbacks at southern boundary for 157 Racecourse Road: any part of a building above 10.5 metres should have a setback of 10 metres and any part of a building above 20 metres should have a setback of 20 metres</p>	<p>Protect the amenity of existing and future development to the south by avoiding unreasonable overlooking and overshadowing.</p>
2	<p>Preferred maximum building height: 10.5 metres</p> <p>Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figure 5.</p>	<p>Deliver a scale of development that complements the established low-scale residential area</p> <p>Protects the amenity of existing residential areas to the west and north by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
3	<p>Preferred maximum building height: 20 metres</p> <p>Maximum street edge height: equal to the width of the street, except for development fronting a street separating it from existing low-scale residential development, or development fronting Macaulay Road, in which case the maximum height at street edge must equal 10.5 metres.</p> <p>Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1, except for development fronting a street separating it from existing low-scale residential, in which case it should be within the</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Solar access is maintained to ground floors on western side of Thompson Street and southern side of Scarborough Place.</p>

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~~line of sight as shown in figure 9, and development fronting Macaulay Road, in which case it should be within the line of sight as shown in figure 12. Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figures 5, 6, 7 and 8, as applicable~~

4	<p>Preferred maximum building height: 10.5 metres</p>	<p>Deliver a scale of development that responds appropriately to the existing context.</p>
	<p>Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1.</p>	<p>Deliver scale of development that complements the established low-scale residential area.</p>
	<p>Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figures 7, 8 and 11, as applicable.</p>	<p>Protect the amenity of existing residential development south of Little Hardiman Street by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
5	<p>Preferred maximum building height: 20 metres</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p>
	<p>Maximum street edge height: equal to the width of the street, except development along Little Hardiman Street west of Albermarle Street where maximum height at street edge must equal 4 metres, and along Macaulay Road and along Hardiman Street where maximum height at street edge must equal 10.5 metres.</p>	<p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
	<p>Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1, except for development fronting Macaulay Road, in which case it should be within the line of sight as shown</p>	

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in figure 12.

~~Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figures 7, 8, 9 and 11, as applicable.~~

-6	<p>Preferred maximum building height: 20 metres, or 28 metres west of Boundary Road, except where the application contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education, in which case the preferred height limit will be to the satisfaction of the Melbourne City Council</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p>
	<p>Maximum street edge height: equal to the width of the street</p>	
	<p>Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1.</p>	
7	<p>Preferred maximum building height: 20 metres.</p> <p>Maximum street edge height: equal to the width of the street, except for development along Melrose and Alfred Streets where maximum height at street edge must equal 10.5 metres</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p> <p>Setbacks of higher building form along Melrose Street and Alfred Street to deliver scale of development that responds to the existing context.</p>
	<p>Preferred building envelope from Melrose and Alfred Streets: should be within the line of sight as shown in figure 9</p>	
8	<p>Preferred maximum</p>	<p>Setback of higher building form along</p>

MELBOURNE PLANNING SCHEME

	<p>building height: 14 metres</p> <p>Maximum street edge height: equal to 10.5 metres along Melrose Street</p> <p>Preferred building envelope from Melrose street: should be within the line of sight as shown in figure 9</p>	<p>Melrose Street to deliver scale of development that responds appropriately to the existing context.</p>
9	<p>Preferred maximum building height: 20 metres</p> <p>Maximum street edge height: equal to the width of the street</p> <p>Preferred maximum building envelope from street: should be within the 45degree angle as shown in figure 4</p>	<p>Deliver scale of development that provides street definition and a high level of pedestrian amenity, having regard to access to sunlight, appropriate sky views and a pedestrian friendly scale.</p>
10	<p>Preferred maximum building height: 30 metres</p> <p>Maximum street edge height: equal to the width of the street, except for development along Shiel Street and Melrose Street where maximum height at street edge must equal 10.5 metres.</p> <p>Preferred building envelope from street: Along Melrose Street, should be within the line of sight as shown in figure 9. Any part of a building above 10.5 metres should have a setback of 10metres from Shiel Street (including at the corner with Canning Street). Any part of a building above 20 metres should</p>	<p>Provide increased density in relation to surrounding development within local centres.</p> <p>Deliver scale of development that provides street definition and a very high level of pedestrian amenity suitable for a local activity centre, including access to sunlight to ground floor, sky views and a pedestrian friendly scale.</p> <p>Development does not unreasonably overshadow public open space. Setback of higher building from Melrose Street to deliver a scale of development that responds to the existing context.</p>

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~~have a minimum setback of 10 metres from Boundary Road, Canning Street and Vaughan Terrace.
Except for development along Melrose Street, any part of a building above 30 metres should be within the 45degree angle as shown in figure 1.~~

11	<p>Preferred maximum building height: 30 metres</p> <p>Maximum street edge height: equal to the width of the street, except for Shiel Street where maximum height at street edge must be equal to 10.5 metres and Haines Street where the street edge must be equal to 14 metres.</p> <p>Preferred building envelope from street: should be within the 45degree angle as show in figures 1, except for development along Shiel Street where it should be within the line of sight as shown in figure 10 and Haines Street where any part of building above 14 metres should have a setback of 14 metres.</p>	<p>Deliver scale of development that provides street definition and a high level of pedestrian amenity, including access to sunlight to ground floor, sky views and a pedestrian friendly scale.</p> <p>Setback of higher building form along the interface with established low-scale residential to deliver a scale of development that responds appropriately to the existing context, provides a transition in height and minimises the visual impact of upper levels.</p>
12	<p>Preferred maximum building height: 20 metres.</p> <p>Maximum street edge height: equal to the width of the street, except for Chelmsford Street east of Barrett Street where maximum height at street edge must be equal to 10.5 metres.</p> <p>Preferred building envelope from street: should be within the 45degree angle as shown in figure 1, except for Chelmsford Street east of</p>	<p>Deliver scale of development that provides street definition and a high level of pedestrian amenity, including access to sunlight to ground floor, sky views and a pedestrian friendly scale.</p> <p>Setback of higher building form along the interface with established low-scale residential to deliver a scale of development that responds appropriately to the existing context, provides a transition in height and minimises the visual impact of upper levels.</p>

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	Barrett Street where it should be within the line of sight as shown in figure 9	
13	Preferred building height: 14 metres Maximum street edge height: equal to 10.5 metres along Chelmsford Street Preferred building envelope from Chelmsford street: should be within the line of sight as shown in figure 9	Setback of higher building form along the interface with established low-scale residential to deliver a scale of development that responds appropriately to the existing context, provides a transition in height and minimises the visual impact of upper levels. Development does not unreasonably overshadow public open space.
All areas	Except at interface with established low scale residential as listed above, setbacks of new development along new through connections and existing laneways should be in accordance figures 3 and 4, as applicable.	Ensures new through connections and existing laneways have appropriate levels of access to daylight and sunlight.

Design Requirements

Streetscape Controls: Building heights and setbacks at street frontages

Comment [GP19]: Replaced by Table 3 and map 1

~~Figure 1 applies to new development on properties that are not immediately adjacent to existing low scale residential properties. A maximum height at street edge is equivalent to the street width. Above this height, building envelope must be in accordance with a 45 degree angle as shown.~~

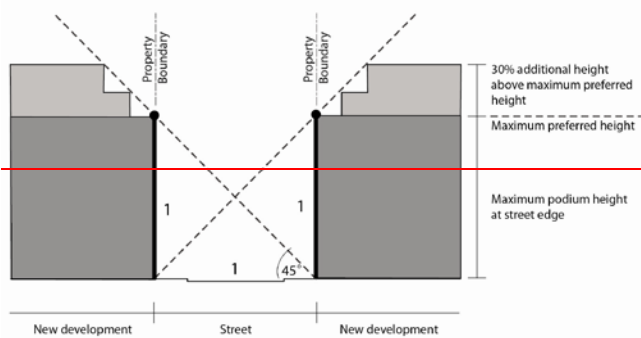


Figure 1

Southern boundary setbacks to new through connections and existing laneways

MELBOURNE PLANNING SCHEME

Figure 3 applies to new development on properties that are not immediately adjacent to existing low scale residential properties along an existing east-west laneway or where a new east-west through connection is nominated.

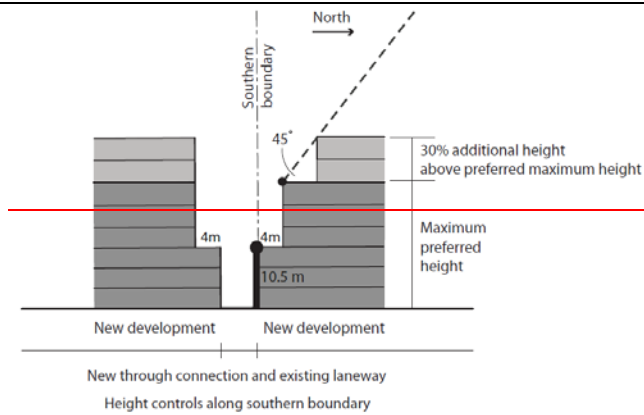


Figure 3

Setbacks to new through connections and existing laneways

Figure 4 applies to new development on properties that are not immediately adjacent to existing low scale residential properties along an existing laneway or where a new through connection is nominated.

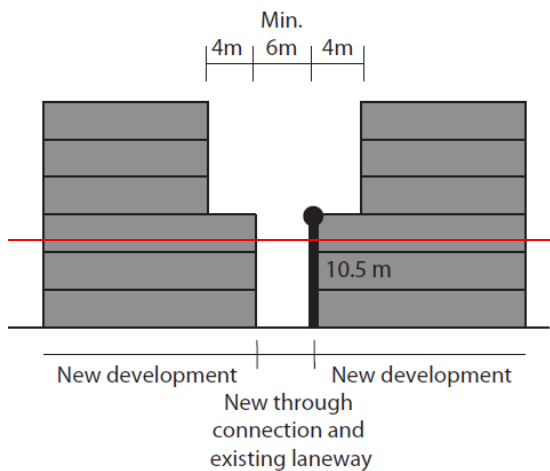


Figure 4

MELBOURNE PLANNING SCHEME

Residential Interface Areas

Figure 5 applies where new development abuts a laneway separating it from an existing low scale residential property's rear boundary

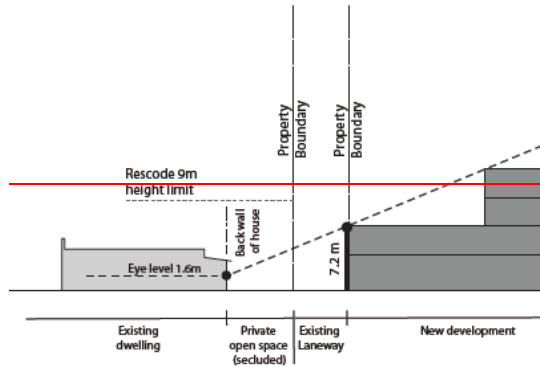


Figure 5

Figure 6 applies where new development abuts an existing low scale residential property's rear boundary

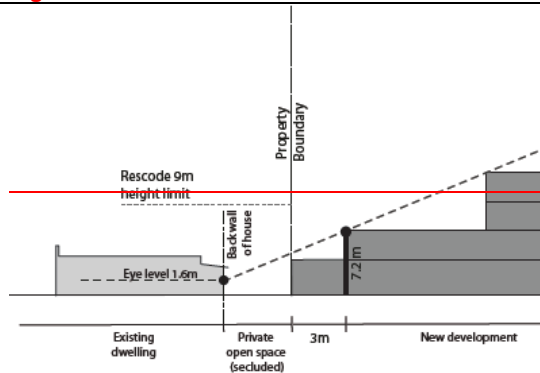


Figure 6

Figure 7 applies where new development abuts an existing residential property's side boundary

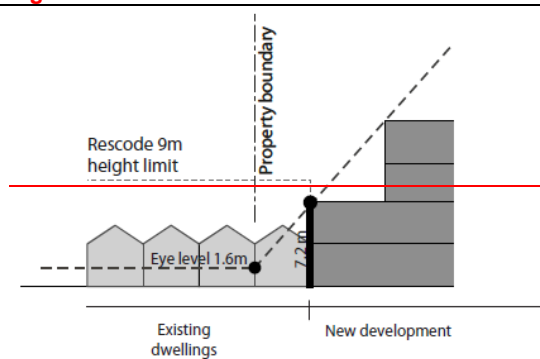
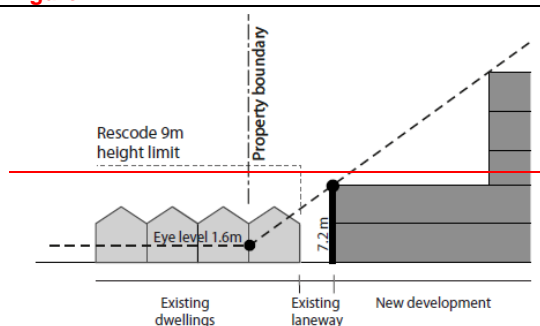


Figure 7

Figure 8 applies where new development abuts a laneway separating it from an existing residential property's side boundary



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Figure 8

~~Figure 9 applies where new development fronts onto a street separating it from an existing low-scale residential property.~~

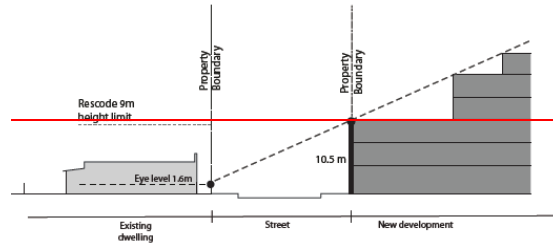


Figure 9

MELBOURNE PLANNING SCHEME

Figure 10 applies where new development fronts onto Shiel Street (within Area 11)

