

C o m m i t t e e r e p o r t t o C o u n c i l

Agenda item 5.1

Council

Planning Scheme Amendment C196 – City North

29 April 2014

Committee Future Melbourne (Planning)

Presenter David Mayes, Manager Strategic Planning

Purpose

1. The purpose of this report is to seek adoption of the final version of Amendment C196 (refer Attachment 2 of the committee report) based on the recommendations of the Panel appointed by the Minister for Planning.
2. The Panel's hearing was in August 2013 and its report (refer Attachment 3 of the report from committee) was received on 18 October. The Panel noted that the amendment would support good development outcomes through the Capital City Zone and new Schedules to the Design and Development Overlay.

Recommendation

3. That Council:
 - 3.1. Adopts Melbourne Planning Scheme Amendment C196 - City North (refer Attachment 2 of the report from committee) pursuant to Section 29 of the *Planning and Environment Act 1987*.
 - 3.2. Submits Melbourne Planning Scheme Amendment C196 - City North to the Minister for Planning for approval.

Council Report Attachment:

1. Future Melbourne Committee, Agenda Item 6.1, 1 April 2014

Report to the Future Melbourne Planning Committee

Planning Scheme Amendment C196 – City North

1 April 2014

Presenter: David Mayes, Manager Strategic Planning

Purpose and background

1. The purpose of this report is to seek adoption of the final version of Amendment C196 (refer Attachment 2) based on the recommendations of the Panel appointed by the Minister for Planning.
2. The Panel's hearing was in August 2013 and its report (refer Attachment 3) was received on 18 October. The Panel noted that the amendment would support good development outcomes through the Capital City Zone (CCZ) and new Schedules to the Design and Development Overlay (DDO).

Key issues

3. Management's response to the Panel recommendations is at Attachment 4. The revised version of Amendment C196 with the recommended changes is at Attachment 2. This is the version that management recommends be presented to the Minister for Planning for approval. Particular revisions resulting from the Panel's recommendations to note are:
 - 3.1. Replacing the mandatory building street edge heights and building street edge setbacks with stronger built form objectives and provisions. This will provide more flexibility for ensuring new development fits with the heritage parts of the street edge.
 - 3.2. Replacing the 30 per cent discretionary height increase beyond the preferred building height with stronger building design objectives and provisions in the DDO to strengthen support for the preferred height.
 - 3.3. Introducing the design requirements adopted by Council in Amendment C171 Southbank to guide negotiations with applicants about the location of through block links rather than prescribing those locations in the DDO.
 - 3.4. Including third party notice and appeal provisions for approval of uses that could be detrimental to residential amenity because the precinct has an established presence of residential land use.
 - 3.5. Including the Lort Smith Animal Hospital, which is a strategic redevelopment opportunity in the DDO Area 2 (refer Attachment 5). Management advised the landowners directly affected by this change. Five submissions were received with four opposed to the proposal (refer to Attachment 6).

Recommendation from management

4. That the Future Melbourne Committee:
 - 4.1. notes management's assessment to include the Lort Smith site into Amendment C196
 - 4.2. notes management's assessment of the Panel recommendations and subsequent changes to Amendment C196
 - 4.3. recommends that Council:
 - 4.3.1. adopts Melbourne Planning Scheme Amendment C196 - City North (refer Attachment 2) pursuant to Section 29 of the *Planning and Environment Act 1987*
 - 4.3.2. submits Melbourne Planning Scheme Amendment C196 - City North to the Minister for Planning for approval.

Supporting Attachment

Legal

1. Section 29(1) of the *Planning and Environment Act 1987* (Act) provides that after complying with Division 1 and 2 of the Act in respect of a planning scheme amendment, the planning authority may adopt the amendment with or without change.

Finance

2. Under Section 6 of the *Planning and Environment (Fees) Regulations 2000*, Council is required to pay a fee when requesting the Minister approve an amendment. Once the planning scheme amendment is approved, Council may also be required to place a notice in a newspaper circulating in the local area. These costs are provided for in the 2013–14 budget.

Conflict of interest

3. 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

4. Amendment C196 was on public exhibition from 1 November to 14 December 2012 and a total of 35 submissions were received.
5. On 9 April 2013, the Future Melbourne Committee considered all written submissions. The Committee agreed on a revised version of the Amendment and resolved to request the Minister for Planning appoint an Independent Panel to consider submissions to Amendment C196.
6. The Minister for Planning appointed a panel comprising Ms Kathryn Mitchell (Chair) and Suzanne Barker. The Panel hearing was held at Planning Panels over six days between 12 August and 22 August 2013. The Panel report was released to the public on the Council's website on 1 November 2013.
7. Additional consultation was undertaken to landowners potentially affected by the panel's recommendation to include the Lort Smith site into the amendment. A total of five submissions were received.

Relation to Council policy

8. Amendment C196 implements the land use and development strategies in the City North Structure Plan 2012 and Council's recently approved Municipal Strategic Statement.

Environmental sustainability

9. Amendment C196 and the City North Structure Plan 2012 provide a strategic framework for environmentally sustainable urban development.

MELBOURNE PLANNING SCHEME

AMENDMENT C196

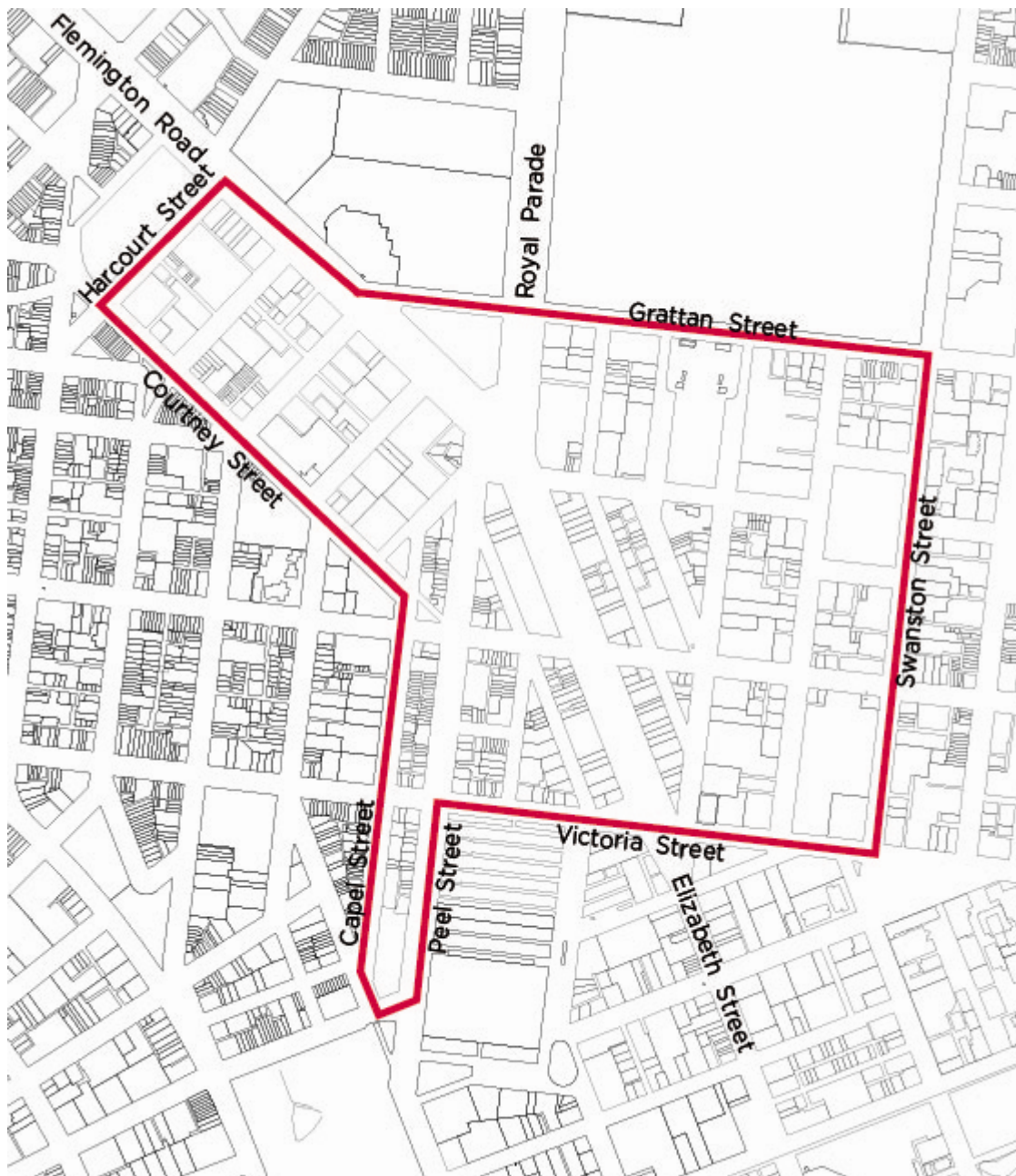
EXPLANATORY REPORT

Who is the planning authority?

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

Land affected by the amendment

The amendment applies to land in the City North Precinct as shown on the following map:



What the amendment does

The amendment proposes to:

- Rezone land as follows:
 - Properties north of Victoria Street and bounded by Peel Street, Grattan Street and Swanston Street (excluding the CUB site) currently zoned Mixed Use Zone are to be rezoned to Capital City Zone (CCZ5);
 - Properties fronting Capel Street currently Residential 1 are to be rezoned to Mixed Use Zone; and
 - The property bounded by Harcourt and Courtney Streets currently zoned Residential 1 is to be rezoned to Mixed Use Zone.
- Apply a new Schedule to the Capital City Zone (City North-CCZ5) to provide for a mix of central city uses - education, research and medical, as part of the State significant knowledge precinct with complementary services for residents, workers, students and visitors.

Capital City Zone (Outside the Retail Core) car parking rates will apply.

Third party appeal rights and notifications requirements that currently apply in the Mixed Use and Residential Zones will not apply to the land being rezoned to Capital City Zone.

- Apply a new Schedule to the Design and Development Overlay (DDO61), which incorporates built form requirements including mandatory maximum street edge heights and minimum setbacks, as well as pedestrian orientated design requirements for building facades, street activation, public places and spaces, and laneways. The Urban Design outside the Capital City Zone Policy and Sunlight to Public Spaces Policy and DDO30 are subsumed into DDO61.
- Amend the Urban Design within the Capital City Zone Policy (Clause 22.01) to exclude the application of the policy to areas within the Capital City Zone (City North-Schedule 5).
- Amend the Sunlight to Public Spaces Policy (Clause 22.02) to exclude the application of the policy to areas within the Capital City Zone (City North-Schedule 5)
- Amend the Heritage Places within the Capital City Zone Policy (Clause 22.04) to exclude the application of the policy to areas within the Capital City Zone (City North-Schedule 5).
- Amend the Heritage Places outside the Capital City Zone Policy (Clause 22.05) to include the application of the policy to areas within the Capital City Zone (City North-Schedule 5).
- Amend the Urban Design Outside the Capital City Zone Policy (Clause 22.017) to include the application of the policy to areas within the Capital City Zone (City North-Schedule 5).
- Amend the existing schedules to the Design and Development Overlay being Schedules 32, 44 and 45 to exclude the areas within the City North precinct.
- Delete the existing Schedule 30 to the Design and Development Overlay. This area will be included into the new Design and Development Overlay Schedule 61.

Strategic assessment of the amendment

• Why is the amendment required?

The City of Melbourne is projected to experience a significant increase in resident and worker population. A share of this growth will be accommodated in City North.

The amendment is required to facilitate the re-development and use of land in accordance with the City North Structure Plan 2012 (adopted February 2012). The Plan provides a framework to guide the development of City North as an extension of the Central City and consolidate the State significant knowledge precinct with a range of commercial, residential and retail activities.

City North is already undergoing renewal, with catalysts for change including the redevelopment of the former Carlton and United Brewery site, the hospitals, universities and scientific research institutions. The area is transitioning to a high intensity mixed use area based around health, education and research, with residential, commercial, and retail activities. The proposal for a new metro underground passenger rail service including two new stations will significantly increase the accessibility of the area.

Required changes to the planning scheme:

City North Structure Plan

The amendment is required to facilitate re-development of the precinct in accordance with the objectives of the City North Structure Plan 2012. The key directions of the City North Structure Plan are:

- Integrate the knowledge cluster into the Central City;
- Boost transport infrastructure;
- Create a compact, liveable precinct that builds on the existing urban heritage qualities;
- Develop four new major civic places;
- Make City North an energy, water and waste efficient precinct.

Changes to zones, overlays and local policies

Properties currently in the Mixed Use Zone, north of Victoria Street are to be rezoned to Capital City Zone Schedule 5. The City North precinct will continue to develop as a major research and education cluster with two universities and world leading bio-medical, design and information technology research institutions and companies. Integration of these uses in the precinct should be underpinned by a mix of commercial, retail, residential, and recreation activities and the Capital City Zone is the most appropriate for achieving this.

The existing Mixed Use Zone (MUZ), which covers much of the precinct, does not achieve the envisaged mix of uses. The MUZ zone is in the residential suite of zones and as such is primarily used as a residential zone. The Capital City Zone (Schedule 5) proposed for the area generally bounded by Victoria, Swanston, Grattan and Peel Streets will facilitate a greater mix of uses.

A small number of properties on the Capel Street, currently zoned Residential 1 are proposed to be rezoned to Mixed Use Zone. This will foster residential development, but by permitting other uses also, will provide a more suitable transition to the CCZ and the Queen Victoria Market retail precinct.

The property bounded by Harcourt Street and Courtney Street currently zoned Residential 1 is also proposed to be rezoned to Mixed Use Zone. This will provide a consistent zone

along the north-east side of Courtney Street and provide opportunities for a more diverse range of uses which complement the area's proximity to the knowledge precinct.

The introduction of a new schedule to the Design and Development Overlay (Schedule 61) will facilitate appropriate development through design requirements for building scale, heights, setbacks, facades, active street frontages, public spaces and new pedestrian access links. A number of these requirements align with policy direction in existing local policies and in order to simplify the planning scheme, these provisions have been subsumed into the new DDO.

The level of protection for heritage properties remains unchanged through the application of Clause 22.05 "Heritage Places outside the Capital City Zone Policy".

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

The amendment implements the objectives of planning in Victoria by putting in place a suite of planning tools that facilitate the orderly development of the land. The amendment balances the present and future interests of all Victorians via the fair, orderly, economic and sustainable use and development of land and the securing of a pleasant and efficient working, living and recreational environment for all Victorians and visitors to Victoria.

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

The amendment is expected to have positive, environmental, economic and social benefits. City North is already undergoing urban renewal with significant government and private investment in the major hospitals, research and tertiary education institutions. The amendment aims to ensure that land use and development occurs within a framework that combines the developing knowledge based activities with activities that will meet the needs of those who live, work and visit the precinct.

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

The amendment complies and is consistent with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes pursuant to Section 7(5) of the Planning and Environment Act 1987 (the Act). The amendment also complies and is consistent with the requirements of Ministerial Direction 11 on the Strategic Assessment of Planning Scheme Amendments.

Pursuant to section 12 of the Planning and Environment Act 1987 the amendment also complies with the Ministerial Direction No.9 (Metropolitan Strategy):

- *Direction 1 – A more compact city:* the amendment will encourage the regeneration of the City North area, encouraging a mix of uses including residential, retail and commercial uses and provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.
- *Direction 4 – A more prosperous city:* the amendment will encourage future development and investment in the City North area.

- **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:

- *Clause 11 – Goals and Principles.* By managing the use and development of City North, the amendment will help deliver a net community benefit. This will be achieved by allowing an increased urban density, activating a mixture of different and complementary land uses as well as bringing vitality to these areas.
- *Clause 12 – A More Compact City, A Great Place to Be, A Fairer City and Better Transport Links.* The amendment is consistent with the principles and objectives of Melbourne 2030 and Melbourne@5million and will manage development in a manner that will uphold these policy directives.
- *Clause 17 – Activity Centres and Business.* The amendment will help deliver the strategic vision of the City North Structure Plan by facilitating and contributing to the enhancement and planning of a vibrant, functional, safe and integrated part of the city which services the commercial, employment and housing needs of the municipality.
- *Clause 19.03 – Design and Built Form.* The amendment will facilitate the implementation of urban design, built form, and streetscape design principles as outlined in the City North Structure Plan 2011. The amendment will help incorporate planning provisions that will encourage and support enhanced liveability, and amenity within City North.

- **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 in part the directions in the adopted Municipal Strategic Statement (MSS) exhibited in July/August 2010 as Melbourne Planning Scheme Amendment C162 and adopted by Council on 28 August 2012. The City North Structure Plan was prepared to implement the vision established through the adopted MSS.

The adopted MSS defines how and where the long term growth and development of the City will occur and identifies areas in the city according to their capacity for growth and intensity of change. These areas are identified in the “Growth Framework Plan”. Within this ‘Growth Framework Plan,’ the City North Precinct is identified as an Urban Renewal Area.

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

The amendment makes appropriate use of the various zoning and overlay tools available under the Victorian Planning Provisions to achieve the strategic objective of the Scheme.

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

Community consultation on the City North Structure Plan 2012 engaged comprehensively with residents, developers, businesses, education, medical and research institutions and State Government’s Departments of Transport, Planning and Community Development and Innovation and Business. All relevant agencies will be notified as part of the planning scheme process.

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

The City of Melbourne is an interface body under the Transport Integration Act 2010. It is required to have regard to transport system objectives and decision-making principles when making decisions that have a significant impact on the transport system.

The Amendment will improve the transport system. It will: encourage walking; reduce reliance on cars; and improve the pedestrian network within, into and out of the precinct. The Amendment will strongly integrate transport and land use by providing for more intensive land use near proposed public transport nodes including the planned Melbourne Metro stations at Parkville and City North as well as planned tram extensions including Victoria Street. The Amendment provides for mixed land uses near these stations which will increase the efficiency of the use of public transport infrastructure by increasing counter-peak and inter-peak use. The Amendment applies the Capital City Zone (Outside the Retail Core) car parking rates to City North which will reduce the number of car parking spaces that would have been constructed in the precinct.

Resource and administrative costs

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

The new planning provisions will have no marked effect on existing administrative costs to the City of Melbourne.

- **Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

City of Melbourne
Level 3, 240 Little Collins Street
MELBOURNE VIC 3000

City of Melbourne website at www.melbourne.vic.gov.au/planningamendments

Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection.

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SCHEDULE 61 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO61**

CITY NORTH

1.0 Design objectives

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- To encourage City North to develop as a central city precinct characterised by university, research and medical buildings.
- To ~~establish create a central city precinct with~~ a mid-rise scale of buildings (6 to 15 storeys) that is distinct from the ~~tallhigh~~ built form in the Hoddle Grid area to the south, ~~complements existing development, and which~~ steps down at the interface to the lower scale surrounding established neighbourhoods in North and West Melbourne.
- ~~To create central city streetscapes defined by a generally consistent plane of building facades that collectively enclose the sides of the streetscapes whilst allowing good levels of daylight and sunlight to penetrate to the streets and to lower storeys of building.~~
- ~~To support provide~~ increased density and diversity of uses along the Victoria Street, Flemington Road, Elizabeth Street and Swanston Street tram corridors and around the proposed Grattan and CBD North Metro Rail stations.
- To establish built form that creates a strong sense of street definition by adopting a building height at the street edge determined by a 1:1 (building height to street width) ratio.
- To ensure development responds appropriately with suitable building scale, heights and setbacks to the existing character, context, and interfaces with established residential areas, and immediate amenity.
- To ensure that new buildings respect the rich heritage fabric of the area and that new buildings that adjoin the heritage buildings ~~having regard to~~ respect their height, scale, character and proportions.
- To develop a fine grain urban form by encouraging buildings with a wide street to be broken into smaller vertical sections.
- ~~To promote the development of Flemington Road, and Elizabeth Street as a civic spine into the central city.~~
- To develop the Haymarket area as a central city gateway precinct and public transport interchange.
- ~~To support the development of nodes of activity along Victoria Street and around the Haymarket area.~~
- ~~To ensure university, research and medical buildings are actively integrated with their~~ the surrounding public realm.
- To ~~establish safe streets through urban intensification and the design of buildings to provide~~ passive surveillance and activation of ground floors addressing the streets.
- To ensure development allows good levels of daylight and sunlight to penetrate to the streets and to lower storeys of buildings.
- To deliver a scale of development that provides a high level of pedestrian amenity having regard to sunlight, sky views and wind conditions.
- ~~To ensure that the collective effect of all current and future development promotes a public realm (including little streets and laneways) which provides a comfortable pedestrian scale, has good daylight, reasonable access to sunlight throughout the year and generous sky views.~~
- To improve the walkability of the precinct by encouraging providing new laneways and public pedestrian connections/through links.

- ~~• To create a streetscape microclimate where street trees will flourish~~
- ~~• To create a microclimate where green roofs, and green walls can flourish.~~
 - To encourage the ground floor of buildings to be designed so that they can be converted to a range of alternative active uses over time.
- ~~• To ensure that new development respects the scale of adjacent and nearby heritage places.~~

2.0 Buildings and Works

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~~All buildings and works requiring a permit must be constructed in accordance with:~~

- ~~• The preferred maximum building height, building street edge heights and minimum setback requirements for the specific areas as defined in Table 1 of this Schedule. A permit cannot be granted to vary the building street edge podium height and minimum building street edge setbacks.~~
- ~~• The preferred maximum building height should not be increased by more than 30% and only if it can be demonstrated that the upper storeys will be visually recessive and that development will not increase overshadowing of the public realm between 11am and 2pm at the equinox.~~

~~The street wall height is measured at the vertical distance between the footpath or 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.~~

- ~~• The design objectives and requirements to be achieved as set out in Table 1 of this Schedule.~~

~~Buildings and works requiring a permit should not exceed the preferred maximum street edge height, preferred maximum height and preferred upper level setback requirements for the specific areas as identified in Table 1 of this Schedule; and should meet the Design Objectives and requirements as set out in Table 2 of this Schedule.~~

The street wall height is measured at the vertical distance between the footpath or 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.

Permit not required

A permit is not required for:

- Buildings or works carried out by or on behalf of Parks Victoria under the Water Industry Act 1994, the Water Act 1989, the Marine Act 1988, the Port Management Act 1995, the Parks Victoria Act 1998 or the Crown Land (Reserves) Act 1978.
- Buildings or works for Railway purposes.
- The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works provided they are not visible from any street, lane or public place.
- External works to provide disabled access that complies with all legislative requirements.
- Alterations to a building which have been authorised under the Heritage Act, provided the works do not alter the existing building envelope or floor area.

3.0 Subdivision

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A permit is not required to subdivide land.

4.0 Application requirements

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An application for permit, other than an application for minor buildings or works as determined by the responsible authority, must be accompanied by a comprehensive site analysis and urban context report documenting the key planning influences on the development. The urban context report must identify the development opportunities and constraints, and demonstrate how the development, addresses:

- State Planning Policy Framework and the Local Planning Policy Framework, zone and overlay objectives.
- The objectives, design requirements and outcomes of this Schedule.
- Built form and character of adjacent and nearby buildings.
- Heritage character of adjacent and nearby heritage places.
- Microclimate including sunlight, daylight and wind effects on streets and public spaces.
- Energy efficiency and waste management.
- Ground floor and lower level street frontages, including visual impacts and pedestrian safety.
- Public infrastructure, including reticulated services, traffic and car parking impact.

5.0 Decision guidelines

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Before deciding on an application, the responsible authority must consider, as appropriate:

- Whether the proposal achieves the design objectives in Section 1 of this Schedule/
- Whether the proposal achieves the built form outcomes contained in Table 1.
- Whether the proposal achieves the ~~design objectives and~~ design requirements contained in Table 2~~this Schedule~~.
- Whether the development maintains and enhances the character and amenity of the streetscape.
- The wind effect at ground level as demonstrated by wind effects studies as necessary.

6.0 Exemption from notice and appeal

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An application to construct a building or carry out works on land located within the Capital City Zone (CCZ5) 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

7.0 Reference documents

City North Structure Plan 2012

Table 1 – Preferred Built Form Outcomes for Specific Areas ~~Maximum Building Heights and Setbacks~~

<u>Area s / Specific Sites DDO Area</u>	<u>Building Height</u>	Preferred Maximum building height, building street edge height, and minimum building street edge setback. <u>Street edge height and upper level setback</u>	Built Form Outcome
1	<u>24 metres</u>	<p><u>24 metres</u></p> <p>Buildings fronting O’Connell, Cobden and Princess Street:</p> <p>20 metre street edge height.</p> <p>Any part of the building above the 20 metre to be should be setback 4 metres from the street.</p> <p>Any part of the building street edge above 20 metres fronting O’Connell Street, Cobden Street and Princess Street must be setback 4 metres.</p>	<p>A scale of D development that:</p> <ul style="list-style-type: none"> ▪ Respects the heritage character of the Queen Victoria Market Buildings; ▪ Avoids overshadowing the Queen Victoria Market buildings; ▪ Delivers an even transition in scale from the lower built form in Peel Street and adjacent areas in North Melbourne. <p>Ensures sunlight reaches the lower floors of new developments.</p>
2	<u>24 metres</u>	<p><u>24 metres</u></p> <p><u>Buildings fronting Harcourt Street:</u></p> <p><u>14 metre street edge height.</u></p> <p>For sites fronting Harcourt Street, <u>Any part of the building at the street edge of Harcourt Street above 14 metres should be setback on a 45 degree line from the street.</u></p> <p>Buildings adjacent to DDO32:</p> <p>14 metre building height at the property boundary.</p> <p>For sites adjacent to DDO 32, any part of the building above 14 metres should be setback from the street behind a 45 degree line.</p> <p>Setbacks for boundaries that adjoin existing DDO 32 must be in accordance with Figure 1</p> <p>Setbacks for development on boundaries that adjoin existing DDO 32 must be in accordance with Figures 1.</p>	<p><u>Development that:</u></p> <ul style="list-style-type: none"> ▪ Delivers an appropriate transition in scale of development from the lower scale built form in Courtney Street to the higher scale built form in Flemington Road. ▪ Limits amenity impacts of excessive building bulk, overlooking and overshadowing on existing buildings in DDO Area 32

3	40 metres	40 metres All buildings	<p><u>Development that:</u></p> <ul style="list-style-type: none"> ▪ Creates strong definition to the streetscape. ▪ <u>Development D</u> does not dominate buildings in Area 2. ▪ <u>Has Aa</u> scale of development that reinforces Flemington Road as a civic spine and facilitates the enhancement of its landscape character
4	40 metres	<p>40 metres</p> <p>Buildings fronting Grattan, Pelham, Queensberry, Bouverie, Leicester, Barry, Berkeley and Lincoln Square North and South streets:</p> <p>24 metre street edge height.</p> <p>Any part of the building above 24 metres should be setback 6 metres from the street.</p> <p>Buildings fronting O’Connell Street:</p> <p>20 metre street edge height.</p> <p>Any part of the building above 20 metres should be setback 6 metres from the street.</p> <p><u>Buildings fronting Swanston Street:</u></p> <p><u>32 metre street edge height.</u></p> <p><u>Any part of the building above 32 metres should be setback 6 metres from the street.</u></p> <p>Any part of the building street edge above 20 metres on a street edge fronting O’Connell Street must be setback 6 metres.</p>	<p>A scale of d <u>Development that:</u></p> <ul style="list-style-type: none"> ▪ -Reinforces Elizabeth Street as a civic spine and facilitates the enhancement of its landscape character. ▪ Creates stronger definition to the streetscape. ▪ Development—Complements the existing character established by the university, research and medical buildings. ▪ <u>Ensures</u> sunlight reaches the lower floors of new developments. ▪ <u>Facilitates an integrated built form on both sides of the Swanston Street.</u> ▪ Delivers a scale of development that provides street definition and a high level of pedestrian amenity, having regard to access to sunlight, sky views and a pedestrian friendly scale. ▪ Provides a street edge height that integrates new development with lower scale heritage buildings.
5	32 metres	<p>Buildings fronting Barry, Berkeley or and Pelham Streets:</p> <p>24 metre street edge.</p> <p>Any part of the building above 24 metres should be setback 6 metres from the street.</p>	<p><u>Development that:</u></p> <ul style="list-style-type: none"> ▪ <u>Delivers</u> a scale of development that provides a high level of pedestrian amenity, including access to sunlight at ground floor (to Berkeley Street), sky views and a pedestrian friendly scale. ▪ <u>Compliments</u> the scale of existing heritage buildings.

6	60 metres	<p>Buildings fronting Elizabeth Street, Flemington Road, Royal Parade, Grattan Street, Blackwood Street, Bedford Street and Peel Street:</p> <p>40 metre street edge height.</p> <p>Any part of the building above 40 metres should be setback 10 metres from the street.</p> <p>Buildings fronting Pelham and Berkely Street:</p> <p>24 metre street edge height.</p> <p>Any part of the building above 24 metres should be setback 6 metres from the street.</p>	<p><u>Development that:</u></p> <ul style="list-style-type: none"> ▪ Supports the gateway role of the Haymarket. ▪ Has a scale of development that is complementary to the proposed medium level built form of its surrounds. ▪ Has a consistent streetscape built form that integrates Elisabeth Street with Flemington Road. ▪ Does not overshadow the proposed civic space within the Haymarket. ▪ Delivers a scale of development that provides an appropriate transition to the lower scale built form in Berkeley and Pelham Street. ▪ Provides a high level of pedestrian amenity, including access to sunlight to ground floor and sky views.
7	32 metres	<u>All buildings</u>	<p><u>Development that:</u></p> <ul style="list-style-type: none"> • Delivers a scale of development and a high level of pedestrian amenity, including access to sunlight at ground floor, sky views and a pedestrian friendly scale. • Complements the scale of existing heritage buildings.
1-7		On the street edge of laneway frontages, any part of the building above 10.5 metres should be setback 4 metres.	Development that ensures laneways have appropriate access to daylight and sunlight.

Table 2-Design Objectives and Design Requirements for all DDO Areas

Design Objective	Design Requirement
Building Heights, Scale and Setbacks	
To ensure that the height of new buildings reinforces the built form character of specific areas as defined in Table 1 in this Schedule.	Deliver a scale of development at the street edge in accordance with Table 1 in this Schedule.
To ensure appropriate building scale, height and setbacks at interfaces with established residential areas having regard to existing character, context and amenity.	Buildings should be constructed to the street boundary of the site. <u>Upper levels above the maximum street wall heights should be visually recessive and more diminutive than the building's base.</u>
To ensure appropriate building scale on the side and rear boundaries of new buildings and works that respects the scale of existing adjoining	<u>On corner sites where two different street edge heights are nominated, buildings should "turn</u>

buildings.

To avoid to exposed blank walls

To assist in limiting visual impact and adverse amenity on adjacent development sites.

To promote articulated rooflines with architectural interest and variation.

To establish a generally consistent built form ~~a to the~~ street edge that creates a strong sense of definition and place.

To ensure that the scale of built form provides an urban environment that is comfortable for pedestrians.

To ensure equitable and good access to sunlight / daylight for occupants of buildings and in public places.

To ensure that new development is adaptable over the long term to a range of alternate uses.

the corner” and apply the higher street edge and transition to the lower nominated street edge height.

Buildings should have a minimum ground floor to floor height of 4 metres at ground floor and a minimum floor to floor height of 3.2 metres in levels above the ground floor.

To ensure that new buildings and works adjoining individually significant heritage buildings or buildings within a heritage precincts respects the character, form, massing and scale of the heritage buildings.

The design of new buildings should respect the character, height, scale, rhythm and proportions of the heritage buildings.

New buildings should step down in height to adjoining lower scale heritage buildings.

New buildings should ~~consider retaining the~~ traditional heritage street wall height (as opposed to defining a higher street wall height) where appropriate.

Building Facades and Street Frontages

To ensure that buildings are well designed and enhance the amenity of City North.

To deliver a fine grain built form with architectural variety and interest.

To encourage high quality facade and architectural detailing.

Addressing the Street

Buildings with wide street frontages should be broken into smaller vertical sections of 4 to 10m in width.

Multiple doors/entrances to buildings and windows should be provided off the street to improve activation of the street.

The facades of buildings should maintain the continuity, and traditional characteristic vertical rhythm of streetscapes.

All visible sides of a building should be fully designed and appropriately articulated and provide visual interest.

Blank building walls that are visible from streets and public spaces should be avoided.

Buildings on corner sites should address both street frontages.

Service areas

Service areas (plant, exhaust, intake vents and other technical equipment and other utility requirements) should be treated as an integral

part of the overall building design and visually screened from public areas.

Buildings should be designed to integrate attachments (including antennae) without disrupting the appearance of the building.

Building Projections

Building projections outside the property boundary ~~should~~ must accord with Council's Road Encroachment Guidelines.

Active and Safe Street Frontages

To create safe streets.

To ensure all streets are pedestrian oriented and contribute to pedestrian safety.