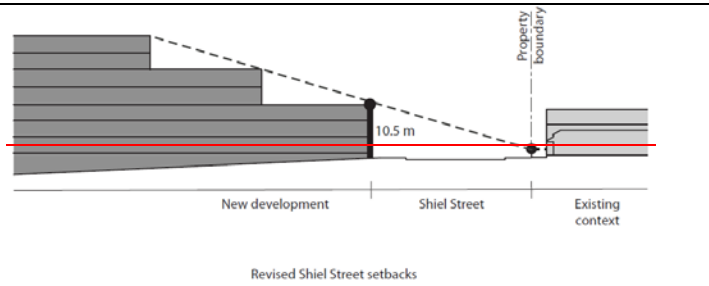


Figure 10

Figure 11 applies where new development backs onto Little Hardiman Street

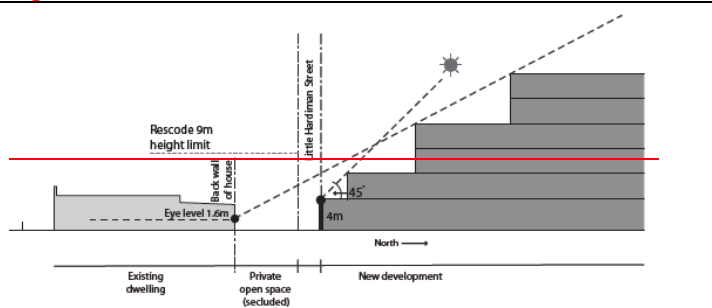


Figure 11

Figure 12 Applies where new development fronts onto Macaulay Road

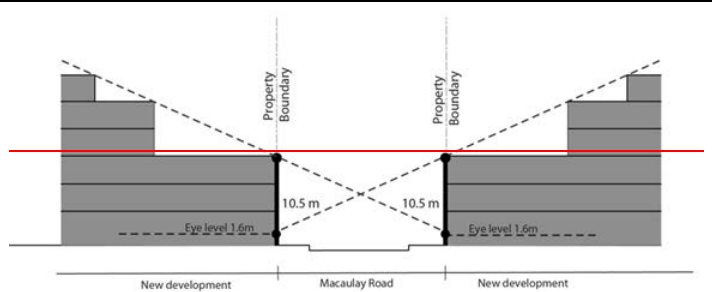
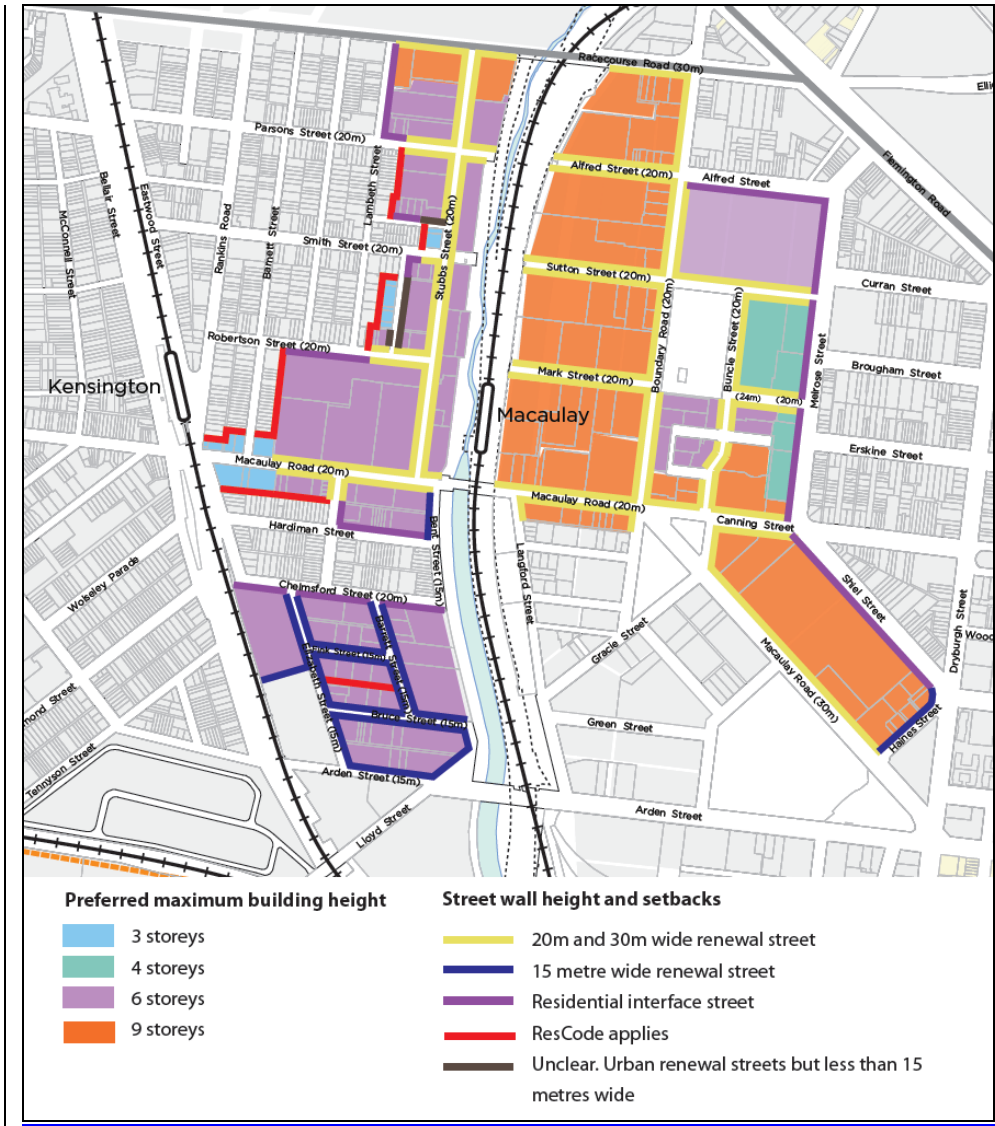


Figure 12

MELBOURNE PLANNING SCHEME



Map 1: Street wall height and setbacks

MELBOURNE PLANNING SCHEME

Active Street Frontages

~~The design of facades must respond to the following design standards, as appropriate:~~

- ~~• All visible sides of a building should be fully designed.~~
- ~~• Blank building walls that are visible from streets and public spaces should be avoided.~~
- ~~• Buildings should address both street frontages on corner sites.~~
- ~~• Visible service areas and other utility requirements should be treated as an integral part of the overall design and screened from public areas.~~
- ~~• Facades should make provision for the location of external lighting for public safety purposes and to give interest to streetscapes at night.~~

~~A Buildings in a Commercial Zone, with ground-level street frontages to primary streets, as identified on the Map 1, must present an attractive pedestrian-oriented frontage by providing~~should provide:

- **At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or as other uses, customer service areas and activities, which provide pedestrian interest and interaction.**

~~At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.~~

Clear glazing (security grilles must be transparent).

A building with ground-level frontage to a street identified on Map 2, should present an attractive pedestrian oriented frontage with commercial uses where practical.

Buildings with ground-level ~~street~~ frontages to all other streets, should provide an active and physically connected street interface, for example by providing multiple entrances off the street.

~~The ability to establish a visual relationship between building occupants and pedestrians, and better surveillance of the street by developing the first five levels of buildings with a “casing” of dwellings or offices or other design mechanisms.~~

Weather Protection and façade treatment

A building with a road frontage to a ~~primary~~ street, ~~as~~ identified on Map ~~24~~, should provide a veranda for weather protection over the footpath unless ~~it is demonstrated that~~ this would cause detriment to the integrity of a heritage building or streetscape.

The articulation of a building façade should express a fine grain variety and modulation that assists in reducing the visual dominance of buildings, particularly a wide street frontage. Expressing the vertical elements is encouraged to further minimise the dominance of wide building frontages.

MELBOURNE PLANNING SCHEME



Map 24 – Frontages to primary streets

~~Façade articulation~~

~~The façade of buildings should be broken into smaller vertical sections of 4 metres to 10 metres in width.~~

~~New Connectivity and laneways through connections~~

~~Development must provide for a high quality pedestrian link generally along the eastern side of CityLink to provide direct pedestrian connection to Macaulay and Flemington Bridge Stations for land between Macaulay Road and Racecourse Road.~~

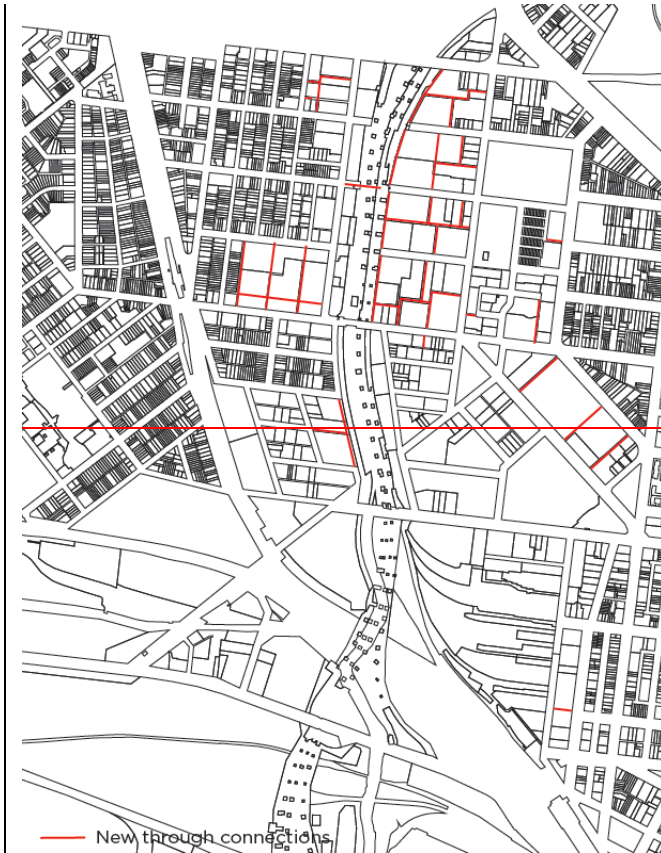
~~Developments which are required to provide a new laneway/ through connection, as shown on Map 2, should provide for a fine-grained system of laneways and pedestrian connections which that are:~~

- ~~o Safe, direct and attractive;~~
- ~~o Publicly accessible;~~
- ~~o Aligned with other lanes or pedestrian connections to provide direct through routes through Kensington;~~

~~At least 6 metres wide, to accommodate vehicular movements (including turning into private properties), waste collection and landscaping opportunities; and~~

~~Open to the sky.~~

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Map 2 – New through connections

3.0 Heritage

-/-/201-
C190

When new developments adjoin heritage buildings located in a Heritage Overlay, the design of new buildings should have regard to the height, scale, rhythm of and proportions of the heritage buildings.

4.0 No permit required

~~A permit is not required under this overlay for buildings and works which do not alter the height or setback of any part of an existing building.~~

5.0 Reference documents

-/-/201-
C190

- The Arden-Macaulay Structure Plan 2012

MELBOURNE PLANNING SCHEME

-/-/201-
C190**SCHEDULE 630 TO THE DESIGN AND DEVELOPMENT OVERLAY**Shown on the planning scheme map as **DDO630****ARDEN-MACAULAY AREA, KENSINGTON AND NORTH MELBOURNE****1.0**-/-/201-
C190**Design objectives**

- To ~~ensure the preferred character of Arden Macaulay develops as~~ **create** a compact, high density, mid-rise, 6 – 12 storey, walkable and high amenity neighbourhood.
- To provide for higher development that delivers identified public benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.
- To provide for ~~mid-rise 6 – 12 storey~~ development, ~~that~~ **step**ping down at the interface with the low scale surrounding established residential neighbourhoods.
- To ensure the ~~scale~~, height and setbacks of new ~~buildings~~ **development** at the interface with ~~the surrounding existing~~ established residential neighbourhoods is compatible with the scale, amenity and context of these areas.
- To provide a highly walkable neighbourhood.
- To create urban streetscapes ~~within the area~~ that are defined by a generally consistent plane of building facades that ~~collectively~~ enclose ~~the sides of the streetscapes whilst but~~ allowing good levels of daylight and sunlight to penetrate to the streets and to lower building levels.
- To ensure the scale, height and setback of new development on existing residential streets is compatible with the scale and context of these streets.
- ~~To ensure buildings align to the street edge.~~
- ~~To deliver a fine grain of built form creating architectural variety and interest along streets by encouraging buildings with wide street frontages to be broken into smaller vertical sections.~~
- ~~To create streetscapes that have a high level of pedestrian comfort in terms of their scale, access to sunlight, daylight and sky views.~~
- To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.
- To provide shelter for pedestrians ~~on primary streets~~ from the rain, wind and sun without causing detriment to building or streetscape integrity.
- ~~To improve the neighbourhood walkability by introducing a fine grain network of laneways/through links, which is integrated with the pattern of development of adjacent areas, maximises permeability for pedestrian movement and accommodates vehicular and service access to developments.~~
- ~~To create a streetscape microclimate where street trees will flourish.~~
- To encourage the ground floor of buildings to be designed so that they can be used for a variety of uses over time.
- To ensure new development respects the character, form, massing and scale of adjoining heritage buildings and places.

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- To ensure that development provides a high level of amenity for building occupants.
- To promote ~~a visual link of the public realm with the first five levels of the building and facilitate the~~ passive surveillance of the public realm.

2.0

—/—/201—
C190

Buildings and works ~~requirements~~

A permit is not required for buildings and works that do not alter the height or setback of an existing building.

An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form Outcomes of this schedule, and any local planning policy requirements.

Architectural features and building services may exceed specified heights. Where a height is expressed in storeys this does not include floors used only to house or access plant and equipment; roof structures and a parapet may exceed the specified height limit.

Table 1: Built form outcomes

Area	Built Form Outcomes
A1	<p>Deliver a scale of development that complements the established low-scale residential area</p> <p>Protect the amenity of existing residential areas to the west and north/south of Little Hardiman Street by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p> <p>Deliver a scale of development that responds appropriately to the existing context.</p>
A2	<p>Set back of higher building form along Melrose Street to deliver scale of development that responds appropriately to the existing context.</p>
A3	<p><u>Deliver</u> a scale of development that provides street definition as well as and a pedestrian friendly scale</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
A4, A5	<p><u>Deliver</u> a scale of development that provides street definition as well as and a pedestrian friendly scale.</p> <p><u>Deliver</u> a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential <u>development</u> that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Solar access is maintained to ground floors on western side of Thompson Street and southern side of Scarborough Place.</p> <p><u>Deliver the reintegration of Office of Housing estates into the surrounding urban fabric.</u></p>

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Area	Built Form Outcomes
A6, A7	<p>Deliver a scale of development that provides street definition as well as and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Provide limited opportunities for taller buildings that deliver significant public benefit outcomes.</p>
A8	<p>Deliver a scale of development that provides street definition as well as and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential development that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Provide increased density in local centres compared to surrounding development within local centres.</p> <p>Protect the amenity of existing and future development to the south by avoiding unreasonable overlooking and overshadowing.</p> <p>Development does not unreasonably overshadow public open space.</p>
All areas	<p>Ensure new through connections and existing laneways have appropriate levels of access to daylight and sunlight.</p>

Comment [GP1]: Management recommends retaining this.

MELBOURNE PLANNING SCHEME

~~Building Heights and Setbacks~~ Buildings or works requiring a permit should be built in accordance with the built form requirements and outcomes as specified in the table to this Schedule.

~~A permit cannot be granted to increase the maximum height at street od~~A permit cannot be granted to increase the preferred maximum building height by more than 30%. A permit can only be granted to increase the preferred maximum building height if it can be demonstrated that the development : (1) provides a demonstrable benefit to the broader community beyond the requirements in this scheme (for example but not limited to a public open space contribution greater than that prescribed, affordable housing, etc.) (2) will not increase overshadowing of the public realm between 11am and 2pm at the equinox, and (3) the upper storeys will be visually recessive when viewed from the adjoining public realm and private open space of adjoining low scale residential development.Development should not exceed the Preferred maximum height in Table 2.

A permit cannot be granted to exceed the Absolute maximum height in Table 2.

All developments that exceed the Preferred maximum height in Table 2 must demonstrate each of the following:

Comment [GP2]: Recommended by management.

- Provides a demonstrable benefit to the broader community beyond the requirements in this scheme.
- Displays exceptional quality of design.
- Makes a positive contribution to the quality of the public realm.
- Achieves the objectives of this clause and built form outcomes for the area.
- Provides high quality pedestrian links where needed.
- Maintains good solar access to the public realm.

Table 2: Building heights

Area	Preferred maximum height	<u>Absolute maximum height</u>
A1	3 storeys <u>10.5 metres</u>	4 storeys <u>14 metres</u>
A2	4 storeys <u>14 metres</u>	6 storeys <u>18.2 metres</u>
A3, A4	6 storeys <u>20 metres</u>	8 storeys <u>26 metres</u>
A5	6 storeys <u>20 metres</u>	8 storeys <u>26 metres</u> <u>This does not apply if the development is part of a master plan for the whole of Area 5 aimed at the reintegration of the area with the surrounding urban fabric.</u>
A6	6 storeys <u>20 metres</u>	8 storeys <u>26 metres</u> This <u>absolute maximum building height</u> does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education.
A7	9 storeys <u>28 metres</u>	12 storeys <u>36.4 metres</u> This <u>absolute maximum building height</u> does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education.

Comment [GP3]: Recommended by management.

Comment [GP4]: Recommended by management.

MELBOURNE PLANNING SCHEME

Area	Preferred maximum height	Absolute maximum height
A8	9 storeys 30 metres	12 storeys 30 metres

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Street wall and setbacks

A permit cannot be granted to increase the Street Wall Height in Table 3.

Development should be set back from all streets identified in Map 1 in accordance with Table 3. This applies even if the site does not have frontage to the identified street.

Buildings ~~or works at street level~~ should be built to street edge at street level to provide a clearly delineated and fronted public realm.

Buildings should be set back from existing low scale residential development in accordance with Table 3.

Table 3: Street wall height and setbacks

<u>Interface type shown on Plan</u>	<u>Street wall height</u> <u>Setback of buildings above street wall</u>
<u>20 and 30 metre wide renewal street</u>	Development at the frontage must not exceed a height of 6 storeys. Development should be set back 1 metre for every metre of height above 20 metres
<u>15 metre wide renewal street</u>	Development at the frontage must not exceed a height of 4 storeys. Development should be set back 1 metre for every metre of height above 15 metres.
<u>10 to 15 metre wide renewal street</u>	Development at the frontage must not exceed a height of 3 storeys. Development should be set back 1 metre for every metre of height above the street wall.
<u>Residential interface street</u>	Development at the frontage must not exceed a height of 3 storeys. Development above the street wall should be set back at least 10 metres and be visually recessive.
<u>Laneway</u>	Development along the laneway must not exceed a height of 3 storeys. Development above the street wall should be set back 4 metres. In addition, development on the northern side of an east-west laneway should be set back 1 metre for every metre of height above the preferred maximum height.
<u>Interface type shown on Plan</u>	<u>Setback from boundary with low scale residential development</u>
<u>ResCode Applies</u>	A new building not on or within 200mm of a boundary should be set back from the boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.

Comment [GP2]: Recommended by management.

Comment [GP3]: Recommended by management.

Table to Schedule 60

Area	PREFERRED Building Height, MAXIMUM HEIGHT AT STREET EDGE,	Maximum Height,	BUILT FORM Outcomes
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MELBOURNE PLANNING SCHEME

PREFERRED — MAXIMUM HEIGHT AT SIDE AND REAR — PROPERTY BOUNDARIES — & PREFERRED — BUILDING ENVELOPE		
<p>4</p>	<p>Preferred — maximum building height: 30 metres</p> <p>Maximum — street — edge height: equal to the width of the street.</p> <p>Preferred — building envelope from street: should be within the 45 degree angle as shown in figure 4.</p> <p>Preferred — height — and setbacks — at southern boundary — for — 157 Racecourse Road: any part of a building above 10.5 metres should have a setback of 10 metres and any part of a building above 20 metres should have a setback of 20 metres</p>	<p>Deliver scale of development that provides street definition, a pedestrian friendly scale; and appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing and future development to the south by avoiding unreasonable overlooking and overshadowing.</p>
<p>2</p>	<p>Preferred — maximum building height: 10.5 metres</p> <p>Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figure 5.</p>	<p>Deliver a scale of development that complements the established low-scale residential area</p> <p>Protects the amenity of existing residential areas to the west and north by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
<p>3</p>	<p>Preferred — maximum building height: 20 metres</p> <p>Maximum — street — edge height: equal to the width of the street, — except — for development fronting a street separating it from existing — low-scale residential — development, or — development — fronting Macaulay Road, in which case the maximum height at street edge must equal</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential that respects the existing context, provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Solar access is maintained to ground floors on western side of Thompson Street and southern side of</p>

MELBOURNE PLANNING SCHEME

~~10.5 metres.~~

~~Scarborough Place.~~

~~Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1, except for development fronting a street separating it from existing low-scale residential, in which case it should be within the line of sight as shown in figure 9, and development fronting Macaulay Road, in which case it should be within the line of sight as shown in figure 12.~~
~~Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figures 5, 6, 7 and 8, as applicable~~

4	<p>Preferred maximum building height: 10.5 metres</p> <p>Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1.</p> <p>Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figures 7, 8 and 11, as applicable.</p>	<p>Deliver a scale of development that responds appropriately to the existing context.</p> <p>Deliver scale of development that complements the established low-scale residential area.</p> <p>Protect the amenity of existing residential development south of Little Hardiman Street by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
5	<p>Preferred maximum building height: 20 metres</p> <p>Maximum street edge height: equal to the width of the street, except development along Little Hardiman Street west of Albermarle Street where maximum height at street edge must equal 4 metres, and along Macaulay Road and along Hardiman Street where maximum height at</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>

MELBOURNE PLANNING SCHEME

~~street edge must equal 10.5 metres.~~

~~Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1, except for development fronting Macaulay Road, in which case it should be within the line of sight as shown in figure 12.~~

~~Preferred side and rear boundary height and building envelope: should be within the line of sight as shown in figures 7, 8, 9 and 11, as applicable.~~

-6	<p>Preferred maximum building height: 20 metres, or 28 metres west of Boundary Road, except where the application contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education, in which case the preferred height limit will be to the satisfaction of the Melbourne City Council</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p>
	<p>Maximum street edge height: equal to the width of the street</p>	
	<p>Preferred building envelope from street: should be within the 45 degree angle as shown in figure 1.</p>	
7	<p>Preferred maximum building height: 20 metres.</p>	<p>A scale of development that provides street definition as well as a pedestrian friendly scale and appropriate access to sunlight and daylight.</p>
	<p>Maximum street edge height: equal to the width of the street, except for development along Melrose and Alfred Streets where maximum</p>	<p>Setbacks of higher building form along Melrose Street and Alfred Street to deliver scale of development that responds to the existing context.</p>

MELBOURNE PLANNING SCHEME

~~height at street edge must equal 10.5 metres~~

~~Preferred building envelope from Melrose and Alfred Streets: should be within the line of sight as shown in figure 9~~

~~8 Preferred maximum building height: 14 metres Setback of higher building form along Melrose Street to deliver scale of development that responds appropriately to the existing context.~~

~~Maximum street edge height: equal to 10.5 metres along Melrose Street~~

~~Preferred building envelope from Melrose street: should be within the line of sight as shown in figure 9~~

~~9 Preferred maximum building height: 20 metres Deliver scale of development that provides street definition and a high level of pedestrian amenity, having regard to access to sunlight, appropriate sky views and a pedestrian friendly scale.~~

~~Maximum street edge height: equal to the width of the street~~

~~Preferred maximum building envelope from street: should be within the 45degree angle as shown in figure 4~~

~~10 Preferred maximum building height: 30 metres Provide increased density in relation to surrounding development within local centres.~~

~~Maximum street edge height: equal to the width of the street, except for development along Shiel Street and Melrose Street where maximum height at street edge must equal 10.5 metres. Deliver scale of development that provides street definition and a very high level of pedestrian amenity suitable for a local activity centre, including access to sunlight to ground floor, sky views and a pedestrian friendly scale.~~

~~Preferred building envelope from street: Along Melrose Street, Development does not unreasonably overshadow public open space. Setback of higher building from Melrose Street to deliver a scale of development that responds to the~~

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	<p>should be within the line of sight as shown in figure 9.</p> <p>Any part of a building above 10.5 metres should have a setback of 10 metres from Shiel Street (including at the corner with Canning Street).</p> <p>Any part of a building above 20 metres should have a minimum setback of 10 metres from Boundary Road, Canning Street and Vaughan Terrace.</p> <p>Except for development along Melrose Street, any part of a building above 30 metres should be within the 45 degree angle as shown in figure 1.</p>	<p>existing context.</p>
11	<p>Preferred maximum building height: 30 metres</p> <p>Maximum street edge height: equal to the width of the street, except for Shiel Street where maximum height at street edge must be equal to 10.5 metres and Haines Street where the street edge must be equal to 14 metres.</p> <p>Preferred building envelope from street: should be within the 45 degree angle as show in figures 1, except for development along Shiel Street where it should be within the line of sight as shown in figure 10 and Haines Street where any part of building above 14 metres should have a setback of 14 metres.</p>	<p>Deliver scale of development that provides street definition and a high level of pedestrian amenity, including access to sunlight to ground floor, sky views and a pedestrian friendly scale.</p> <p>Setback of higher building form along the interface with established low-scale residential to deliver a scale of development that responds appropriately to the existing context, provides a transition in height and minimises the visual impact of upper levels.</p>
12	<p>Preferred maximum building height: 20 metres.</p> <p>Maximum street edge height: equal to the width of the street, except for</p>	<p>Deliver scale of development that provides street definition and a high level of pedestrian amenity, including access to sunlight to ground floor, sky views and a pedestrian friendly scale.</p> <p>Setback of higher building form along the interface with established low-</p>

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	<p>Chelmsford Street east of Barrett Street where maximum height at street edge must be equal to 10.5 metres.</p> <p>Preferred building envelope from street: should be within the 45degree angle as shown in figure 1, except for Chelmsford Street east of Barrett Street where it should be within the line of sight as shown in figure 9</p>	<p>scale residential to deliver a scale of development that responds appropriately to the existing context, provides a transition in height and minimises the visual impact of upper levels.</p>
13	<p>Preferred building height: 14 metres</p> <p>Maximum street edge height: equal to 10.5 metres along Chelmsford Street</p> <p>Preferred building envelope from Chelmsford street: should be within the line of sight as shown in figure 9</p>	<p>Setback of higher building form along the interface with established low-scale residential to deliver a scale of development that responds appropriately to the existing context, provides a transition in height and minimises the visual impact of upper levels.</p> <p>Development does not unreasonably overshadow public open space.</p>
All areas	<p>Except at interface with established low scale residential as listed above, setbacks of new development along new through connections and existing laneways should be in accordance figures 3 and 4, as applicable.</p>	<p>Ensures new through connections and existing laneways have appropriate levels of access to daylight and sunlight.</p>

Design Requirements

Streetscape Controls: Building heights and setbacks at street frontages

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Figure 1 applies to new development on properties that are not immediately adjacent to existing low scale residential properties. A maximum height at street edge is equivalent to the street width. Above this height, building envelope must be in accordance with a 45 degree angle as shown.



Figure 1

Southern boundary setbacks to new through connections and existing laneways

Figure 3 applies to new development on properties that are not immediately adjacent to existing low scale residential properties along an existing east-west laneway or where a new east-west through connection is nominated.

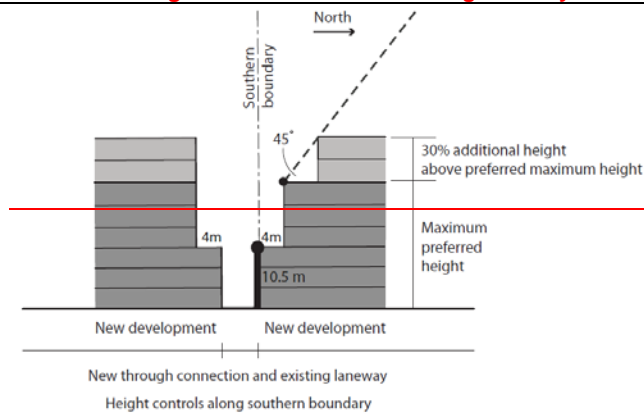


Figure 3

Setbacks to new through connections and existing laneways

Figure 4 applies to new development on properties that are not immediately adjacent to existing low scale residential properties along an existing laneway or where a new through connection is nominated.

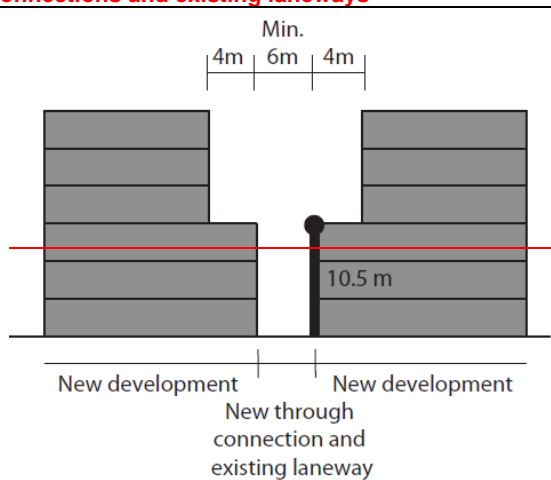


Figure 4

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Residential Interface Areas

Figure 5 applies where new development abuts a laneway separating it from an existing low scale residential property's rear boundary

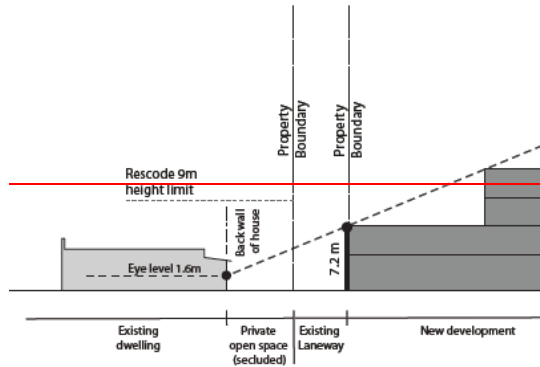


Figure 5

Figure 6 applies where new development abuts an existing low scale residential property's rear boundary

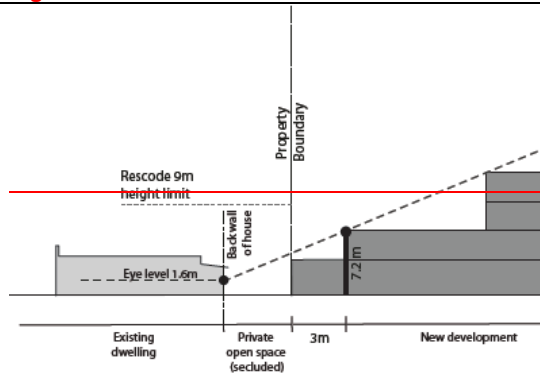


Figure 6

Figure 7 applies where new development abuts an existing residential property's side boundary

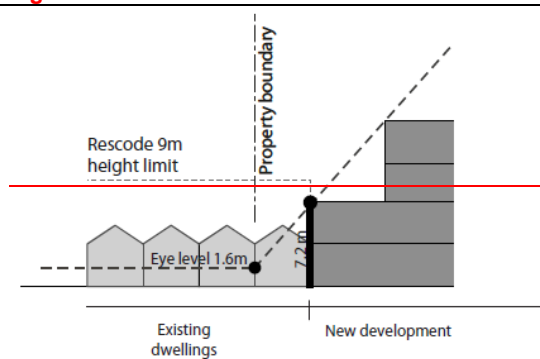
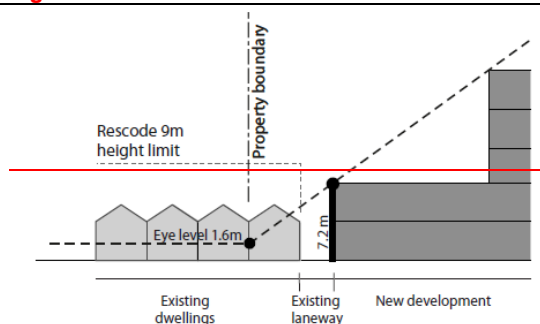