To ensure development presents welcoming, engaging and active edges to streets and other public spaces at ground floor and the street frontages of lower storeys.

To ensure development contributes to passive surveillance of the public domain.

Ground floor frontages should contribute to city safety by providing lighting and activity.

At least the first five levels of a building should provide windows and balconies, fronting the street or lane.

Access to car parking and service areas should minimise impact on street frontages and pedestrian movement.

Carparking should not be located at ground floor and should not occupy more than 20% of the length of the street frontage above ground floor.

Facades at ground level should not have alcoves and spaces that cannot be observed by pedestrians.

To provide continuity of ground floor shops and food and drink premises in proposed activity nodes.

Buildings with ground-level street frontages along Royal Parade at the Haymarket area and Victoria Street as shown on **Map 1** ~~must~~ should contribute to the appearance and support the proposed retail function of the area to the satisfaction of the responsible authority, by providing:

At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises.

Clear glazing (security grilles ~~must~~ should be transparent)

To ensure ground floor frontages to major pedestrian area add interest and vitality.

Buildings with ground-level street frontages to Elizabeth Street, Peel Street, Grattan Street, Swanston Street and Queensberry Streets as shown on **Map 1** ~~must~~ should present an attractive pedestrian oriented frontage to the satisfaction of the responsible authority, by providing:

- at least 5 metres or 80 % of the street frontages (whichever is the greater) as an entry or display window to a shop and/or a

food and drink premises; or

- at least 5 metres or 80 % of the street frontages (whichever is the greater) as any other uses, customer service areas and activities, which provide pedestrian interest or interaction.
 - Clear glazing (security grilles must be transparent).
-

Provision of Public Places

To encourage the provision of well designed and publicly accessible spaces

The opportunity for the inclusion of public spaces should be promoted.

Sunlight to Public Places

To ensure that new buildings allow daylight and sunlight penetration to public spaces, and open space throughout the year.

To protect sunlight to public spaces.

To ensure that overshadowing of public spaces by new buildings or works does not result in significant loss of sunlight.

Buildings and works must not cast a shadow between 11.00 am and 2.00 pm on 22 March and 22 September over public space, public parks and gardens, public squares, major pedestrian routes including streets and lanes, and privately owned plazas open to the public. A permit may only be granted if the overshadowing will not prejudice the amenity of those areas.

Maximise the extent of the northerly aspect of public open spaces.

Ensures sunlight reaches the lower floors of new developments.

Lanes Pedestrian Links

To encourage the creation of new lanes and connections, particularly in locations where block lengths exceed 100m.

To ensure new laneways are aligned to respect the street pattern;

To ensure new laneways integrate with the pattern of development of adjacent areas,

To accommodate vehicular and service access to developments.

Provide new laneways as identified on Map 2

The location and alignment of new lanes should respect the street pattern.

Pedestrian through block connections should be provided where the average length of a street block exceeds 100 metres. For street blocks exceeding 200metres in length at least two connections should be provided.

Connections should be located towards the centre of the street block, no more than 70 metres from the next intersection or pedestrian connection.

Where a development site is suitably located for a pedestrian connection but does not exceed the full depth of the block, the development should include a connection which would be completed when a connection is provided through the adjoining site.

Where a development site has the potential to achieve a through block connection by

extending an existing or proposed connection on an adjoining site, the new development should provide for the completion of the through block connection.

Development should provide pedestrian connections that are aligned with other lanes or pedestrian connections in adjacent blocks (or not offset by more than 30 metres) so as to provide direct routes through City North.

Bluestone lanes, kerbs and guttering within heritage precincts must be retained, and should also be retained outside heritage precincts.

Laneway design and character

~~Through block pedestrian links and other public spaces should be designed to enable clear end to end views through.~~

~~New laneways should be a minimum width of 6 metres wide.~~

~~New laneways are to be open to the sky.~~

Developments should provide pedestrian connections which are:

- Safe, direct, attractive and which provide a line of sight from one end of the connection to another.
- Publicly accessible.
- At least 3-6 metres wide.
- Open to the sky or if enclosed at 7.6 metres.
- Flanked by active frontages.

Existing lanes should not be covered.

The pedestrian amenity of lanes which are primarily used for servicing and car parking, should be improved through the use of materials, lighting and designated areas for pedestrians and vehicles.

~~Lanes are to provide 24 hour public access, seven days a week.~~

Buildings and works adjoining lanes

The design and management of access and loading areas along lanes should not impede pedestrian movement.

New development should respond to the fine grain pattern, vertical articulation and division of building frontages where this forms part of the lane way character.

New development along lanes should provide highly articulated and well detailed facades that create visual interest, particularly at the lower levels.

Weather Protection

To promote pedestrian amenity.

To ensure built form does not increase the level of wind at ground level and that buildings are designed to minimise any adverse effect on pedestrian comfort.

The design of the building should minimise the potential for ground-level wind and any adverse effect on pedestrian comfort as follows:

- In the proposed activity nodes shown on Map 1 the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector ~~should~~ ~~must~~ not exceed 10 ms-1. This speed is generally acceptable for stationary, long term exposure (>15 minutes); for instance, outdoor restaurants/cafes, theatres
- Along major pedestrian areas shown on Map 1 the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector ~~must~~ ~~should~~ not exceed 13 ms-1. This speed is generally acceptable for stationary, short term exposure (<15 minutes); for instance, window shopping, standing or sitting in plazas;
- Along all other streets the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5° wind direction sector ~~must~~ ~~should~~ not exceed 16 ms-1 (which results in half the wind pressure of a 23ms-1 gust) which is generally acceptable for walking in urban and suburban areas.
- Landscaping within the public realm should not be relied on to mitigate wind.

To protect pedestrians from the elements by providing shelter from the rain and sun, without causing detriment to building or streetscape integrity.

Buildings should include protection from the weather in the form of canopies, verandahs and awnings.

The design, height, scale and detail of canopies, verandahs and awnings:

- should be compatible with nearby buildings, streetscape and precinct character;
- may be partly or fully transparent to allow light penetration to the footpath and views back up the building façade;
- should be setback to accommodate existing street trees; and
- should be located so that verandah support posts are at least 2 metres from tree pits.

Protection need not be provided where it would interfere with the integrity or character of heritage buildings, heritage precincts or

streetscapes and lanes.

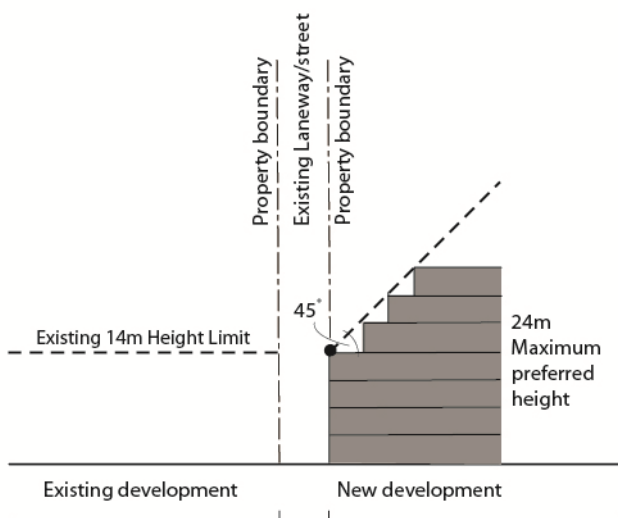
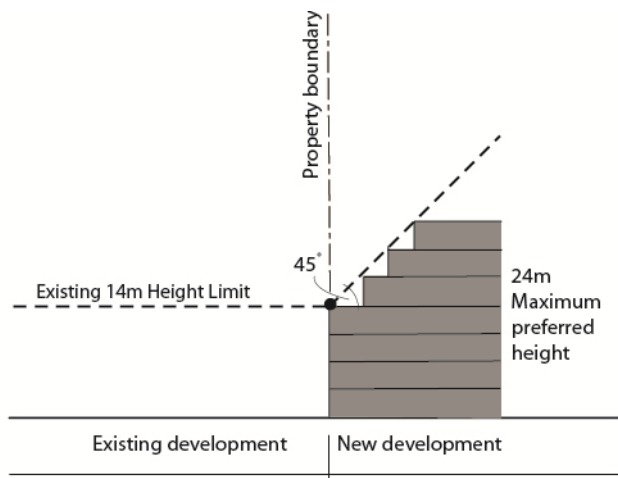
Integration of University Campuses

~~To ensure university campuses connect into the fabric of City North.~~

~~Provide street level activity at the frontage of institutional buildings.~~

Figure 1

Provisions for Area 2 (Land adjoining DDO32)




Map 1 – Street Frontages



Map 2 - Proposed Laneway through links



 New through connections

--/2013
C196

SCHEDULE 5 TO THE CAPITAL CITY ZONE

Shown on the planning scheme map as **CCZ5**

CITY NORTH

Purpose

To develop City North as a mixed use extension of the Central City.

To provide for a range of educational, research and medical uses as part of an internationally renowned knowledge district.

To encourage a range of uses that complement the capital city function of the locality and serves the needs of residents, workers, students and visitors.

1.0

Table of uses

--/2013
C196

Section 1 - Permit not required

USE	CONDITION
Accommodation (other than Corrective institution)	Along the street frontages as shown at Map 1 of Clause 43.01 Schedule 61, any frontage at ground floor level must not exceed 4 metres
Any use permitted under the Reference Areas Act 1978, the National Parks Act 1975, the Fisheries Act 1995, the Wildlife Act 1975 or the Forests Act 1958.	
Apiculture	Must meet the requirements of the Apiary Code of Practice, May 1997.
Education centre	
Home occupation	
Informal outdoor recreation	
Mineral exploration	
Mining	Must meet the requirements of Clause 52.08-2.
Minor utility installation	
Office	
Place of assembly (other than Amusement parlour, Function Centre and Nightclub)	
Railway	
Railway station	
Retail premises (other than Adult sex bookshop, Hotel, and Tavern)	
Road	
Search for stone	Must not be costeaning or bulk sampling.
Tramway	

Section 2 - Permit required

USE	CONDITION
Adult sex bookshop	
Amusement parlour	
Car park (other than Commercial car park or an open lot car park)	Must meet the requirements of Clause 52.06.
Corrective institution	
Function Centre	
Hotel	
Industry	Must not be a purpose listed in the table to Clause 52.10.
Leisure and recreation (other than Minor sports and recreation facility and Informal outdoor recreation)	
Mineral, stone, or soil extraction (other than Extractive industry, Mineral exploration, Mining, and Search for stone)	
Nightclub	
Tavern	
Utility installation (other than Minor utility installation)	
Warehouse (other than Freezing and cool storage, and Liquid fuel depot)	
Any other use not in Section 1 or 3	

Section 3 - Prohibited

USE
Commercial car park or an open lot car park
Cold store
Extractive industry
Freezing and cool storage
Liquid fuel depot

2.0 Use of land

Exemption from notice and review

An application to use land 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.

This exemption does not apply to an application to use land for a Function Centre, Nightclub, Tavern, Brothel, Adult Sex Bookshop, Amusement Parlour or Hotel.

Decision Guidelines

Before deciding on a permit application under this schedule the responsible authority must consider as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework.
- The comments and requirements of relevant authorities.
- The existing and future use and amenity of the land and the locality.
- The impact the use will have on the amenity of existing dwellings and adjacent and nearby sites including noise emissions and how this impact is to be minimised.
- The provision of physical infrastructure and community services sufficient to meet the needs of the proposed use.
- The effect that existing uses may have on the proposed use.

3.0 Subdivision

--/2013
C196

Exemption from notice and review

An application to subdivide land 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 Buildings and works

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C196

Permit Requirement

A permit is required to construct a building or carry out works.

This does not apply to:

- Alterations to a building authorised under the Heritage Act, provided the works do not alter the existing building envelope or floor area.
- The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works provided they are not visible from any street, lane or public place.
- Changes to glazing of existing windows with not more than 15% reflectivity.
- External works to provide disabled access that complies with all legislative requirements.
- Buildings or works carried out by or on behalf of Parks Victoria under the Water Industry Act 1994, the Water Act 1989, the Marine Act 1988, the Port Management Act 1995, the Parks Victoria Act 1998 or the Crown Land (Reserves) Act 1978.
- Buildings or works for Railway purposes.

Application Requirements

An application for permit must be accompanied by a written urban context report documenting the key planning influences on the development and how it relates to its surroundings. The urban context report must identify the development opportunities and constraints, and document the effect of the development, as appropriate, in terms of:

- State Planning Policy Framework and the Local Planning Policy Framework, zone and overlay objectives.
- Built form and character of adjacent and nearby buildings.

- Heritage character of adjacent and nearby heritage places.
- Ground floor street frontages, including visual impacts and pedestrian safety.
- Microclimate, including sunlight, daylight and wind effects on streets and other public spaces.
- Energy efficiency and waste management.
- Public infrastructure, including reticulated services, traffic and car parking impact.

An application to construct a building or to construct or carry out works must include, as appropriate, upgrading of adjacent footpaths or laneways to the satisfaction of the responsible authority.

An application for a permit to construct or carry out works for development of a building listed in the Heritage Overlay must be accompanied by a conservation analysis and management plan in accordance with the principles of the Australian ICOMOS Charter for the Conservation of Places of Cultural Significance 1992 (The Burra Charter) to the satisfaction of the responsible authority.

Exemption from notice and review

[An application to construct a building or construct or carry out works for a use in Section 1 of Clause 37.04-1 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.](#)

Decision guidelines

Before deciding on a permit application under this schedule the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The comments and requirements of relevant authorities.
- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking, loading of vehicles and access to parking spaces and loading bays.
- The adequacy of entrance to and egress from the site.
- The existing and future use and amenity of the land and the locality.
- The location, area, dimensions and suitability of use of land proposed for public use.
- The provision of landscaping.
- The effect of the proposed works on solar access to existing open spaces and public places.
- The provision of solar access to private open space areas in residential development.
- The responsibility for the maintenance of buildings, landscaping and paved areas.
- The impact a new development will have on the amenity of existing dwellings on adjacent sites and how this impact has been minimised.
- The incorporation of design measures to attenuate against noise associated with the operation of other businesses and activities, including limiting internal noise levels of new habitable rooms to a maximum of 45 dB in accordance with relevant Australian Standards for acoustic control, for new and refurbished residential developments and other sensitive uses.

- The provision of storage for refuse and recyclable material provided off-street is fully screened from public areas.
- The first five levels of buildings are developed with a “casing” of dwellings or offices or other active uses so that a visual relationship between occupants of upper floors and pedestrians is able to be established and better surveillance of the street is achieved.

5.0

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Demolition or Removal of Buildings

A permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.

This does not include:

- Demolition or removal of temporary structures.
- Demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation and/or local law.

Before deciding on an application to demolish or remove a building, the responsible authority may require an agreement pursuant to Section 173 of the Planning and Environment Act 1987 between the landowner and the responsible authority requiring, as appropriate:

- Temporary works on the vacant site should it remain vacant for 6 months after completion of the demolition.
- Temporary works on the vacant site where demolition or construction activity has ceased for 6 months, or an aggregate of 6 months, after commencement of the construction.

Temporary works must be constructed to the satisfaction of the responsible authority. Temporary works may include:

- The construction of temporary buildings for short-term retail or commercial use. Such structures shall include the provision of an active street frontage.
- Landscaping of the site for the purpose of public recreation and open space.

Exemption from notice and review

[An application to construct a building or construct or carry out works for a use in Section 1 of Clause 37.04-1 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.](#)

6.0

Advertising signs

—/—/2013
C196

A permit is required to erect an advertising sign, except for:

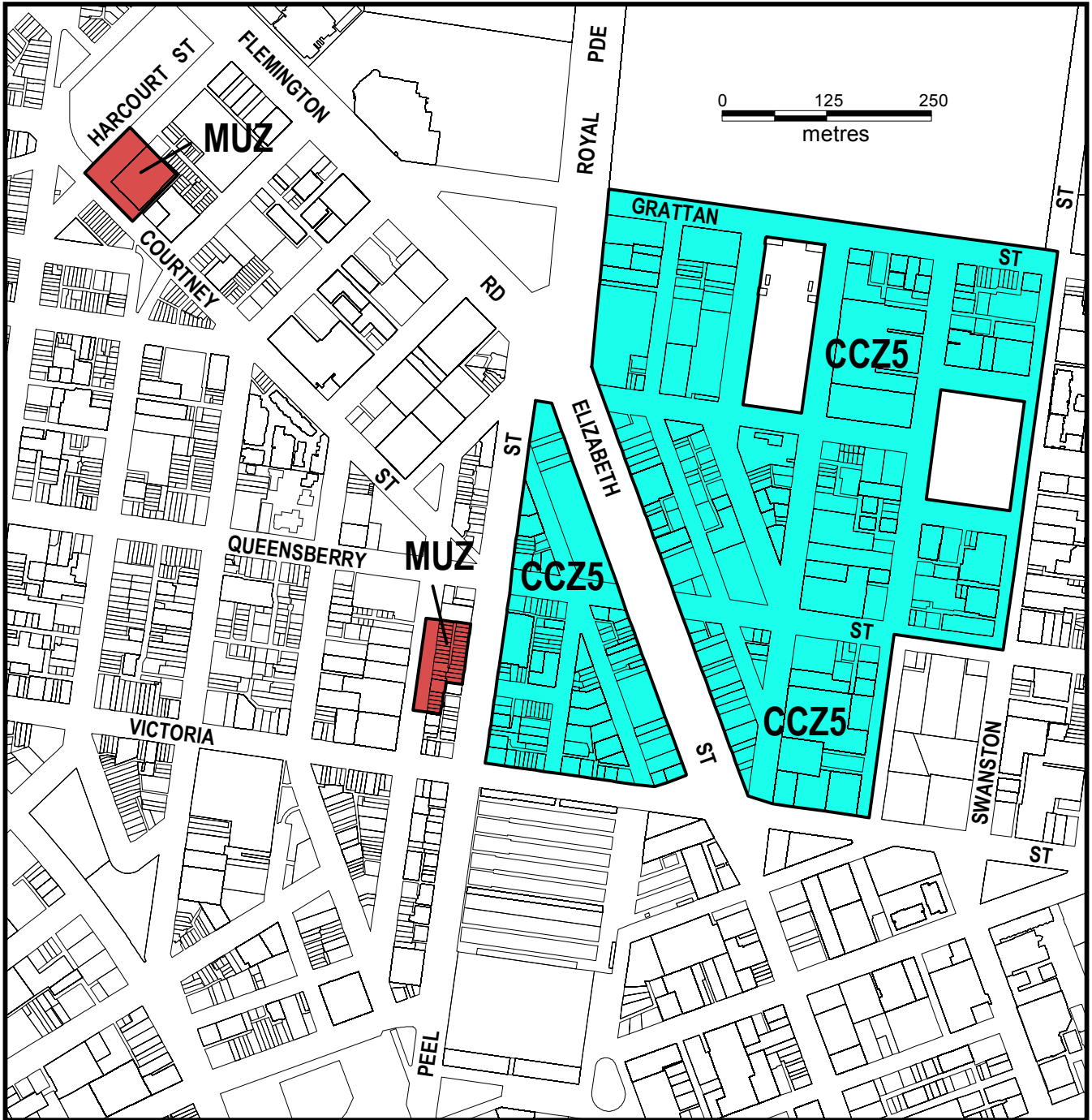
- Advertising signs exempted by Clause 52.05-4
- An under-verandah business sign if:
 - It does not exceed 2.5 metres measured horizontally, 0.5 metres vertically and 0.3 metres between the faces of the sign;
 - It is located between 2.7 metres and 3.5 metres above ground level and perpendicular to the building facade; and
 - It does not contain any animation or intermittent lighting.
- A ground floor business sign cantilevered from a building if:
 - It does not exceed 0.84 metres measured horizontally, 0.61 metres vertically and 0.3 metres between the faces of the sign;
 - It is located between 2.7 metres and 3.5 metres above ground level and perpendicular to the building facade; and

- It does not contain any animation or intermittent lighting.
- A window display.
- A non-illuminated sign on a verandah fascia, provided no part of the sign protrudes above or below the fascia.
- Renewal or replacement of an existing internally illuminated business identification sign.

Exemption from notice and review


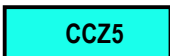
An application to construct a building or construct or carry out works for a use in Section 1 of Clause 37.04-1 is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

MELBOURNE PLANNING SCHEME LOCAL PROVISION



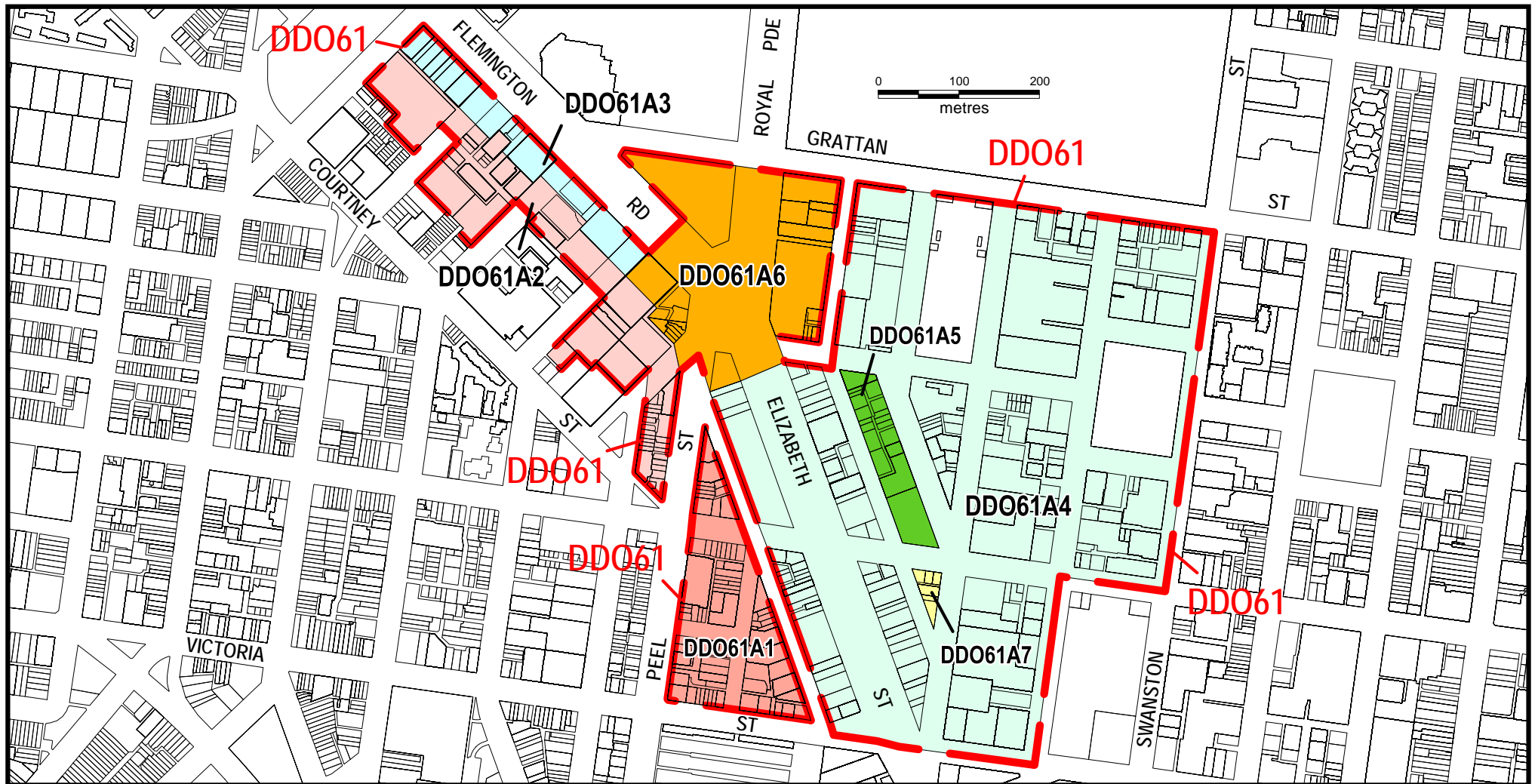
Part of Planning Scheme Maps 5 & 8

LEGEND


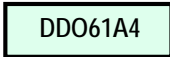
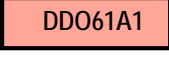
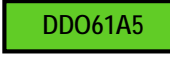
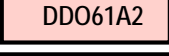

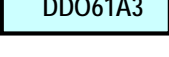
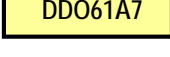
-  **MUZ** MIXED USE ZONE
-  **CCZ5** CAPITAL CITY ZONE - SCHEDULE 5

AMENDMENT C196

MELBOURNE PLANNING SCHEME LOCAL PROVISION



LEGEND

 DDO61	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61	 DDO61A4	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61 (AREA 4)
 DDO61A1	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61 (AREA 1)	 DDO61A5	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61 (AREA 5)
 DDO61A2	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61 (AREA 2)	 DDO61A6	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61 (AREA 6)
 DDO61A3	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61 (AREA 3)	 DDO61A7	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 61 (AREA 7)

Part of Planning Scheme Maps 5DDOPT3 & 8DDOPT3

AMENDMENT C196

PREPARED BY: INFORMATION SERVICES
Statutory Systems
Planning, Heritage and Urban Design
Department of Planning and Community Development



Planning and Environment Act 1987

Panel Report

Melbourne Planning Scheme
Amendment C196
City North Structure Plan

18 October 2013



Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Amendment C196 to the Melbourne Planning Scheme

City North Structure Plan

A handwritten signature in blue ink, appearing to read 'K Mitchell', written in a cursive style.

Kathryn Mitchell, Chair

A handwritten signature in blue ink, appearing to read 'S Barker', written in a cursive style.

Suzanne Barker, Member

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List of Abbreviations

CCZ	Capital City Zone
DDO	Design and Development Overlay
DTPLI	Department of Transport , Planning and Local Infrastructure
FMC	Future Melbourne Committee
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
CCC	Victorian Comprehensive Cancer Centre
VPP	Victoria Planning Provisions

Amendment Summary

The Amendment	Melbourne C196
Subject Site	The City North Precinct
Purpose of Amendment	To implement the land use and development controls recommended in the City North Structure Plan 2012
The Proponent	Not applicable
Planning Authority	Melbourne City Council
Exhibition	1 November to 15 December 2012

Panel Process

The Panel	Kathy Mitchell (Chair) and Suzanne Barker
Directions Hearing	2 July 2013
Panel Hearing	12, 13, 15, 16, 20 and 22 August 2013
Site Inspections	Undertaken by the Panel prior to, during and post the hearing
Appearances	See Table 1 in Chapter 1
Submissions	36 (including one late submission)
Date of this Report	18 October 2013

Executive Summary and Recommendations

The City of Melbourne has embarked on a series of Structure Plans for key precincts within its municipality.

The first of these was the Southbank Structure Plan in 2011/12, which was introduced into the Melbourne Planning Scheme through Amendment C171.

The City North and Arden Macaulay Structure Plans have since followed.

The City North Structure Plan relates to the areas in the vicinity of and to the north of Victoria Parade through to Melbourne University, and includes what is generally recognised as the 'Knowledge Precinct'.

This Structure Plan will frame and inform the future development of this important precinct. Structure Plans are important to establish long term and strategic goals for areas or precincts.

The City North Structure Plan provides a high level vision, and it is intended to be implemented principally through new Schedules to the Design and Development Overlay and the Capital City Zone.

Approval of the Amendment will set in place the policy and statutory framework for Council and other users when considering future permit applications.

A Panel was appointed to consider the Amendment and a Hearing was held in relation to the issues raised in submissions.

Submissions generally supported the key imperatives of the Amendment, and mainly focussed on drafting issues relating to the proposed new zones and the Design and Development Overlay in relation to the built form controls.

The Panel supports the Amendment (subject to further modifications) and considers approval of the Amendment will assist to achieve a good outcome for this diverse and important part of Melbourne.

For the reasons outlined in this report, the Panel recommends that Amendment C196 to the Melbourne Planning Scheme be adopted subject to the following modifications:

- 1. Amend Schedule 5 to the Capital City Zone in accordance with Appendix C.**
- 2. Amend Clause 22.12 Gaming Premises to apply the policy to the Schedule 5 to the Capital City Zone land.**
- 3. Amend Schedule 61 to the Design and Development Overlay in accordance with Appendix D.**
- 4. Amend Schedule 61 to the Design and Development Overlay in accordance with Appendix D.**
- 5. Amend the Design and Development Overlay map to extend Area 2 to include the Lort Smith Hospital site.**

6. Amend the Design and Development Overlay map include the entire Bob Jane and PDG sites, as well as the northern portion of the Toyota site in Area 6 (renamed Area 5 in the Panel version).
7. Amend Clause 22.05 Heritage Places outside the Capital City Zone with specific exclusions from the requirements for “*Concealment of Higher Rear Parts (including Additions)*” and “*Façade Height and Setback (New buildings)*” for the City North Precinct.
8. Amend Schedule 61 to the Design and Development Overlay in accordance with Appendix D.

1 Introduction

1.1 The Amendment

Amendment C196 to the Melbourne Planning Scheme (the Amendment) was prepared by the Melbourne City Council as Planning Authority.

The Amendment relates to what is termed as the 'City North' precinct which comprises land in the general vicinity of Grattan Street, Swanston Street, Victoria Street, Peel Street and Royal Parade. In summary, the Amendment proposes to:

- Rezone various land parcels from Mixed Use Zone to Capital City Zone 5; and from Residential 1 Zone to Mixed Use Zone;
- Introduce a new Schedule 5 to the Capital City Zone;
- Introduce a new Schedule 61 to the Design and Development Overlay;
- Amend various policies at Clauses 22.01, 22.02, 22.04, 22.05, 22.12 and 22.17.
- Amend existing Schedules 32, 44 and 45 to the Design and Development Overlay to exclude areas within the City North precinct; and
- Delete existing Schedule 30 to the Design and Development Overlay to include the area into the new Schedule to the overlay.

The Amendment proposes to implement the land use and development directions of the City North Structure Plan 2012 into the Melbourne Planning Scheme.

The Amendment was authorised by the (now) Department of Transport, Planning and Local Infrastructure (DTPLI) on 31 May 2012 (Authorisation Number AO2235).

1.2 Exhibition and Submissions

The Amendment was placed on public exhibition between 1 November to 15 December 2012, resulting in 36 submissions (including one late submission) being received (see Appendix 1 for List of Submitters). The key issues raised in the submissions include:

- Mandatory nature of height and setback limits;
- Mandatory nature of the laneway provisions;
- Protection of heritage character and compatibility with urban renewal;
- Extent and land-use compatibility of land designated for Mixed Use Zone;
- Extent and land-use compatibility of land designated for Capital City Zone; and
- The particulars of the Design and Development Overlay Schedule 61.

At its meeting of 9 April 2013, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 8 May 2013 and comprised Kathryn Mitchell (Chair) and Suzanne Barker (Member). The Panel was assisted by Jessica Cutting, Senior Project Manager of Planning Panels Victoria.

1.3 Panel Hearing

A Directions Hearing was held in relation to the Amendment on 2 July 2013. At the Directions Hearing, the Chair advised parties that she chaired Amendment C171 to the Melbourne Planning Scheme (Southbank Structure Plan), which had been recently gazetted.

Following the Directions Hearing, the Panel undertook an inspection of the subject site and its surrounds. This was followed up by further inspections by the Panel during and after the hearing.

The Panel met in the offices of Planning Panels Victoria on 12, 13, 15, 16, 20, and 22 August 2013 to hear submissions in respect of the Amendment. Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Melbourne City Council	Matthew Townsend of Counsel (with Jill Cairnes and Robyn Hellman of Council), who called the following evidence: <ul style="list-style-type: none"> - Leanne Hodyl, (urban design) - Craig Czarny, Hansen Partnership (urban design) - Rodney Yeoman (research analyst) - John Kiriakidis, GTA Consultants (traffic and parking)
Department of Transport, Planning and Local Infrastructure	Halvard Dalheim, Director State Planning Strategy and Forecasting
Lort Smith Hospital	David Vorchheimer of HWL Ebsworth Lawyers who called the following evidence: <ul style="list-style-type: none"> - Catherine Heggen, Message Consultants, (urban design)
PDG Corporation	Hugh Smythe, SJB Planning
Toyota Motor Corporation	Paul Chiappi of Counsel, instructed by Clayton Utz who called the following evidence: <ul style="list-style-type: none"> - Catherine Heggen, Message Consultants, (urban design)
Bob Jane Corporation	Paul Chiappi of Counsel, instructed by Clayton Utz who called the following evidence: <ul style="list-style-type: none"> - Catherine Heggen, Message Consultants, (urban design)
UAG Group Pty Ltd	Ian Pitt SC of Best Hooper who called the following evidence: <ul style="list-style-type: none"> - Catherine Heggen, Message Consultants, (urban design)
The University of Melbourne	Ian Pitt SC of Best Hooper who called the following evidence: <ul style="list-style-type: none"> - Mark Sheppard, David Lock Associates, (urban design)
Individual Submitters	Roz Hansen Angela Williams

In reaching its conclusions and recommendations, the Panel has read and considered the submissions and a range of other material referred to it. This includes written submissions, evidence and verbal presentations. The following chapters of this report discuss the issues raised in submission relating to the Amendment in further detail, with the Panel's conclusions and recommendation provided in Chapter 8.

2 Background to the Amendment

2.1 City North Structure Plan

The City of Melbourne has embarked upon a series of Structure Plans to guide the future development and planning of its key precincts. The first of these was the Southbank Structure Plan, which has recently been through an Amendment process, and which was gazetted on 20 June 2013. The City North Structure Plan (Amendment C196) and the Arden Macaulay Structure Plan (Amendment C190¹) were exhibited separately, but simultaneously.

The City North Structure Plan establishes a framework to guide the urban renewal of the City North area. It articulates a vision for City North as an extension of the Central City and a hub for the “*Knowledge Precinct*” – an area where education, research and medicine can cluster to cultivate prosperity and creativity.

The Structure Plan sets out ten principles for urban renewal which draw on City North’s existing strengths. The principles focus on key themes which seek to create a vibrant distinctive precinct with a high quality public realm that integrates the City North’s heritage and character into a mid-rise extension of the central city. These are to:

- *cultivate a vibrant and distinct precinct connected to the Central City;*
- *create a liveable local neighbourhood;*
- *strengthen the knowledge economies to cultivate prosperity and creativity;*
- *retain the intimate precinct layered with charm;*
- *integrate the area’s heritage into urban renewal;*
- *regenerate the area’s public realm;*
- *develop liveable dwellings that house a diverse and inclusive community;*
- *create a connected and accessible place;*
- *support a culturally and socially engaged community; and*
- *grow a city that prospers within the earth’s ecological limit.*

The area covered by the City North Structure Plan is broader than the area dealt with by this Amendment. The Amendment area is generally bounded by Grattan Street to the north and Victoria Street to the south, except for a wedge of land at the west of the City North area which lies between Peel and Capel Streets (Figure 1). The Structure Plan area includes the University of Melbourne grounds north of Grattan Street as well as land south of Victoria Street between Peel and Swanston Streets (Figure 2).

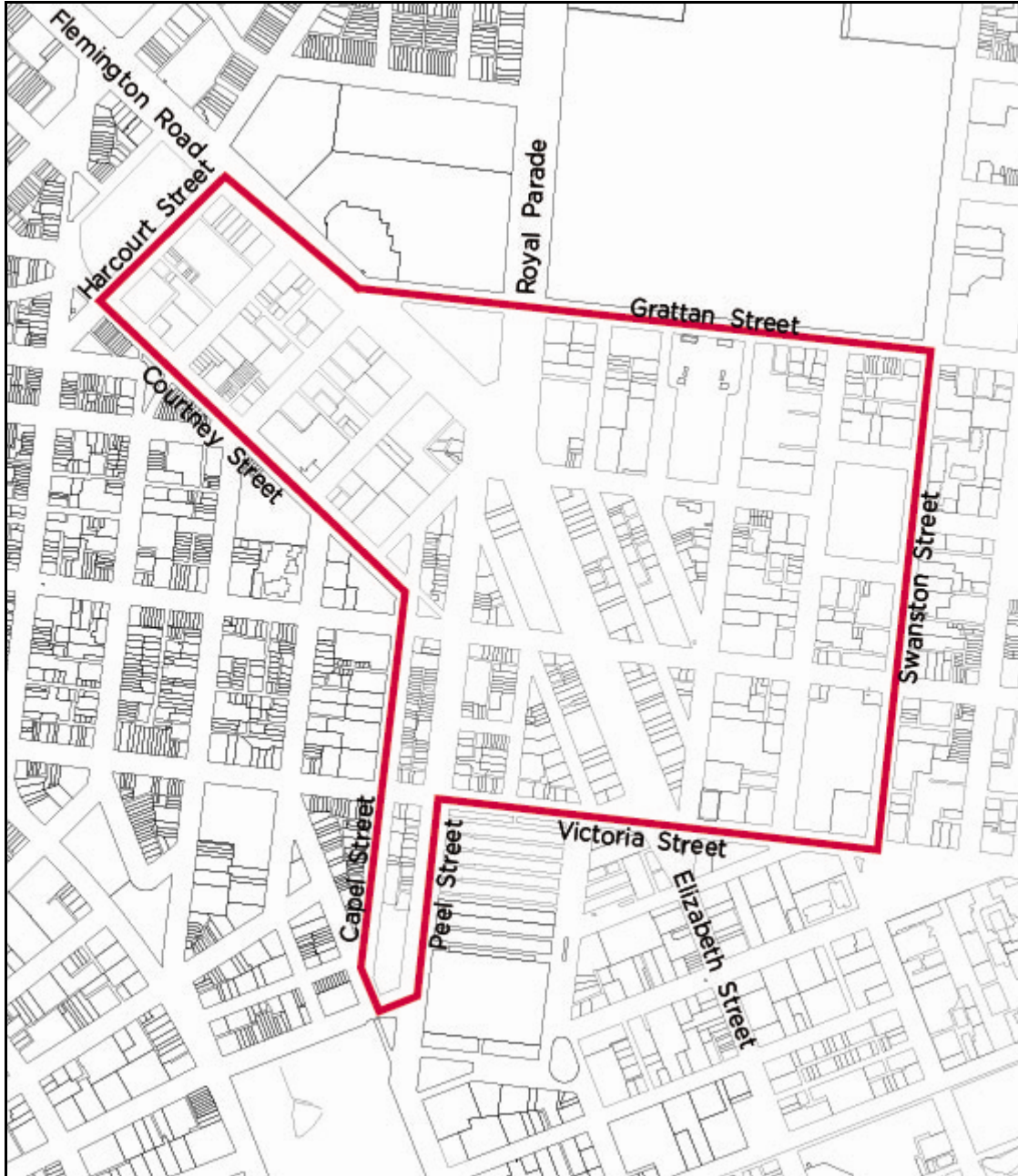
In response to the difference between the area covered by the Amendment and Structure Plan, Council in its written submission advised:

The University of Melbourne site and areas to the south of Victoria Street are not part of the Amendment area despite being considered in the Structure Plan. This is simply because there are no changes to zonings or overlays relevant to these

¹ The Panel Hearing for Amendment C190 was to follow the completion of Amendment C196. This Panel understands that process has been adjourned at the request of the Melbourne City Council due to uncertainties about the proposed East West Link project and the impact it may have on the Arden Macaulay area.

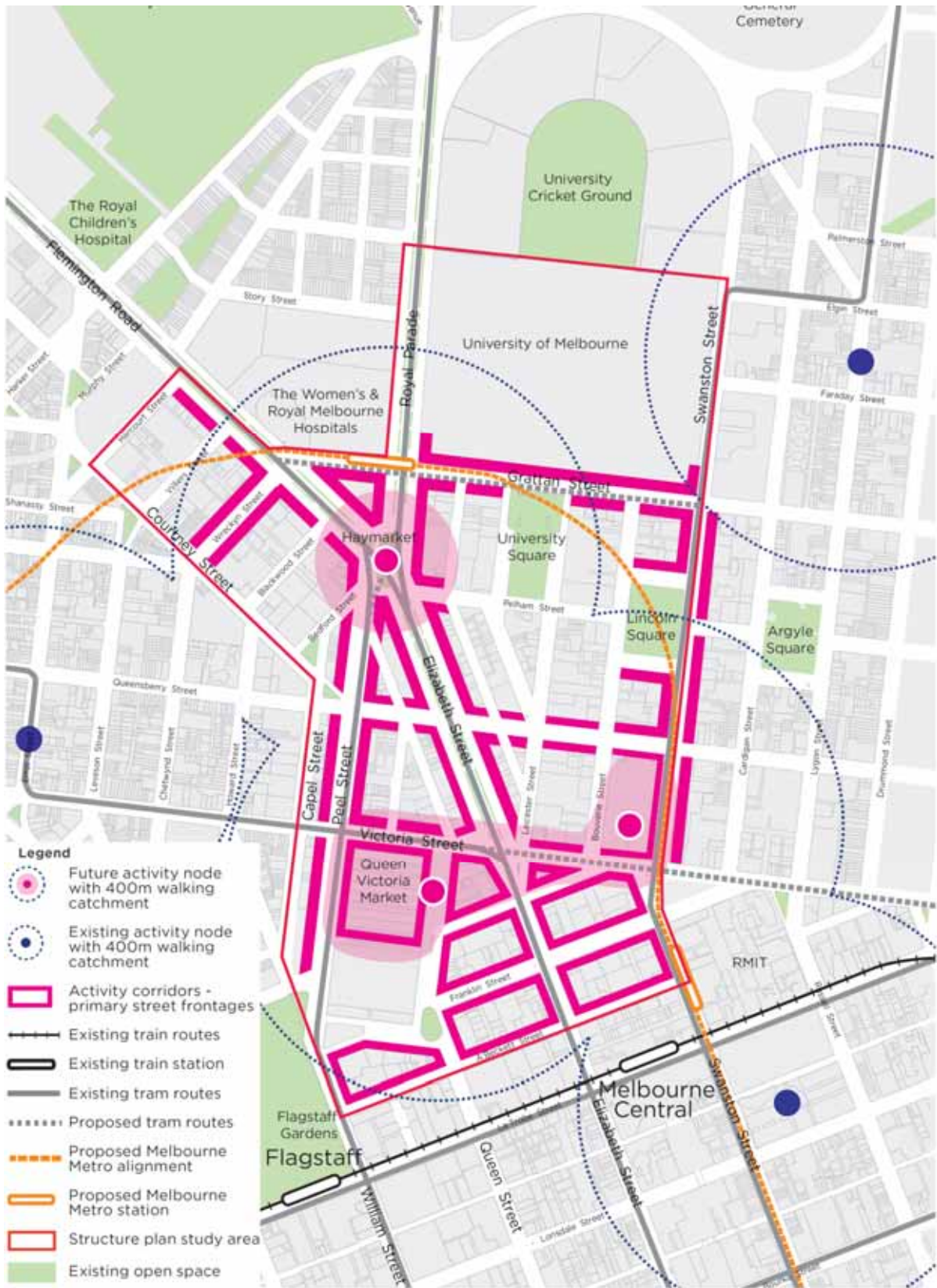
sites. This reduction in the size of the Precinct is not expected to have any implications on the implementation of the Structure Plan.

Figure 1 Amendment C196 Boundary



Source: Amendment C196 Explanatory Report

Figure 2 City North Structure Plan Boundary (denoted by red line)



Source: City North Structure Plan 2012

In support of the Amendment on exhibition, the Panel notes the extensive list of background reports which have informed the City North Structure Plan. These include:

- City North Background Report May 2011;
- City North Structure Plan Consultation September 2010;
- City North Property and Development Assessment March 2011;
- City North Community Infrastructure Assessment May 2012;
- City North Sustainable Infrastructure Concept February 2011; and
- Integrated Transport and Access Review, City North C196.

2.2 Implementing the Structure Plan

To implement the land use and development controls recommended in the City North Structure Plan, Amendment C196 proposes a number of zone changes and the introduction of a new Schedule 61 to the Design and Development Overlay (DDO61). Specifically, as exhibited, the Amendment proposes to:

- Rezone land as follows:
 - Properties north of Victoria Street and bounded by Peel Street, Grattan Street and Swanston Street (excluding the CUB site) currently zoned Mixed Use Zone are to be rezoned to Capital City Zone (Schedule 5);
 - Properties fronting Capel Street currently Residential 1 are to be rezoned to Mixed Use Zone; and
 - The property bounded by Harcourt and Courtney Streets currently zoned Residential 1 is to be rezoned to Mixed Use Zone.
- Introduce a new Schedule to the Capital City Zone (Schedule 5) to provide for a mix of central city uses - education, research and medical, as part of the State significant knowledge precinct with complementary services for residents, workers, students and visitors.
- Apply the Capital City Zone (Outside the Retail Core) car parking rates.
- Exempt third party appeal rights and notifications requirements that currently apply in the Mixed Use and Residential Zones on land being rezoned to Capital City Zone (Schedule 5).
- Introduce a new Schedule to the Design and Development Overlay (Schedule 61), which incorporates built form requirements including mandatory maximum street edge heights and minimum setbacks, as well as pedestrian orientated design requirements for building facades, street activation, public places and spaces, and laneways. The Urban Design within the Capital City Zone Policy, the Sunlight to Public Spaces Policy, and DDO30 are subsumed into the new Schedule to the Design and Development Overlay (Schedule 61).
- Amend the Urban Design Policy within the Capital City Zone Policy (Clause 22.01) to exclude the application of the policy to areas within the Capital City Zone (Schedule 5).
- Amend the Sunlight to Public Spaces Policy (Clause 22.02) to exclude the application of the policy to areas within the Capital City Zone (Schedule 5).
- Amend the Heritage Places within the Capital City Zone Policy (Clause 22.04) to exclude the application of the policy to areas within the Capital City Zone (Schedule 5).
- Amend the Heritage Places outside the Capital City Zone Policy (Clause 22.05) to include the application of the policy to areas within the Capital City Zone (Schedule 5).

- Amend the Urban Design Outside the Capital City Zone Policy (Clause 22.17) to include the application of the policy to areas within the Capital City Zone (Schedule 5).
- Amend Schedules 32, 44 and 45 to the Design and Development Overlay being to exclude the areas within the City North precinct.
- Delete the existing Schedule 30 to the Design and Development Overlay. This area will be included into the new Schedule 61 to the Design and Development Overlay (DDO61).

The Panel received two versions of the Amendment documents from the Planning Authority: an exhibited version; and a post-exhibition version. The post-exhibition version of the exhibited Amendment contains the changes made by Melbourne City Council officers put to the Future Melbourne Committee (FMC) for endorsement at its 9 April 2013 meeting, as well changes made by the FMC. The Panel understands that these modifications were made primarily in response to submissions.

The main modifications to the exhibited version of the Amendment (i.e. post-exhibition version) include:

- Amending Clause 22.12 Gaming Premises Policy to include areas within the Capital City Zone Schedule 5;
- Modifying the extent of the proposed rezoning to exclude properties south of Victoria Street and west of Peel Street (which are to remain as Residential 1 Zone);
- Changes to the Capital City Zone Schedule 5; and
- Changes to DDO61.

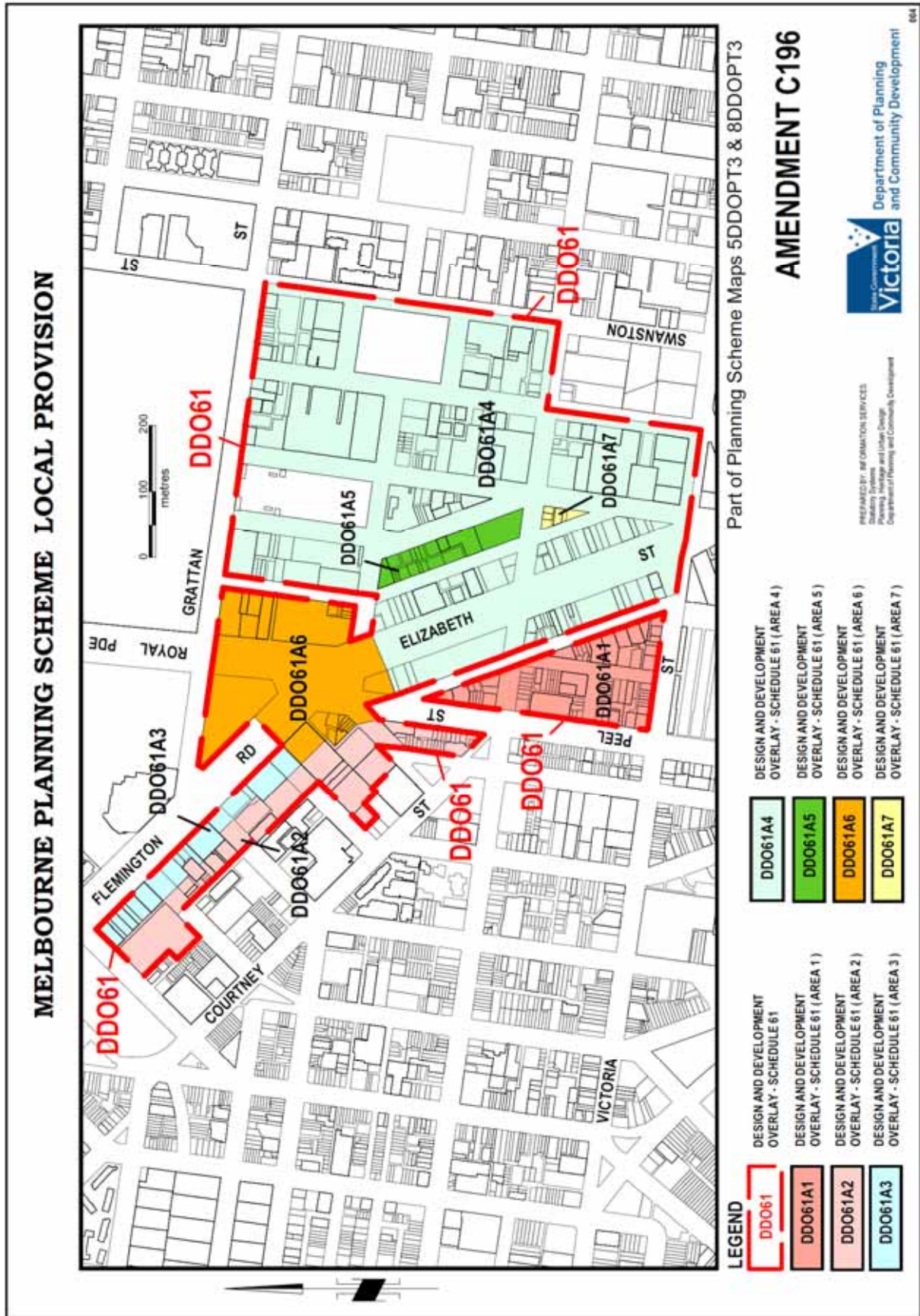
Notwithstanding, the Panel made it clear that's its role was to consider the exhibited version of the Amendment, and that it would consider Council's recommended changes as part of its submissions. Further modifications were made during the course of the Panel Hearing.

At the commencement of the Panel Hearing, Mr Townsend informed the Panel that the exhibited Clause 22.17 Urban Design Outside the Capital City Zone had been exhibited in error. The exhibited Clause sought to apply the schedule to land within the Capital City Zone North. Mr Townsend explained that Council had received advice from the DTPLI that the objectives of this Clause should be incorporated within the proposed DDO61. The exhibited DDO61 includes the main policy aims and objectives of Clause 22.17. Clause 22.17 should therefore not apply to the Capital City Zone North area as this would be a duplication of policy. The Clause in its current form however, should continue to apply to land within the Mixed Use Zone.

The Panel notes this and as a result has not deliberated about the content of this policy or the proposed changes to it.

Council proposes to implement the built form outcomes sought by the Structure Plan through the use of DDO61. The extent of the proposed DDO61 and the seven areas it applies to is shown in Figure 3.

Figure 3 Amendment C196 Map (DDO61)



The seven areas of DDO61 are similar to but not the same as the built form precincts identified in the Structure Plan. The term 'Area' is used within DDO61, and 'Precinct' is used in the Structure Plan to demarcate the various boundaries. To avoid the use of inconsistent terminology, the Panel will continue to use the DDO61 terminology, that is, Areas 1 to 7 (e.g. Area 2), and 'sub-precincts' in relation to the Structure Plan. The City North area as a whole will be referred to as the City North precinct. A description of each Area and corresponding sub precinct is provided in the discussion at Chapter 6.

2.3 Key Issues

The Council summary (in its report of 9 April 2013) listed the following key issues raised by submitters to the Amendment:

- *Proposed mandatory controls (podium heights and setbacks) are too restrictive.*
- *Increased densities and building heights proposed for Area 2 will reduce the amenity of adjacent existing dwellings. More design guidance is needed in this area. Maintain amenity protection for residential sites abutting existing and proposed lanes and narrow streets in Area 2.*
- *New development on all existing and proposed laneways should be subject to specific height controls as specified in Area 4 rather than only applying development controls to land in Area 4.*
- *The change of zoning in Capel Street North Melbourne from Residential 1 to Mixed Use Zone will allow uses incompatible with existing residential uses to operate in the area;*
- *The zoning change from Mixed Use Zone to Capital City Zone in South Carlton will compromise residential amenity by allowing "as of right" non-residential uses and exemption from third party appeal rights; and*
- *Changes in height controls will lead to a loss of character in the area.*

In reviewing this Amendment, the Panel focuses on the strategic planning context for the Structure Plan. It reviews the use and detail of the Capital City Zone and the Mixed Use Zone that realise the imperatives of the City North Structure Plan. It then examines in detail the key components of DDO61 as the key design tool to guide future land use and development applications for this urban renewal precinct, key threshold issues, and then area specific matters. The Panel finalises its review with a short discussion about heritage.

This report deals with the issues raised by submitters and those further expanded upon at the hearing under the following headings:

- Strategic Planning Context;
- The Capital City Zone and the Mixed Use Zone;
- Design and Development Overlay: Threshold Issues (form, structure and content of DDO61, mandatory controls, pedestrian laneways, variations to building height, residential and public realm amenity, and street activation and vertical elements);
- Design and Development Overlay: Area Issues; and
- Heritage.

3 Strategic Planning Context

The Panel has reviewed the policy context of the Amendment and made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies. It has been assisted by the Council submission and the Strategic Assessment contained within the Explanatory Report.

3.1 Policy Framework

(i) State Planning Policy Framework

Without repeating all of the relevant provisions of the State section, the Panel regards the following aspects of the State Planning Policy Framework (SPPF) as being particularly relevant to Amendment C196:

- Clause 11 Settlement
- Clause 11.02-1 Supply of Urban Land
- Clause 11.04-1 City Structure
- Clause 11.04-4 Central Melbourne
- Clause 11.04-5 Melbourne's Urban Growth
- Clause 15.01-1 Urban Design
- Clause 15.01-2 Urban Design Principles
- Clause 16.01-2 Location of Residential Development
- Clause 17.01-1 Business
- Clause 18.01-1 Land Use and Transport Planning

The Panel notes that the *Design Guidelines for Higher Density Residential Development* (DSE, 2004) and *Activity Centre Design Guidelines* (DSE, 2005) are both reference documents at Clause 15.01-2 of the Scheme, as are *Melbourne Metropolitan Strategy - Melbourne 2030* (DSE, 2002) and *Melbourne 2030: A planning update Melbourne @ 5 million* (DPCD, 2008).

(ii) Local Planning Policy Framework

Clause 21 - Municipal Strategic Statement

The Melbourne Municipal Strategic Statement (MSS) was reviewed through Planning Scheme Amendment C162. During the course of this current hearing, Amendment C162 was approved by the Minister for Planning, and consequently gazetted on 12 September 2013, during the write up period of this report. The Panel uses the adopted MSS as the basis for examining the strategic policy context of this Amendment.

The relevant features of the existing MSS (i.e. post Amendment C162) as it relates to City North include:

- Clause 21.02-6 Knowledge City describes the important role which Melbourne's Universities play within the State's education and innovation economy and that Melbourne is one the world's leading student cities.
- Clause 21.04-1 Growth Area Framework identifies areas of growth – City North is identified as a potential *urban renewal area*.

- Clause 21.04-1.3 Proposed Urban Renewal Areas identifies the locations for “*the next generation of the city’s urban renewal*”. The Clause further states:

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’.

The Clause identifies City North as an urban renewal area:

Given its existing role as a specialised activity centre, the proposed Parkville Station as part of the Metro One project and its proximity as an extension of the Central City.

- Clause 21.04-2 Growth sets objectives to provide for expected growth over the next 20 years, by structure planning urban renewal areas, ensuring that new development does not compromise the preferred future renewal of the area, and planning for urban renewal in City North.
- Clause 21.06-1 Urban Design establishes objectives to reinforce the City’s overall urban structure including the network of lanes and arcades. Other objectives include:
 - Objective 4 seeks to ensure that the height and scale of development is appropriate to the identified preferred built form character of an area, with strategies to create high quality built form in urban renewal areas, and “*complementary transitional scale to adjoining low scale buildings*” in areas where existing built form character should be maintained;
 - Objective 5 seeks to increase the vitality, amenity, comfort, safety and distinctive City experience of the public realm, with strategies to ensure that development maximises solar access in public open spaces, and creates microclimatic conditions for a high level of pedestrian comfort;
 - Objective 6 aims to improve public realm permeability, legibility, and flexibility including enhancing laneways, and creating active street frontages to development; and
 - Objective 7 aims to create a safe and comfortable public realm.
- Clause 21.06-2 Heritage seeks to enhance places and precincts of identified cultural heritage significance.
- Clause 21.06-3 Sustainable Development aims to create environmentally sustainable urban environments through a number of strategies such as building innovation.
- Clause 21.07-1 Residential Development aims:
 - To provide for new housing while preserving the valued characteristics of the existing neighbourhoods. The most relevant strategies specifically:
 - *Encourage the most significant housing and population growth in the Central City and Urban Renewal Areas;*
 - *Ensure that new residential development achieves high standards of amenity including access to sunlight and daylight and protection from overlooking;*
 - *In areas of proposed Urban Renewal, encourage housing that is consistent with an approved structure plan;*

- *To ensure new dwellings are located and designed to protect residents from current and future off-site amenity impacts primarily through acoustic treatment;*
- Clause 21.07-1 further provides the following objectives:
 - *To ensure the amenity of existing residential uses is protected;*
 - *To support a range of housing tenures, types and options;*
 - *To ensure new residential development contributes to the social and physical infrastructure of the City.*
- Clause 21.08 Economic Development identifies the majority of the City North area as a knowledge precinct with the objective to support education, medical and research activities, with specific strategies in 21.08-5 to:
 - Support the operation, development and clustering of education research centres and associated uses whilst protecting the amenity of Residential and Mixed Use zoned areas.
 - Support the increased integration of the tertiary education facilities into the public realm of the City through better access connections and the design of new development.
- Clause 21.09 Transport identifies the proposed Melbourne Metro 1 station at Parkville and the train lines alignment, and contains objectives and strategies which encourage conditions to facilitate integrated transport planning, walking, cycling, public transport use and efficient use of the private motor vehicle.
- Clause 21.10 Infrastructure includes objectives to support education, medical and research activities.
- Clause 21.11 Local Areas designates City North as a local area.
- Clause 21.14 establishes the urban renewal areas of City North, Arden-Macaulay, E-Gate, and Fisherman's Bend.
- Clause 21.14-1 City North states:

City North is an area in transition and change is already underway. The University of Melbourne, RMIT University, hospitals and research institutions are investing in expansions and renewal of their facilities and the redevelopment of the former Carlton United Brewery site has commenced. Further potential for urban renewal exists between the existing Central City and the world renowned knowledge precinct in the south area of Parkville.

This area's potential for urban renewal (as an extension of the Central City) is currently being planned utilising the directions from the Council adopted City North Structure Plan 2012.

The Panel notes that the FMC adopted Clause 21.08-14 City North, which was envisioned to fit within the new MSS and replace Clause 21.14-1 City North of the approved MSS. At the time of the FMC meeting, the new MSS was awaiting Ministerial approval as part of Amendment C162. This Clause, however, had not been exhibited because of the then unapproved status of Amendment C162.

The Council report to the FMC meeting of 9 April 2013 noted:

As Amendment C162 MSS, has not yet been approved, it is not possible to introduce a City North section to the Municipal Strategic Statement. A draft of what will be introduced at panel is at Attachment 4.

Clause 21.08-14 City North was presented to the Panel as an Appendix to the Planning Authority's written submission, and in its further written submission noted:

Upon approval of the Amendment, Council may then update the MSS with high level strategies consistent with the policy direction embodied in the Amendment.

The Panel has not considered Clause 21.08-14 City North in its deliberations as it was not part of the exhibited Amendment, nor is it part of the approved Amendment C162. The Panel makes no recommendations in this regard.

Clause 22 - Local Planning Policy

Relevant existing local planning policies at Clause 22 of the Melbourne Planning Scheme include:

- Clause 22.01 Urban Design in the Capital City Zone;
- Clause 22.02 Sunlight to Public Spaces;
- Clause 22.04 Heritage Places within the Capital City Zone;
- Clause 22.05 Heritage Places outside the Capital City Zone; and
- Clause 22.17 Urban Design outside the Capital City Zone.

Objectives relate to the character of streets and lanes, the importance of the pedestrian experience, and the need for high quality design standards, maintain amenity of existing streets and dwellings, and protecting heritage values.

3.2 Other Review Work

Melbourne City Council is undertaking a number of other relevant strategic projects, which includes:

- Amendment C142 seeks to introduce a new Local Policy in relation to Stormwater Management (Water Sensitive Urban Design). This Amendment was prepared by the City of Melbourne along with the three other Inner Melbourne Action Plan (IMAP) councils, was adopted by Council on 28 September 2010, and is awaiting Ministerial approval.
- Amendment C187 in April 2012 introduced Clause 22.19 'Energy, Water and Waste Efficiency Policy' with the purpose to drive improvements in the per capita energy, water and waste efficiency of new urban development.
- Amendment C190 seeks to implement the Arden-Macaulay Structure Plan (which is currently on hold at the request of the City of Melbourne due to issues relating to the proposed East West Link Project).
- Amendment C208 seeks to establish developer contributions to assist with the construction of streetscapes, infrastructure and community facilities in Arden-Macaulay (Stage 1), City North and Southbank.
- Amendment C209 seeks to implement Melbourne's Open Space Strategy and Open Space Contributions Framework with the 'Public Open Space Contributions' by introducing a public open space contribution requirement through Clause 52.01 Public

Open Space Contributions and Subdivision; and a new Public Open Space Contributions local policy. The Amendment was exhibited in February and March 2013 and while a Panel has been appointed to consider the Amendment, this too has been adjourned until 2014 as a result of issues relating to the proposed East West Link.

- Amendment C198 assists in implementing the Structure Plan with the City North Heritage Review 2012. The Review independently assessed the heritage significance of buildings and precincts in the City North area. Amendment C198 generally seeks to implement the review's recommendations. Melbourne City Council anticipates the consideration of Amendment C198 in 2014.
- Amendment C212 seeks to implement the Exceptional Tree Register which identifies trees which provide an exceptional contribution to the community through the use of the Environmental Significance and Heritage Overlays. Amendment C212 went on public exhibition in May to June 2013, and is awaiting Council's review of submissions.

Overall, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

4 The Mixed Use and Capital City Zones

The Amendment introduces Capital City Zone Schedule 5 for much of the City North Structure Plan area, and rezones smaller pockets of land to Mixed Use Zone in North and West Melbourne. While there was general support for the application of the zones, submissions questioned the extent and appropriateness of the Mixed Use Zone, whilst others related to the detailed wording of the Capital City Zone Schedule 5.

The key issues for resolution include the following:

- the appropriateness of applying the Capital City Zone Schedule 5 to most of the City North area.
- the appropriateness of applying the Mixed Use Zone to the west of Peel Street and south of Victoria Street.
- the detailed wording of the Capital City Zone Schedule 5.

4.1 Evidence and Submissions

(i) Mixed Use Zone

Submissions raised concerns in relation to the proposed rezoning of Capel Street from Residential 1 to Mixed Use (for example Mr Cowling, Mr and Ms Ely, Mr Angwin, Mr Carrera). Specific concerns related to the potential loss of character and heritage buildings in the vicinity, and incompatibility of non-residential uses with residential uses.

Most submissions which raised concerns about the rezoning to the Mixed Use Zone came from land owners south of Victoria Street, however, a number of submissions raised concerns in relation to the proposed Peel Street rezoning, north of Victoria Street and south of Queensberry. Ms Newman asserted that the rezoning would result in increased amenity conflicts between land uses, and concerns about the loss of heritage buildings in an area which has a number of intact Victorian terraces.

Ms Williams and Reverend Brady opposed the rezoning of land from Residential 1 Zone to Mixed Use Zone on the corner of Harcourt and Courtney Streets because of the predominant residential land use.

At the Hearing, Ms Williams submitted that the proposed Mixed Use areas should be retained as Residential 1 because Capel Street contains many graded buildings, and is a Level 1 streetscape with a high proportion of residential land use.

Dr Firth submitted that land should not be rezoned without a clear purpose, and Council had not demonstrated any clear purpose for the rezoning of land from the Residential 1 to Mixed Use Zone in Capel and Peel Streets.

In its response to concerns about the rezoning of land from Residential 1 to Mixed Use on Capel Street, south of Victoria Street, Council resolved to remove this area from the Amendment because it agreed that these properties were unlikely to be redeveloped and that this would not substantially alter the strategic intention of the Amendment.