Figure 7

Figure 8 applies where new development abuts a laneway separating it from an existing residential property's side boundary



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Figure 8

~~Figure 9 applies where new development fronts onto a street separating it from an existing low-scale residential property.~~

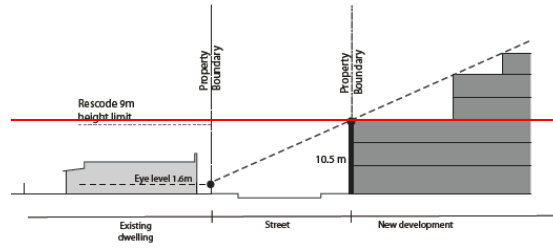


Figure 9

MELBOURNE PLANNING SCHEME

Figure 10 applies where new development fronts onto Shiel Street (within Area 11)

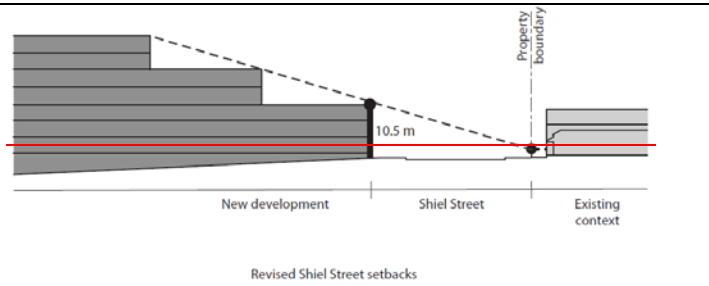


Figure 10

Figure 11 applies where new development backs onto Little Hardiman Street

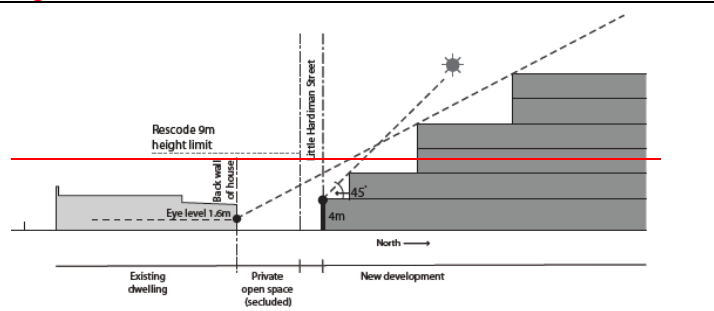


Figure 11

Figure 12 Applies where new development fronts onto Macaulay Road

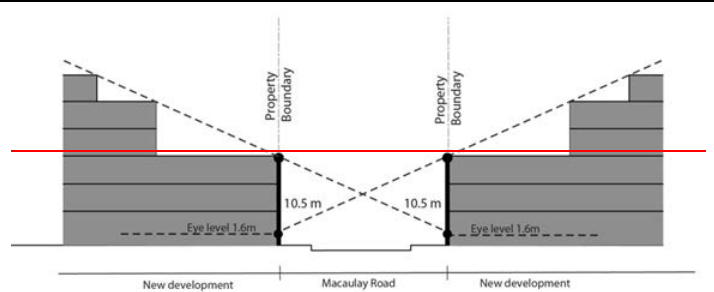
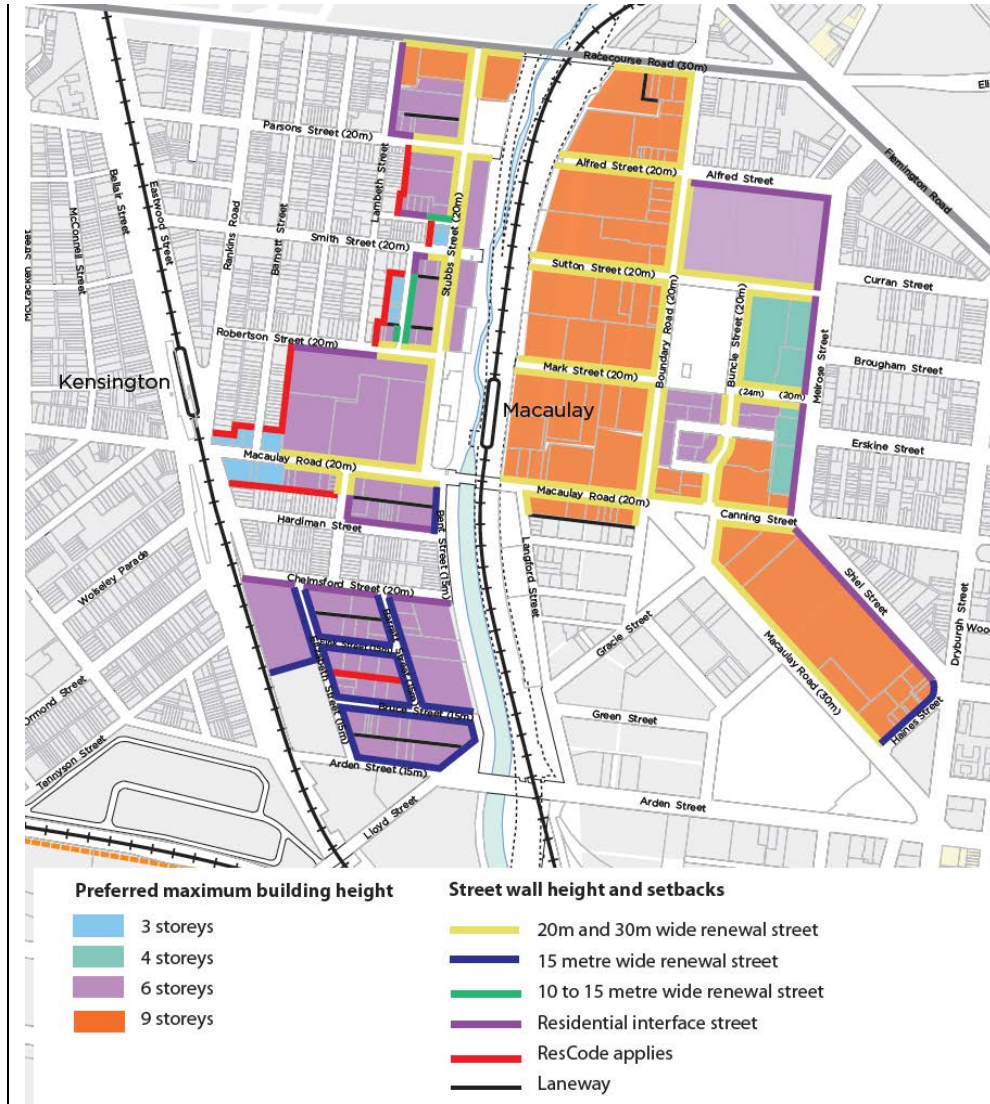


Figure 12

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Map 1: Street wall height and setbacks

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Active Street Frontages

~~The design of facades must respond to the following design standards, as appropriate:~~

- ~~• All visible sides of a building should be fully designed.~~
- ~~• Blank building walls that are visible from streets and public spaces should be avoided.~~
- ~~• Buildings should address both street frontages on corner sites.~~
- ~~• Visible service areas and other utility requirements should be treated as an integral part of the overall design and screened from public areas.~~
- ~~• Facades should make provision for the location of external lighting for public safety purposes and to give interest to streetscapes at night.~~

~~A buildings in a Commercial Zone, with ground-level street frontages to primary streets, as identified on the Map 1, must present an attractive pedestrian-oriented frontage by providing~~should provide:

- At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or as other uses, customer service areas and activities, which provide pedestrian interest and interaction.
- Clear glazing (security grilles must be transparent).

~~At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.~~A building with ground-level frontage to a street identified on Map 2 should present an attractive pedestrian oriented frontage with commercial uses where practical.

Buildings with ground-level ~~street frontages~~ to all other streets, should provide an active and physically connected street interface, for example by providing multiple entrances off the street.

~~The ability to establish a visual relationship between building occupants and pedestrians, and better surveillance of the street by developing the first five levels of buildings with a “casing” of dwellings or offices or other design mechanisms.~~

Weather Protection and façade treatment

A building with a road frontage to a ~~primary street, as~~ identified on Map ~~24~~, should provide a veranda for weather protection over the footpath unless ~~it is demonstrated that~~ this would cause detriment to the integrity of a heritage building or streetscape.

The articulation of a building façade should express a fine grain variety and modulation that assists in reducing the visual dominance of buildings, particularly a wide street frontage. Expressing the vertical elements is encouraged to further minimise the dominance of wide building frontages.

MELBOURNE PLANNING SCHEME



Map 24 – Frontages to primary streets

Façade articulation

The façade of buildings should be broken into smaller vertical sections of 4 metres to 10 metres in width.

New Connectivity and laneways ~~through connections~~

Development must provide for a high quality pedestrian link generally along the eastern side of CityLink to provide direct pedestrian connection to Macaulay and Flemington Bridge Stations for land between Macaulay Road and Racecourse Road.

Developments which are required to provide a new laneway/ through connection, as shown on Map 2, should provide for a fine-grained system of laneways and pedestrian connections which that are:

- o Safe, direct and attractive;
- o Publicly accessible;
- o Aligned with other lanes or pedestrian connections to provide direct through routes ~~through Kensington~~;

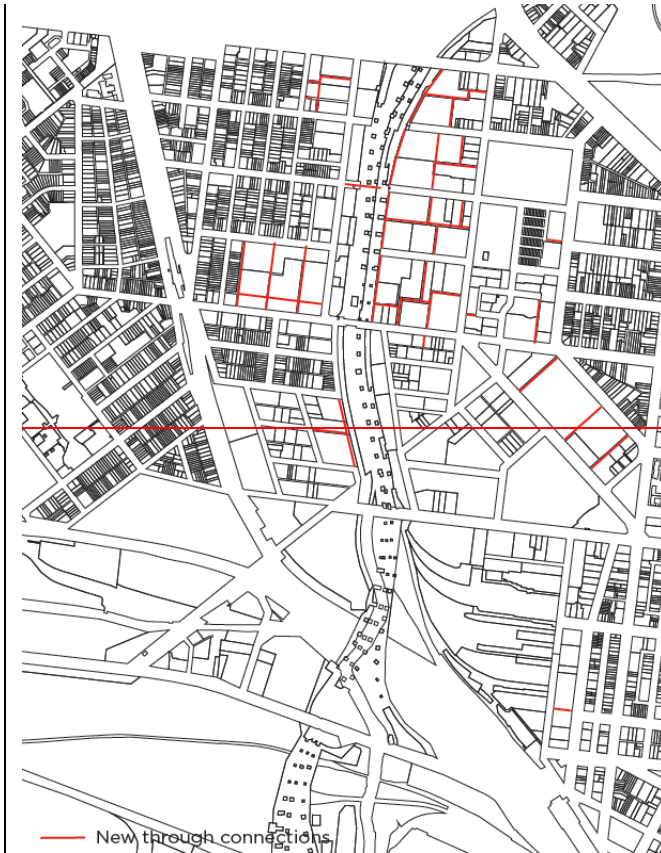
Development along new and existing laneways and pedestrian connections must comply with the laneway controls in table 3.

~~At least 6 metres wide, to accommodate vehicular movements (including turning into private properties), waste collection and landscaping opportunities; and~~

~~Open to the sky.~~

Comment [GP4]: Recommended by management..

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Map 2 – New through connections

3.0 Heritage

-/-/201-
C190

When new developments adjoin heritage buildings located in a Heritage Overlay, the design of new buildings should have regard to the height, scale, rhythm of and proportions of the heritage buildings.

4.0 No permit required

~~A permit is not required under this overlay for buildings and works which do not alter the height or setback of any part of an existing building.~~

5.0 Reference documents

-/-/201-
C190

- The Arden-Macaulay Structure Plan 2012

PLANNING and Environment Act 1987

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AMENDMENT C190

EXPLANATORY REPORT

Who is the planning authority?

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

Land affected by the amendment

The amendment applies to land in Kensington and North Melbourne as shown on the following map:



What the amendment does

The amendment

- rezones land in the following manner:
 - properties directly north of and fronting Macaulay Road between City Link/Moonee Ponds Creek and Melrose Street are being rezoned from part Industrial 1 Zone and part Residential 1 Zone to Commercial 1 Zone (C1Z);
 - properties directly south of and fronting Macaulay Road between Langford Street and Boundary Road are being rezoned from Industrial 3 Zone to Commercial 1 Zone (C1Z);
 - properties directly south of and fronting Racecourse Road between Lambeth Street and Boundary Road are being rezoned from Industrial 1 Zone to Commercial 1 Zone (C1Z);
 - the remainder of the properties between Racecourse Road and Macaulay Road currently zoned Industrial 1 Zone, Industrial 3 Zone and Residential 1 Zone are being rezoned to Mixed Use Zone (MUZ);
 - properties bounded by Chelmsford Street, Moonee Ponds Creek, Bruce Street and Barrett Street and the Rear of Way (running parallel to Chelmsford and Fink Streets between Barrett and Elizabeth Streets) are being rezoned from Industrial 1 Zone and Industrial 3 Zone to Mixed Use Zone (MUZ);
 - properties bounded by Elizabeth Street, Chelmsford Street, Barrett Street, Bruce Street, Lloyd Street and Arden Street as well as the land at 2-50 Elizabeth Street, are being rezoned from Industrial 1 Zone and Industrial 3 Zone to Commercial 2 Zone (C2Z); and,
 - 318-334 MacAulay Road, Kensington is being rezoned to Public Park and Recreation Zone (PPRZ): .
- applies a new Schedule to the Design and Development Overlay (DDO63) to all land being rezoned to MUZ, C1Z and C2Z as well as land generally bound by Macaulay Road, Bent Street, Hardiman Street, Little Hardiman and Eastwood Street and land bound by Canning Street, Shiel Street, Haines Street, Macaulay Road and Vaughan Terrace. DDO63 sets out built form requirements, including: preferred and absolute maximum building heights and built form outcomes; the provision of new laneways/through links; the provision of weather protection and active frontage along primary streets; façade articulation requirements; and, the provision of positive frontages along secondary streets;
- applies Schedule 26 to the Design and Development Overlay (DDO26) – North Melbourne, West Melbourne and Kensington Noise Attenuation Area, to land being rezoned from an industrial zone to a zone that allows sensitive uses (i.e. Mixed Use Zone, Business 1 Zone, Business 2 Zone and Public Park and Recreation Zone);
- applies the Environmental Audit Overlay (EAO) to properties previously zoned Industrial 1 Zone and Industrial 3 Zone and which are now being rezoned to Mixed Use Zone, Commercial 1 Zone and Public Park and Recreation Zone; and,
- deletes Schedule 3 to the Incorporated Plan Overlay IPO3 and Schedule 4 to the Incorporated Plan Overlay IPO4 given that the objectives and requirements of the incorporated plans have been delivered through development of these sites and that the new Schedule 60 to the Design and Development Overlay will provide the built form objectives and requirements applicable to any future redevelopment of these sites.