(ii) Capital City Zone

In relation to extending the Capital City Zone into the City North area, many submissions offered their support for the proposal (for example, Toyota Motor Corporation, Bob Jane Corporation, University of Melbourne amongst others). However, this was not a universal opinion. A number of individual submitters (Mr Caune and Ms Tran) opposed the rezoning of Area 1 of DDO61 to Capital City Zone Schedule 5 because it would result in loss of character given the presence of heritage listed buildings in the area, its proximity to the Queen Victoria Market, and residential use. Ms Williams similarly questioned why this area should be rezoned given its predominant residential use and fine grain subdivision pattern.

Land use conflict concerns

Ms Freeman raised concerns about a Place of Assembly use not requiring a permit (as a Section 1 Use) in Capital City Zone Schedule 5. Her concerns related to the ability of existing food and drink premises being able to extend trading hours without the requirement for a planning approval process.

Professor Hansen raised concern that a Function Centre could operate without the need for planning approval. In response to Council's post exhibition recommendation to require a permit for a Function Centre use, Professor Hansen submitted that this land use term was not broad enough, and suggested that Place of Assembly as a land use group be used instead.

Professor Hansen submitted that the drafting of Capital City Zone Schedule 5 does not adequately deal with the 'agent of change' in relation to the production of noise. She submitted that the onus should be placed on the non-residential business to establish how they will address issues of noise emissions.

The Future Melbourne Committee adopted Council management position and resolved to deal with the issue of use conflicts in the post exhibition version of the Amendment by:

- Requiring a permit for a Function Centre (as a Section 2 use); and
- Applying Clause 22.12 Gaming Premises to the Capital City Zone Schedule 5 area.

Mr Townsend noted in his submission that Clause 22.12 currently applies to the City North area, and the change would continue the policy's application within the Capital City Zone Schedule 5. He further explained that gaming in the Central City is regulated by Clause 21.08, however Clause 22.12 does not apply to the Capital City Zone. Council therefore proposes to close the policy gap with the proposed change to Clause 22.12.

Notice and review provisions

Submissions were heard in relation to the inclusion of provisions for exemption from notice and review in the Capital City Zone Schedule 5. Professor Hansen and Ms Williams opposed the inclusion of these provisions in the Capital City Zone Schedule 5. Professor Hansen submitted that residences in an area such as Swanston Street which is predominantly residential would not have any recourse to object to applications which could adversely impact on their amenity. Ms Williams similarly raised concerns about these provisions in areas which now have high residential populations.

However, CBRE on behalf of Bob Jane Southern Motors Properties supported the introduction of Capital City Zone Schedule 5 and the proposed exemption from notice and review rights.

The Future Melbourne Committee resolved to deal with this issue in the post exhibition version of the Amendment by proposing to reinstate notice and review rights for the entire Capital City Zone Schedule 5.

The Panel raised the issue of whether the inclusion of a 'Use' section similar to Capital City Zone Schedule 4 (that relates to the Fishermen's Bend area) might be an appropriate way to resolve this matter, with 'Exemption from notice and review' being reinstated, except for particular uses. Professor Hansen, when questioned about a modified approach to exemption from notice and review provisions, suggested that Place of Assembly as a land use group should be used if this was being contemplated.

In response as part of his concluding submissions, Mr Townsend advised:

The Planning Authority's position is that third party appeal rights should not be suspended in the Precinct, given that City North is not to be developed with same intensity as other areas within the Capital City Zone.

Recognition of the 'Knowledge Precinct'

In relation to the issue of the particular needs of institutional buildings, Mr Pitt submitted that the importance of university and medical institutional buildings should be acknowledged explicitly in the planning controls and that "*institutional buildings can have functional requirements that may not fit into a podium or street wall/setback built form and can require large footprint buildings*".

He submitted that the Knowledge Precinct in Areas 4 and 6 should be identified as a separate precinct and a purpose identified:

To facilitate development for university, research and medical purposes.

Mr Pitt submitted that the Capital City Zone Schedule 5 should explicitly have Section 1.0 uses (Research, Research and Development Centre, Hospital, and Medical Centre) and the following decision guidelines:

Before deciding on an application to subdivide land (including a building) the Responsible Authority must consider the effect of the subdivision on the potential of the land to accommodate future use of the land for university, research or medical purposes.

4.2 Discussion

The Panel generally accepts and agrees with the position of Council about the appropriateness of the choice of zones.

(i) Mixed Use Zone

In relation to the extent of the rezoning of land from Residential 1 to Mixed Use, the Panel accepts the Council position to rezone the pocket of land located on the corner of Harcourt and Courtney Streets, and the block of land north of Victoria Street and south of

Queensberry. The Panel accepts that these locations are strategically located within close proximity to the Central City and that the land use controls should reflect a residential focus that enables a variety of compatible uses.

The Panel accepts submissions and the Council position to exclude the area south of Victoria Street from the Amendment and retain its Residential 1 Zone.

The Panel however, does not accept submissions that Area 1 of the DDO61 should be isolated and remain as Mixed Use Zone. It is strategically connected to the balance of the Capital City Zone Schedule 5 area and provides an important land wedge which should function with a broader suite of land uses.

(ii) Capital City Zone

The Panel accepts the extent of the proposed Capital City Zone Schedule 5. The City North area is identified as a strategic urban renewal site in the MSS. The City North Structure Plan 2012 further supports this and proposes to rezone the block between Grattan, Swanston, Victoria and Peel Street to Capital City Zone as an action to support the document's various strategies and provide zoning:

- *To enable a diverse, active and mixed use precinct appropriate for this Central City location.*
- *That supports and encourages the development and operation of the knowledge activities in City North and their integration into the precinct.*

The Structure Plan acknowledges that the area has its own distinct character but nonetheless is suitable for accommodating an expansion of the Central City area – a mid-rise character distinct from the Hoddle grid. DDO61 is drafted as the tool to accommodate differentiation in built form outcomes. For these reasons, the Panel supports the rezoning of the City North area to Capital City Zone Schedule 5.

That said, the Panel has concerns with some details of the schedule to the Zone. The Panel is of the view that the blanket exclusion of Notice and Review provisions in Capital City Zone Schedule 5 is counter to the purpose of the Capital City Zone, which is to enable a broad range of uses to co-locate within the Central City. The Panel acknowledges that there is invariably a tension between residential and non-residential land uses within the Central City, however, it does not support that this important feature of the Capital City Zone should be excluded as a consequence.

Mr Townsend suggested that if the Panel does not support the deletion of the exemption provisions, he submitted that the schedule should follow the formulation adopted in Fishermans Bend where a limited suspension of appeal rights applies.

The Panel further acknowledges this area of Melbourne has an existing population both within it and adjoining it, and in this regard is different to the Central City. The key issue for these residences is their ability to participate in planning permit processes which consider uses which may have an impact on their amenity. It further acknowledges that noise and amenity can be an issue and should be a consideration for decision makers, and this should be included in the Capital City Zone Schedule 5.

It is for this reason, that the Panel supports a modified approach to the drafting of Capital City Zone Schedule 5 similar to that introduced in the Capital City Zone Schedule 4 for

Fishermen's Bend. In this instance, notice and review provisions are targeted to Use applications which could impact upon residential amenity. The Panel noted at the Hearing that the post exhibition version of the Design and Development Overlay did not delete the exemption provisions at Clause 6.0. Given the Panel recommendation regarding the Capital City Zone Schedule 5, the Panel considers Clause 6.0 to be appropriate as exhibited.

In terms of the Table of Uses, the Panel supports Council's position and the inclusion of the land use term Function Centre as a Section 2 use, as well as the amendment to Clause 22.12 Gaming Premises to apply this to the Capital City Zone Schedule 5 area. The Panel, however, has not reviewed this policy in detail.

The Panel supports the inclusion of a decision guideline which takes noise into account.

In reviewing the submission of Mr Pitt, the Panel considers there is adequate recognition of the importance of the Knowledge Precinct in the Structure Plan and through the purposes of the Capital City Zone, and that both the Capital City Zone Schedule 5 and DDO61 have objectives which relate to institutional uses and buildings. The Panel believes that many uses will co-locate within City North, and that the controls adequately express the balance between the competing land uses which are likely to establish in City North. The Structure Plan itself acknowledges the strong, dominant and important role of the University and Medical precincts.

4.3 Conclusions and Recommendations

Both the Capital City Zone and the Mixed Use Zone are the recommended implementation tools in the City North Structure Plan 2012. The use of the Capital City Zone in particular helps emphasise the mixed use extension of the Central City, and the focus on 'knowledge' activities. The Mixed Use Zone, as one of the suite of residential zones, emphasises the desire for less intensive development in the sensitive pockets near North Melbourne, and is consistent with the predominant existing zone in that location.

The Panel supports the modifications of the exhibited Capital City Zone Schedule 5 as follows:

- Listing Function Centre as a Section 2 Use.
- Inserting a 'Use' Section with Exemption from notice and review provisions other than for a function centre, nightclub, tavern, brothel or adult book shop, and Decision Guidelines.
- Reinstating the Exemption from notice and review provisions for Buildings and Works, Demolition, and Advertising signs.

The Panel supports amendment to Clause 22.12 Gaming Premises so that it applies to the Capital City Zone Schedule 5.

The Panels version of the Capital City Zone Schedule 5 is provided in Appendix C.

The Panel recommends:

- 1. Amend Schedule 5 to the Capital City Zone in accordance with Appendix C.**
- 2. Amend Clause 22.12 Gaming Premises to apply the policy to the Schedule 5 to the Capital City Zone land.**

5 Design and Development Overlay: Threshold Issues

5.1 Introduction

Melbourne City Council proposes to implement the urban renewal vision established by the City North Structure Plan 2012 through the Capital City Zone Schedule 5, the Mixed Use Zone, and DDO61. The land use changes seek to facilitate the extension of the Central City into the City North precinct as well as fostering uses which acknowledge the location's function as a Knowledge Precinct. This is principally achieved by rezoning most of the City North precinct from Mixed Use to Capital City Zone Schedule 5, and by rezoning a number of properties from Residential 1 to Mixed Use in locations which interface with the more sensitive areas of North and West Melbourne.

The built form outcomes sought by the Structure Plan are principally achieved through DDO61. This Overlay is based around Design Objectives, discretionary standards and some mandatory controls. For each of the seven areas identified, the exhibited version of DDO61 specifies maximum building heights and minimum setbacks.

From Council's evidence and submissions, it was apparent that a key objective of DDO61 is to facilitate a distinct mid-rise extension of the Central City into the City North precinct - and to establish street wall heights. The street wall height is the height of the building at the property boundary interface with the street. The street wall heights varied across DDO61 areas and streets, and were aimed at allowing discretionary building heights with a consistent building frontage height (street edge height) and achieving a consistent street width to building height ratio. DDO61 proposes mandatory building street edge heights and mandatory building street edge setbacks.

Whilst there was support amongst submitters for the urban design aim of achieving a generally consistent street wall height, the mandatory nature of the controls was a contentious issue, and the usability of DDO61 was keenly debated. In an attempt to resolve these issues, a number of versions of DDO61 were drafted and presented to the Panel.

Council drafted a post-exhibition version of DDO61 which responded to drafting issues and clarified Council's intention to specify a discretionary building height, and mandatory street edge height and mandatory street edge setback. This was articulated through Table 1 of DDO61 which specified (for each area):

- Preferred maximum building heights;
- Mandatory building street edge height; and
- Mandatory minimum building street edge setback.

Council also introduced in their post-exhibition version additional requirements for buildings and works where an applicant is seeking to exceed the preferred maximum building height by more than 30%. These provisions require the upper storey of buildings to be visually recessive and not increase overshadowing of the public realm between 11am and 2pm at the equinox.

On the final day of Hearing, the Planning Authority tabled a final version of DDO61 which incorporated minor amendments in response to submissions put to the Panel at the hearing. This version redrafted the headings in Table 1 to read:

- Preferred maximum building height;
- Mandatory maximum building street edge height; and
- Mandatory minimum building street edge setback.

At the request of the Panel, both Mr Czarny and Ms Heggen documented two further versions of DDO61 which incorporated their suggested amendments.

The Panel supports the use of the Design and Development Overlay to guide future development in the City North precinct, and considers it to be the appropriate Victoria Planning Provisions (VPP) tool. All submitters were generally supportive of applying the Design and Development Overlay in City North.

One of the key areas of concern raised in submissions related to the drafting of DDO61 in order to avoid ambiguity and confusion, particularly in relation to the height and setback provisions, and whether provisions were mandatory or discretionary. Other areas of concern related to the specific controls proposed for various areas of DDO61. Because many of the issues were area specific the Panel deals with DDO61 and the submissions made initially on an area specific basis in Chapter 6.

However, the Panel considers there are some key threshold issues that need to be raised prior to the specific discussion about DDO61. These relate to:

- Form, Structure and Content of DDO61;
- Mandatory Controls;
- Variations to Building Height;
- Pedestrian Laneways;
- Residential and Public Realm Amenity; and
- Street Activation and Vertical Elements.

For the purposes of the discussion in this report, the Panel will refer to Areas 1 to 7 of the exhibited DDO61.

5.2 Form, Structure and Content of DDO61

DDO61 is complex in its structure and confusing in its mix of discretionary and mandatory controls. The mandatory controls relate to building street edge heights, building street edge setbacks. The overall building height is expressed as a preferred maximum building height which is discretionary. The mix of mandatory and discretionary building height, street edge and building street edge setback controls are intended to produce a consistent street wall to improve street definition within City North.

Mandatory provisions also exist in relation to sunlight to public places and laneways.

The existing DDOs present a complex array of built form controls as illustrated in Table 2.

Table 2 Existing and Proposed Height controls (Source: Document 3)

Area	Current DDO	Existing height controls	Proposed height (discretionary)
Area 1	DDO32	14 metres (mandatory)	24m
Area 2	DDO30 (north)	6 storeys (21 metres – residential) (24 metres – non-residential)	24m
	DDO32 (south)	14 (mandatory)	24m
Area 3	DDO30	6 storeys (21 metres – residential) (24 metres – non-residential)	40m
		8 storeys (28 metres – residential) (32 metres – non-residential)	40m
Area 4	DDO44 (generally)	8 storeys (28 metres – residential) (32 metres – non-residential)	40m
Area 5	DDO44	8 storeys	32m
Area 6	DDO44	8 storeys	60m
Area 7	DDO44	6 storeys	32m

The existing mandatory height controls apply in more sensitive areas of North and West Melbourne.

(i) Submissions and Evidence

There was much discussion about the translation of the City North Structure Plan document into the DDO61 and its content and usability. Mr Czarny noted that the Design Objectives in Section 1.0, whilst having urban design merit, are not explicitly translated from the City North Structure Plan, and that some of the objectives are general in nature and duplicate existing local policy. He stated:

It may therefore be prudent to review the objectives of DDO61 to ensure that there are stronger links between the Structure Plan and Overlay. This is common practice in other Activity nodes or precincts with DDOs

In relation to the drafting of Table 1 of the DDO61, Mr Czarny submitted:

The Table 1 to Schedule 61 also sets out a series of built form outcomes for each Area as well as a set of design objectives and requirements. While I agree that additional design parameters can be useful, many of the built form outcomes are repeated in each Area or in the Schedule's overarching design objectives and are often relatively generic. Furthermore, they tend to reiterate directions found in local policy (ie Urban Design in the CCZ –although I note that this is sought to be excluded). These changes were sought by DPCD so as to provide a consolidated control. However, I would suggest that this has the capacity to result in unnecessary duplication and complexity in reading of the Scheme and some further refinement and streamlining of documentation would be beneficial.

As an additional refinement of the DDO61, Mr Czarny suggested the inclusion of the DDO Areas' map to assist with referencing of sub precincts or areas.

Ms Heggen and Mr Sheppard similarly provided evidence that the objectives and controls were confusing and would benefit from refinement.

Mr Czarny and Ms Heggen also suggested in their respective versions of DDO61 that Areas 1 to 7 could be consolidated to further refine the DDO, and that Areas 5 and 7 could form part of Area 4.

(ii) Discussion

The Panel supports additional drafting refinement to DDO61. The Panel acknowledges Council's efforts in their post exhibition version to address concerns with the clarity of expression in Table 1. However, the Panel believes there is room for additional editing of DDO61 to improve its clarity and remove repetitive elements. It believes that DDO61 in its exhibited form is difficult to understand and use, and urges Council in future Amendments to have further regard to statutory implementation when seeking design based outcomes.

The Panel notes the Mr Czarny and Ms Heggen version of DDO61 and supports inclusion of a number of the elements from these versions with additional amendments, which in particular improve the design objectives, Table 1, and the design objectives and built form outcomes. The Panel has also considered the adopted version of DDO60 relating to Southbank.

The Panel considers that the demarcation of the areas in DDO61 should be consolidated, and notes the Ms Heggen and Mr Czarny versions of DDO61 which integrates DDO61 Areas 5 and 6 into Area 4. The Panel supports this approach, however, will provide specific recommendations in relation to this in Chapter 6.

5.3 Mandatory Built Form Controls

(i) Submissions and Evidence

Many submissions were received in relation to the mandatory nature of the proposed built form controls. Council sought to introduce these in the form of a discretionary height limit with a mandatory street edge control which sets a nominated setback above a given building height. Ms Williams and a number of individual submissions were supportive of Council's approach and argued that mandatory controls provide certainty for the community, developers and decision makers.

Mr Townsend submitted that the strategic basis for the controls is found within the Structure Plan. Both Ms Hodyl and Mr Czarny provided expert design evidence for Council on the City North Structure Plan and its translation into the proposed planning controls. Ms Hodyl contented that the Structure Plan provided a series of urban renewal principles and built form outcomes based on sound urban design and planning principles.

Ms Hodyl noted the strategic basis for the built form controls in DDO61 is the City North Structure Plan:

The Urban Structure and Built Form chapter of the Structure Plan provides the overview of the current built form and the drivers that have been influencing the

transition of this built form from its historical pattern of low-rise industrial and warehouse buildings to a mid-rise suburb.

Ms Hodyl submitted that the heights proposed by DDO61:

- Enable an increased development capacity within the City North as specified in the Structure Plan;
- Deliver urban renewal principle 3 – Strengthen the knowledge economies to cultivate prosperity and creativity by acknowledging that an increased height from 32m to 40m is required to accommodate a variety of institutional uses;
- Are appropriate to the specific land use and built form context of each sub precinct, interface with existing development, and character of the precinct;
- Are designed to ensure that the existing ‘sense of place’ in City North is not eroded, that the sense of place is established through its wide streets and heritage buildings, and that the sense of place should not be eroded by the introduction of high-rise towers.

Mr Czarny supported Council’s approach that the urban form concept to transform City North as a mid-rise extension of the city as being credible. He further supported Council’s intention of encouraging a consistent street wall in City North given that parts of the precinct are poorly defined and are suitable for regeneration. He said:

A ‘common building line’ as demonstrated in many local and international examples creates continuity of frontage and provides definition and enclosure. It can also assist new development to be better integrated into existing streetscapes, particularly those with a consistent parapet line or heritage attributes. The proposed building height to street width ratio of 1:1 will in my view provide good enclosure and definition without being overbearing within the pedestrian’s field of vision. The result will be streets fronted by appropriately scaled buildings that define the street and frame the public realm.

Ms Hodyl submitted that the consistent street wall is to be delivered by the built form outcomes sought in Table 1 of DDO61 with a mix of mandatory and discretionary height and setback controls. The building heights sought by the Structure Plan and DDO61 are supported by Strategy 1 of the City North Structure Plan which seeks to:

Change building height controls to facilitate intensified development in the area that will create sustainable development patterns and provide a transition to existing low-scale suburbs.

Ms Hodyl advised that the mandatory nature of the building street edge height controls in DDO61 is supported by the section on Urban Structure and Built Form in the Structure Plan. This section outlines recommended building heights for the eight precincts defined by that document. That section concluded with the following paragraph:

The proposed height control at the street frontages, lane frontages and southern boundaries are mandatory. Beyond the street frontage or property boundary, the height limits proposed are discretionary, with the exception of Peel Street (west side), Capel Street and Courtney Street, where the existing mandatory controls remain unchanged.

Ms Hodyl submitted that the DDO61 controls were drafted to achieve a quality public realm through street definition and articulation; solar access; natural light; and integration with the existing character. She further illustrated through a number of examples that the proposed height and setback controls were able to achieve integration with the existing heritage character through the building upper level setback and height controls, and provision of sunlight to the public realm and ground floor of buildings. She emphasised:

It is considered that the criticality of the street edge height limits warrants the inclusion of a mandatory maximum street edge height with mandatory defined setbacks.

In his evidence, Mr Czarny was supportive of the 'shandy' approach to built form outcomes with a combination of mandatory and discretionary controls. He submitted that the highly "nuanced approach is appropriate for the complexities of an inner urban renewal area". He further argued that:

- *The DDO61 Schedule has been drafted in such a way so as to not apply a 'blanket' control, rather it is categorised into a series of 7 'sub-precincts', which are referred to as 'Areas/Specific Sites' within Amendment documentation.*
- *The proposed built form parameters are both mandatory and discretionary with the primary aim of realising attached midrise development, with a consistent street wall and upper form generally setback in a recessive manner.*
- *I believe the intent of the Structure Plan, and its broad ambition responds adequately to the particular characteristics of the City North precinct. While the outcomes represented in the built form recommendations range from modest to more substantial built form outcomes, the prospect for consolidated mid-rise development across the entire Structure Plan area amounts to a considerable degree of regenerative change and a critical mass of activity and investment. As such, the development controls proposed within the Amendment serve as an effective foundation for future development.*

Mr Czarny stated that it was important to note that the mandatory controls are only proposed on a number of streets which are considered more sensitive in appearance and aspect.

Mr Townsend highlighted that the Structure Plan observes that policies in place elsewhere in the city are not having their intended outcome, and in this regard said:

The 35m to 40m maximum podium height and 10m minimum upper level setback is not consistently observed along streets, resulting in disparate and fragmented collections of buildings and a lack of cohesion in some streetscapes.

Some recent developments have tall buildings built 'sheer' to the street edge (without a podium). This can have a detrimental impact on the quality of the public realm, through increased wind downdrafts and a reduction in the pedestrian scale of the street.

Mr Townsend provided a number of examples of buildings in the central city which have provided no or nominal setbacks, and said:

Council believes these to be poor planning outcomes and states that mandatory street edge heights and setbacks should be seen as a legitimate means of establishing an urban morphology distinct from the Hoddle Grid, particularly when used in conjunction with discretionary absolute height controls.

Many Panels have discussed the use of mandatory and prescriptive height controls and in responding to Practice Note 59 regarding mandatory provisions, Mr Townsend submitted that:

- *Mandatory height controls are already present in the locality, being part of DDO32;*

He said the Planning Authority sees mandatory street edge heights and setbacks as being a legitimate means of implementing the primary urban design principle in the Structure Plan, namely to:

- *Encourage City North to develop as a Central City precinct with a distinctive character that builds on the existing urban character and heritage.*

Mr Townsend emphasised that few if any submissions made a direct or considered challenge to this objective. He said insofar as Practice Note 59 is concerned regarding the role of mandatory provisions in planning schemes, there can be no debate that:

- the proposed provisions implement an objective;
- it is clear in its intent to users;
- it is able to achieve consistent and predictable results;
- it uses a quantifiable measure; and
- it is expressed in plain English.

A number of submissions, however, whilst generally supportive of the vision to see City North transform into a mid-rise extension of the Central Business Area, were critical of the mandatory nature of the building street edge height and building street edge setback controls.

Many of the submissions (UAG Group, PDG Corporation, Bob Jane Corporation, Toyota Motor Corporation, and Piccolo Investments among others) opposed the mandatory nature of the proposed building street edge height and building street edge setback controls. These submissions expressed concern with the restrictions mandatory controls would have on site responsive design, design innovation and development potential. Submissions suggested that the strategic justification for mandatory controls has not been established.

Ms Heggen who gave evidence for various submitters, suggested that whilst the strategic intent of the Structure Plan was well founded, the translation of these objectives into the DDO61 is problematic and should be reviewed. She said that the mandatory nature of the controls created problems for her various clients' sites. This was particularly highlighted where properties faced multiple frontages, crossed over area boundaries or had corner properties (UAG, Toyota, Bob Jane).

For example, SJB Planning on behalf of UAG Group noted that this property on the corner of Blackwood Street and Flemington Road comprises multiple titles and is subject to mandatory

controls for Areas 2 and 3, split at the property titles. SJB submitted that the delineation between Areas 2 and 3 of the DDO61 will produce an inconsistent building street edge by allowing taller buildings to extend into the adjoining DDO32.

Mr Smythe on behalf of PDG Group submitted that mandatory height and setback controls would unnecessarily constrain site responsive design, and limit the ability to provide a range of uses in an appropriate location.

Ms Heggen provided evidence as to the reduced development capacity for the Bob Jane site and problems associated with responding to the strategically important interface with the Haymarket with a diminished footprint which results from the mandated setbacks.

Mr Pitt for the University of Melbourne similarly took issue with the mandatory nature of the setback controls, and was supported by expert evidence by Mr Sheppard. Mr Pitt submitted:

It is contended that a street wall height will not achieve a consistent street wall or parapet line given the variations in site size and the strange proportions that could arise particularly in Area 6 with a 40 metre street wall and a further 20 metre height setback 6-10 metres.

He further submitted:

A mandatory requirement could frustrate the use of a rare site for a university research or medical purpose.

(ii) Discussion

The Panel notes Mr Townsend's comments that a number of Design and Development Overlays currently apply design controls to the area.

DDO61 proposes street wall heights defined through a building street edge height and building street edge setback controls for the different areas covered by the Overlay. These are to be read as mandatory controls.

The Panel acknowledges the aim of the street edge height and setback controls to achieve a quality public realm through street definition and articulation, solar access, natural light, and integration with the existing character.

The Panel notes that a number of submissions drew attention to the *Southbank Structure Plan Panel Report* (Amendment C171) as well as *Practice Note 59: The role of mandatory provisions in planning schemes* which recognises that the VPP are predominantly performance based, where judgements are required on various proposals. Given that previous panels have already commented extensively on this matter, the Panel will not discuss this here. It does however, support the discussion provided by the Amendment C171 Panel on this matter at Chapter 7.3 (viii), pages 52 – 55.

The Panel also notes that in his authorisation letter for the Amendment dated 31 May 2013, the Minister for Planning, the Hon Matthew Guy MLC stated:

I note the intention to include mandatory design and development controls would be inconsistent with Departmental Practice Note 59 - The Role of Mandatory Provisions in Planning Schemes and previous planning panel decisions. I can

advise therefore that the Department will carefully monitor this aspect of the amendment including its assessment of the amendments strategic and statutory merits once submitted for approval.

Practice Notes 59 and 60 deal with 'The role of mandatory provisions in planning schemes' and 'Height and setback controls for activity centres' respectively. The Panel is of the view that none of the exceptional circumstances outlined in these Practice Notes apply to the City North precinct.

The Structure Plan will be a reference document in the Melbourne Planning Scheme, and the VPP Practice Note for Incorporated and Reference Documents notes the role of reference documents as follows:

Reference Documents provide background information to assist in understanding the context within which a particular policy or provision has been framed. They may be wide ranging in their content and contain information not directly relevant to specific decisions under the planning scheme.

...

Reference documents can be used in a number of ways. They can be used as a basis for preparing the Municipal Strategic Statement (MSS), local planning policies or requirements in the planning scheme, or can be mentioned in the planning scheme as a source of useful background information.

Reference documents only have a limited role in decision making as they are not part of the planning scheme, they do not have the status of incorporated documents or carry the same weight.

The Panel is supportive of the intent to achieve the strategic aim of a quality public realm within the City North area. The Panel however has concerns with the translation of the strategic aims of the Structure Plan into the specifics of DDO61. The Panel is not convinced that the necessary work has been documented which demonstrates that the proposed mandated controls are the necessary statutory mechanism to implement the City North vision. The Panel believes that the mandated nature of the controls, whilst seeking to achieve a unifying element within the streetscape, may be counterproductive for individual sites. The resultant development could be at odds with the broader strategic aims of the Structure Plan. The Panel notes various submissions which highlighted site specific problems. The Panel therefore does not support mandatory controls, but believes that the design outcomes should be site responsive with clear design aims and objectives to be met.

5.4 Variations to Building Height

(i) Submissions and Evidence

Council proposed in their post-exhibition version of DDO61 to include provisions to guide discretion of development proposals which exceeded the preferred maximum building heights by more than 30%. Ms Hodyl stated that Council felt it necessary to provide clarification on the extent of discretion suitable to achieve the objective of a mid-rise suburb.

Mr Czarny concurred that it is important to guide discretion. He further suggested that performance measures are a useful way to guide decision makers in their exercise of discretion around building heights. Mr Czarny nominated a number of performance measures in his version of the DDO61 which he drafted at the request of the Panel.

Mr Sheppard submitted that the reference to a 30% limitation on discretion in relation to the preferred maximum height be deleted, and reworded as a performance measure which can apply to avoid shadows cast on primary pedestrian streets and key public places.

Ms Williams submitted that if there is to be an additional 30% height allowance, this should be conditional on the delivery by the developer of key features sought by the Structure Plan.

(ii) Discussion

The Panel believes that it is necessary to provide decision makers with guidance when exercising discretion and considering applications which seek to vary the built form outcomes. The Panel does not believe that Council's proposition to place a 30% limit on discretion as an adequate mechanism to assist decision makers. The Panel however is supportive of introducing clear performance measures into the DDO61 which establish criteria against which applications should be assessed, as suggested by Mr Czarny in his version of the DDO61.

5.5 Pedestrian Laneways

The Amendment proposes to introduce controls through DDO61 which facilitate the creation of new pedestrian links or laneways. Specifically, DDO61 provides laneway design objectives and requirements in relation to access, width, and character, and nominates their location on a map.

Planning Scheme Amendment C171 for the Southbank Structure Plan similarly attempted to implement controls to prescribe the creation and location of laneways. This was extensively discussed in the Panel report for that Amendment. The Panel notes that the Council accepted the C171 Panels discussion and recommendations in this report, and the Minister ultimately approved the Amendment to include a local policy which deals with pedestrian links and, which does not have a prescriptive map to show the location of laneways. The Panel uses this as the basis for the following discussion.

(i) Submissions and Evidence

A number of submissions opposed the introduction of requirements to define the laneway network within the City North area through designation of proposed laneways on Map 2 in DDO61.

Ms Hodyl submitted that the laneway network had been modified since the preparation of the Structure Plan, however the intent to enhance the network and increase pedestrian permeability through DDO61 is consistent with Strategy 3 of the Structure Plan. She stated that the specific location of each laneway was determined by:

- *The location of existing private through links...*
- *The intention to provide rear service access in order to minimise the number of vehicular crossovers along the street network.*

- *The intention to complete existing laneways that only provide access partway through a block. This will enable the continuation of existing public or private links through the full block width.*
- *The need to maximise ease of access to proposed open spaces and public transport by locating new laneways close to transport nodes and parks.*

Furthermore, she stated that laneways:

- *Were generally located against a property boundary (within the larger property) to enable the establishment of the laneway through the redevelopment of one site only. This is considered a more effective method of establishing over time without the need for multiple owners to coordinate their development to achieve the new connection; and*
- *Should be located 'where block lengths exceed 100m'.*

This last requirement was included following exhibition of the Amendment, and resulted in a number of laneways being removed from Map 2 of DDO61.

A number of submissions raised concerns about the through connections proposed in Map 2 of DDO61.

In her written submission to Council, Ms Withers on behalf Toyota Motor Corporation submitted that the proposed pedestrian links through the Toyota site:

... imposes an unreasonable burden on the future development of the subject land; do not correspond to pedestrian desire lines and are unnecessary given the short walking distance north or south to Elizabeth Street from O'Connell Street.

Taking this further at the hearing, Mr Chiappi for Toyota submitted that:

Toyota takes no issue with the DDO containing a design objective of improving pedestrian connectivity within City North. Such a design objective would ensure appropriate consideration of the extent and nature of any connections through the site at the time of development. The specification of two lanes, however, through the site imposes a potential forced subdivision of the land and its fracturing into 3 separate parcels. That is a very significant imposition on the land owner on scant justification, particularly where there has been no consultation and no exploration of the consequences.

Mr Chiappi contended that the site would be severely constrained in its ability to meet the urban renewal objectives of DDO61 and City North Structure Plan, and limit design responses unnecessarily.

Ms Heggen in evidence for Toyota contended that the two proposed east-west through connections create an unreasonable burden on the future development of the land, and that the two proposed laneways should be removed or at least reduced to one *"based on the post amendment changes to Am C196 which seeks new laneways where block lengths exceed 100m"*.