Strategic assessment of the amendment

- **Why is the amendment required?**

The amendment is required to facilitate re-development of the land in accordance with the objectives of the Arden-Macaulay Structure Plan 2012. The Arden Macaulay Structure Plan which was adopted in February 2012 contains a number of key directions with strategies and an associated suite of short, medium and long term actions to implement the strategies. The key directions of the Arden-Macaulay Structure Plan are:

- *Develop Arden Central as a new extension of Melbourne's Central City;*
- *Develop three new local centres within a mixed use neighbourhood;*
- *Expand transport connectivity to and within Arden – Macaulay;*
- *Upgrade the Moonee Ponds Creek parkland corridor and establish five new parks;*
- *Make Arden-Macaulay energy, water and waste efficient.*

The Arden-Macaulay Structure Plan 2012 has identified a sequence of development which will occur in two stages. The area generally north of Macaulay Road and parts of the south-west quadrant of the Structure Plan area being considered for renewal in Stage 1. The area south of Macaulay Road and east of the creek will be considered for renewal in conjunction with the planning of the Melbourne Metro and has therefore been identified as Stage 2. Planning Scheme Amendment C190 implements the objectives and recommendation in relation to Stage 1.

The current zoning pattern does not adequately provide for the intended future uses and development of the land in the area affected by the Arden Macaulay Structure Plan 2012 which is to become a mixed use precinct with a predominantly residential flavour, except for local centres providing for retail, commercial, community services and other facilities

The Mixed Use Zone is a residential zone but allows residential and employment uses. It is anticipated that application of this zone will promote the development of the area. Under the current industrial zone provisions, shops and residential uses are prohibited while offices are restricted to a maximum area of 500 square metres. The existing zoning provisions compromise the potential for the redevelopment of the subject properties and their future as part of an 'urban renewal' area.

The Commercial 1 Zone proposed along Macaulay Road promotes a mix of uses that will facilitate the strengthening of a local activity node in this location. It encourages retailing and other complementary commercial, entertainment and community uses by making shop, restaurant, food and drinks premises, dwelling, office, child care centres, education centre and other uses 'as of right', whilst allowing for accommodation uses, industry (but not those with adverse amenity potential), and warehouse.

The Commercial 1 Zone proposed along Racecourse Road allows for a mix of uses that will facilitate the establishment of a future business centre on Racecourse Road around Flemington Bridge. It encourages the development of offices and associated commercial uses by making office 'as of right', whilst allowing for accommodation uses, industry (not those with adverse amenity potential), retail premises, shops and warehouse.

The Commercial 2 Zone proposed in the south-west quadrant of the Arden Macaulay Structure Plan area is more consistent with the current profile and trend of land uses in this area. This zone will provide a distance buffer between new residential uses and the industrial use on the Allied Mills site as it will prohibit main residential use whilst encouraging some new development by permitting office development.

The Public Park and Recreation Zone will ensure that publically owned land required for the provision of public open space for the anticipated population growth is set aside for that purpose.

In addition to the new zonings to encourage a different pattern of land use, new design and development requirements are required to guide future development of this area.

The proposed Design and Development Overlay – Schedule 63 (DDO63) will ensure future development of land achieves the intended urban design objectives for the area and is sensitive of neighbouring land uses generally as envisaged in the Arden Macaulay Structure Plan.

The Design and Development Overlay – Schedule 26 (DDO26), which currently applies to land in North and West Melbourne around the Weston Milling site, is proposed to be applied to land previously zone Industrial 1 Zone or Industrial 2 Zone and proposed to be rezoned to a zone where sensitive uses are allowed (i.e. Mixed Use Zone, Commercial 1 Zone and Public Park and Recreation Zone). This is to ensure that new, refurbished or converted developments for new residential and other noise sensitive uses in the vicinity of existing industrial operations include appropriate acoustical measures to attenuate noise levels within the building. This will also ensure that new sensitive uses do not adversely affect the viability of existing industry within the area.

The Environmental Audit Overlay (EAO) deals with potential contamination issues consistent with the guidance contained within the Potentially Contaminated Land - General Practice Note (DSE, 2005). The EAO is proposed to be applied to land previously zone Industrial 1 Zone or Industrial 2 Zone and proposed to be rezoned to a zone where sensitive uses are allowed (i.e. Mixed Use Zone, Commercial 1 Zone and Public Park and Recreation Zone).

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

The amendment implements the objectives of planning in Victoria by putting in place a suite of planning tools that facilitate the orderly development of the land. The amendment balances the present and future interests of all Victorians via the fair, orderly, economic and sustainable use and development of land and the securing of a pleasant and efficient working, living and recreational environment for all Victorians and visitors to Victoria.

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

The amendment is expected to generate positive economic and social effects for the City of Melbourne. The demand for traditional manufacturing industries in the City of Melbourne has declined due to local, national and international trends in manufacturing. There are also growing pressures for residential land and other higher order uses and consequent increases in land prices which make industry less viable. Excellent location, close to city centre etc

The Mixed Use Zone and Commercial 1 Zone will encourage a complementary mix of land uses that take advantage of the locational attributes of the area. Potential uses include employment generating activities that will help to retain locally based employment, as well residential uses which satisfy strategic urban consolidation principles.

The potential for increased commercial floor space and increased residential uses will generate positive economic effects within the local neighbourhood, particularly through the flow on effects on local expenditure.

The Amendment is expected to have positive environmental effects through the adoption of appropriate design and siting guidelines for new development and the application of the EAO to previously industrially zoned land. The requirements of the EAO will ensure that any site contamination issues are addressed prior to the site being developed and used for a sensitive use.

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

The Amendment complies and is consistent with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes and with the requirements of Ministerial Direction 11 on the Strategic Assessment of Planning Scheme Amendments.

Furthermore the amendment meets the relevant requirements of Ministerial Direction 1 *Potentially Contaminated Land* and Ministerial Direction 9 *Metropolitan Strategy*, as outlined below:

- The amendment complies with Minister Direction No. 1 – *Potentially Contaminated Land* by applying the Environmental Audit Overlay to ensure the consideration of any contamination to the land is addressed and ensures that a Certificate of Environmental Audit is issued prior to the commencement of sensitive uses on the land.
- The amendment complies with Ministerial Direction No. 9 – *Metropolitan Strategy* and the following relevant policies from *Plan Melbourne* by allowing the renewal of this identified “Expanded central city urban renewal area”:
 - Direction 1.1 Define a new city structure to deliver an integrated land use and transport strategy for Melbourne’s changing economy
 - Protect the suburbs by delivering density in defined locations
 - Direction 1.4 Plan for the expanded central city to become Australia’s largest commercial and residential centre by 2040
 - Direction 1.5 Plan for jobs closer to where people live
 - Direction 2.1 Understand and plan for expected housing needs
 - Direction 2.2 Reduce the cost of living by increasing housing supply near services and public transport
 - Direction 4.1 Create a city of 20-minute neighbourhoods
 - Direction 4.3 Create neighbourhoods that support safe communities and healthy lifestyles
 - Direction 4.6 Create more great public places throughout Melbourne
 - Direction 4.8 Achieve and promote design excellence
 - Direction 5.1 Use the city structure to drive sustainable outcomes in managing growth

• **How does the amendment support or implement the State Planning Policy Framework?**

The amendment is consistent with State Planning Policy by supporting the regeneration of existing urban land, providing good use of infill development and use of existing infrastructure.

Specifically, the amendment is consistent with:

- Planning for urban growth should consider opportunities for the consolidation, redevelopment and intensification of existing urban areas. This is an opportunity for redevelopment and cohesive mixed use design and development of these sites (Clause 11.02, 11.03 and 11.04).
- To ensure that potentially contaminated land is suitable for its intended future use and development. To ensure this is achieved, an Environmental Audit Overlay will be applied to the land, which will require the owner to obtain a Certificate or Statement of Environmental Audit prior to the commencement of a sensitive use (Clause 13.03-1).
- To control noise effects on sensitive land uses through land use separation techniques around major industrial site and the application of noise-specific building design controls to previously industrially zoned land being rezoned to allow sensitive uses (Clause 13.04-1).
- Promote good urban design to make the environment more liveable and attractive. Ensure new development or redevelopment contributes to community

and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability (Clause 15.01).

- Ensure housing stock matches changing demand by widening housing choice. The rezoning of the land will enable its redevelopment, including the provision for a variety of housing needs (Clause 16).
- Contribute to the economic well being of the community and provide a variety of commercial opportunities to meet the needs of the wider community. The rezoning of the land will allow for developments which include retail, entertainment, office and other commercial services (Clause 17).
- Facilitate the implementation of urban design, built form, and streetscape design principles as outlined in the Arden Macaulay Structure Plan. The amendment will help incorporate planning provisions that will encourage and support enhanced liveability, and amenity within Arden Macaulay (Clause 19.03).

- **How does the amendment support or implement the Local Planning Policy Framework?**

In accordance with the Local Planning Policy Framework of the Melbourne Planning Scheme, the amendment implements the directions in the Municipal Strategic Statement (MSS).

The MSS defines how and where the long term growth and development of the City will occur and identifies, within its 'Growth Framework Plan,' the Arden Macaulay as an Urban Renewal Area. Urban Renewal Areas are described as areas which are currently underutilised and where there are large sites and whole precincts which will undergo urban renewal. Change will take place in the context of well developed structure plans adopted by Council.

The adopted Arden Macaulay Structure Plan implements the vision established through the MSS.

The Amendment, which is the first stage planning implementation of the Arden Macaulay Structure Plan, will facilitate the redevelopment of former industrial land for a mix of uses. This will provide opportunities for improved commercial floor space and additional housing opportunities which cater for the growing population, decreasing average household size and varied community needs within the City of Melbourne.

To ensure a coordinated planning approach with the State Government's proposed Arden Station (part of the Melbourne Metro Rail proposal) at Arden Central, the land that is within the catchment of the proposed metro station does not form part of this Amendment and will be subject to a separate planning scheme amendment when the Metro Rail has been confirmed. This includes land bound by Ink Lane, Langford Street, the railway sidings, Dryburgh Street and Macaulay Road.

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

The amendment makes an appropriate use of the various zoning and overlay tools available under the Victoria Planning Provisions.

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

Community consultation on the Arden Macaulay Structure Plan 2011 engaged comprehensively with residents, developers and various sectors of State Government. All relevant agencies will be notified as part of the planning scheme amendment process.

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

The City of Melbourne is an interface body under the Transport Integration Act 2010. It is required to have regard to transport system objectives and decision-making principles when making decisions that have a significant impact on the transport system.

The amendment identifies the location of new pedestrian connections to improve permeability of the public realm and requires the activation of identified primary street frontages, both of which will encourage walking and reduce the reliance on cars as a mode of transport for journeys within the local area. The Amendment will strongly integrate transport and land use by providing for more intensive development close to existing public transport infrastructure including the train stations at Macaulay and Flemington Bridge and proposed public transport services including a bus on Boundary Road. The Amendment provides for mixed land uses near the existing public transport systems train stations which will increase the efficiency of the use of public transport infrastructure by increasing counter-peak and inter-peak use.

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

The amendment is likely to lead to an increase in planning permit applications in the area, which will have some impact on the resource and administrative costs of the responsible authority.

Where you may inspect this Amendment

The amendment is available for public inspection, free of charge, during office hours at the following places:

City of Melbourne
Level 3, 240 Little Collins Street
MELBOURNE VIC 3000

The amendment can also be inspected free of charge at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection.

Planning and Environment Act 1987

MELBOURNE PLANNING SCHEME

AMENDMENT C190

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 6 attached maps:

Zoning Maps

1. Planning Scheme Map No. 4 is amended in the manner shown on the attached map marked “Melbourne Planning Scheme, Amendment C190”.

Overlay Maps

2. Planning Scheme Map No. 4DDOPT1 is amended in the manner shown on the attached map marked “Melbourne Planning Scheme, Amendment C190”.
3. Planning Scheme Map No. 4DDOPT3 is amended in the manner shown on the attached map marked “Melbourne Planning Scheme, Amendment C190”.
4. Planning Scheme Map No. 4EAO is amended in the manner shown on the attached maps marked “Melbourne Planning Scheme, Amendment C190”.
5. Planning Scheme Map No. 4IPO is amended in the manner shown on the attached map marked “Melbourne Planning Scheme, Amendment C190”.

Planning Scheme Ordinance

The Planning Scheme Ordinance is amended as follows:

6. In Local Planning Policy Framework – replace Clause 21.04 with a new Clause 21.04 in the form of the attached document.
7. In Overlays – Clause 43.02, insert a new Schedule 63 in the form of the attached document
8. In Overlays – Clause 43.02, replace Schedule 26 with a new Schedule in the form of the attached document. The changes are as follows:
 - Introduction has been amended.
 - Subclause 1.0 has been amended.
 - Subclause 2.1 has been amended.
9. In Overlays – Clause 43.03, delete Schedules 3 and 4.

End of document

21.04 SETTLEMENT

29/01/2015
C225

21.04-1 Growth Area Framework

--/201-
C190

As the municipality continues to grow and develop, the culture and functioning of the City in twenty years time will be very different from today. However, through these changes the characteristics of the city we value today must be retained.

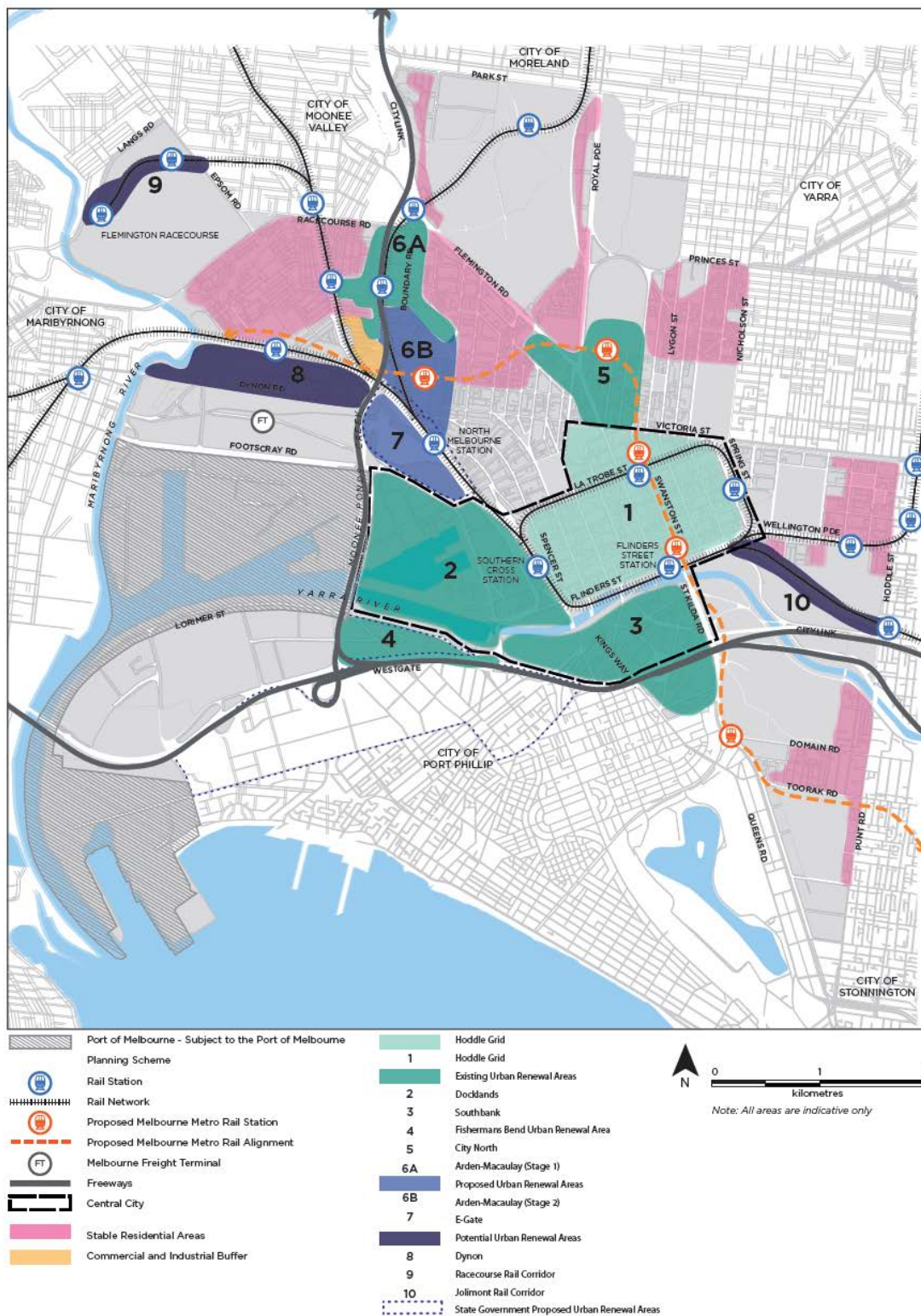
This can be achieved by: targeting urban growth and development into specific areas of the City; enabling ongoing but incremental growth and development in those parts of the City needing constant renewal of their vitality, and by maintaining the existing character in valued established areas.