The Lort Smith Animal Hospital noted that the intention of DDO61 is to retain and activate laneways, and that Map 2 of DDO61 indicates a proposed laneway through link on the Lort Smith Animal Hospital site, even though the Overlay is not proposed to apply to its land,

which is anomalous. It submitted that the establishment and activation of laneways “*may have the effect of curtailing development opportunities*” and that DDO61 should be amended to make connectivity a consideration, but not be mandatory.

In this regard, Mr Vorchheimer on behalf of the Lort Smith Animal Hospital argued that:

Our client does not have any issue with the objective of providing for permeability through a site, but rather the prescriptive nature of what is being proposed.

In evidence for the Lort Smith Hospital, Ms Heggen submitted that the proposed laneways should not be included across or alongside the subject site is because:

- *The ground level of the Lort Smith site is approximately 3m higher than the Hotham Place laneway connection to the south of the site. ... This degree of grade separation makes the north-south connection unachievable;*
- *The distance between Vale Street which runs parallel to Flemington Road and Courtney Street to the south is 123m. On the basis that Am C196 as now recommended by Council suggests that new laneways should be 6m wide and created where block lengths exceed 100m, I consider that the modest additional block length of 17m-23m to walk for a pedestrian is not an impediment to improved permeability. As a consequence I consider this east west laneway is superfluous.*

The late submission from Mr McRae concurred with Ms Heggen’s assessment that the site is unsuitable for a laneway connecting Hotham Place and Vale Street because of the fall of the land.

The University of Melbourne, whilst supporting many aspects of the Amendment, opposed the mandated nature of the laneways through its land holdings. It submitted that while supporting the intent of the proposal to encourage pedestrian access, it opposed any mandatory requirement for this. In particular, the University opposed the proposed laneway on the City Ford site because this is ear marked for a new medical school, and would significantly impede the development capacity of the project.

In providing evidence for the University, Mr Sheppard suggested that laneways should only be imposed where there is real benefit:

The provision of laneways can have a major impact on the configuration of development, dividing properties and increasing the requirement for active frontages that can dilute the ability to provide them elsewhere. Some lanes perform a necessary service function. If they are required to provide for pedestrian access, the service function may need to be duplicated elsewhere.

Specifically in relation to the lanes proposed in Map 2 of DDO61, Mr Sheppard contended that many of the lanes are parallel and close to existing streets. He noted in particular:

- *The proposed laneway linking Leicester Street and Bouverie Street is approximately 75m to the north of Pelham Street.*
- *The proposed laneway linking Elizabeth Street and Berkeley Street is only approximately 50m north of Pelham Street.*
- *The proposed laneway north from Lincoln Square North will not notably add to the permeability of the area.*

Mr Sheppard recommended rewording the Design Requirement to allow discretion and either deleting Map 2 or relabeling it to note that the lanes are indicative only. He further contended that:

- Laneways do not need to be open to the sky;
- That given the strategic direction to facilitate university and medical developments which are likely to require large footprints, flexibility is required in relation to the form of the linkages;
- Deletion of the requirement in DDO61 which seeks new laneways to respect the street pattern, be open to the sky, and provide 24 hours access; and
- DDO61 should be modified to read as Pedestrian Links.

Mr Pitt for the University submitted:

It is the University's strong contention that it has a history of facilitating permeability through its campus and facilities but it contends that it is not necessary for pedestrian links to be provided in the form of a laneway open to the sky and larger sites which may be aggregated within the Knowledge Precinct are a rare and finite resource which could become even rarer depending on what heritage policy is applied and the outcome of Amendment C198 and those sites and potential sites should not be prejudiced by the prospect of such sites being severed.

In response to specific submissions, Ms Hodyl stated that the revised laneway provisions post exhibition meet the objectives of the Structure Plan to increase permeability by creating a maximum block length of 100m. Furthermore, she submitted that:

- the proposed connections through the Toyota site would enable opportunities for additional frontage and addresses at ground level.
- the proposed laneway through the Lort Smith site property should be included in the final Map 2 as a consequence of her support for the site inclusion in Area 2.
- She was not supportive of the University of Melbourne's request to remove the laneway noted on the City Ford site from DDO61 and reiterated her position that the block length exceeds 100 metres and therefore requires a pedestrian link.

She further submitted:

Considering the scale of transformation proposed at Haymarket (including a significant public open space and the construction of a metro) the pedestrian permeability will become critical as the area becomes more dense and a significant transport node servicing the university's student and worker population in semester period. Pedestrian access will be paramount to ensure a high level of amenity and the avoidance of congestion in the area. In the primary pedestrian areas of the Hoddle grid, laneways are an average of 50m apart.

Mr Townsend in Council's right of reply submitted that if the Panel is not supportive of the approach put forward within the post-exhibition version of DDO61, the Panel should consider a similar approach to that used in the recently approved Clause 22.01 Urban design within the Capital City Zone policy in relation to Southbank. He suggested that this should be coupled with a plan showing indicative laneways. Mr Townsend advised that the policy provided design standards as appropriate for pedestrian links so that: blocks should not

exceed 100 metres; connections should be located toward the centre of the block; development opportunities should include parts of pedestrian connections if they are likely to be completed as part of a later development; new development must complete existing pedestrian connections; as well as the following specific design requirements:

- *Developments should provide pedestrian connections which are:*
 - *Safe, direct, attractive and which provide a line of sight from one end of the connection to the other;*
 - *Publicly accessible;*
 - *At least 3-6 metres wide;*
 - *Open to the sky or, if enclosed, at least 7.6 metres high; and*
 - *Flanked by active frontages.*

(ii) Discussion

The Panel acknowledges that whilst there appears to be no dispute as to the merits of increased pedestrian permeability as a principle, particularly in an area where urban regeneration is occurring, there is contention in relation to mandating this requirement. In particular, submitters were concerned with identifying laneway connections on parcels of land, and the associated wording of the proposed controls in DDO61.

The Panel supports Council's efforts to improve pedestrian connectivity through the City North area, however does not support this as a mandatory provision. The Panel has already expressed little support for mandatory provisions, and similarly does not support a prescriptive approach to the provision of laneways for City North. The Panel however notes Mr Townsend's submission, and supports a consistent approach to that adopted in Southbank. To this end, the Panel recommends the inclusion of discretionary laneway requirements in DDO61 consistent with Southbank. The Southbank provisions are included within a local policy, and given that Clause 22.01 is to be excluded from City North, the Panel recommends the inclusion of similar provisions within DDO61 Table 2 (Panel version).

However, the Panel does not agree with Mr Townsend's contention that a map is required in addition to the policy guidance. In the Panel's view, to define a line on a plan would imply that an analysis has taken place beyond a desire to achieve a block length of 100 metres or less. This analysis should consider grade change, safe sight lines, and destinations which are being connected. Furthermore, the analysis should consider the impact that this has on individual property owners and mechanisms which can equitably deliver this outcome. The Panel is not convinced that this analysis has adequately taken place or that the proposed delivery mechanism through DDO61 is appropriate. The Panel believes that the stipulation of block lengths should be adequate as a flag for decision makers to take this into consideration.

The Panel notes Mr Czarny's oral evidence that in his view, laneways are more effectively delivered through negotiations with developers in exchange, for example, a height bonus. He saw this more effectively being delivered through performance measures where applicants are seeking variations on height or setbacks. The Panel agrees with Mr Czarny's opinion that laneways have been delivered effectively elsewhere through negotiations based on performance measures. The Panel therefore supports the introduction of performance measures for City North which includes laneways as one of the defined measures.

The Panel does not support the mandatory requirement for laneways, however it does support laneways being encouraged as a performance measure when applications are seeking variations on height and setback requirements.

The Panel supports the inclusion of discretionary provisions within the DDO61 similar to Clause 22.01 in relation to pedestrian connections, given that the application of Clause 22.01 is to be excluded from the City North Precinct.

5.6 Residential and Public Realm Amenity

The issue of residential and public realm amenity was raised as a concern in a number of submissions, primarily in relation to the impact these would have on residential amenity and sunlight to public places. The issue of residential amenity was, in particular an issue raised as a main concern for submitters in Area 2.

(i) Submissions and Evidence

Residential Amenity

Mr Carroll, Ms Chong, Dr Moran and Mrs Hussain whose properties are located within DDO32 adjoining Area 2, raised concerns about the transitional height arrangements between Area 2 and DDO32, and the potential for amenity impacts such as overshadowing and overlooking on existing residences. This concern was echoed by Mr Ianno in Area 4 who raised concerns about amenity impacts that could be experienced where low rise residential buildings are located next to tall buildings. Submitters questioned whether the Structure Plan's built form and solar access provisions had been adequately translated into DDO61, and whether enough emphasis had been placed on protecting residential amenity.

Other individual submissions (Mr Schmidt, Mr Caune and Ms Tran) raised concerns in relation to the interface of tall buildings with laneways and narrow streets. These submissions noted the exhibited provisions required setbacks to laneways to allow light and sunlight for Area 4 only, and that these should apply to all laneways within DDO61.

Council in response to concerns about overshadowing, introduced a requirement for the transitioning of building heights between property boundaries in Area 2 which interfaced with DDO32. Ms Hodyl submitted that this requirement ensures *"additional height does not add shadow above that cast by the current height limit between 11am and 2pm at the equinox"*.

Mr Czarny noted that this stepped approach to upper level setbacks to transition to lower abutting height limits is only proposed in Area 2. He agreed that the transition of height from Flemington Road to the North Melbourne residential area is important and that Council's proposed response would provide for an effective transition. However, Mr Czarny submitted that this could result in less than desirable building profiles, and that this area required well-crafted stepped transitions.

Council responded to the concerns raised in submissions (in the post exhibition version) by:

- Revising Table 1 of DDO61 Built Form Outcome for Area 2 and amending the wording from *"maintain the level of amenity"* to *"limit amenity impacts"* adjacent to DDO32;
- Inserting into Table 1 of DDO61 Built Form Outcome for Area 2 a requirement for transitional height arrangements; and

- Amending Table 1 to require building setbacks of four metres above 10.5 metres on the street edge of laneway frontages to apply to all seven areas.

Mr Czarny submitted that the requirement for a 4 metre setback above 10.5 metres in laneways is onerous. He suggested however, that:

If these are discretionary controls, I have no issue with such a preferred street wall height and setback treatments being contained within the Schedule as relates to laneways.

Ms Hodyl submitted that the term 'maintain' is appropriate for Area 2 given that many residential properties within and adjoining this area were developed under the current mandatory 14 metre height control, and that their amenity should be considered by new developments. The height interface control in the post exhibition version is in her opinion, an appropriate response to deal with this issue.

Other submitters contended that the proposed controls in relation to managing amenity impacts were overly onerous. SJB on behalf of UAG Group had specific concerns with DDO61 in relation to the requirement specified in Table 1 for Area 2 to maintain the level of amenity for existing adjacent residential development because the benchmark 'maintain' is inappropriate and moreover, all but impossible given the height outcomes sought for the area. ERM on behalf of Piccolo Investments suggested the amenity provisions in Table 1 be reworded to "*not result in any unreasonable amenity impacts on existing adjacent low scale residential development*".

Public realm amenity

Submissions questioned the provisions in relation to sunlight to public places. SJB on behalf of UAG Group had specific concerns with DDO61 in relation to the test with regard to sunlight to public places because "*different public spaces require a different degree of protection*". Mr Pitt asserted that Oxford Street in an east-west alignment could not meet the objective for sunlight to public spaces and said:

The expression "major pedestrian routes including streets and lanes" should be deleted and if certain pedestrian routes or parts of them are to be free of shadow for the specified hours, the streets or lanes or parts of them should be specified and be streets or lanes or part of them where the requirement can be achieved with buildings of the scale contemplated by DDO61.

Ms Heggen suggested that the provisions for sunlight to public places duplicated existing policy, and were therefore not necessary. She noted that the provision for a setback on laneways conflicted with Figure 1 of the post exhibition version of the Amendment, and should be deleted.

ERM on behalf of Piccolo Investments similarly held these concerns, and suggested that the proposed wording of DDO61 in relation to sunlight provisions elevates streets and lanes to be equivalent to public spaces and garden.

(ii) Discussion

Residential amenity

In relation to the provisions about amenity, the Panel supports efforts to provide guidance within DDO61 for development to consider existing residential amenity. The Panel believes that a number of modifications are warranted to clarify this. It agrees with submissions that DDO61 could articulate the City North Structure Plan more effectively, and notes Principle 4 of the Structure Plan which relates to amenity. The Panel believes that this could provide an effective bridge between the City North Structure Plan as a Design Objective within DDO61. The Panel agrees with Council's proposed post-exhibition additions in the table titled Design Objectives and Design Requirements in relation to new buildings responding to existing conditions and amenity.

In relation to the specific provisions for Area 2, the Panel agrees with submissions that the wording in Table 1 which seeks to 'maintain' levels of amenity is onerous in an area of transition. However, it supports Council's proposed modifications to this provision as it applies to DDO32 area.

The Panel supports Council's amendment to the provisions in Table 1 for Area 2 in relation to their rewording to "*limit amenity impact...*". The Panel also supports an inclusion of a design objective consistent with the Structure Plan which expressly acknowledges the importance of protecting and maintaining existing residential amenity.

Public realm amenity

The Panel heard submissions in relation to the building setback requirement on laneways to ensure access to daylight and sunlight, and submissions about sunlight to public places.

The Panel acknowledges Ms Hodyl's submission that a central objective of the Structure Plan is to achieve a high quality public realm that is welcoming, attractive and comfortable, and that streets are key spaces in City North. Solar access to streets is therefore an important part of this objective.

The Panel notes that Council is seeking to exclude Clause 22.02 Sunlight to Public Spaces Policy from the Capital City Zone Schedule 5 (but not the Mixed Use Zone of Area 2 or 3). The following existing requirement from Clause 22.02 would therefore still apply to Area 2 and 3:

Development should not reduce the amenity of public spaces by casting any additional shadows on public parks and gardens, public squares, major pedestrian routes including streets and lanes (including all streets within the retail core of the Capital City Zone), and privately owned plazas accessible to the public between 11.00 am and 2.00 pm on 22 September.

And objectives:

- *To ensure new buildings and works allow good sun penetration to public spaces.*

- *To ensure that overshadowing from new buildings or works does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians.*
- *To achieve a comfortable and enjoyable street environment for pedestrians.*
- *To protect and where possible increase the level of sunlight to public spaces during the times of the year when the intensity of use is at its highest.*

The Panel notes that these provisions have been incorporated in a modified form into DDO61 under Design Objectives and Design Requirements, and the sub-heading Sunlight to Public Places. The Panel agrees with submissions that the mandatory nature of the wording of the design requirement makes these provisions onerous, and notes Council's final version of DDO61 submitted on the last day of the Hearing which modifies these provision to be discretionary. The Panel supports Council's final position in this table.

The Panel considers that the provisions in relation to Sunlight to Public Places should be discretionary and it supports the post exhibition version of Council's proposed setback on laneways. Given that this provision is to apply to all areas, the Panel recommends its inclusion in Table 2 to DDO61.

5.7 Street Activation and Vertical Elements

(i) Submissions and Evidence

In relation to the requirements within DDO61 for street activation, Ms Hodyl argued that the requirement for street activation on Victoria Street and Haymarket is part of the Structure Plan's intent to create activity nodes with comfortable pedestrian conditions. She contended that the designation of primary activity streets in DDO61 implements Strategy 4 of the Structure Plan to promote streets for vitality and activity, and facilitate street surveillance and activity.

Mr Townsend affirmed the position that there is strong strategic support embedded in the Structure Plan for street activation, and that these requirements were discretionary.

Mr Czarny supported the proposed controls for primary pedestrian oriented streets. However, he submitted that there is scope to extend this requirement in Area 4 given the north – south pedestrian desire lines between the Melbourne University and RMIT University.

ERM on behalf of Piccolo Investments submitted that the proposed active frontage control in DDO61 be reworded to allow discretion, particularly for small sites. Bob Jane Corporation similarly submitted that the requirement for 80% active frontage should remain flexible as this is not achievable everywhere.

Mr Pitt for the University of Melbourne, whilst accepting that ground level street frontages should be active at the pedestrian level where practical, submitted that the requirement for 'Active and safe street frontages' should be deleted or reworded to apply to the first three levels and expressed as 'windows or balconies' to acknowledge that institutional buildings are unlikely to provide balconies.

Mr Pitt questioned whether the 'Knowledge Precinct' is the appropriate location to encourage a high level of retail floor space, and that the purpose of active frontages would not be achieved with empty shops and food premises.

He said that the requirement to achieve a built form of fine grain is counter to the requirements and nature of institutional buildings and should therefore be removed.

Submissions raised concerns with DDO61 and the specific requirement to break buildings facades with wide street frontages into smaller vertical sections of 4 to 10 metres. Mr Pitt for the UAG Group submitted that this requirement is overly onerous given that Flemington Road does not exhibit a consistent verticality of design.

ERM on behalf of Piccolo Investments in Area 2 similarly submitted that the vertical street frontage requirements are too prescriptive.

Ms Hodyl submitted that the design intent of providing visual interest for large building frontages to ensure that they do not dominate remained important. However, she agreed that this did not need to be expressed as 4 to 10 metre rhythm, and could be reworded. She suggested DDO61 be reworded to:

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

(ii) Discussion

The Panel supports Council's ambition to provide active street frontages within City North, and whilst questioning the quantum of retail space which should be allowed to locate there, acknowledges that the street frontage controls allow accommodation to be located at ground level with frontage requirements. The Panel therefore supports Council's approach to active street frontages.

In relation to the requirement in DDO61 to provide articulation of building facades on wider street frontages, the Panel supports Ms Hodyl's modified approach although it supports Council's wording as submitted in its final version of DDO61.

The Panel supports Council's amendment to require building facades to articulate vertical elements to minimise the dominance of wide building frontages.

5.8 Conclusions and Recommendations

The Panel acknowledges the level of work and consultation which has been undertaken by the Planning Authority as part of the City North Structure Plan 2012. Whilst questioning some of the specific detail of the controls, the Panels considers that the built form control package in the Amendment generally implements the strategic research. However, the Panel does not support the use of mandatory controls and therefore considers that these be applied as discretionary measures.

However the Panel needs to record its frustration with the way the Amendment was prepared and presented. The Panel considers that a number of matters requiring resolution through this Amendment process were matters that the Panel for C171 (the Southbank

Amendment) considered and resolved, and which the Council then adopted, and which were subsequently gazetted.

It was evident that Council took on board the matters raised by the C171 Panel, but did not follow through with finalisation of this Amendment. Significant debate and discussion was held at the Hearing on matters such as the laneway and mandatory built form controls, and street activation. If Council had generally adopted the previous Panel's position and the approved C171, and translated that into this Amendment, many of the submissions and much of the evidence heard as part of C196 may not have been necessary.

Two issues need to be raised here. Firstly, it was not until there was discussion with parties about the laneways that the Panel asked Council about the outcome of C171. The Panel was then advised that the Council had adopted the Panel recommendations in C171 and it now formed part of the gazetted Amendment. The question is – why was the Panel not told this at the beginning of hearing process and why did Council include a similar provision, knowing that it had been rejected at Southbank? The second issue relates to the continued promotion of mandatory built form controls. The Panel was astonished to find that post hearing (and in respect of the request of the Panel for a copy of the Authorisation letter) that the Minister for Planning had cautioned the Council against using mandatory built form controls. This letter was not made available during the hearing.

The Panel also considers that the Design and Development Overlay overall was poorly structured and difficult to read and understand.

The Panel urges Council to improve and enhance its approach to drafting of Planning Scheme Amendments to ensure readability and consistency, in order to effectively implement its strategic intent and vision.

The Panel considers that a number of modifications to DDO61 will enhance its useability and effectiveness, and these include the following:

- Amending Section 1.0 Design Objectives to provide greater clarity and consistency with the City North Structure Plan, along with specific objectives in relation to sunlight for streets and buildings, to ensure development responds to residential amenity and to encourage walkability.
- Amending Section 2.0 Buildings and Works consistent with the evidence of Mr Czarny including deletion of the mandatory provisions, deletion of the 30% height limit discretion to be replaced as a performance measure in the new Section 6.0 (below).
- Amending Section 5.0 Decision Guidelines to reflect the proposed changes to Table 1 and Table 2.
- Inserting Section 6.0 Performance measures consistent with the Czarny evidence.
- Amending Table 1 to :
 - Rename 'Preferred Built Form Outcomes for Specific DDO Areas' to highlight the discretionary nature of the controls.
 - Include new columns and headings to simplify the nature of the built form controls.
 - Consolidate the seven areas into five
 - Rename Area 4 to Area 4.1
 - Rename Area 5 and Area 7 to Area 4.2

- Rename Area 6 to Area 5
- Amending Table 2 to:
 - Rename 'Design Requirements for all DDO Areas'.
 - Remove the mandatory controls by replacing the word 'must' with 'should'.
 - Include a design requirement for all areas which ensures that sunlight reaches the lower floors of new development.
 - Insert Design Requirements for Pedestrian through block connections.
 - Insert discretionary provisions for pedestrian connections similar to the provisions in Clause 22.01.
- Deleting Map 2 as the Panel considers this to be too prescriptive.

The Panel recommends:

- 3. Amend Schedule 61 to the Design and Development Overlay in accordance with Appendix D.**

6 Design and Development Overlay: Area Issues

The Panel has highlighted the key components and threshold issues relating to DDO61 in Chapter 4. This section of the report provides an overview of the key issues raised in submissions in response to each of the areas.

The Panel has used the post-exhibition version of DDO61 as the basis for discussion in this chapter, unless otherwise noted.

6.1 Area 1

Area 1 is bounded by Victoria, Peel and O'Connell Streets, west of Elizabeth Street, and is referred to as Precinct 4 Victoria Street, Peel Street and O'Connell Street in the City North Structure Plan, but does not include the properties on the west side of Peel Street.

Mr Czarny provided the following description of Area 1:

This triangular urban block is unique in its diversity of both fine grained robust residential industrial heritage buildings, combined with a network of narrow streets and laneways.

There has been considerable contemporary infill residential development occurring within the Area, particularly through reuse and adaption of remnant heritage fabric. The Queen Victoria Market precinct lies immediately to the south of Area 1 and has considerable heritage attributes (State Significance on the Heritage Register). The southern half of the Area, between Queensberry and Victoria Streets is also included in the North and West Melbourne Heritage Precinct (HO3), which extends to the western side of Peel Street and beyond

The main element of the built form controls for Area 1 is the introduction of a preferred maximum height of 24 metres. Buildings fronting O'Connell, Cobden, and Princess Streets are to provide a 4 metre setback above a 20 metre building height.

(i) Issues

The key issue for resolution is the appropriateness of the built form controls for DDO1.

(ii) Submissions and Evidence

Council submitted that the built form controls for DDO1 were appropriate, and supported this in evidence provided by Ms Hodyl and Mr Czarny. Ms Hodyl submitted that the built form proposal for Area 1 is consistent with the Structure Plan, it would facilitate development capacity, and it would enable a built form which would improve street definition.

Ms Hodyl contended the current mandatory 14 metre height limit constrains development capacity in the area, and that an increase in height to 24 metres will facilitate further development opportunities. She contended that the 4 metre setback above the 20 metre building height is consistent with the intent of the Structure Plan to achieve a building street wall with a street definition of 1:1, and to facilitate buildings which integrate with the lower built form of many heritage buildings.

Ms Hodyl said that the 24 metre height limit and 20 metre height at the street edge achieves the strategies outlined in the Structure Plan for this area, including:

- *Maximum street definition of 1:1 (street width to height ratio)*
- *Provision of sunlight into the public realm and to the ground floor of buildings on these non-primary streets.*

She further noted that increasing the street height and reducing the setback “*would diminish the level of solar access to these streets while concurrently increasing the development capacity of the area unnecessarily*”.

Mr Czarny generally supported Council’s built form controls for Area 1. He supported the nominated 20 metre street wall heights for O’Connell, Cobden and Princess Streets. However, Mr Czarny suggested that Victoria, Queensberry and Peel Streets could have a street wall height of 30 metres given their wider road reserve widths and status as activity corridors. He suggested however, that an increased wall height would need to be balanced with heritage constraints. Mr Czarny did not include this suggestion in his revised version of DDO61 prepared for the Panel. Ms Heggen however, incorporated Mr Czarny’s suggestion into her revised version of DDO61, and modified the height to 30 metres for the streets not specifically nominated by the Overlay.

Mr Schmidt expressed concern about Council’s proposed increased height limits for Area 1 because of the impact these would have on character, light, traffic and parking. Mr Czarny supported Council’s approach of additional consolidation in this area and considered the proposed additional height a tempered outcome. Mr Kiriakidis provided traffic evidence for Council, and refuted claims that the increased development capacity will increase traffic and parking requirements given the suite of traffic and parking measures in place by Council.

(iii) Discussion

The Panel agrees that Area 1 is an important part of the City North Precinct with key locational attributes proximate to the Hoddle Grid. The area has unusual morphological attributes, fine grain subdivisional pattern, and extensive heritage building stock. Consolidation therefore needs to be moderated to acknowledge the key character attributes of the location.

The Panel supports Council’s proposed heights for Area 1. Given that a significant portion of this area has heritage controls, the Panel agrees with Council’s approach for a moderate building height increase with street edge setbacks to facilitate development which integrates with the existing heritage fabric. The Panel agrees that similar to many of the other DDO areas, development in Area 1 will need to balance heritage and urban renewal objectives.

The Panel agrees with the principle of the 1:1 ratio for street width to street wall height to facilitate enclosure amongst other urban design aims. The Panel further notes that Council has demonstrated significant effort to facilitate this urban design objective, which is generally supported by many submissions. However, the Panel notes that this design intent is not expressed as either a design objective in Section 1.0 of DDO61 or specifically as a built form outcome in Table 1 for any of the Areas. The Panel notes such a design objective is included in both the Heggen and Czarny versions of DDO61. The Panel supports the inclusion of this design objective in DDO61.

The Panel supports Council's nominated building heights and setbacks for Area 1. The Panel is not convinced by Ms Heggen's opinion to increase the height from 24 metres to 30 metres along Victoria, Peel and Elizabeth Streets given the interface with the Queen Victoria Market, the transition to North Melbourne, and significant heritage fabric which exists in this area. It therefore supports Council's position to maintain the building height and street wall heights as exhibited.

The Panel supports a stronger expression of the design and built form intent of the 1:1 street wall to street width ratio and the aim of creating a generally consistent built form edge to the street. It therefore supports Ms Heggen and Mr Czarny's suggestion to expressly include these in DDO61.

6.2 Area 2

This area generally lies south of properties which front Flemington Road, south of Harcourt Street, and includes properties between Peel and O'Connell Streets. The area includes part of Precinct 4 of the City North Structure Plan and a portion of Precinct 5 Courtney Street in the City North Structure Plan.

Mr Czarny described Area 2 as an intermediary zone between the taller commercial buildings along Flemington Road and the low-scale residential areas of North Melbourne to the south. The existing built form is varied with former warehousing, industrial premises and newer residential buildings. Area 2 has a network of laneways, and it slopes away from Flemington Road down towards North Melbourne. The area abuts the predominantly residential area of North Melbourne that is subject to Design and Development Overlay Schedule 32 (DDO32).

As exhibited, Area 2 does not include the site of the Lort Smith Animal Hospital which is located on a lot of some 5,000 square metres located between Villers and Wreckyn Streets. The Panel notes that the proposed outcomes DDO61 will have some impact on this site.

The main element of Area 2's built form controls are a preferred maximum building height of 24 metres and additional setback requirements for properties that adjoin DDO32. This later requirement was included in the Council recommendations for the post-exhibition version of DDO61.

(i) Issues

Area 2 has a high proportion of existing residences, transitions to North Melbourne and has a skewed east-west street orientation and significant grade change which can impact on overshadowing created by additional building height.

The key issues for resolution for Area 2 include the following:

- Are the controls appropriate for Area 2?
- Should Area 2 be extended to include the Lort Smith site?

(ii) Submissions and Evidence

Are the controls appropriate for Area 2?

Ms Hodyl submitted that the proposed height limits for Area 2 are consistent with the Structure Plan. She explained that the proposed height controls and area boundary went

through a number of iterations as part of the development of the Structure Plan, and in response to community and key stakeholders concerns. Earlier drafts of the Structure Plan (May 2011) extended the area boundary to Courtney Street, and proposed building heights of 40 metres from the Flemington Road boundary which transitioned to a building height of 24 metres along Courtney Street. In response to consultation and to enable a transitioning height to the North Melbourne area, the building height was ultimately lowered to 24 metres with a reduced area boundary. In the final version of the Structure Plan, the current boundary of Area 2 resulted as a consequence of an examination of existing conditions and further consultation. Ms Hodyl advised that:

Retaining more of the existing 14m controls would enable the appropriate protection to these existing low-rise residential developments that had been built under the current mandatory 14m height control. Many of these dwellings are within apartment buildings or on land that has been subdivided into small allotments which are unlikely to be redeveloped to the 24m height limit proposed in the Final Draft Plan.

Should Area 2 be extended to include the Lort Smith site?

Mr Vorchheimer presented the submission for the Lort Smith Hospital site currently located in DDO32 and adjoining Area 2. He voiced concerns about the transitional height provisions in this area given the topographic fall of the land away from Flemington Road. He submitted that should a building with a height of 24 metres be constructed on the hospital's northern boundary, it would unavoidably result in overshadowing of the property, which he concluded was an unacceptable outcome. He submitted that a better outcome would be to include the site within Area 2 given its large land area and strategic redevelopment opportunity.

Mr Vorchheimer suggested that the land has future development potential given the limited life span of an animal hospital in this location, its site specific attributes such as its size, and its location in an area where there is increasing demand for higher density living, commercial and retail premises. He submitted that the main reasons why the Lort Smith site should be included in Area 2 included:

- *There is strong planning grounds to support the inclusion of Land into the Amendment and subject to a 24m height limit under the DDO61;*
- *The land has capacity to achieve a development outcome of 24 metres in height with no adverse impacts on the lower scale development to its west and will contribute to a stepping down to the lower rise development further to the west;*
- *Applying the DDO61 to the Land is in keeping with the objectives of the Amendment, and the City North Structure Plan.*

Ms Heggen gave evidence for the Lort Smith Hospital and argued that the inclusion of the site in the Area 2 is consistent with the Structure Plan. She contended that it would double the floor capacity in the knowledge precinct, and saw an advantage in the site's size and frontage to both Villiers and Wreckyn Streets, and midblock location between Flemington Road and Courtney Street. She submitted that these attributes allow the site to accommodate adequate height transition from Flemington Road down towards DDO32

boundary. In her evidence, Ms Heggen undertook a shadow analysis using the proposed increased height. She observed that the additional height would only cast a shadow on the Wreckyn Street road reserve between 11am to 2pm. She concluded *“a height increase to 24m on the Lort Smith site satisfies the shadow impact requirements of the Am C196”*. Her analysis was based on the preferred maximum building height limit.

As part of her evidence, Ms Hodyl submitted in response to the Lort Smith submission:

- *The 14m height limit was proposed to ensure that there was a suitable transition from the 14m height limit within the North Melbourne area to the denser and higher area of the Haymarket and the Elizabeth Street and Flemington Road frontages.*
- *The alignment of the boundary of Area 2 shifted throughout the preparation of the Structure Plan.*
- *This site does have a side boundary with existing low-scale residential buildings that front Hotham Place and it was therefore considered appropriate to maintain this site within the 14m height limit area. ... A 24m high building constructed immediately to the north would adversely impact the amenity of these dwellings.*
- *The subject site is, however, approximately 40m wide and it would be possible to transition from a high built form on Vale Place, to a 14m height or lower, on the southern boundary that could be designed to protect the amenity of these dwellings.*

Ms Hodyl therefore recommended that the Lort Smith site be included in Area 2 with a setback provision along the southern boundary to enable a height transition.

Mr Czarny, however did not support the inclusion of the Lort Smith site into Area 2 because, in his view, *“it would result in a larger scaled intrusion of form into a predominantly low scaled area”*.

A late submission was received by the Panel from Mr McRae who owns property in Hotham Place near the Lort Smith site. He asserted his submission also represented residents in Hotham Place. Mr McRae opposed the inclusion of the Lort Smith site into Area 2 because he submitted this would result in a 24 metre height limit next to his three storey dwelling and result in a large height discrepancy.

Mr Townsend disagreed with Ms Hodyl’s position and in his right of reply advised the Panel that the Planning Authority’s response is that the appropriate reach of DDO61 is that set out in the Amendment.

(iii) Discussion

Are the controls appropriate for Area 2?

The Panel supports the aim of Council to provide built form controls which enable a transition from Flemington Road to the residential areas in North Melbourne. It acknowledges that given the slope, orientation and morphology of the streets, overshadowing is an issue for existing residential uses.

Council proposes to introduce a provision for Area 2 which requires a height transition from the property boundary with a 14 metre height limit. The Panel is supportive of the intent of this approach, however notes that both the Czarny and Heggen versions of DDO61 have redrafted the overlay to include this requirement within Table 1. The Panel agrees with this approach as it assists in consolidating DDO61 provisions. The Panel further notes the Czarny and Heggen versions of DDO61 include a maximum building street edge height of 14 metres along Harcourt Street.

Whilst this was not explicitly discussed at the Hearing, the Panel notes Mr and Ms Field's concerns about the interface along Harcourt Street to the North Melbourne Primary School and North Melbourne generally. They raised concerns that the building heights were excessive on the corner of Flemington Road and Harcourt Street as a transition to the low scale buildings of North Melbourne and the Primary School. The Panel supports Mr Czarny and Ms Heggen's proposal for a 14 metre street edge height limit along Harcourt Street and considers this a sensible approach to facilitate an appropriate interface with the more sensitive areas of North Melbourne, and Harcourt Street in particular.

Should Area 2 be extended to include the Lort Smith site?

In relation to the Lort Smith site, the Panel acknowledges the development opportunity which the Lort Smith site offers and the ability for this to contribute to the strategic aim of increasing capacity and urban renewal in the City North area. The Panels accepts Ms Heggen's evidence that the site is capable of accommodating the extra height and height transitioning requirements without compromising amenity objectives for adjoining residences.

However, in relation to the inclusion of the Lort Smith site within Area 2, the Panel needs to consider:

- whether it is within its scope to include the site within DDO61 area;
- if the site is located within the boundaries of the Amendment; and
- whether it can be reasonably assumed that the community is aware that the boundary of the Area 2 is part of the scope and review of submissions

The Panel notes that the Lort Smith Animal Hospital site is not explicitly included in the Amendment as part of Area 2, yet it is implicitly part of the Amendment because proposed pedestrian laneways have been provided for the site as part of DDO61. The Panel further notes Mr Townsend's submission, that in Council's view, the Lort Smith site is within the Amendment area, given the map boundaries identified within the Explanatory Report. The Panel therefore is satisfied that the Lort Smith site is within the scope of the Amendment.

In relation to whether it is reasonable to assume that the community is aware that the boundary of Area 2 is part of the scope and review of submissions, the Panel notes Ms Hodyl's evidence that Council prepared a number of iterations of the City North Structure Plan that were amended in response to consultation. Ms Hodyl presented the Panel with the December 2011 version of Area 2 which shows the Lort Smith site within this area.

The Panel agrees with Mr Vorchheimer's contention that draws on Ms Hodyl's evidence and accepts that members of the community are aware of the possibility of the Lort Smith site's inclusion in Area 2:

Given these early versions of the Structure Plan it was anticipated that the Land would have the benefit of the new 24 metre height under the DDO61 control. However, the exhibited C196 excluded the site from DDO61 and accordingly our clients were given no alternative but to make submissions to Council and advocate its position before the Planning Panel. Indeed Council, as well as submitters, have been aware of our client's position since the conclusion of exhibition process, as a result of reporting and discussions on the Amendment.

Indeed, Mr McRae's late submission indicates a level of awareness in the community about the proposal, and Council has maintained all relevant information about the progress of the proposal and Amendment on its website.

Mr Townsend further submitted that:

Further notification to affected landowners would be appropriate before the extension of DDO61 to the Lort Smith site is seriously considered. The Panel has only heard from Lort Smith in relation to this matter — other potential submitters may have assumed that such an option was not being considered by the panel and therefore elected to not participate in this hearing.

The Panel agrees with Mr Vorchheimer's assessment that it is within the Panel's scope to consider all the submissions made to it and make recommendations accordingly. The Panel has had the benefit to consider detailed submissions and expert evidence in relation to the strategic and urban design merits of this site, and supports the inclusion of the site within Area 2, subject to provisions being in place to enable an appropriate transition of height to occur.

6.3 Area 3, Area 6, and Elizabeth Street

Area 3, Area 6 and Elizabeth Street (which forms part of Area 4) will be examined in this section together as a result of a number of overlapping issues which cross the boundaries of the individual areas. Common to these areas is their connection with the Area 6 (known as the Haymarket) shown in Figure 4 and submissions which are seeking the extension of the Haymarket area.

Area 4 in its entirety is discussed in more detail in chapter 5.5.

Area 3

Area 3 is located on the south west side of Flemington Road between Harcourt and Blackwood Streets. The precinct definition within the City North Structure Plan does not align with Area 3. The Structure plan refers to this area as *Precinct 6 Flemington Road, Elizabeth Street*, because the Structure Plan extends to include Elizabeth Street.

The City North Structure Plan describes Flemington Road as a major boulevard, important civic space, and functions historically as a major spine bringing people into the Central City. However, the street has a poorly defined public realm and streetscape character.

Mr Czarny said:

The built form fabric within the Area is variable with a mix of recent medium rise form/mid-scale/broad footprint modern office buildings, including 1950s Chelsea

House, remnant Victorian and Federation era villas, terrace houses and commercial premises.

The main element of Area 3's built form controls are a preferred maximum height of 40 metres.

Figure 4 The Haymarket (Area 6)



Area 6

Area 6 is located at the Haymarket junction, and comprises land which fronts Royal Parade between Grattan and Pelham Streets, the Bob Jane site between Elizabeth and O'Connell Streets, the corner of Bedford and Flemington Road, and the wedge of land between Grattan and Flemington Road.

Area 6 includes the City Ford Car Dealership, the Bob Jane T-Mart site, and the Victoria Comprehensive Cancer Centre (VCCC) which is currently under construction. The area includes the site for a future possible Metro Station. Whilst the City North Structure Plan sets a grand vision for the Haymarket as a major civic space, it is currently a traffic oriented complex intersection which is poorly defined.

Mr Czarny provided the following comment in relation to the Haymarket:

There is little doubt that the junction of Flemington Road, Elizabeth Street, Royal Parade and Pelham, Bedford and Peel Streets is a key node that is morphologically distinct within the CAD. It is a visual terminus of key boulevards and a memorable point of demarcation. Haymarket is also an important transport interchange, which serves as a gateway between the CAD and the northern suburbs.

The main elements of Area 6's built form controls are a maximum building height of 60 metres, with a building setback of 10 metres above a building height of 40 metres for land fronting Elizabeth Street, Flemington Road, Royal Parade, Grattan, Blackwood, Bedford and

Peel Streets. For buildings fronting Pelham and Berkeley Streets, buildings above 24 metres have a setback of 6 metres. Area 6 is known as Precinct 7 in the City North Structure Plan.

Elizabeth Street (part of Area 4)

Elizabeth Street is located in Area 4. Similar to Flemington Road, the stretch of Elizabeth Street between the Haymarket junction and Queensberry Street functions as a key boulevard into the Central City. The Bob Jane, PDG, and Toyota sites all have frontage to Elizabeth Street.

The main elements of Area 4's built form controls for Elizabeth Street are a preferred maximum height of 40 metres, and a 6 metre setback above 20 metres on O'Connell Street.

(i) Issues

The key issues for resolution are:

- Are the DDO61 controls for Area 3 and Area 6, and Elizabeth Street appropriate?
- Should the Area 6 be extended?

(ii) Submissions and Evidence

Ms Hodyl submitted that the height limits proposed in Area 3 are consistent with the Structure Plan. She said they are appropriate given that Flemington Road is a significant spine into the city which is well supported by public transport. In her view, the 40 metre height limit enables an intensification of development in the area but does not allow very tall buildings to dominate the landscape boulevard character. She further submitted the 40 metre height limit is appropriate for a range of institutional buildings.

Ms Hodyl gave evidence that the height limits for Area 6 are consistent with the Structure Plan, and provide an opportunity to create a new gateway and civic centre with the 60 metre height limit. She submitted that the proposed 40 metre street edge height aims to integrate the Haymarket with the proposed height limits for Elizabeth Street and Flemington Road.

In relation to Elizabeth Street, Ms Hodyl submitted that the 40 metre height limit was appropriate to transition from the Haymarket and it enhances the street's landscape character and role as a civic spine.

For Area 6, most submissions were generally supportive of the 60 metre height limit of the Haymarket, however there were concerns about the proposed setback provisions (UAG Group, Bob Jane Corporation, Toyota Motor Corporation, PDG Corporation, and the University of Melbourne).

A number of submissions raised concerns in relation to the delineation of the Haymarket area. Submitters (UAG Group, Bob Jane Corporation, Toyota Motor Corporation, and PDG Corporation) sought all or part of their properties to be included in Area 6 (the Haymarket).

The UAG Group have property in Areas 2 and 3. Mr Pitt submitted that Area 6 should apply to UAG Group's site. Ms Heggen for UAG noted that the south-west portion of the land is within Area 2 where a 24 metre height limit is specified, whilst the title fronting Flemington Road is subject to a 40 metre height limit. She submitted that the property should logically sit within Area 6 and could sustain a 60 metre height limit similar to the VCCC under construction opposite the site on Flemington Road. She contended that this would assist in

framing Flemington Road and the approach to the Haymarket. Her shadow impact analysis suggested however that there would be some additional impact on Blackwood Street as a consequence of the additional height.

Upon questioning, Ms Heggen acknowledged that the VCCC had a reduced height at the western portion of the building, and that the 60 metre height of the VCCC was not directly opposite her clients' site.

Bob Jane Corporation argued that its property holdings are split across two areas (Area 6 and Area 4) which results in two height provisions, and submitted that there should be a consistent height provision for the whole site to enable consistency of controls and development opportunities.

CBRE on behalf of Bob Jane Corporation considered that the prescriptive height nomination for Area 6 of 60 metres to be a *"prudent height allowance for both the subject site and its adjacent northern properties"*. However, it submitted that the entirety of the Bob Jane site could meet the strategic intent of the Haymarket Precinct and 60 metre height limit, and to this end, sought a suite of discretionary maximum building heights. Furthermore, Bob Jane Corporation submitted that narrow width allotments located within Area 6 *"will not be able to be developed to their full potential"* under the proposed setback provisions. In relation to its site with frontages to both Elizabeth Street and Peel Street, the requirement of a mandatory setback from street frontages would result in a diminished upper level to the building. It submitted that this does not achieve the vision sought by Council and the Structure Plan.

Mr Chiappi on behalf of the Bob Jane Corporation submitted that its site is a substantial development opportunity *"which can be developed to a substantial scale without unacceptable offsite impacts"*. He said that the setback requirements above 40 metres of building height could be removed and with minimal increase in shadowing, and provide a built form outcome similar to the VCCC.

Mr Chiappi called on Ms Heggen to provide expert evidence on behalf of Bob Jane Corporation. She submitted that the Bob Jane site could provide a *'flagship'* role in the Haymarket. Her central submissions were that:

- The proposed 10 metre setback above a 40 metre building height on Elizabeth and Peel Street *"undermines and weakens the contributions a new building on this site may have to the Haymarket gateway quality"*;
- A consistent building height of 60 metres should be considered for the whole property;
- The street wall heights and setbacks proposed for the Bob Jane site are confusing and present *"a particular challenge"* to the site, and are unnecessary.

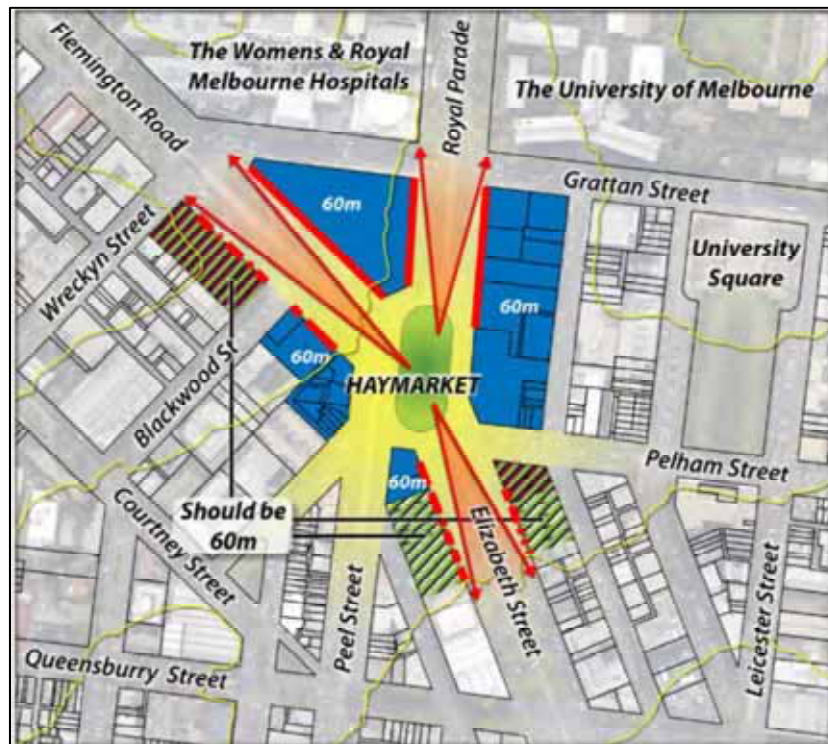
Ms Heggen used Figure 5 to note that:

- *the Haymarket sits on a topographic plateau of approximately 30 AHD which runs into Elizabeth Street and Royal Parade and gently descends down Flemington Road.*
- *The plateau would have been purposefully identified by the surveyors as a workable point of confluence for a significant intersection of wide roads.*
- *The primary roads are wide at 60m and these roads leave wide open vistas into and out of the Haymarket space making it difficult to define a wide*

‘built edge’ to this open space. Height is not the only technique needed to provide a sense of enclosure to this space. It also needs width of structure. There is more ‘width’ given over to road than there is to building edge

- *To close the axial views from the principal roads into the Haymarket with a firm and strong building edge the taller buildings around the Haymarket need to extend along Elizabeth Street, Royal Parade and Flemington Road on the immediate approach to the Haymarket. When they are seen in approach they will visually enclose and define an edge to the Haymarket.*

Figure 5 Framing of views out of the Haymarket



Source: Expert evidence of Ms Heggen

Ms Heggen contended that it is necessary to extend the 60 metre building height down Elizabeth Street and Flemington Road in order to more effectively enclose the Haymarket *“with a strong sense of edge and containment”*.

This formed Ms Heggen’s central assertion why the Haymarket should be extended, and a number of submitters drew on this evidence, including Toyota and PDG.

In relation to building setbacks, Ms Heggen argued that they serve to reduce the available building footprint on a triangular site, *“as well as potentially weaken the form outcome”*. She further noted that none of the recent additions to the Haymarket have upper level setbacks including the VCCC (under construction) and Peter Doherty Centre (recently constructed). Ms Heggen’s shadow impact analysis suggested that, in her view, there would be little shadow impact on the public realm with a height of 60 metres extended across the Bob Jane site.

On behalf of Toyota Motor Corporation, Mr Chiappi submitted that the Toyota site is a large holding (over 7000 square metres) with a substantial frontage to Elizabeth Street, which can readily accommodate substantial development. He noted that development is constrained by the heritage buildings on the southern part of the site. The site has further frontages to O'Connell Street (where the site interfaces with Area 1) and Queensberry Street.

In addition to removing mandatory built form controls, Mr Chiappi submitted that the street edge of the Toyota site on Elizabeth Street near the Haymarket, is ideally placed to accommodate a 60 metre built form. He drew on Ms Heggen's evidence in relation to the framing of the Haymarket to support this assertion. Ms Heggen submitted that given the location of a portion of the Toyota site on the 30 metre contour plateau of the Haymarket, the 60 metre height limit should be extended onto this portion of the Toyota site to help frame the Elizabeth Street approach to the Haymarket.

In her evidence for Toyota, Ms Heggen said in relation to setbacks that:

There is a confusing mix of street wall heights and setback requirements on O'Connell Street and Queensberry Street. O'Connell Street has a proposed setback of 6m above a mandatory street wall height of 20m whilst Queensberry Street has a setback of 6m above a mandatory street wall height of 24m.

She submitted that these setbacks create difficulties, in particular for the Toyota site which has a significant heritage building on its southern end.

Her evidence examined the shadow impacts of the requested extra height on the Toyota site. Ms Heggen noted that the increased shadow would have some additional impact on O'Connell Street in the mid to late morning, which diminishes by 11.30am. In response to the increase shadow, Ms Heggen submitted that:

Rather than suggesting that a particular increase in building height to 60m would be detrimental to the pedestrian environment of the narrow O'Connell Street by way of increased shadow, I consider that this shadow already simply demonstrates the importance for discretionary rather than mandatory controls. The difficulty for the Toyota site is that it is a narrow width. A 6m setback requirement on O'Connell Street reduced the floor plate width to 34m. Whilst this is ultimately a design issue to resolve at a later date, it does demonstrate a need for a degree of flexibility in resolving a future built form outcome with a doctrinaire approach to heights and setbacks.

In response to the Toyota submission, Ms Hodyl reiterated Council's position on the importance of the proposed setbacks which aim to achieve a consistent streetscape along O'Connell and Queensberry Streets. She further submitted that the proposed setbacks did not significantly impede development capacity for the site given that it was a large holding. She noted:

This submission has highlighted the lack of a setback control proposed on the Elizabeth Street and Flemington Road spines. Without this setback, a building could potentially be developed to a 52m height limit (including the 30% additional height provision). This is not consistent with the strategy for these streets within the Structure Plan that states that the built form on these streets

should not dominate the important and historic landscape character of these boulevard entries into the CBD.

She therefore recommended that a mandatory setback of 6 metres above 40 metre height limit on Elizabeth Street and Flemington Road be introduced.

Mr Czarny did not support either the Toyota or Bob Jane position to be included in the Haymarket. However in oral evidence, he accepted Ms Heggen's view that a strong built form should extend into Elizabeth Street, and that the height could be increased.

Mr Smythe of SJB Planning, on behalf of the PDG Group, submitted that its property should be included in Area 6 because of its direct interface with the Haymarket roundabout. Mr Smythe suggested that Ms Heggen's evidence highlighted some of the deficiencies with the Structure Plan and DDO61 in relation to the Haymarket, and that her evidence provided a more robust analysis than that of Ms Hodyl. Relying on Ms Heggen's evidence, Mr Smythe submitted that the PDG land sits on the visual axis for Flemington Road and terminates the vista when travelling toward the Haymarket along this road. He further suggested that the site:

... is important because it holds a significant edge in the journey down Royal Parade, through the Haymarket and on to the CBD. This is a location where a reduced height of 40 metres will weaken the sense of enclosure and definition to the Haymarket, especially if the other buildings are constructed to 60m (plus).

Mr Smythe countered Ms Hodyl's assertion that the site is constrained because of the existing heritage building. He noted that Council has previously issued planning approval for the demolition of the heritage building and development of the site for a 12 storey mixed used development.

The University of Melbourne through Mr Pitt argued that the setback requirement for buildings in the Knowledge Precinct is unnecessary where he said:

The University contends that the substance of the Amendment is an acceptance that the Knowledge Precinct is an area for substantial change and it is acknowledged, at least by Mr Czarny, that the newer buildings which are establishing the emerging built form character.

Mr Sheppard's evidence for the University argued that there has been no rationale in the Structure Plan to justify the 60 metre height limit at the Haymarket. He considered that the building height should be determined by clear design objectives and outcomes, rather than a preferred height limit.

VicRoads made a submission to the Amendment which was principally in relation to the Haymarket area. It supported the aspirations of the Amendment and noted the high level aspirational plan "*makes many network assumptions which are dependent upon the delivery of state infrastructure and significant mode shifts*". VicRoads commented that it supports the Council's efforts to transform the local road network, however, the state declared arterial road network has competing aspirations. It noted there is a need for further work to investigate any down grading of the arterial road network through the Haymarket.

In relation to the UAG site, Mr Townsend in Council's closing submission did not support Ms Heggen's assertion that the property should be included in Area 6. He noted in relation to the height transition of the VCCC building:

Victorian Comprehensive Cancer Centre site demonstrates that the 60m element turns away from Flemington Road proximate to Blackwood Street (and before the UAG site).

He further submitted that:

Ms Heggen's own contour plan shows that the land rises to the south-east as you approach Haymarket from the north-west. A higher built form on the UAG land that is closer to the 24m contour than it is the 30m contour line, would therefore have an overly prominent presence and would again undermine the sense of arrival at the Haymarket.

In relation to the PDG Corporation site, Ms Hodyl submitted that the site is not immediately adjacent to the Haymarket. It has primary frontages to Elizabeth and Pelham Street, and it has a significant heritage building located on it. For these reasons, she contended that the PDG site should not be included in Area 6.

In relation to the PDG Corporation site Mr Townsend in Council's right of reply submitted that the PDG site should not be included in Area 6 because it does not have direct frontage to the Haymarket. He contended that the discretionary height limit of 40 metres is appropriate because it enables a more suitable transition in scale to the existing heritage building, and that a taller building has the capacity to overwhelm the Haymarket.

Further on the issue of the extension of the Haymarket, Mr Townsend submitted it supported the entirety of the Bob Jane site being included in Area 6 as '*a technical rather than a substantive correction*'. Mr Townsend stated however that Council did not support the extension of Area 6 to include the Toyota land, because this would undermine the 60 metre height limit which aims to define the Haymarket as an entry point or gateway.

(iii) Discussion

The Panel notes that there is general agreement in relation to the proposed height limits for Area 3, Area 6 and Elizabeth Street.

With specific regard to the UAG site, the Panel notes that one of the key strategic aims of Area 3 and 2 is to transition building heights from the tall built form on Flemington Road towards low scale built form in Courtney Street. The Panel is not convinced that changing the area boundary for the UAG site would assist with this outcome, but acknowledges that a flexible approach to the height requirements should occur in order to provide an effective design response that transitions height from the Flemington Road frontage down to the south western boundary. This should be assisted by discretionary controls which target the built form objectives of managing height transitions and amenity impacts for the area.

In relation to the extent of the Haymarket, the Panel accepts Ms Heggen's evidence which was assisted by Figure 5 that the Haymarket can be framed by taller buildings, and that this would assist with its enclosure and place development. However, in relation to the UAG's submission that its site should be included in Area 6, the Panel is not convinced that the

approach to the Haymarket should be extended this far. As Ms Heggen acknowledged, it is outside the 30 metre contour line, and is not directly across from the taller element of the Victorian Comprehensive Cancer Centre. It would also have the effect of providing an abrupt edge, rather than a transition to the abutting sites in Area 2. The Panel therefore does not support the UAG's submission that this land should be included in Area 6.

The Panel however does accept that the Haymarket can be extended to include the entire Bob Jane site, the PDG site, and a portion of the Toyota site. The Panel accepts that the northern portion only of the Toyota site should be included in Area 6, as shown in Ms Heggen's evidence. In the view of the Panel, these properties are located on the Haymarket or its immediate approach, and should therefore provide development opportunity which supports the strategic aims sought for this area.

Development controls for the PDG and Toyota sites however, will need to temper their design response to interface with the more modest building heights found in Pelham and Berkeley streets, and O'Connell Street. The design should respond to these streetscapes and acknowledge through the building facade, street edge height and street edge setback the other side of the street, as well as any consequential amenity impacts that could occur through overshadowing. To this end, the Panel supports the inclusion of some of the controls proposed for Area 4 to be added to Area 6 as they relate to the PDG and Toyota sites. Specifically, the building street edge height and street edge setbacks for Pelham and Berkeley streets, and O'Connell Street from Area 4 should be incorporated into Area 6 as a consequence of the inclusion of the PDG and Toyota sites into the Haymarket area.

In relation to the nominated setback requirements above the preferred maximum building heights for the Haymarket, the Panel does not agree with Ms Hodyl's evidence in relation to the Haymarket or her recommendation to extend the setback into Areas 3 and 4 along Flemington Road and Elizabeth Street respectively. Whilst the Panel agrees with the urban design aim of achieving a consistent street wall along streets, it considers that it is onerous to impose this when it is not an existing condition on these wide boulevards.

This comment equally holds true for new development directly fronting the Haymarket on Royal Parade where the institutional buildings which are located there do not have any upper level setbacks and a clear architectural form has emerged which is inconsistent with the nominated setbacks proposed in the Amendment. Having said this, the Panel however, does support discretionary setbacks for building frontages which face the more modest streets adjoining and behind the Haymarket in order to facilitate improved amenity outcomes at the street level.

6.4 Area 4 (excluding Elizabeth Street), Area 5 and Area 7

The Panel briefly discussed in Chapter 4 that it supports Mr Czarny's suggestion to consolidate DDO61 areas. The Panel believes that the demarcation of Areas 5 and 7 in particular as separate areas is unnecessary, and results in the Overlay being unnecessarily complicated. For this reason, the Panel discusses Area 4, Area 5 and Area 7 concurrently in this section.

Area 4 (excluding Elizabeth Street)

Area 4 (excluding Elizabeth Street) is generally bounded by Grattan Street, Swanston Street, Victoria Street, and Berkeley Street, but it excludes the CUB site as well as the land between Berkeley, Barkly, Pelham and Leicester Streets. Area 4 is referred to as Precinct 8 'Little Carlton' in the City North Structure Plan.

Mr Czarny described Area 4 as:

Area 4 represents the majority of the City North precinct and is identified in the Structure Plan as 'Little Carlton'. It comprises land on both sides of Elizabeth Street and the blocks bound by Victoria Street, Grattan and Swanston Streets. As described previously, the Area has already undergone a degree of urban renewal through development of educational and institutional buildings and more modest infill development primarily in the form of student housing. There is also a presence of heritage stock, including several Victorian, Federation, Interwar and Post-war places and the notable Elizabeth Street boulevard precinct (which is proposed to be included in the Heritage Overlay through Amendment C198). The coexistence of low scale heritage buildings and new mid rise development in the form of institutional and office buildings is a defining feature of the built form character of the Area.

The main element of Area 4's built form controls are a preferred maximum height of 40 metres. A number of streets are proposed to have setback provisions above a nominated building height. O'Connell Street has a setback of 6 metres above 20 metres, with Grattan, Pelham, Queensberry, Bouverie, Leicester, Barry, Berkeley and Lincoln Square North and South having a proposed 6 metre setback above a 24 metre building height.

Area 5 and Area 7

Area 5 is located between Barry, Queensberry, Berkeley and Pelham Streets. Area 7 is located between Queensberry, Leicester, and Berkeley Streets. Both Area 5 and 7 are referred to as 'Precinct 8 Little Carlton' in the City North Structure Plan.

Mr Czarny noted that Area 5 and Area 7 are oriented similar to Elizabeth Street. He stated:

Like much of the City North precinct, the built form in these 2 Areas vary with a mix of historically significant buildings (including several warehouse/factory forms proposed to be included in the HO as part of Amendment C198) and new infill development. An existing DDO (Schedule 44) currently applies with an 8 storey discretionary height limit.

The main element of the built form controls for Area 5 and Area 7 is a 32 metre building height limit. In Area 5, setback controls apply with a requirement for a 6 metre setback above a building height of 24 metres on Barry, Berkeley and Pelham Streets.

(i) Issues

The key issue for resolution is the appropriateness of the controls for Area 4, 5 and 7.

(ii) Submissions and Evidence

Ms Hodyl submitted that Area 4 is currently subject to a 32 metre height limit, however, is proposed to increase to 40 metres under DDO61 to facilitate the development of buildings for institutional uses as part of the Knowledge Precinct.

She submitted that a valued quality of Area 4 is its sense of openness provided by wide streets with sky views and low to mid-rise buildings, as well as a large number of heritage buildings. DDO61 therefore proposes a building street wall height of 24 metres with a six metre setback above this to enable better integration with existing low-scale and heritage buildings, and to facilitate a distinction between the built form of the Hoddle grid.

Ms Hodyl suggested that in Area 4:

Increasing the 24m control would erode the distinct heritage character of City North and reduce the sense of openness to the streets. It would diminish the distinction that this area has from the Hoddle grid to the south. Reducing the setback would diminish the level of solar access to these streets while concurrently increasing the development capacity of the area unnecessarily.

In relation to Area 5, Ms Hodyl submitted that the height controls proposed are consistent with the Structure Plan. They will maintain the current 32 metre height control, and introduce a street edge height of 24 metres similar to Area 4 to maintain its character. She did not comment specifically about Area 7, however, it is noted that this area is considered as part of the one precinct within the Structure Plan (Precinct 8 - Little Carlton).

Mr Pitt for the University of Melbourne submitted that a building height of 40 metres is not always suitable for a range of institutional uses, however he was generally comfortable with the proposed height limits subject to discretion, and the elimination of street setback requirements.

Mr Sheppard provided evidence for the University of Melbourne that the built form provisions should not be mandated. He noted that the first design objective in DDO61 is inappropriate because development should not scale back towards the University at Grattan Street. He suggested that the built form provisions should not be mandated.

Professor Hansen submitted that the proposed built form controls for Swanton Street create a height and land use inconsistency across the two street sides. She argued at the Hearing that the proposed 30% height bonus would create further inconsistency in height across the two street sides.

In relation to Area 4, Mr Ianno raised concerns about the height and interface with existing low scale dwellings and heritage buildings, and resultant amenity impacts due to loss of sky views and sunlight.

A further issue was raised in relation to the Structure Plan's intent to encourage building design for adaptive reuse. In relation to this, SJB on behalf of PDG Corporation had specific concerns with the Structure Plan in relation to minimum floor to ceiling heights, and submitted that multi-level development can be achieved with less clearance.

Ms Hodyl summarised that Strategy 5 of the Structure Plan seeks to establish built form controls to enable development to be adaptable for a range of uses over the long term, and that this was not included as a requirement in the Amendment. Specifically she stated:

The Structure Plan proposes that that to enable the adaptable reuse of buildings a minimum ground floor height of 4m should be adopted in all areas and building levels above ground floor should have a floor height of 3.2m.

Ms Hodyl stated that she would support this requirement being included within DDO61, and that DDO30, DDO44 and DDO45 in the City North area express building heights with floor to floor dimensions of 3.5 metres for residential uses, and four metres for non-residential uses.

(iii) Discussion

The Panel notes that a key feature of Area 4, Area 5, and Area 7 is their central location within the 'Knowledge Precinct', with the Areas character defined by its street morphology, subdivision pattern and heritage building stock. The strategic need for this area to intensify requires built form controls which enable design responses to juggle the competing demands of increasing floor capacity with integrating with heritage and character.

There is general support for the built form outcomes sought for Area 4, Area 5, and Area 7 except for the mandatory nature of the controls. The Panel supports the built form outcomes for these Areas subject to being worded as discretionary provisions.

The Panel believes, however, that the usability of DDO61 would be enhanced with the integration of these three Areas into 'sub areas' as suggested in the Czarny and Heggen versions of DDO61. The Panel therefore has adopted this approach in the Panel version of DDO61.

In relation to Mr Sheppard's comment about the first design objective of DDO61, the Panel supports the modification of this objective to specify that the tall built form transitions down towards the residential areas of North and West Melbourne, as this correctly acknowledges the distinction in the built form outcomes sought.

The Panel supports Ms Hodyl's recommendation to introduce floor to floor heights in DDO61. It notes the existing design objective within DDO61, as well as the strategic support within the Structure Plan. The Panel agrees with the inclusion of a discretionary design requirement, to facilitate buildings which are able to be adapted to a wide range of uses into the future.

In response to Professor Hansen's submission about inconsistent height outcomes on the two sides of Swanston Street, the Panel notes that DDO61 Area 4 is bounded by a number of streets such as Grattan, Queensberry, and Victoria Parade that have different planning controls. It seems difficult to specify a consistent built form outcome for these streetscapes which display diverse characters from one side of the street to the other. The Panel notes that the post exhibition version of DDO61 deleted the following built form outcome from Table 1 Area 4 that provided for consistent streetscape form on both sides of the street.

Provides consistent streetscape form on both sides of the street.

The wording of the built form outcome in the exhibition version does not specify which street the outcome is aimed at. The Panel agrees with the removal of this built form outcome.

However, in the Panel's view, Swanston Street provides an exception given its significance as a key boulevard within the city. The Panel notes Ms Hodyl's response to Professor Hansen's submission in relation to Swanston Street. Ms Hodyl submitted that there should be a height limit at the street edge which is consistent with the east side of Swanston Street. She recommended introducing a street edge setback of six metres above 32 metres.

Whilst the Panel does not support this for all boundary streets, the Panel acknowledges the important role of Swanston Street, and agrees that an effort should be made to provide a sense of built form unity across both street frontages. The Panel therefore supports Ms Hodyl's recommendation to include a discretionary setback of six metres above a 32 metre street edge building height for development fronting Swanston Street.

6.5 Conclusions and Recommendations

The Panel agrees with the drafting proposal put forward by Ms Heggen and Mr Czarny in their versions of DDO61 that the transitional height arrangements at the boundary with DDO32 should be included in Table 1 Area 2 in order to improve the usability of the overlay. The Panel also agrees with their approach to include a 14 metre maximum street edge height for Harcourt Street to facilitate a built form transition to the boundary of DDO61 and sensitive North Melbourne interface.