The focus of this MSS is on promoting areas of growth and protecting areas of stability. Areas of ongoing and incremental growth will continue to be regulated under the current planning scheme controls. The MSS identifies five types of areas:

- The original city centre (the Hoddle Grid)
- Urban renewal areas
- Proposed urban renewal areas
- Potential urban renewal areas
- Stable residential areas

The Growth Area Framework Plan at Figure 1 identifies these areas.

Figure 1 Growth Area Framework Plan



21.04-1.1 The original city centre – the Hoddle Grid

29/01/2015
C225

Central City functions will be located in the Hoddle Grid. This area will be managed to facilitate continued growth where appropriate and limit change or the scale of development

in identified locations to preserve valued characteristics. A strong emphasis will be placed on a quality public realm and good pedestrian amenity and connectivity.

21.04–1.2 Urban renewal areas

--/201-
C190

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.

Southbank

Starting in the early 1980s as an "Engaging with the Yarra River Initiative", Southbank has been under urban renewal for close to 30 years. It has now brought the Yarra River into the heart of the city's life and provided a dynamic extension of the Central City with good commercial and residential high-density development opportunities.

Southbank is home to the State's major arts facilities as part of its the internationally recognised Arts Precinct and other major activity areas including the Southbank Promenade, Melbourne Convention and Exhibition Centre and the South Wharf complex.

The Southbank Structure Plan 2010 was prepared to update the 1999 and 2007 plans. It provides a vision and strategy for the next 30 years for the area's continued development as an extension of the central city, with a high-density mix of commercial and residential uses, a built form of a human scale and fine grain detail, greater permeability, activity and pedestrian priority at street level.

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.

Fishermans Bend Urban Renewal Area

The area measuring 240 hectares has been declared a site of State significance and rezoned as part of an expanded Capital City Zone.

This rezoning expands the Capital City Zone by more than 50 per cent and is expected to accommodate jobs and residents.

The urban renewal area is also within the City of Port Phillip municipality. The area adjoins the Docklands and Southbank existing urban renewal areas.

[City North](#)

[City North is identified for proposed renewal given its existing role as a specialised activity centre, the proposed Parkville Station as part of the Melbourne Metro project and its proximity as an extension of the Central City. The City North Structure Plan 2012 has been](#)

adopted by the City of Melbourne and has been implemented into the planning scheme via a planning scheme amendment.

Arden-Macaulay

Arden-Macaulay is an area in transition. Since the 1880's, Arden-Macaulay has been primarily an industrial area supporting the city's economy through manufacturing and production. The profile of business activity in the area has been changing with some degree of land under utilisation given its potential in relation to its proximity to the central City.

The Melbourne Metro station project to be located between Citylink and Laurens Street will lead to major change east of the Moonee Ponds Creek.

The Arden-Macaulay Structure Plan 2012 has been prepared and adopted by the City of Melbourne and will be implemented into the planning scheme via a planning scheme amendment. The directions of this plan for this local area are still to be inserted into the planning scheme.

Planning controls address the interface between on-going industrial and residential areas, and the interface between new development and existing residential areas and large manufacturing industry will be protected from sensitive uses by a land use buffer of non-residential development and/ or non-sensitive land uses (depicted within Figure 10 as "Commercial and Industrial Buffer"). The planning controls are being introduced in two stages (Stage 1 shown as Area 6A and Stage 2 shown as Area 6B on the Growth Framework Plan).

21.04–1.3 Proposed Urban Renewal Areas

–/–/201–
C190

The Proposed Urban Renewal Areas have been broadly identified as the locations for the next generation of the city's urban renewal. Once the structure plans for each of these areas are incorporated into the planning scheme the plan for the relevant local area will be updated with new objectives and strategies and the Growth Area Framework Plan will be updated to show the areas as 'Existing Urban Renewal Areas'.

Until the objectives and strategies of approved structure plans are approved and implemented via a planning scheme amendment the existing local area policies for the area will apply.

City North

~~City North is identified for proposed renewal given its existing role as a specialised activity centre, the proposed Parkville Station as part of the Melbourne Metro project and its proximity as an extension of the Central City. The City North Structure Plan 2012 has been adopted by the City of Melbourne and will be implemented into the planning scheme via a planning scheme amendment.~~

Arden-Macaulay

~~Arden Macaulay is an area in transition. Since the 1880's, Arden Macaulay has been primarily an industrial area supporting the city's economy through manufacturing and production. The profile of business activity in the area has been changing with some degree of land under utilisation given its potential in relation to its proximity to the central City.~~

~~The Melbourne Metro station project to be located between Citylink and Laurens Street will lead to major change east of the Moonee Ponds Creek.~~

~~The Arden Macaulay Structure Plan 2012 has been prepared and adopted by the City of Melbourne and will be implemented into the planning scheme via a planning scheme amendment. The directions of this plan for this local area are still to be inserted into the planning scheme.~~

~~Planning controls will address the interface between on-going industrial and residential areas, and the interface between new development and existing residential areas and large manufacturing industry will be protected from sensitive uses by a land use buffer of non-residential development and/or non-sensitive land uses (depicted within Figure 10 as “Commercial and Industrial Buffer”). The new planning controls will be introduced in two stages.~~

E-Gate

This land is mostly railway reserve in State Government ownership and it adjoins the Docklands and Arden Macaulay urban renewal areas. State Government is developing plans for its urban renewal area and these plans being implemented into the planning scheme via a planning scheme amendment. The directions of this plan for this local area are still to be inserted into the planning scheme.

21.04–1.4 Potential Urban Renewal Areas

29/01/2015
C225

The Potential Urban Renewal Areas have been identified as long term options for future urban renewal that are dependant on the resolution of other related infrastructure planning before they can be considered in detail for urban renewal.

Dynon

This area accommodates mainly freight and some industrial activities. In the longer term, these activities will be reconfigured and rationalised within the area. This will be done in conjunction with the planning and development of the Port of Melbourne and the Melbourne Intermodal Freight Terminal serving the port south of Dynon Road.

The rationalisation and modernisation of the freight functions in the precinct will open up the potential for the renewal of the northern section of this area. Any urban renewal of this area should not constrain the operations of the port freight terminal to the south. The State Government in conjunction with the City will undertake the planning for this area.

Racecourse Rail Corridor

The Racecourse Rail Corridor between the Flemington Racecourse and the Showgrounds has potential similar to the Jolimont Rail Corridor. The area’s potential for urban renewal will depend on future options of a rail service to the area.

Jolimont Rail Corridor

The Jolimont rail corridor runs through the middle of the Sports and Entertainment precinct. The Federation Square development was the first step in the urban renewal of this corridor. As inner and central city locations have become more highly valued, development over transport corridors will become increasingly attractive not only for the development space they can yield but also for the opportunity to connect adjacent parts of the city that have been separated.

21.04–1.5 Stable Residential Areas

29/01/2015
C225

These residential areas are valued for their existing character and the important contribution this makes to the city. In these areas limited change such as in-fill development and alterations and additions, will continue to occur so that new land use or development fits in with the existing valued character.

21.04–2 Growth

29/01/2015
C225

Objective 1 To provide for the anticipated growth in the municipality over the next 20 years.

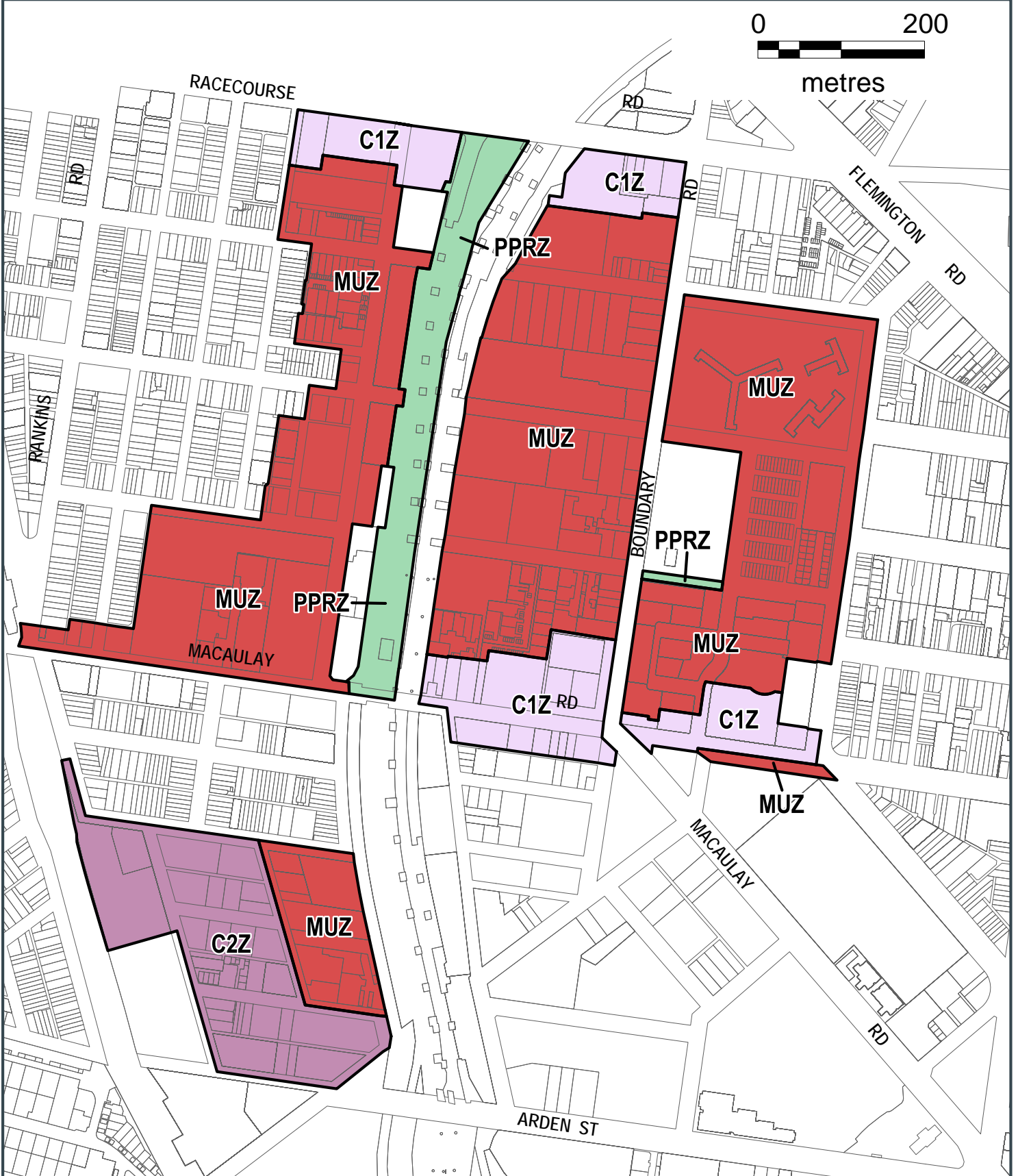
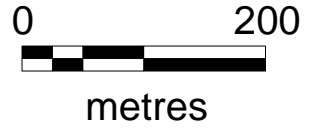
Strategy 1.1 Retain the Hoddle Grid area as the core of the Central City and plan for its ongoing change and growth.

- Strategy 1.2 Direct new urban growth into the Docklands and Southbank Urban Renewal Areas.
- Strategy 1.3 Plan and design Urban Renewal areas to provide optimal living and working environments, to be energy, water and waste efficient and adapted to predicted climate change.
- Strategy 1.4 Plan identified Urban Renewal Areas, and define their exact extent, through structure planning for the local area.
- Strategy 1.5 Ensure new development in Urban Renewal Areas does not compromise the preferred future renewal of the area.
- Strategy 1.6 In the longer term, consider sites of Potential Urban Renewal at Dynon Road, the Jolimont Rail Corridor, the Racecourse Rail Corridor. Urban renewal of these areas will be dependant on the resolution of other related infrastructure planning.
- Objective To direct growth to identified areas.**
- Strategy 2.1 Support the ongoing development of the Hoddle Grid.
- Strategy 2.2 Support ongoing urban renewal and Central City expansion in:
- Southbank
 - Docklands
 - Fishermans Bend Urban Renewal Area
- Strategy 2.3 Plan for urban renewal in:
- City North
 - Arden-Macaulay
 - E-Gate
- Strategy 2.4 Consider potential for urban renewal in:
- Dynon,
 - Jolimont Rail Corridor
 - Racecourse Rail Corridor
- Strategy 2.5 Develop Structure Plans to guide the local detail of urban renewal.

21.04–3 Implementation

29/01/2015
C225

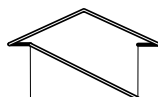
Update structure plans for the existing urban renewal areas and implement structure plans into the planning scheme for proposed urban renewal areas.