The Panel agrees with Ms Heggen's assessment that the Lort Smith Hospital site has potential to fulfil a number of strategic objectives including facilitating an activity link along Wreckyn Street to the knowledge cluster, and urban renewal outcomes more generally. The Panel is convinced that the site is large enough to adequately deal with transitional height arrangements to the adjoining DDO32 area in order to mitigate any negative amenity impacts. For this reason the Panel supports the Lort Smith Hospital site being included in Area 2 of DDO61.

The Panel supports the 40 metre building height for Area 3 and Elizabeth Street.

The Panel supports a discretionary approach in relation height controls for the UAG site to facilitate an appropriate design response across the site, however it does not support its inclusion in Area 6.

The Panel supports Area 6 being extended to include the entire Bob Jane and PDG sites, and the northern portion of the Toyota site. However, the Panel recommends that the building street edge height and street edge setback controls which apply to these properties in Area 4 for their frontages to Pelham, O'Connell and Berkeley Streets should be consequentially included in Area 6.

The Panel does not support Ms Hodyl's evidence to include setback requirements for Flemington Road and Elizabeth Street.

The Panel supports the modifications of the post exhibition version of DDO61 as follows:

- Amend Section 1.0 Design Objectives to in relation to the transition in height is towards North and West Melbourne and creating a strong sense of street definition determined by a 1:1 building height to street width ratio.
- Amend Table 1 (Area 2) to:
 - Include a requirement to transition in height from 14 metres to boundaries with Harcourt Street and DDO32.
- Amend Table 1 (Area 4 now Area 4.1) to:
 - Include the built form outcome to facilitate a consistent streetscape form on both sides of Swanston Street.
- Amend Table 1 (Area 6 now Area 5)
 - to include building street edge height and building street edge setback requirements for O'Connell, Pelham, and Berkeley Streets (as a consequence of the incorporation of the PDG and Toyota sites from Area 4).
 - to remove setback requirements for buildings fronting Grattan Street, Royal Parade, Elizabeth Street, Bedford Street, and Flemington Road.
- Amend Table 2 to:
 - Include a design requirement which encourages minimum floor to floor heights to facilitate adaptive uses.
 - Include a design requirement, to facilitate buildings which are able to be adapted to a wide range of uses into the future.
- Amend Table 1 (Area 4 now Area 4.1) to:
 - Include a discretionary requirement for a setback of 6 metres above 32 metre building height in Swanston Street.

The Panels version of DDO61 is provided in Appendix D.

The Panel supports the inclusion of the entire Bob Jane site, the PDG site, and the northern portion of the Toyota site into Area 6 (renamed Area 5 in the Panel version).

The Panel recommends:

- 4. Amend Schedule 61 to the Design and Development Overlay in accordance with Appendix D.**
- 5. Amend the Design and Development Overlay map to extend Area 2 to include the Lort Smith Hospital site.**
- 6. Amend the Design and Development Overlay map include the entire Bob Jane and PDG sites, as well as the northern portion of the Toyota site in Area 6 (renamed Area 5 in the Panel version).**

7 Heritage

The City North Structure Plan 2012 establishes heritage qualities as a key attribute of the precinct's character to be maintained and respected. The policy tension however between the aspirations of the regeneration and renewal of City North and the retention of heritage fabric was evident in a number of submissions.

7.1 Evidence and Submissions

Ms Williams questioned the timing of introducing a DDO61 to properties which were being considered as part of Amendment C197 and C198 City North Heritage Review. She further questioned whether the proposed DDO61 achieves the aspirations of the Structure Plan to preserve and protect heritage buildings. She submitted that the proposed heritage controls "*will struggle when rezoning and overlay controls encourage change and intensity of development*", that the terms in DDO61 dealing with adjoining heritage buildings are unclear, and the policy context is ambiguous. She elaborated:

CCZ5 area is proposed to be brought into the Heritage Places Outside the CCZ policy. I consider this is fundamentally flawed as the policy contains aspirations of form and scale which complement Graded buildings, and encourage new development to be respectful of the character and appearance of the area. However, when read in conjunction with the DDO controls which are encouraging buildings of 40m+ height, this policy is likely to hold little weight.

Ms Hodyl submitted that the proposed height limits in DDO61 have been considered in response to the heritage qualities of City North area, and that a reduction in height limit at the street edge is proposed in order to respond:

- to existing low-mid scale heritage buildings, particularly in Areas 4 and 5;
- to transitioning heights to North Melbourne in Area 2; and
- to built form outcome requirements for Area 1 which interface with the Queen Victoria Market.

Mr Czarny noted that the Structure Plan is explicit in this regard to provide an appropriate interface and transition to heritage buildings, and that this is an important design consideration in City North. He noted that the City North precinct will be subject to Clause 22.05 Heritage places outside the Capital City Zone. In his view, DDO61 effectively translates the Structure Plans objective for development to transition to an adjoining heritage place. He suggested however, that when properties contain both a Heritage Overlay and DDO61, that:

... thought should be given to the retention of the traditional heritage street wall (as opposed to defining a new higher street wall) with corresponding setbacks behind and the impacts of adjoining development.

Mr Chiappi highlighted problems for the Toyota site with a competing policy objective in relation to protecting the heritage building on a portion of the site. He noted that integration with heritage character is an important outcome and that:

... these desired outcomes are not by their nature matters that would normally be achieved by setting a physical measure, as is proposed here.

Mr Chiappi said Toyota took issue with applying Clause 22.05 to the City North area and that:

There is a disconnect between the aims of the DDO and the clause 22.05 heritage policy. An urban renewal policy seeking mid-rise development should not be paired with a heritage policy appropriate for low rise areas.

Ms Heggen in evidence for Toyota suggested that the intent of Clause 22.05 is “to apply a local policy that relates to the low rise heritage areas of North Melbourne, North Carlton and South Yarra to City North an area of regeneration and increased building height”. She acknowledged that the policy currently applies to the site, but submitted that given the urban renewal vision for the area, that the policy will ‘fight’ the aspirations of the Structure Plan and the potential for the site to make a significant contribution to the City North precinct:

There is a fundamental mismatch between the aspirations of Am C196 and the consequential demands of Clause 22.05 that for example seeks ‘concealment’ of higher parts of new development or alteration to a heritage building. This issue is particularly problematic for the Toyota site.

Mr Pitt for the University submitted that “the Tribunal has had to struggle with the heritage provisions of the Melbourne Planning Scheme in areas to the Design and Development Overlay apply”. Further, he submitted that:

The proposed policy at least to the extent of the sections “Concealment of higher rear parts (including additions)”; “Façade height and setback (new buildings)”; and “Building height” are inconsistent with the aspirations of the DDO61 and there should be an exclusion in respect of the Knowledge Precinct.

He contended that the provisions in Clause 22.05 in relation to demolition should be amended to acknowledge that B, C and D graded buildings in the Knowledge Precinct may be demolished where they meet the objectives of DDO61.

7.2 Discussion

The Panel acknowledges that there is a tension between DDO61 and the existing and proposed heritage controls which seek to preserve heritage fabric. The Panel agrees with Council’s assessment that the heritage qualities of City North provide important character elements to the area and commends Council in their efforts through the Structure Plan to provide guidance as to how the goal of intensification and development can respond to heritage buildings and streets.

The Panel accepts that DDO61 for the most part provides adequate guidance for development to respond to adjoining heritage buildings. However, the Panel agrees with Mr Czarny that thought should be given to the retention of the traditional heritage streets. It supports an approach which flags heritage street walls (as opposed to defining a new higher street wall) as a consideration where appropriate.

The Panel however considers that the tension between properties with Heritage Overlays in addition to DDO61 has not been adequately addressed by Council, and that Clause 22.05

Heritage Places is inadequate to provide policy guidance when decisions makers are required to resolve this tension. Ideally, this tension should have been addressed as part of the City North Heritage Review by reviewing the application of Clause 22.05 Heritage Places outside the Capital City Zone and its 'fit' with DDO61. However, it appears that the horse may have bolted for this to occur given the exhibition of Amendment C198.

The Panel sees there is a need to provide decision makers with some guidance in relation to the development of heritage buildings in the City North area. Given that Clause 22.05 currently exists, the Panel supports this policy continuing to apply to the City North area. It does however, agree with Mr Pitt and others that a number of the requirements for the design of new buildings are inconsistent and at odds with DDO61. The sections in Clause 22.05 which deal with the concealment of higher rear parts, as well as façade height and setbacks are problematic, and the Panel believes these requirements should be expressly excluded from applying in the City North precinct.

7.3 Conclusions and Recommendations

The Panels supports the inclusion of a provision in Table 2 of DDO61 which establishes the retention of the traditional heritage street wall as a consideration where appropriate.

The Panel supports Clause 22.05 applying to the City North area as an interim position, however, it recommends that the Capital City Zone North be excluded from the requirements to "*concealment of higher rear parts*", as well as those which relate to "*façade height and setbacks*".

The Panel recommends:

- 7. Amend Clause 22.05 Heritage Places outside the Capital City Zone with specific exclusions from the requirements for "*Concealment of Higher Rear Parts (including Additions)*" and "*Façade Height and Setback (New buildings)*" for the City North Precinct.**
- 8. Amend Schedule 61 to the Design and Development Overlay in accordance with Appendix D.**

Appendix A List of Submitters

No.	Submitter
1	Stuart Carroll
2	Julienne Chong
3	Ray Cowling
4	Richard & Margaret Jean Ely
5	Ben & Christine Field
6	Peter Markey
7	Jennifer Newman
8	Glenn Schmidt
9	Tricia Lumsden, Port Phillip Region, Dept of Sustainability and Environment
10	Kel Twite, SJB Planning, on behalf of UAG Group P/L
11	Dr Mark Moran and Joy Hussain
12	Christine McRae, ERM, on behalf of Piccolo Investments
13	Gino Ianno
14	Meera Freeman
15	Dr Lucy Firth
16	Tibor & Smika Jakobi
17	Professor Roz Hansen
18	David Minty, CBRE Town Planning, on behalf of Bob Jane Motors P/L
19	Andrew Caune
20	Vince Giuliano, PDG Corporation
21	James Lofting, HWL Ebsworth, on behalf of Lort Smith Animal Hospital
22	Eve Khanh Tran
23	Rowan Pollard, Synergy, North Melbourne Ltd
24	Professor David Mellor
25	Meredith Withers and Associates, on behalf of Toyota Motor Corporation
26	Geoff Leach, North and West Melbourne Assoc.
27	Lachlan Rhodes
28	Lisa Kogios, Metropolitan North West Region, VicRoads
30	Angela Williams
31	The Reverend Frederick James Brady

32	Steve Pappas
33	Lawrence Angwin
34	Carlos Carreson
35	Deborah Chemke, Manager-Central City Transport, Dept of Transport
36	David McRae (late)

Appendix B Document List

No.	Date	Description	Presented by
1.	12/08/13	Opening submission on behalf of the Planning Authority	Mr Townsend
2.	12/08/13	University of Melbourne Parkville Master Plan 2008	Mr Pitt
3.	12/08/13	Height Controls Table	Mr Townsend
4.	13/08/13	PowerPoint Presentation from Craig Czarny Expert Evidence	Mr Czarny
5.	13/08/13	Properties affected by Amendment ad Variations from the City North Heritage Review Map	Mr Pitt
6.	13/08/13	Laneway spacings map	Mr Kiriakidis
7.	13/08/13	Changes to the East-West link 2010 to 2013	Mr Kiriakidis
8.	15/08/13	New and Previous MUZ provisions	Mr Townsend
9.	15/08/13	Further Submission on behalf of the Planning Authority	Mr Townsend
10.	15/08/13	Opening submission on behalf of the Planning Authority (without draft watermark)	Mr Townsend
11.	15/08/13	Submission from the Department of Transport, Planning and Local Infrastructure	Mr Dalheim
12.	15/08/13	Submission on behalf of the Lort Smith Animal Hospital site	Mr Vorchheimer
13.	15/08/13	PowerPoint Presentation from Catherine Heggen Expert Evidence in relation to the Lort Smith Animal Hospital	Ms Heggen
14.	16/08/13	SJB Planning Submission on behalf of PDG Corporation Pty Ltd	Mr Smythe
15.	16/08/13	SJB Planning PowerPoint Presentation	Mr Smythe
16.	16/08/13	Submission by Professor Roz Hansen	Professor Hansen
17.	16/08/13	Submission for Toyota Motor Corporation Australia and Bob Jane Corporation Pty Ltd	Mr Chiappi
18.	16/08/13	PowerPoint Presentation from Catherine Heggen Expert Evidence in relation to Toyota Motor	Ms Heggen

No.	Date	Description	Presented by
		Corporation Australia and Bob Jane Corporation Pty Ltd sites	
19.	16/08/13	Clause 22.01 Urban Design within the Capital City Zone provisions	Mr Townsend
20.	20/08/13	Clause 22.04 Heritage Places within the Capital City Zone provisions	Mr Townsend
21.	20/08/13	Mr Czarny Version of DDO61	Mr Pitt
22.	20/08/13	Endorsed Plans under current Planning Permit for UAG site	Ms Heggen
23.	20/08/13	PowerPoint Presentation from Catherine Heggen Expert Evidence in relation to the UAG site	Mr Pitt
24.	20/08/13	Written submission on behalf of the UAG Corporation	Mr Pitt
25.	20/08/13	Written submission on behalf of the University of Melbourne	Mr Pitt
26.	20/08/13	Proposed additional smaller open spaces plan	Mr Pitt
27.	20/08/13	Melbourne C211 Amendment documents	Mr Pitt
28.	20/08/13	VCAT 469 decision University of Melbourne v Minister for Planning	Mr Pitt
29.	20/08/13	Section 7 of Melbourne C171 Panel Report	Mr Pitt
30.	20/08/13	VCAT 1694 decision Peddlethorp Architects v Melbourne CC	Mr Pitt
31.	20/08/13	VCAT 584 decision CK Designworks v Melbourne CC	Mr Pitt
32.	20/08/13	VCAT 2211 decision Rush v Melbourne CC	Mr Pitt
33.	20/08/13	VCAT 2534 decision Jopsal Pty Ltd v Melbourne CC	Mr Pitt
34.	20/08/13	Supreme Court of Victoria decision Van der Meyden v MMBW (1979)	Mr Pitt
35.	22/08/13	Written submission from Ms Williams	Ms Williams
36.	22/08/13	PowerPoint presentation from Ms Williams	Ms Williams
37.	22/08/13	Email from David McRae	Panel Chair

No.	Date	Description	Presented by
38.	22/08/13	Catherine Heggen Version of DDO61	Mr Townsend
39.	22/08/13	Closing submission on behalf of the Planning Authority	Mr Townsend
40.	22/08/13	Planning Authority's Revised Explanatory Report	Mr Townsend
41.	22/08/13	Planning Authority's Revised List of Changes	Mr Townsend
42.	22/08/13	Planning Authority's Revised Instruction Sheet	Mr Townsend
43.	22/08/13	Planning Authority's Revised DDO61	Mr Townsend

Appendix C Capital City Zone Schedule 5

PANEL VERSION

—/—/2012
C196

SCHEDULE 5 TO THE CAPITAL CITY ZONE

Shown on the planning scheme map as **CCZ5**

CITY NORTH

Purpose

To develop City North as a mixed use extension of the Central City.

To provide for a range of educational, research and medical uses as part of an internationally renowned knowledge district.

To encourage a range of uses that complement the capital city function of the locality and serves the needs of residents, workers, students and visitors.

1.0 Table of uses

—/—/2012
C196

Section 1 - Permit not required

USE	CONDITION
Accommodation (other than Corrective institution)	Along the street frontages as shown at Map 1 of Clause 43.01 Schedule 61, any frontage at ground floor level must not exceed 4 metres
Any use permitted under the Reference Areas Act 1978, the National Parks Act 1975, the Fisheries Act 1995, the Wildlife Act 1975 or the Forests Act 1958.	
Apiculture	Must meet the requirements of the Apiary Code of Practice, May 1997.
Education centre	
Home occupation	
Informal outdoor recreation	
Mineral exploration	
Mining	Must meet the requirements of Clause 52.08-2.
Minor utility installation	
Office	
Place of assembly (other than Amusement parlour, Function Centre and Nightclub)	
Railway	
Railway station	
Retail premises (other than Adult sex bookshop, Hotel, and Tavern)	
Road	

USE	CONDITION
Search for stone	Must not be costeaning or bulk sampling.
Tramway	

Section 2 - Permit required

USE	CONDITION
Adult sex bookshop	
Amusement parlour	
Car park (other than Commercial car park or an open lot car park)	Must meet the requirements of Clause 52.06.
Corrective institution	
Function Centre	
Hotel	
Industry	Must not be a purpose listed in the table to Clause 52.10.
Leisure and recreation (other than Minor sports and recreation facility and Informal outdoor recreation)	
Mineral, stone, or soil extraction (other than Extractive industry, Mineral exploration, Mining, and Search for stone)	
Nightclub	
Tavern	
Utility installation (other than Minor utility installation)	
Warehouse (other than Freezing and cool storage, and Liquid fuel depot)	
Any other use not in Section 1 or 3	

Section 3 - Prohibited

USE
Commercial car park or an open lot car park
Cold store
Extractive industry
Freezing and cool storage
Liquid fuel depot

Use of land

Exemption from notice and review

[An application to use land 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.](#)

[This exemption does not apply to an application to use land for a function centre, nightclub, tavern, brothel or adult sex bookshop.](#)

Decision guidelines

[Before deciding on a permit application under this schedule the responsible authority must consider, as appropriate:](#)

- [The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.](#)
- [The comments and requirements of relevant authorities.](#)
- [The existing and future use and amenity of the land and the locality.](#)
- [The impact the use will have on the amenity of existing dwellings on adjacent and nearby sites including noise emissions, and how this impact has been minimised.](#)
- [The provision of physical infrastructure and community services sufficient to meet the needs of the proposed use.](#)
- [The effect that existing uses may have on the proposed use.](#)

2.0 Subdivision

Exemption from notice and review

An application to subdivide land 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.

3.0 Buildings and works

Permit Requirement

A permit is required to construct a building or carry out works.

This does not apply to:

- Alterations to a building authorised under the Heritage Act, provided the works do not alter the existing building envelope or floor area.
- The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works provided they are not visible from any street, lane or public place.
- Changes to glazing of existing windows with not more than 15% reflectivity.
- External works to provide disabled access that complies with all legislative requirements.
- Buildings or works carried out by or on behalf of Parks Victoria under the Water Industry Act 1994, the Water Act 1989, the Marine Act 1988, the Port Management Act 1995, the Parks Victoria Act 1998 or the Crown Land (Reserves) Act 1978.
- Buildings or works for Railway purposes.

Application Requirements

An application for permit must be accompanied by a written urban context report documenting the key planning influences on the development and how it relates to its surroundings. The urban context report must identify the development opportunities and constraints, and document the effect of the development, as appropriate, in terms of:

- State Planning Policy Framework and the Local Planning Policy Framework, zone and overlay objectives.
- Built form and character of adjacent and nearby buildings.

- Heritage character of adjacent and nearby heritage places.
- Ground floor street frontages, including visual impacts and pedestrian safety.
- Microclimate, including sunlight, daylight and wind effects on streets and other public spaces.
- Energy efficiency and waste management.
- Public infrastructure, including reticulated services, traffic and car parking impact.

An application to construct a building or to construct or carry out works must include, as appropriate, upgrading of adjacent footpaths or laneways to the satisfaction of the responsible authority.

An application for a permit to construct or carry out works for development of a building listed in the Heritage Overlay must be accompanied by a conservation analysis and management plan in accordance with the principles of the Australian ICOMOS Charter for the Conservation of Places of Cultural Significance 1992 (The Burra Charter) to the satisfaction of the responsible authority.

Exemption from notice and review

[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.](#)

Decision guidelines

Before deciding on a permit application under this schedule the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The comments and requirements of relevant authorities.
- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking, loading of vehicles and access to parking spaces and loading bays.
- The adequacy of entrance to and egress from the site.
- The existing and future use and amenity of the land and the locality.
- The location, area, dimensions and suitability of use of land proposed for public use.
- The provision of landscaping.
- The effect of the proposed works on solar access to existing open spaces and public places.
- The provision of solar access to private open space areas in residential development.
- The responsibility for the maintenance of buildings, landscaping and paved areas.
- The impact a new development will have on the amenity of existing dwellings on adjacent sites and how this impact has been minimised.
- The incorporation of design measures to attenuate against noise associated with the operation of other businesses and activities, including limiting internal noise levels of new habitable rooms to a maximum of 45 dB in accordance with relevant Australian Standards for acoustic control, for new and refurbished residential developments and other sensitive uses.
- The provision of storage for refuse and recyclable material provided off-street is fully screened from public areas.
- The first five levels of buildings are developed with a “casing” of dwellings or offices so that a visual relationship between occupants of upper floors and pedestrians is able to be established and better surveillance of the street is achieved.

4.0 Demolition or Removal of Buildings

--/2012
C196

A permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.

This does not include:

- Demolition or removal of temporary structures.
- Demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation and/or local law.

Before deciding on an application to demolish or remove a building, the responsible authority may require an agreement pursuant to Section 173 of the Planning and Environment Act 1987 between the landowner and the responsible authority requiring, as appropriate:

- Temporary works on the vacant site should it remain vacant for 6 months after completion of the demolition.
- Temporary works on the vacant site where demolition or construction activity has ceased for 6 months, or an aggregate of 6 months, after commencement of the construction.

Temporary works must be constructed to the satisfaction of the responsible authority. Temporary works may include:

- The construction of temporary buildings for short-term retail or commercial use. Such structures shall include the provision of an active street frontage.
- Landscaping of the site for the purpose of public recreation and open space.

Exemption from notice and review

[An application to demolish or remove a building or 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.](#)

5.0 Advertising signs

A permit is required to erect an advertising sign, except for:

- Advertising signs exempted by Clause 52.05-4
- An under-verandah business sign if:
 - It does not exceed 2.5 metres measured horizontally, 0.5 metres vertically and 0.3 metres between the faces of the sign;
 - It is located between 2.7 metres and 3.5 metres above ground level and perpendicular to the building facade; and
 - It does not contain any animation or intermittent lighting.
- A ground floor business sign cantilevered from a building if:
 - It does not exceed 0.84 metres measured horizontally, 0.61 metres vertically and 0.3 metres between the faces of the sign;
 - It is located between 2.7 metres and 3.5 metres above ground level and perpendicular to the building facade; and
 - It does not contain any animation or intermittent lighting.
- A window display.
- A non-illuminated sign on a verandah fascia, provided no part of the sign protrudes above or below the fascia.
- Renewal or replacement of an existing internally illuminated business identification sign.

Exemption from notice and review

[An application to erect or construct or carry out works for an advertising sign, 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.](#)

Appendix D Design and Development Overlay 61

PANEL VERSION

SCHEDULE 61 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO61**

CITY NORTH

1.0 Design objectives

- To encourage City North to develop as a central city precinct characterised by university, research and medical buildings.
- To establish a ~~create a central city precinct with a~~ mid-rise scale of buildings (6 to 15 storeys) within City North that is distinct from the tall ~~high~~ built form in the Hoddle Grid area to the south, ~~complements existing development, and which~~ steps down at the interface to the lower scale surrounding established neighbourhoods in North and West Melbourne.
- To develop the Haymarket area as a central city gateway precinct and public transport interchange.
- ~~To create central city streetscapes defined by a generally consistent plane of building facades that collectively enclose the sides of the streetscapes whilst allowing good levels of daylight and sunlight to penetrate to the streets and to lower storeys of building.~~
- To support ~~provide~~ increased density and diversity of uses along the Victoria Street, Flemington Road, Elizabeth Street and Swanston Street tram corridors and around the proposed Grattan and CBD North Metro Rail stations.
- To establish built form that creates a strong sense of street definition by adopting a building height at the street edge determined by a 1:1 (building height to street width) ratio.
- To ensure development responds appropriately with suitable building scale, heights and setbacks to the existing character, context, interfaces with established residential areas, and immediate amenity.
- To ensure that new buildings respect the rich heritage fabric of the area and new buildings that adjoin the heritage buildings have regard to their height, scale, character and proportions.
- To develop a fine grain urban form by encouraging buildings with wide street frontages to be broken into smaller vertical sections.
- ~~To promote the development of Flemington Road, and Elizabeth Street as a civic spine into the central city.~~
- ~~To support the development of activity along Victoria Street and around the Haymarket area.~~
- To ensure university, research and medical buildings are actively integrated with the surrounding public realm.
- To encourage the ground floor of buildings to be designed so that they can be converted to a range of alternative active uses over time.
- To establish safe streets through urban intensification and the design of buildings to provide passive surveillance and activation of ground floors addressing the street.
- To ensure development allows good levels of daylight and sunlight to penetrate to the streets and to lower storeys of buildings.
- To deliver a scale of development that provides a high level of pedestrian amenity, having regard to sunlight, sky views and wind conditions.

- ~~▪ To ensure that the collective effect of all current and future development promotes a public realm (including little streets and laneways) which provides a pedestrian scale, has good daylight, reasonable access to sunlight throughout the year and generous sky views.~~
- To improve the walkability of the precinct by [encouraging](#) new laneways ~~through links and pedestrian connections.~~
- ~~▪ To create a streetscape microclimate where street trees will flourish~~
- ~~▪ To create a microclimate where green roofs, and green walls can flourish.~~
- ~~▪ To ensure that new development respects the scale of adjacent and nearby heritage places.~~

2.0 Buildings and works

[A permit is not required for public works or minor alterations or the installation of service fixtures to existing buildings.](#)

~~A permit is not required for:~~

- ~~▪ Buildings or works carried out by or on behalf of Parks Victoria under the Water Industry Act 1994, the Water Act 1989, the Marine Act 1988, the Port Management Act 1995, the Parks Victoria Act 1998 or the Crown Land (Reserves) Act 1978.~~
- ~~▪ Buildings or works for Railway purposes.~~
- ~~▪ The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works provided they are not visible from any street, lane or public place.~~
- ~~▪ External works to provide disabled access that complies with all legislative requirements.~~
- ~~▪ Alterations to a building which have been authorised under the Heritage Act, provided the works do not alter the existing building envelope or floor area.~~

All buildings and works requiring a permit should be constructed in accordance with:

- The preferred maximum [street edge height, preferred maximum building height and preferred upper level setback requirements for the specific areas as identified](#) ~~building height, building street edge heights and minimum setback requirements for the specific areas as defined in Table 1 of this Schedule. A permit cannot be granted to vary the building street edge podium height and minimum building street edge setbacks.~~
- [The design objectives and requirements to be achieved as set out in Table 1 of this Schedule.](#)

[An application to exceed the preferred maximum building height should demonstrate achievement of the relevant Performance Measures at Section 6.0 of this Schedule.](#)

[On corner sites where two different street edge heights are nominated, buildings should 'turn the corner' and apply the higher street edge height and transition to the lower nominated street edge height.](#)

[The street wall height is measured at the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building as the street edge, with the exception of architectural features and building services.](#)

- ~~▪ The preferred maximum building height should not be increased by more than 30% and only if it can be demonstrated that the upper storeys will be visually recessive and that development will not increase overshadowing of the public realm between 11am and 2pm at the equinox.~~
- ~~▪ The street wall height is measured at the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building at the street edge, with the exception of architectural features and building services.~~
- ~~▪ The design objectives and requirements to be achieved as set out in Table 1 of this Schedule.~~

3.0 Subdivision

A permit is not required to subdivide land.

4.0 Application Requirements

An application for permit, other than an application for minor buildings or works as determined by the responsible authority, must be accompanied by a comprehensive site analysis and urban context report documenting the key planning influences on the development. The urban context report must identify the development opportunities and constraints, and demonstrate how the development, addresses:

- State Planning Policy Framework and the Local Planning Policy Framework, zone and overlay objectives.
- The objectives, design requirements and outcomes of this Schedule.
- Built form and character of adjacent and nearby buildings.
- Heritage character of adjacent and nearby heritage places.
- Microclimate including sunlight, daylight and wind effects on streets and public spaces.
- Energy efficiency and waste management.
- Ground floor and lower level street frontages, including visual impacts and pedestrian safety.
- Public infrastructure, including reticulated services, traffic and car parking impact.

5.0 Decision guidelines

Before deciding on an application, the responsible authority must consider, as appropriate:

- Whether the proposal achieves the design objectives in Section 1 of this Schedule.
- Whether the proposal achieves the built form outcomes contained in Table 1
- Whether the proposal achieves the ~~design objectives and~~ design requirements contained in [Table 2](#) ~~this Schedule~~.
- Whether the development maintains and enhances the character and amenity of the streetscape.
- The wind effect at ground level as demonstrated by wind effects studies as necessary.

6.0 Performance measures

Before deciding on an application for a development which exceeds the preferred maximum height or varies the upper level setback, an applicant should demonstrate the achievement of the following, as appropriate:

- Upper levels above the maximum street wall height which are visually recessive and more diminutive than the building's base;
- Architectural design excellence and quality;
- Integrated design of building roofline;
- Incorporation of best practice Environmentally Sustainable Design;
- High quality restoration and adaptive reuse of heritage buildings where applicable;
- Improvement of existing public laneway connections where applicable;
- Integration of new pedestrian laneway linkages where appropriate; and
- Positive contribution to the enhancement of the public realm.

7.0 Exemption from notice and appeal

An application to construct a building or carry out works on land located within the Capital City Zone (CCZ5) 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.

8.0 Reference documents

City North Structure Plan 2012

Table 1 Preferred Built Form Outcomes for specific DDO Areas ~~Maximum Building Heights and Setbacks~~

<u>DDO Area</u>	<u>Building Height</u>	<u>Street Edge Height and setbacks</u>	<u>Built Form Outcome</u>	<u>Indicative Built Form Outcome</u>
1	<u>24 metres</u>	<p><u>Buildings facing O'Connell, Cobden and Princess Streets:</u> <u>20 metre street edge height.</u> <u>Any part of the building above 20 metres setback 4 metres from the street.</u></p>	<p>A scale of Development that:</p> <ul style="list-style-type: none"> • Delivers an even transition in scale from the lower built form in Peel Street and adjacent areas in North Melbourne; • Respects the heritage character of the Queen Victoria Market Buildings; • Avoids overshadowing the Queen Victoria Market buildings; • Ensures sunlight reaches the lower floors of new developments. 	<u>CoM to Insert diagram</u>
2	<u>24 metres</u>	<p><u>Buildings facing Harcourt Street:</u> <u>14 metre street edge height; and</u> <u>Any part of the building above 14 metres setback from the street behind a 45 degree line.</u></p> <p><u>Buildings adjacent to DDO32:</u> <u>14 metre building height at the property boundary; and</u> <u>Any part of the building above 14 metres setback from the property boundary behind a 45 degree line.</u></p> <p><u>Buildings facing all other streets:</u> <u>24 metre street edge height.</u> <u>Any part of the building above 24 metres setback from the street behind a 45 degree line.</u></p>	<p><u>Development that:</u></p> <ul style="list-style-type: none"> • Delivers an appropriate transition in scale of development from the lower scale built form in Courtney Street to the higher scale built form in Flemington Road • Limits amenity impacts of excessive building bulk, overlooking and overshadowing on existing buildings in DDO Area-32 	<u>CoM to Insert diagram</u>

<u>DDO Area</u>	<u>Building Height</u>	<u>Street Edge Height and setbacks</u>	Built Form Outcome	Indicative Built Form Outcome
3	40 metres	<p>Buildings facing all streets: 40 metre street edge height. <i>Any part of the building above 40 metres setback 6 metres from the street.</i></p>	<p><u>Development that:</u></p> <ul style="list-style-type: none"> Creates stronger definition to the streetscape. Development does not dominate buildings in Area 2. <u>Has a</u> scale of development that reinforces Flemington Road as a civic spine and facilitates the enhancement of its landscape character. 	CoM to Insert diagram

DDO Area	Building Height	Street Edge Height and setbacks	Built Form Outcome	Indicative Built Form Outcome
<p>4.1 (previously Area 4)</p>	<p><u>40 metres</u></p>	<p><u>Buildings facing Pelham, Queensberry, Bouverie, Leicester, Barry, Berkeley and Lincoln Square North and South Streets:</u> <u>24 metre street edge height.</u> <u>Any part of the building above 24 metres setback 6 metres from the street.</u></p> <p><u>Buildings facing O'Connell Street:</u> <u>20 metre street edge height.</u> <u>Any part of the building above 20 metres setback 6 metres from the street.</u></p> <p><u>Buildings facing Swanson Street:</u> <u>32 metre street edge height.</u> <u>Any part of the building above 32 metres setback 6 metres from the street.</u></p> <p><u>Buildings facing all other streets:</u> <u>40 metre street edge height.</u> <u>Any part of the building above 40 metres setback 6 metres from the street.</u></p>	<p>A scale of Development that:</p> <ul style="list-style-type: none"> Reinforces Elizabeth Street as a civic spine and facilitates the enhancement of its landscape character. Creates stronger definition to the streetscape. Development complements the existing character established by the university, research and medical buildings. Ensures sunlight reaches the lower floors of new developments. <u>Facilitates an integrated built form on both sides of Swanston Street.</u> Delivers a scale of development that provides street definition and a high level of pedestrian amenity, having regard to access to sunlight, sky views and a pedestrian friendly scale. Provides a street edge height that integrates new development with lower scale heritage buildings. 	<p>CoM to Insert diagram</p>

<u>DDO Area</u>	<u>Building Height</u>	<u>Street Edge Height and setbacks</u>	<u>Built Form Outcome</u>	<u>Indicative Built Form Outcome</u>
4.2 (previously Area 5 and Area 7)	<u>32 metres</u>	<u>Buildings facing all streets:</u> <u>24 metre street edge height.</u> <u>Any part of the building above 24 setback 6 metres from the street.</u>	<u>Development that:</u> <ul style="list-style-type: none"> Delivers a scale of development that provides a high level of pedestrian amenity, including access to sunlight at ground floor (to Berkeley Street), sky views and a pedestrian friendly scale. Development Complements the scale of existing heritage buildings. 	CoM to Insert diagram
Area 5 (previously Area 6)	<u>60 metres</u>	<u>Buildings facing Pelham and Berkeley Streets:</u> <u>24 metres street edge height.</u> <u>Any part of the building above 24 setback 6 metres from the street.</u> <u>Buildings facing O'Connell Streets:</u> <u>20 metres street edge height.</u> <u>Any part of the building above 20 setback 6 metres from the street.</u> <u>Buildings facing Blackwood Street:</u> <u>40 metres street edge height.</u> <u>Any part of the building above 40 setback 10 metres from the street.</u>	<u>Development that:</u> <ul style="list-style-type: none"> A built form that Supports the gateway role of the Haymarket. <u>Has a</u> scale of development that is complementary to the proposed medium level built form of its surrounds.. <u>Has a</u> consistent streetscape built form that integrates Elisabeth Street with Flemington Road. Does not overshadow the proposed civic space within the Haymarket. Delivers a scale of development that provides an appropriate transition to the lower scale built form in Berkeley and Pelham Street. Provides a high level of pedestrian amenity, including access to sunlight to ground floor and sky views. 	CoM to Insert diagram
<u>AREAS 1-5</u>		<u>On the street edge of laneway frontages, any part of the building above 10.5 metres setback 4 metres from the street.</u>	Ensures laneways have appropriate access to daylight and sunlight.	