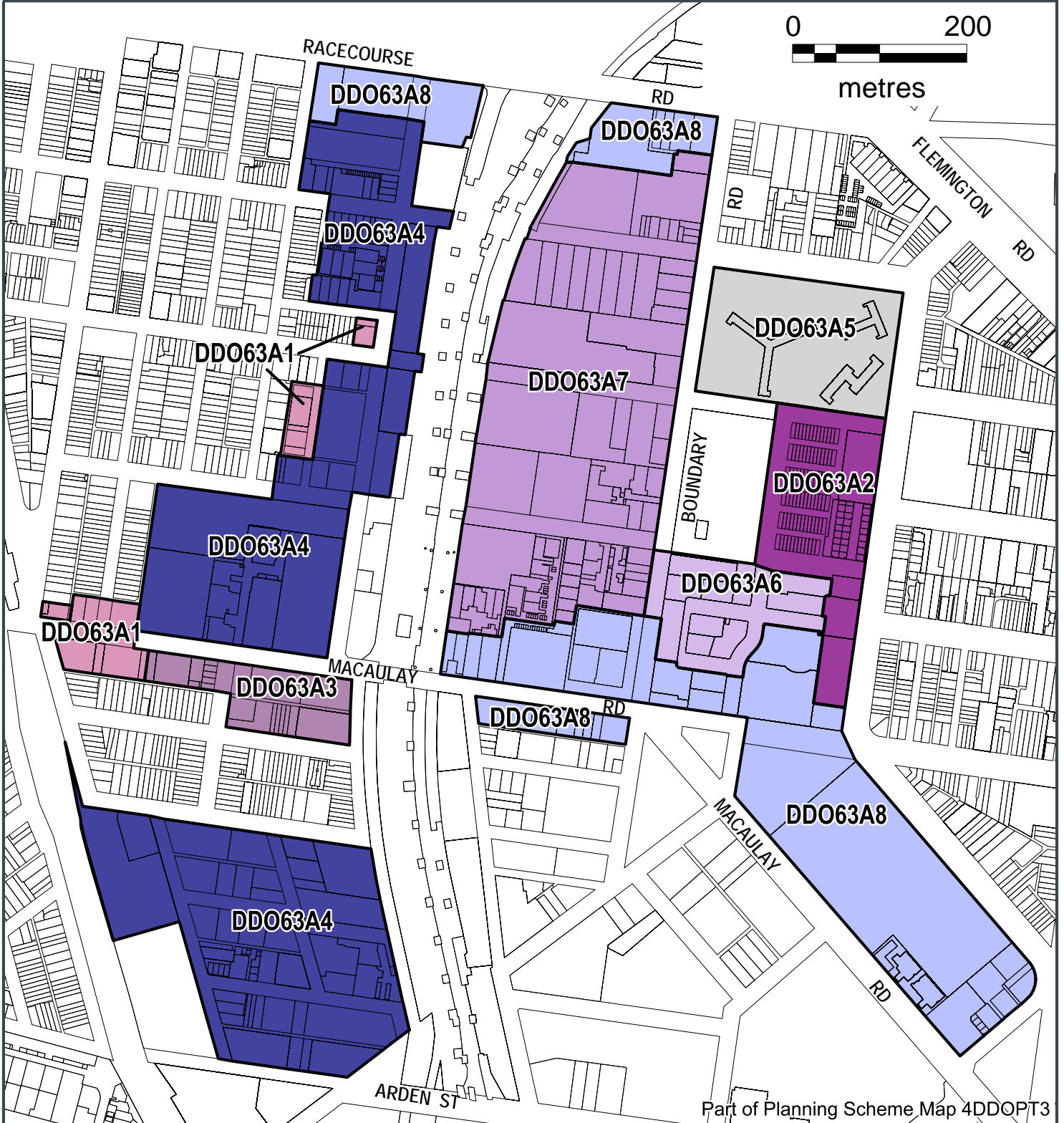


Part of Planning Scheme Map 4

C1Z	COMMERCIAL 1 ZONE	PPRZ	PUBLIC PARK & RECREATION ZONE
C2Z	COMMERCIAL 2 ZONE	MUZ	MIXED USE ZONE

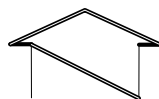
AMENDMENT C190





DDO63A1	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 1)	DDO63A5	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 5)
DDO63A2	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 2)	DDO63A6	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 6)
DDO63A3	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 3)	DDO63A7	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 7)
DDO63A4	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 4)	DDO63A8	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 63 (AREA 8)

AMENDMENT C190



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C190

SCHEDULE 63 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO63**

ARDEN-MACAULAY AREA, KENSINGTON AND NORTH MELBOURNE

1.0

Design objectives

--/201-
C190

- To create a compact, high density, mid-rise, 6 – 12 storey, walkable and high amenity neighbourhood.
- To provide for higher development that delivers identified public benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.
- To provide for development that steps down at the interface with the low scale surrounding established residential neighbourhoods.
- To ensure the height and setbacks of new development at the interface with existing established residential neighbourhoods is compatible with the scale, amenity and context of these areas.
- To provide a highly walkable neighbourhood.
- To create urban streetscapes that are defined by a generally consistent plane of building facades that enclose streets but allow daylight and sunlight to penetrate to the streets and to lower building levels.
- To ensure the scale, height and setback of new development on existing residential streets is compatible with the scale and context of these streets.
- To ensure buildings align to the street edge.
- To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.
- To provide shelter for pedestrians from the rain, wind and sun without causing detriment to building or streetscape integrity.
- To encourage the ground floor of buildings to be designed so that they can be used for a variety of uses over time.
- To ensure new development respects the character, form, massing and scale of adjoining heritage buildings and places.
- To ensure that development provides a high level of amenity for building occupants.
- To promote passive surveillance of the public realm.

2.0

Buildings and works

--/201-
C190

A permit is not required for buildings and works that do not alter the height or setback of an existing building.

An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form Outcomes of this schedule, and any local planning policy requirements.

Architectural features and building services may exceed specified heights. Where a height is expressed in storeys this does not include floors used only to house or access plant and equipment; roof structures and a parapet may exceed the

specified height limit.

Table 1: Built form outcomes

Area	Built Form Outcomes
A1	<p>Deliver a scale of development that complements the established low-scale residential area</p> <p>Protect the amenity of existing residential areas by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
A2	<p>Set back higher building form along Melrose Street to deliver scale of development that responds appropriately to the existing context.</p>
A3	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p>
A4, A5	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale.</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential development that provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Solar access is maintained to ground floors on western side of Thompson Street and southern side of Scarborough Place.</p> <p>Deliver the reintegration of Office of Housing estates into the surrounding urban fabric.</p>
A6, A7	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Provide limited opportunities for taller buildings that deliver significant public benefit outcomes.</p>
A8	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Deliver a scale of development at the interface with established low-scale residential development that provides an appropriate transition in height and minimises the visual impact of upper levels.</p> <p>Provide increased density in local centres compared to surrounding development.</p>
All areas	<p>Ensure laneways have appropriate levels of access to daylight and sunlight.</p>

Building Heights

Development should not exceed the Preferred maximum height in Table 2.

A permit cannot be granted to exceed the Absolute maximum height in Table 2.

All developments that exceed the Preferred maximum height in Table 2 must demonstrate each of the following:

- Provides a demonstrable benefit to the broader community beyond the requirements in this scheme.
- Displays exceptional quality of design.
- Makes a positive contribution to the quality of the public realm.
- Achieves the objectives of this clause and built form outcomes for the area.
- Provides high quality pedestrian links where needed.
- Maintains good solar access to the public realm.

Table 2: Building heights

Area	Preferred maximum height	Absolute maximum height
A1	3 storeys	4 storeys
A2	4 storeys	6 storeys
A3, A4	6 storeys	8 storeys
A5	6 storeys	8 storeys This does not apply if the development is part of a master plan for the whole of Area 5 aimed at the reintegration of the area with the surrounding urban fabric.
A6	6 storeys	8 storeys This absolute maximum building height does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education.
A7	9 storeys	12 storeys This absolute maximum building height does not apply if the development contains a Victorian State primary or secondary school of 200 places or more which carries the support of the Victorian Department of Education.
A8	9 storeys	12 storeys

Street wall and setbacks

A permit cannot be granted to increase the Street Wall Height in Table 3.

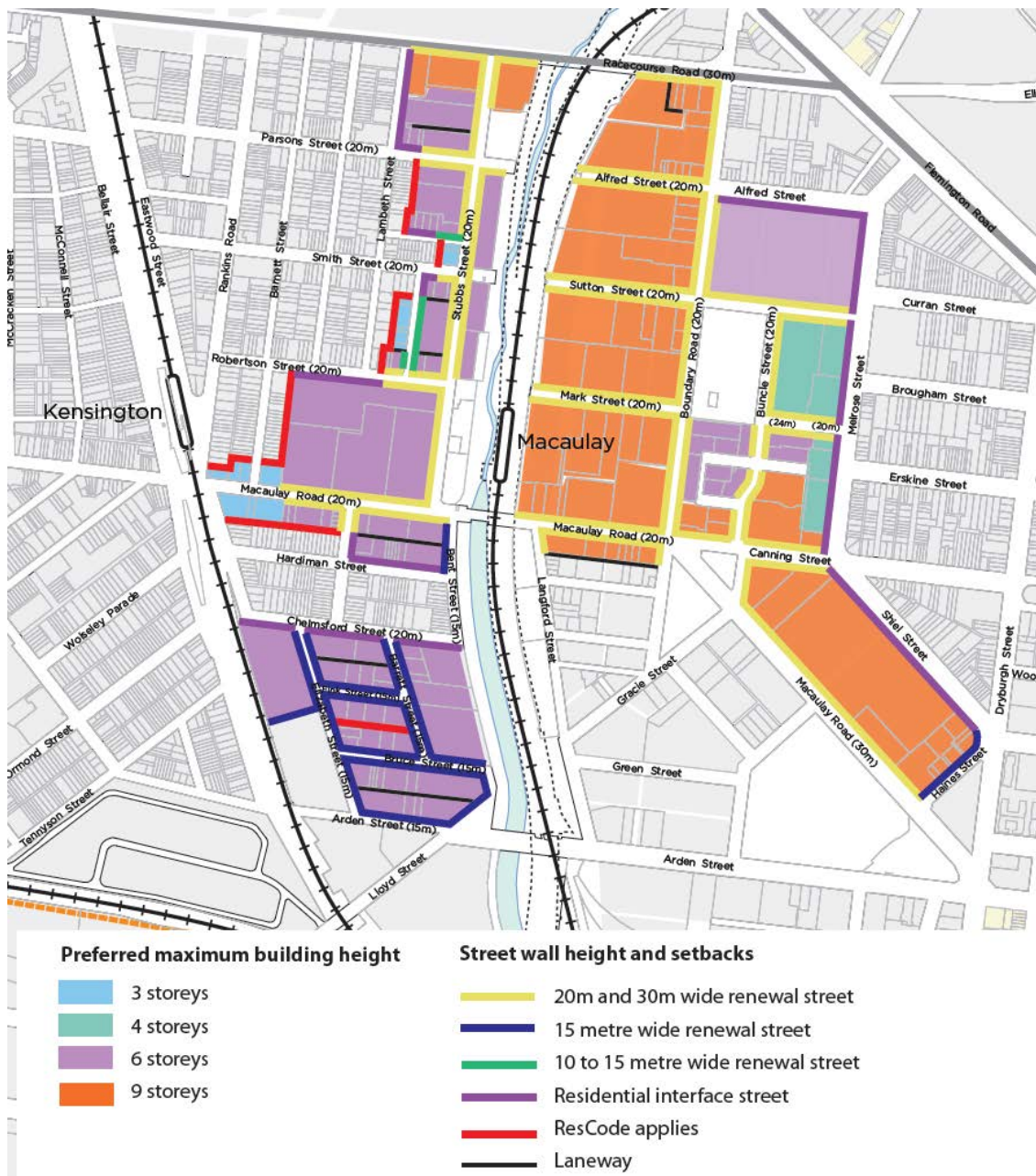
Development should be set back from all streets identified in Map 1 in accordance with Table 3. This applies even if the site does not have frontage to the identified street.

Buildings should be built to street edge at street level to provide a clearly delineated and fronted public realm.

Buildings should be set back from existing low scale residential development in accordance with Table 3.

Table 3: Street wall height and setbacks

Interface type shown on Plan	Street wall height Setback of buildings above street wall
20 and 30 metre wide renewal street	Development at the frontage must not exceed a height of 6 storeys. Development should be set back 1 metre for every metre of height above 20 metres
15 metre wide renewal street	Development at the frontage must not exceed a height of 4 storeys. Development should be set back 1 metre for every metre of height above 15 metres.
10 to 15 metre wide renewal street	Development at the frontage must not exceed a height of 3 storeys. Development should be set back 1 metre for every metre of height above the street wall.
Residential interface street	Development at the frontage must not exceed a height of 3 storeys. Development above the street wall should be set back at least 10 metres and be visually recessive.
Laneway	Development along the laneway must not exceed a height of 3 storeys. Development above the street wall should be set back 4 metres. In addition, development on the northern side of an east-west laneway should be set back 1 metre for every metre of height above the preferred maximum height.
Interface type shown on Plan	Setback from boundary with low scale residential development
ResCode Applies	A new building not on or within 200mm of a boundary should be set back from the boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.



Map 1: Street wall height and setbacks

Active Street Frontages

A building in a Commercial Zone, with ground-level frontage should provide:

- At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or as other uses, customer service areas and activities, which provide pedestrian interest and interaction.
- Clear glazing (security grilles must be transparent).

A building with ground-level frontage to a street identified on Map 2 should present an attractive pedestrian oriented frontage with commercial uses where practical.

Buildings with ground-level frontage to all other streets, should provide an active and physically connected street interface, for example by providing multiple entrances off the street.

Weather Protection and façade treatment

A building with a road frontage to a street identified on Map 2, should provide a veranda for weather protection over the footpath unless this would cause detriment to the integrity of a heritage building or streetscape.

The articulation of a building façade should express a fine grain variety and modulation that assists in reducing the visual dominance of buildings, particularly a wide street frontage. Expressing the vertical elements is encouraged to further minimise the dominance of wide building frontages.



Map 2 – Frontages to primary streets

Connectivity and laneways

Development must provide for a high quality pedestrian link generally along the eastern side of CityLink to provide direct pedestrian connection to Macaulay and Flemington Bridge Stations for land between Macaulay Road and Racecourse Road.

Development should provide for a fine-grained system of laneways and pedestrian connections that are:

- Safe, direct and attractive;
- Publicly accessible;
- Aligned with other lanes or pedestrian connections to provide direct through routes;

Development along new and existing laneways and pedestrian connections must comply with the laneway controls in table 3.

3.0

Heritage

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C190

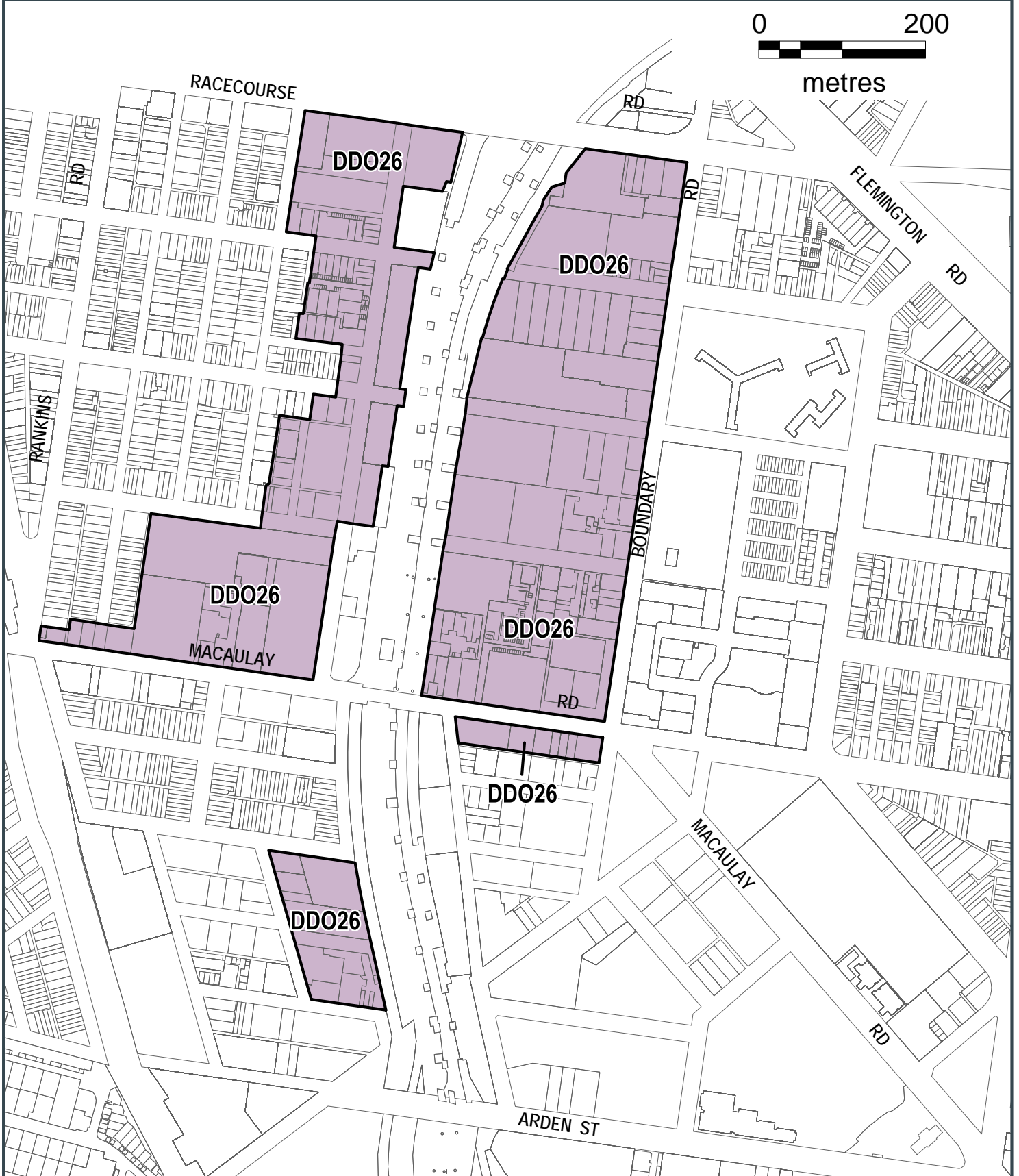
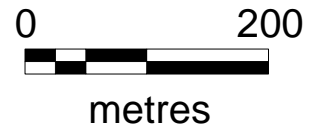
When new developments adjoin heritage buildings located in a Heritage Overlay, the design of new buildings should have regard to the height, scale, rhythm of and proportions of the heritage buildings.

5.0

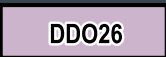
Reference documents

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C190

- The Arden-Macaulay Structure Plan 2012



LEGEND

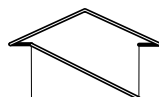


DDO26

DESIGN & DEVELOPMENT OVERLAY - SCHEDULE 26

Part of Planning Scheme Map 4DDOPT1

AMENDMENT C190



--/201-
C190

SCHEDULE 26 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO26**

NORTH MELBOURNE, WEST MELBOURNE AND ARDEN-MACAULAY ~~KENSINGTON~~ NOISE ATTENUATION AREA

1.0

Design objectives

--/201-
C190

- To ensure that new, refurbished or converted developments for new residential and other noise sensitive uses constructed in the vicinity of the Laurens Street, North Melbourne Industrial Area **and in the vicinity of industrial operations in ~~Kensington~~ Arden-Macaulay** include appropriate acoustical measures to attenuate noise levels within the building.
- To ensure that land use and development in the vicinity of the Laurens Street, North Melbourne Industrial Area **and in the vicinity of industrial operations in ~~Kensington~~ Arden-Macaulay** does not adversely affect the viability of industry within these areas.

2.0

Requirements

--/201-
C190

2.1

Building Design and Pre-construction Noise Measurement

--/201-
C190

Any new or refurbished development or any conversion of part or all of an existing building that will accommodate new residential or other noise-sensitive uses must:

- Be designed and constructed to include noise attenuation measures. These noise attenuation measures must achieve a maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms, with all windows and doors closed, unless there is no suitable air conditioning and/or mechanical ventilation, in which case the maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms must be achieved with all the windows half open and the doors closed.
- Be fitted with suitable air conditioning and /or mechanical ventilation system to the satisfaction of the responsible authority unless the maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms can be achieved with all the windows half open and the doors closed.
- Have walls, roof, windows, doors and external glazing and the air conditioning or ventilation system designed by a qualified acoustical consultant who must certify that the incorporation of the design features recommended by the consultant will achieve a maximum noise level in unfurnished and uncarpeted habitable rooms of 35dB(A)Leq, based on the external noise levels measured by the consultant as part of a noise level assessment conducted to the satisfaction of the responsible authority.

The pre-construction noise measurement will be conducted as follows:

- Be sufficient in detail and duration to be representative of the noise from the industrial operations which occur in the vicinity of the Laurens Street North Melbourne Industrial Area **and the noise from industrial operations in ~~Kensington~~ Arden-Macaulay**. This monitoring shall include sampling during the day, evening and night periods on weekdays and weekends.

2.2

Verification Testing

19/01/2006
VC37

Prior to the commencement of a residential or other noise-sensitive use, acoustic testing must be conducted by a qualified acoustical consultant. The testing must verify that the maximum noise level of 35dB(A)Leq in the two most likely to be affected unfurnished and uncarpeted habitable rooms is achieved to the satisfaction of the responsible authority.

The verification testing will be conducted as follows:

- The maximum noise level of 35dB(A)Leq must be met when measured in the centre of each unfurnished and uncarpeted habitable room, at a height of between 1.5 and 1.6 metres above floor level.
- Noise shall be measured so as to obtain an A-weighted Equivalent Continuous Noise Level that is representative of the noise over a continuous 30 minute period.
- If a suitable air conditioning and/or mechanical ventilation system is provided, the windows shall be closed during the noise assessment. However, if no suitable air conditioning and/or mechanical ventilation system is provided, then the windows shall be opened to half their extent during the noise assessment.
- All doors to the room shall be closed.
- Mechanical ventilation and air-conditioning to the room shall not be in operation during the assessment.

2.3

19/01/2006
VC37

Noise Measurement – General Requirements for Preconstruction and Verification Testing

- A report containing the raw data, time of collection, the accreditation certificate of the consultant, and the result of the testing must be submitted to the responsible authority, and must be to the satisfaction of the responsible authority.
- The maximum noise level must be assessed using the equivalent continuous noise level (Leq) descriptor with a type 1 or type 2 sound level meter.

For the purpose of this Schedule, noise shall be measured to:

- Include only those sounds occurring when the sound level meter indication correlates with aurally identified industrial noise and noise from the loading and unloading of vehicles on public roads abutting industrial premises within and in the vicinity of the Laurens Street North Melbourne Industrial Area, and
- Exclude from the assessment all other sound at other times, and extraneous noise from traffic and public transport.

2.4

19/01/2006
VC37

Interpretation

For the purpose of this Schedule:

- “Noise-sensitive uses” are those uses that are nested under the definition of accommodation;
- “Habitable room” has the general term meaning excluding kitchen; and
- The Laurens Street North Melbourne Industrial Area means the Industrial 1 Zone located between Anderson Street/Munster Terrace and Laurens Streets, North Melbourne.
- Nothing in this Schedule is intended to prevent developments with openable windows provided noise testing demonstrates compliance with the requirements of this Schedule with all the windows closed or half open, as the case requires.

3.0

19/01/2006
VC37

Exemption from notice and appeal

An application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act

4.0

10/06/2010
C122

No permit required

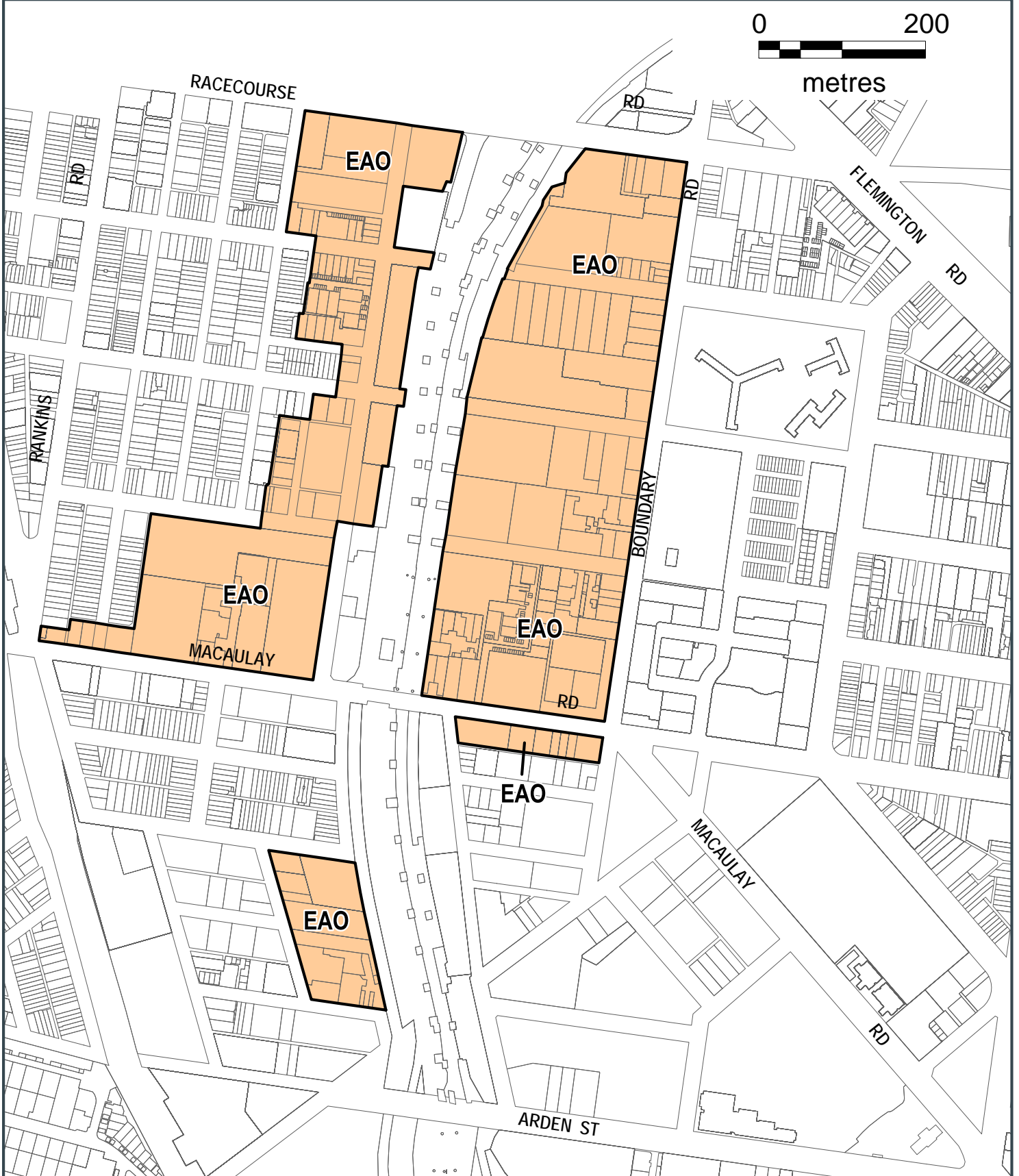
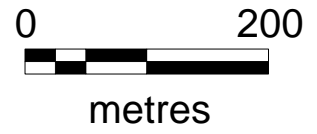
A permit is not required for buildings and works other than buildings and works associated with new, refurbished or converted developments for noise sensitive uses.

5.0

10/06/2010
C122

Subdivision

A permit is not required to subdivide land.

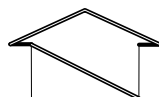


LEGEND

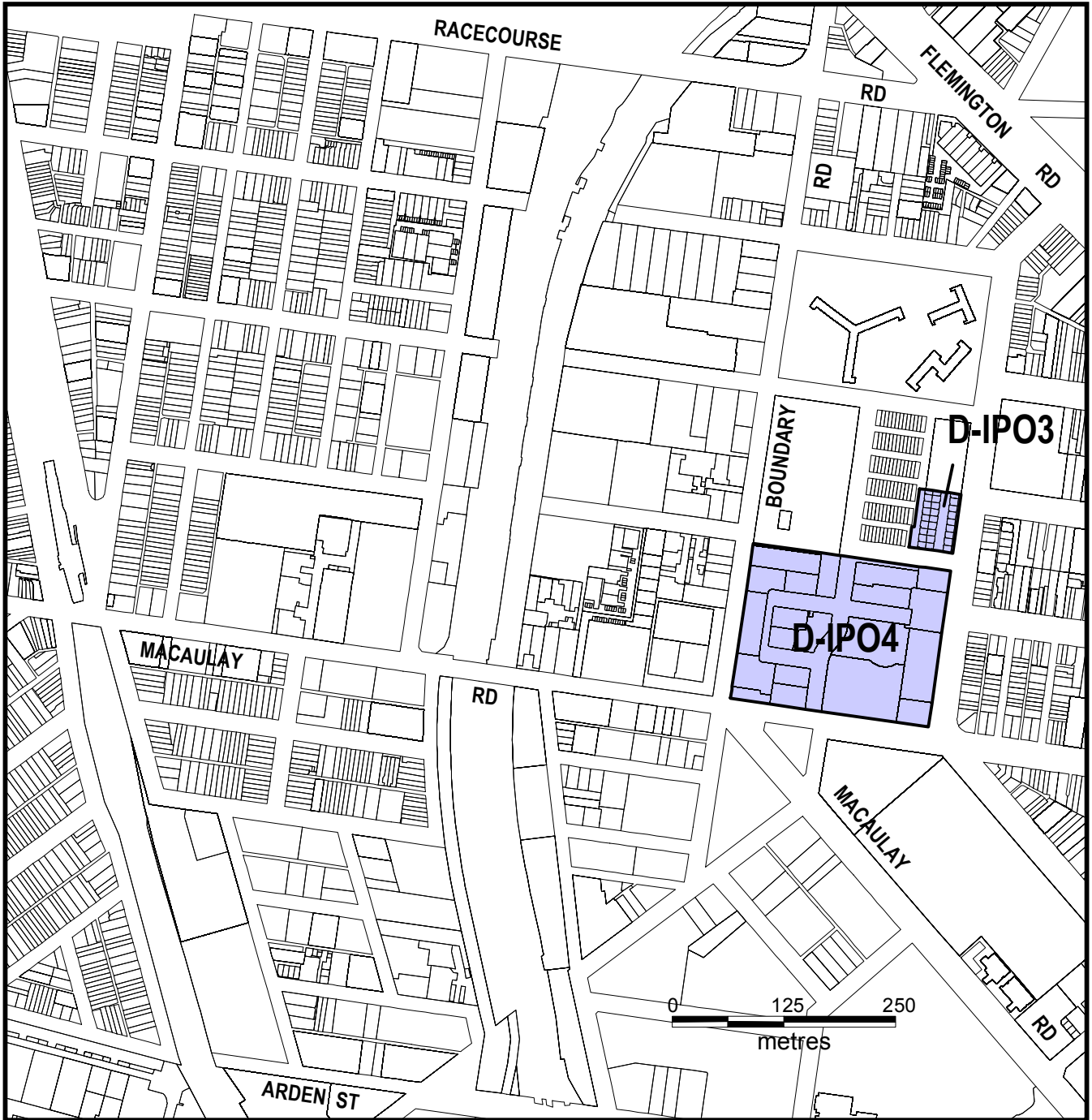
EAO ENVIRONMENTAL AUDIT OVERLAY

Part of Planning Scheme Map 4EAO

AMENDMENT C190



MELBOURNE PLANNING SCHEME LOCAL PROVISION



Part of Planning Scheme Map 4IPO

LEGEND

	D-IPO AREA TO BE DELETED FROM AN INCORPORATED PLAN OVERLAY
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AMENDMENT C190