Table 2 Design Requirements for all DDO Areas ~~Design Objectives and Design Requirements~~

Design Objective	Design Requirement
Building Heights, Scale and Setbacks	
<p>To ensure that the height of new buildings reinforces the built form character of specific areas as defined in Table 1 in this Schedule.</p> <p>To ensure appropriate building scale, height and setbacks at interfaces with established residential areas having regard to existing character, context and amenity.</p> <p>To ensure appropriate building scale on the side and rear boundaries of new buildings and works that respects the scale of existing adjoining buildings.</p> <p>To avoid to exposed blank walls</p> <p>To assist in limiting visual impact and adverse amenity on adjacent development sites.</p> <p>To promote articulated rooflines with architectural interest and variation.</p> <p>To establish a generally consistent built form at to the street edge that creates a strong sense of definition and place.</p> <p>To ensure that the scale of built form provides an urban environment that is comfortable for pedestrians.</p> <p>To ensure equitable and good access to sunlight / daylight for occupants of buildings and in public places.</p> <p>To ensure that new development is adaptable over the long term to a range of alternate uses.</p>	<p>Deliver a scale of development at the street edge in accordance with Table 1 in this Schedule.</p> <p>Buildings should be constructed to the street boundary of the site.</p> <p>Buildings should have a minimum ground floor to floor height of 4 metre at ground floor and a minimum floor to floor height of 3.2 metre in levels above the ground floor.</p>
<p>To ensure that new buildings and works adjoining individually significant heritage buildings or buildings within a heritage precincts respects the character, form, massing and scale of the heritage buildings.</p>	<p>The design of new buildings should respect the character, height, scale, rhythm and proportions of the heritage buildings.</p> <p>New buildings should step down in height to adjoining lower scale heritage buildings.</p> <p>New buildings should consider retaining the traditional heritage street wall (as opposed to defining a new higher street wall), where appropriate.</p>
Building Facades and Street Frontages	
<p>To ensure that buildings are well designed and enhance the amenity of City North.</p>	Addressing the Street

Design Objective	Design Requirement
<p>To deliver a fine grain built form with architectural variety and interest.</p> <p>To encourage high quality facade and architectural detailing.</p>	<p>The articulation of building façades should express a fine grain. Expressing the vertical elements is encouraged to minimise the dominance of wide building frontages.</p> <p>Multiple doors/entrances to buildings and windows should be provided off the street to improve activation of the street.</p> <p>The facades of buildings should maintain the continuity, and traditional characteristic vertical rhythm of streetscapes.</p> <p>All visible sides of a building should be fully designed and appropriately articulated and provide visual interest.</p> <p>Blank building walls that are visible from streets and public spaces should be avoided.</p> <p>Buildings on corner sites should address both street frontages.</p> <p>Service areas</p> <p>Service areas (plant, exhaust, intake vents and other technical equipment and other utility requirements) should be treated as an integral part of the overall building design and visually screened from public areas.</p> <p>Buildings should be designed to integrate attachments (including antennae) without disrupting the appearance of the building.</p> <p>Building Projections</p> <p>Building projections outside the property boundary should accord with Council's Road Encroachment Guidelines.</p>
<p>Active and Safe Street Frontages</p>	
<p>To create safe streets.</p> <p>To ensure all streets are pedestrian oriented and contribute to pedestrian safety.</p> <p>To ensure development presents welcoming, engaging and active edges to streets and other public spaces at ground floor and the street frontages of lower storeys.</p> <p>To ensure development contributes to passive surveillance of the public domain.</p>	<p>Ground floor frontages should contribute to city safety by providing lighting and activity.</p> <p>At least the first five levels of a building should provide windows and balconies, fronting the street or lane.</p> <p>Access to car parking and service areas should minimise impact on street frontages and pedestrian movement.</p> <p>Carparking should not be located at ground floor and should not occupy more than 20% of the length of the street frontage above ground floor.</p>

Design Objective	Design Requirement
	Facades at ground level should not have alcoves and spaces that cannot be observed by pedestrians.
To provide continuity of ground floor shops and food and drink premises in proposed activity nodes.	Buildings with ground-level street frontages along Royal Parade at the Haymarket area and Victoria Street as shown on Map 1 should contribute to the appearance and support the proposed retail function of the area to the satisfaction of the responsible authority, by providing: <ul style="list-style-type: none"> ▪ At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises. ▪ Clear glazing (security grilles should be transparent)
To ensure ground floor frontages to major pedestrian area add interest and vitality.	Buildings with ground-level street frontages to Elizabeth Street, Peel Street, Grattan Street, Swanston Street and Queensberry Streets as shown on Map 1 should present an attractive pedestrian oriented frontage to the satisfaction of the responsible authority, by providing: <ul style="list-style-type: none"> ▪ at least 5 metres or 80 % of the street frontages (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises; or ▪ at least 5 metres or 80 % of the street frontages (whichever is the greater) as any other uses, customer service areas and activities, which provide pedestrian interest or interaction. ▪ Clear glazing (security grilles should be transparent).
Provision of Public Places	
To encourage the provision of well designed and publicly accessible spaces	The opportunity for the inclusion of public spaces should be promoted.
Sunlight to Public Places	
To ensure that new buildings allow daylight and sunlight penetration to public spaces, and open space throughout the year. To protect sunlight to public spaces. To ensure that overshadowing of public spaces by new buildings or works does not result	Buildings and works should not cast a shadow between 11.00 am and 2.00 pm on 22 March and 22 September over public space, public parks and gardens, public squares, major pedestrian routes including streets and lanes, and privately owned plazas open to the public. A permit may only be granted if the overshadowing will not prejudice the amenity of those

Design Objective	Design Requirement
in significant loss of sunlight.	<p>areas.</p> <p>Maximise the extent of the northerly aspect of public open spaces.</p> <p>Ensures sunlight reaches the lower floors of new developments.</p>
Lanes Pedestrian Links	
<p>To encourage the creation of new lanes and connections, particularly in locations where block lengths exceed 100m.</p> <p>To ensure new laneways are aligned to respect the street pattern;</p> <p>To ensure new laneways integrate with the pattern of development of adjacent areas,</p> <p>To accommodate vehicular and service access to developments.</p>	<p>Provide new laneways as identified on Map 2</p> <p>The location and alignment of new lanes should respect the street pattern.</p> <p>Pedestrian through block connections should be provided where the average length of a street block exceeds 100 metres. For street blocks exceeding 200m in length, at least two connections should be provided.</p> <p>Connections should be located toward the centre of the street block, no more than 70m from the next intersection or pedestrian connection.</p> <p>Where a development site is suitably located for a pedestrian connection, but does not extend the full depth of the block, the development should include a connection which will be completed when a connection is provided through the adjoining site.</p> <p>Where a development site has the potential to achieve a through-block connection by extending an existing or proposed connection on an adjoining site, the new development should provide for the completion of the through-block connection.</p> <p>Developments should provide pedestrian connections that are aligned with other lanes or pedestrian connections in adjacent blocks (or not offset by more than 30 metres) so as to provide direct routes through Southbank.</p> <p>Bluestone lanes, kerbs and guttering within heritage precincts should be retained, and should also be retained outside heritage precincts.</p> <p>Laneway design and character</p> <p>Through-block pedestrian links and other public spaces should be designed to enable clear end-to-end views through.</p> <p>New laneways should be a minimum width of 6 metres wide.</p> <p>New laneways are to should be open to the sky.</p>

Design Objective	Design Requirement
	<p><u>Developments should provide pedestrian connections which are:</u></p> <ul style="list-style-type: none"> ▪ <u>Safe, direct, attractive and which provide a line of sight from one end of the connection to the other;</u> ▪ <u>Publicly accessible;</u> ▪ <u>At least 3-6 metres wide;</u> ▪ <u>Open to the sky or, if enclosed, at least 7.6 metres high; and</u> ▪ <u>Flanked by active frontages.</u> <p>Existing lanes should not be covered.</p> <p>The pedestrian amenity of lanes which are primarily used for servicing and car parking, should be improved through the use of materials, lighting and designated areas for pedestrians and vehicles.</p> <p>Lanes are to should provide 24 hour public access, seven days a week.</p> <p>Buildings and works adjoining lanes</p> <p>The design and management of access and loading areas along lanes should not impede pedestrian movement.</p> <p>New development should respond to the fine grain pattern, vertical articulation and division of building frontages where this forms part of the lane way character.</p> <p>New development along lanes should provide highly articulated and well detailed facades that create visual interest, particularly at the lowers levels.</p>
Weather Protection	
<p>To promote pedestrian amenity.</p> <p>To ensure built form does not increase the level of wind at ground level and that buildings are designed to minimise any adverse effect on pedestrian comfort.</p>	<p>The design of the building should minimise the potential for ground-level wind and any adverse effect on pedestrian comfort as follows:</p> <ul style="list-style-type: none"> ▪ In the proposed activity nodes shown on Map 1 the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5o wind direction sector <u>should</u> not exceed 10 ms-1. This speed is generally acceptable for stationary, long term exposure (>15 minutes); for instance, outdoor restaurants/cafes, theatres ▪ Along major pedestrian areas shown on Map 1 the peak gust speed

Design Objective	Design Requirement
	<p>during the hourly average with a probability of exceedence of 0.1% in any 22.5o wind direction sector should not exceed 13 ms-1. This speed is generally acceptable for stationary, short term exposure (<15 minutes); for instance, window shopping, standing or sitting in plazas;</p> <ul style="list-style-type: none"> ▪ Along all other streets the peak gust speed during the hourly average with a probability of exceedence of 0.1% in any 22.5o wind direction sector should not exceed 16 ms-1 (which results in half the wind pressure of a 23ms-1 gust) which is generally acceptable for walking in urban and suburban areas - <p>Landscaping within the public realm cannot be relied on to mitigate wind.</p>
<p>To protect pedestrians from the elements by providing shelter from the rain and sun, without causing detriment to building or streetscape integrity.</p>	<p>Buildings should include protection from the weather in the form of canopies, verandahs and awnings.</p> <p>The design, height, scale and detail of canopies, verandahs and awnings:</p> <ul style="list-style-type: none"> ▪ should be compatible with nearby buildings, streetscape and precinct character; ▪ may be partly or fully transparent to allow light penetration to the footpath and views back up the building façade; ▪ should be setback to accommodate existing street trees; and ▪ should be located so that verandah support posts are at least 2 metres from tree pits. <p>Protection need not be provided where it would interfere with the integrity or character of heritage buildings, heritage precincts or streetscapes and lanes.</p>
<p>Integration of University Campuses</p>	
<p>To ensure university campuses connect into the fabric of City North.</p>	<p>Provide street level activity at the frontage of institutional buildings.</p>

Retain Map 1

Delete Map 2

**MELBOURNE PLANNING SCHEME AMENDMENT C196 CITY NORTH
PANEL HEARING RECOMMENDATIONS (HELD 12-22 AUGUST 2013)**

KATHY MITCHELL (CHAIR)

SUZANNE BARKER (MEMBER)

SUMMARY OF PANEL RECOMMENDATIONS OCTOBER 2013

The Panel supports the adoption of the Amendment (subject to the following further recommendations):

1. Amend Schedule 5 to the Capital City Zone.
2. Amend Schedule 61 to the Design and Development Overlay
3. Amend the Design and Development Overlay Map to extend Area 2 to include the Lot Smith Animal Hospital.
4. Amend the Design and Development Overlay Map to include the entire Bob Jane and PDG sites as the northern portion of the Toyota site in Area 6.
5. Amend Clause 22.12 Gaming Premises Policy to apply the policy to Schedule 5 to the Capital City Zone.
6. Amend Clause 22.05 Heritage Places outside the Capital City Zone with specific exclusions from the requirements for “Concealment of higher rear parts (including additions) and façade heights and setbacks (new buildings) for the City North precinct.

	SPECIFIC PANEL RECOMMENDATIONS	ACCEPT/REJECT	MANAGEMENT RESPONSE
<p>Schedule 5 to the Capital City Zone</p> <p><i>(Amend in accordance with Appendix C)</i></p>	List Function Centre as a Section 2 use.	Accept	<p>The Panel supports Council’s inclusion of the land use term “Function Centre” (which includes conference centres and reception centres) as a Section 2 permit required use in the post exhibition version of Schedule 5 to the Capital City Zone.</p> <p>This recommendation is consistent with the post exhibition version of the schedule presented by Council to the Panel.</p>
	Insert a “Use” section with decision guidelines and exemption from notice and review provisions (other than for a Function Centre, Nightclub, Tavern, Brothel or Adult Sex Bookshop).	Accept	<p>The Panel recommends that the schedule to the Capital City Zone follow the formulation adopted in the Fisherman’s Bend Precinct to include a “Use” section and a limited suspension of appeal rights applies.</p> <p>The Panel supports a modified approach to the drafting of Schedule 5 to the Capital City Zone similar to that introduced in the Schedule 4 to the Capital City Zone (Fisherman’s Bend) to target notice and review provisions to uses which could impact on residential amenity.</p> <p>The inclusion of a “Use” section together with Decision guidelines on the use of land, and the re-instatement of notice and review provisions is acceptable.</p>
	Reinstate the exemption from notice and review provisions for Building and Works, Demolition and Advertising Signs.	Accept	<p>The Panel does not support the blanket exclusion of the of Notice and Review provisions in the Capital City Zone on the basis that it is counter to the purpose of the zone to enable a broad range of uses to co-locate within the Central City.</p> <p>The reinstatement of exemptions from notice and review rights is accepted.</p>

	SPECIFIC PANEL RECOMMENDATIONS	ACCEPT/REJECT	MANAGEMENT RESPONSE
<p>Schedule 61 to the Design and Development Overlay</p> <p>(Amend in accordance with Appendix D)</p>	<p>Amend Section 1 Design Objectives to provide greater clarity and consistency with the City North Structure Plan in relation to the transition in height towards North and West Melbourne and creating a strong sense of street definition determined by a 1:1 building height to street width ratio along and specific objectives in relation to sunlight for streets and buildings, to ensuring development responds to residential amenity encouraging walkability and building adaptability.</p>	<p>Accept</p>	<p>It is agreed to amend Section 1 of the DDO. The revised Design Objectives provide greater clarity and consistency with the City North Structure Plan 2012.</p>
	<p>The Panel considers that Schedule 61 to the Design and Development Overlay is complex in its structure which combines all the relevant DDO provisions and local policies into one document. The Panel finds the built form controls confusing in its mix of discretionary and mandatory controls. The mandatory controls relate specifically to building street edge heights, building streets edge setbacks and also sunlight to public places and laneways.</p>	<p>-</p>	<p>The Panel fails to acknowledge the advice of senior DTPLI staff who endorsed the current approach in the initial drafting of the amendment.</p> <p>The DDO schedule was drafted with mandatory height controls to deliver a mid-rise development with a consistent street wall height and upper form generally setback in a recessive manner. This will ensure that new developments are better integrated into existing streetscapes, in addition to achieving a quality public realm through street activation and solar access and natural light. Given the comprehensive justification provided by Council for mandatory controls, the criticism by Panel that Council should have initially adopted the Minister for Planning and the previous Panels position on approved Amendment C171 (Southbank) against using mandatory controls is not warranted.</p>

	SPECIFIC PANEL RECOMMENDATIONS	ACCEPT/REJECT	MANAGEMENT RESPONSE
Section 2	<p>Amend Section 2 Building and Works to include:</p> <ul style="list-style-type: none"> the deletion of the mandatory provisions; 	Accept	<p>It is agreed to accept the Panel's recommendation to delete the mandatory provisions and apply discretionary measures. In areas where height and setbacks needs to be strongly regulated to protect the quality of the public realm or to protect adjacent areas with high amenity, strengthened built form objectives and provisions have been introduced.</p>
	<ul style="list-style-type: none"> the deletion of the 30% height limit discretion to be replaced as a Performance Measures. 	Partially accept	<p>The Panel does not support Council's proposal to nominate a prescriptive 30% height increase over and above the preferred building heights as an adequate mechanism to assist decision makers. Instead, the Panel is supportive of introducing clear performance measures into DDO61 which establish criteria against which applications should be assessed.</p> <p>It is agreed to accept deletion of the 30% height limit discretion but oppose the recommended performance measures for developments exceeding the preferred height and setback on the basis that:</p> <ul style="list-style-type: none"> It is inconsistent approach with recently approved DDO's. All applications for development (regardless as to whether they exceed the height and setback controls or not) are required to demonstrate compliance with design objectives, outcomes and specific requirements. Where applications are seeking to exceed the preferred heights and setbacks, they should also be assessed for their compliance with the relevant design objectives, built form requirements and outcomes and design requirement in the DDO. A requirement to comply with the performance measures as proposed by the Panel already exists in the planning scheme with the exception of the following design requirement: <i>Upper levels above the maximum street wall heights should be visually recessive and more diminutive than the building's base.</i>

	<i>PANEL RECOMMENDATIONS</i>	<i>ACCEPT/REJECT</i>	<i>MANAGEMENT RESPONSE</i>
	Amend Section 5 Decision Guidelines to reflect the proposed changes to Table 1 and Table 2.	Accept	
	Insert Section 6 Performance Measures where applications are seeking to exceed the preferred maximum height, upper level setback.	Reject	Disagree to insert Performance Measures. Refer to above. Agree to the inclusion of the following identified performance measure as a design requirement: Upper levels above the maximum street wall heights should be visually recessive and more diminutive than the building's base.
	Amend Section 7 to reinstate exemption from notice and appeal requirements for buildings and works.	Accept	Refer to above.
Table 1	Amend Table 1 to: <ul style="list-style-type: none"> • Rename to "Preferred Built Form Outcome for Specific DDO Areas" to highlight the discretionary nature of the controls. • Include new columns and headings to simplify the nature of the built form controls. • Consolidate the seven areas to five , re-name Area 4 to Area 4.1, re-name Area 5 and Area 7 to Area 4.2 re-name Area 6 to Area 5. • Insert diagrams showing indicative built form outcomes. 	Accept Accept Reject Partially Accept	The consolidation of Areas 4, 5 and 7 is not supported given that each area is unique with specified building height, street edge setback and built form outcomes. It is agreed that a diagram to show indicative built form outcomes for land within Area 2 that is adjacent to DDO 32 is appropriate.

	PANEL RECOMMENDATIONS	ACCEPT/REJECT	MANAGEMENT RESPONSE
	Amend Table 1 (Area 2) to include a requirement to transition in height from 14 metres to boundaries with Harcourt Street and DDO32.	Accept	The Panel acknowledges support for the provisions introduced by Council to Area 2 in the post exhibition version of DDO61. These provisions require a height transition for properties that adjoin existing DDO 32 (14 metre mandatory height limit). It is agreed with the Panel that an additional 14 metre street edge height limit along Harcourt Street is a sensible approach to facilitate an appropriate interface with the more sensitive areas of North Melbourne and Harcourt Street in particular.
	Amend Table 1 (Area 3)	Reject	<p>The Panel supports the proposed building height limits of 40 metres in Area 3 and 24 metres in Area 2 which it considers will provide an appropriate transition of building heights from the tall built form on Flemington Road towards the low scale built form scale in Courtney Street.</p> <p>In the redrafted Panel version of DDO 61, the Panel proposes to introduce a setback of 6 metres above the 40 metre height limit along Flemington Road. This change is not supported by discussion in the body of the report nor is it proposed by any party to the amendment. It is considered that this change has been made in error and therefore cannot be supported.</p>
	Amend Table 1 (Area 4) to include the built form outcome to facilitate a consistent streetscape form on both sides of Swanston Street by way of a discretionary requirement for a setback of 6 metres above a 32 metre building height in Swanston Street.	Agree	The Panel acknowledges the important role of Swanston Street and considers that there should be a height limit at the street edge which is consistent with the east side of Swanston Street. This response is consistent with Council's expert evidence presented at the Panel Hearing.
	Amend Table 1 (Area 6) to include building street edge height and building street edge setback requirements for O'Connell, Pelham, and Berkeley Streets (as a consequence of the incorporation of the PDG and Toyota sites from Area 4.	Reject	The Panel's recommendation to include the PDG site and the northern portion of the Toyota site into Area 6 (60 metre limit) is not supported. The recommendation generally reflects the existing provisions in Area 6 which require a street edge setback from Pelham and Berkeley Street. The street edge setback along O'Connell Street is not appropriate given that the extension of Area 6 along O'Connell Street is not supported.

	PANEL RECOMMENDATIONS	ACCEPT/REJECT	MANAGEMENT RESPONSE
	<ul style="list-style-type: none"> To remove setback requirements for buildings fronting Grattan Street, Royal Parade, Elizabeth Street, Bedford Street and Flemington Road. 	Reject	The height limits as proposed in the Amendment are consistent with the City North Structure Plan 2012. Height limits at the Haymarket provide the opportunity to create a new gateway and civic centre. This can be provided by a 60 metre height limit with a 40 metre street edge to integrate with the proposed height limit on the Elizabeth Street and Flemington Road civic spines and provide articulation of the street edge at a more human scale.
Table 2	<p>Amend Table 2 (Design Requirements for all DDO Areas to:</p> <ul style="list-style-type: none"> Include a design objective to facilitate buildings which are able to be adapted to a wide range of alternate uses in the future. 	Agree	Agree to amend Table 2
	<ul style="list-style-type: none"> Include a design requirement which encourage minimum ground floor to floor height of 4 metres at ground floor and minimum floor to ceiling heights of 3.2 metres on the upper levels. 	Agree	Agree to amend Table 2
	<ul style="list-style-type: none"> Include a design requirement to ensure that new buildings should consider retaining the traditional heritage street wall height (as opposed to defining a new higher street wall) where appropriate. 	Agree	Agree to amend Table 2
	<ul style="list-style-type: none"> Delete the prescriptive requirement to provide new lanes in locations specified in Map 2 and replace with discretionary through block connection requirements for blocks exceeding 100 metres. 	Agree	Agree to amend Table 2.

	PANEL RECOMMENDATIONS	ACCEPT/REJECT	MANAGEMENT RESPONSE
Map 2	Delete Map 2-proposed Laneway through links.	Agree	<p>The Panel supports Council's efforts to increase permeability but does not support the prescription of laneway locations as a mandatory provision. Rather, the panel considers that laneways are more effectively delivered through negotiations with developers and that the stipulation of block lengths should be adequate as a flag for decision makers to take this into consideration.</p> <p>It is accepted that the identification of specific connection is too rigid. Nonetheless, there is a need to identify where through block connection are required, and therefore design requirements for pedestrian through block connections have been inserted into the DDO.</p> <p>This approach is consistent with Council's response to the same recommendation of the C171 (Southbank) Panel.</p>
Design and Development Overlay Map 4	Amend DDO map to extend Area 2 to include the Lort Smith Animal Hospital (24-36 Villiers Street and 15-27 Wrecklyn Street North Melbourne.	Agree	<p>It is agreed to extend Area 2 (24 metre height limit) to include the Lort Smith Animal Hospital as well as the properties at 38 and 40 Villiers Street and 13-21 Vale Street which adjoin Area 2 and the Animal Hospital. It should be noted that these properties are currently within a 14 metre mandatory height control area.</p> <p>Prior to a report being presented to the Future Melbourne Committee recommending adoption of Amendment C196, it is considered appropriate to allow property owners affected by this change a further period of 4 weeks to comment on the revised position (post panel version). Comments received will be included in the report to Committee.</p>

	PANEL RECOMMENDATIONS	ACCEPT/REJECT	MANAGEMENT RESPONSE
	Amend DDO map to include the entire Bob Jane site at (683-685 and 687-699 Elizabeth Street, Melbourne) and PDG site (690-694 and 696-708 Elizabeth Street, Melbourne), as well as the northern portion of the Toyota site (611-669, 671-673 and 675-681 Elizabeth Street, Melbourne) in Area 6 (Area 5 in the Panel version).	Partially agree	Agree to amend DDO map to include the entire Bob Jane site into Area 6. The Panel's recommendation to include the PDG site and the northern portion of the Toyota site into Area 6 (60 metre height area) is not supported. The height limits as proposed are consistent with the City North Structure Plan 2012. Height limits at the Haymarket provide the opportunity to create a new gateway and civic centre. This can be provided by a 60 metre height limit with a 40 metre street edge to integrate with the proposed height limit on the Elizabeth Street and Flemington Road civic spines and provide articulation of the street edge at a more human scale.
Gaming Premises Policy (Clause 22.12)	Amend the Gaming Premises Policy to apply the policy to Schedule 5 to the Capital City Zone.	Agree	This recommendation is consistent with the post exhibition version of the policy presented by Council to the Panel.
Heritage Places Outside the Capital Zone Policy (Clause 22.05)	Panel supports applying the Heritage Places outside the Capital City Zone policy to the City North Area but recommends that the policy be amended as follows <ul style="list-style-type: none"> Amend Clause 22.05 with specific exclusions from the requirements for "Concealment of higher rear parts (including additions)" and those that relate to "façade heights and setbacks (new buildings)" for the City North precinct. 	Reject	The Panel recognises the conflict in applying the Heritage policy to the City North Precinct which includes low rise heritage areas predominantly in North Melbourne and areas of potential growth resulting in mid-rise developments. It is accepted that there is an inconsistency between the aims of the DDO61 and Clause 22.05 Heritage Policy. If the policy is amended as recommended to suite areas of regeneration and increased height, then the policy is no longer appropriate for the low-rise heritage areas within the precinct. The review of the Heritage Places Outside the Capital City Zone Policy (Clause 22.05) is included as a project in the 2014/2015 Strategic Planning (Local Policy) work program. The proposed changes to the policy should not be made in isolation but rather should be considered in detail when the Heritage Policy is reviewed.

**Planning Scheme Amendment C196-City North
 Design and Development Overlay 61 Area 2
 Chronology of controls prior to the Panel hearing**

The height controls in the amendment were developed through the City North Structure Plan.

The draft City North Structure Plan (May 2011) included a proposition to increase the heights in Area 2. This included increases to much of the current 32m height limit on Flemington Road and the 14m height limit for the remaining area to a predominantly 40 metre height limit transitioning down to 24m along the Courtney Street frontage. This is illustrated in the figure 1 below.

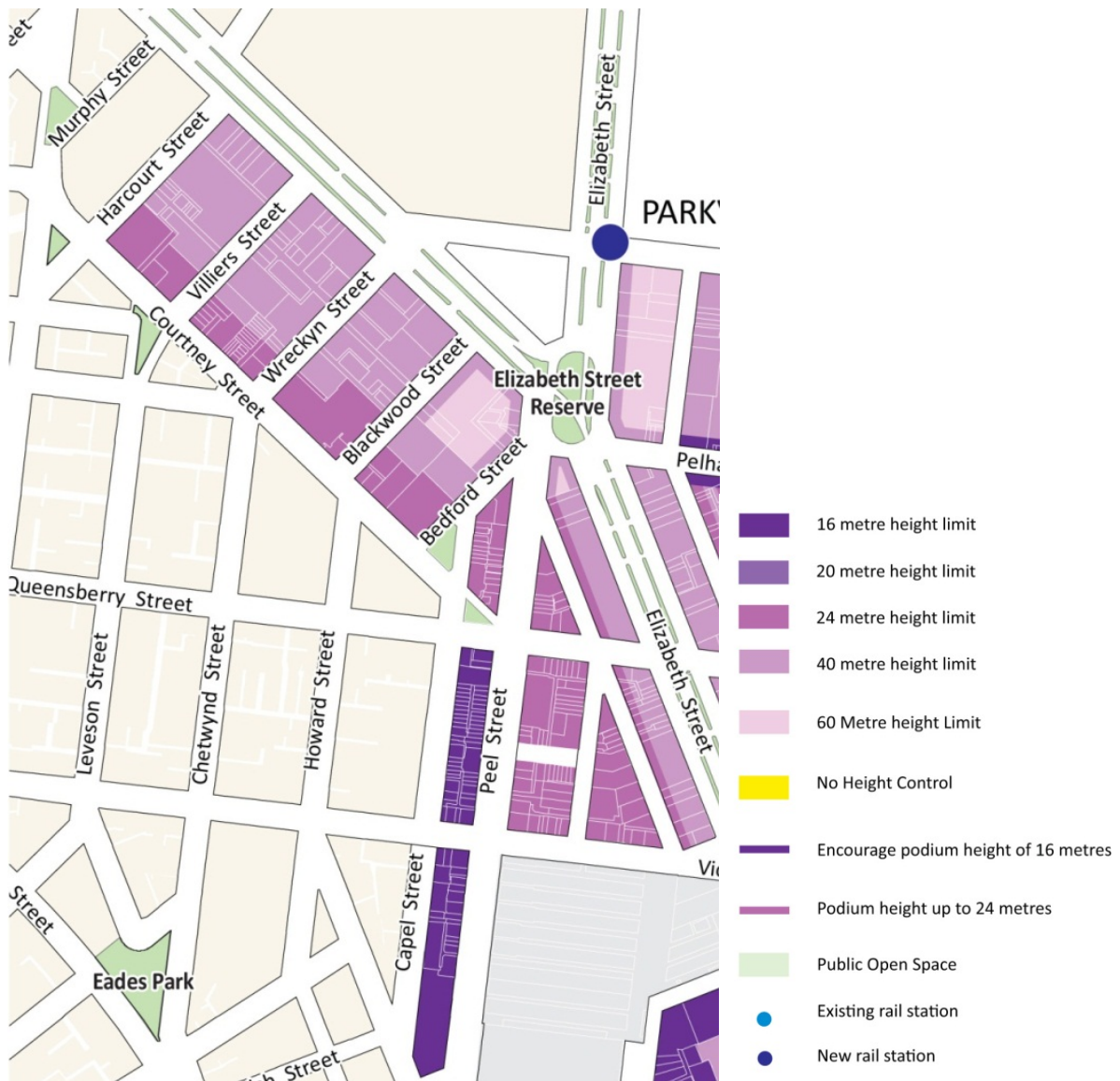


Figure 1 Built Form controls proposed in Draft Structure Plan, May 2011

Following consultation, a height of 24m was proposed to better enable a transitioning in heights from the North Melbourne area of 14m through to the proposed 40m height on Flemington Road. This is illustrated in figure 2 below.



Figure 2 Built Form controls proposed in Final Draft Structure Plan, December 2011

Following the consultation on the Final Draft Plan, the height was again lowered. A larger area of the current 14m height limit was retained and the 24m area reduced to only one property depth behind the Flemington Road frontage. This still enabled a height transition from North Melbourne to Flemington Road

This is illustrated in the revised version shown in figure 3 below which was included in an attachment to the supplementary report prepared for the 7th February Future Melbourne Committee.

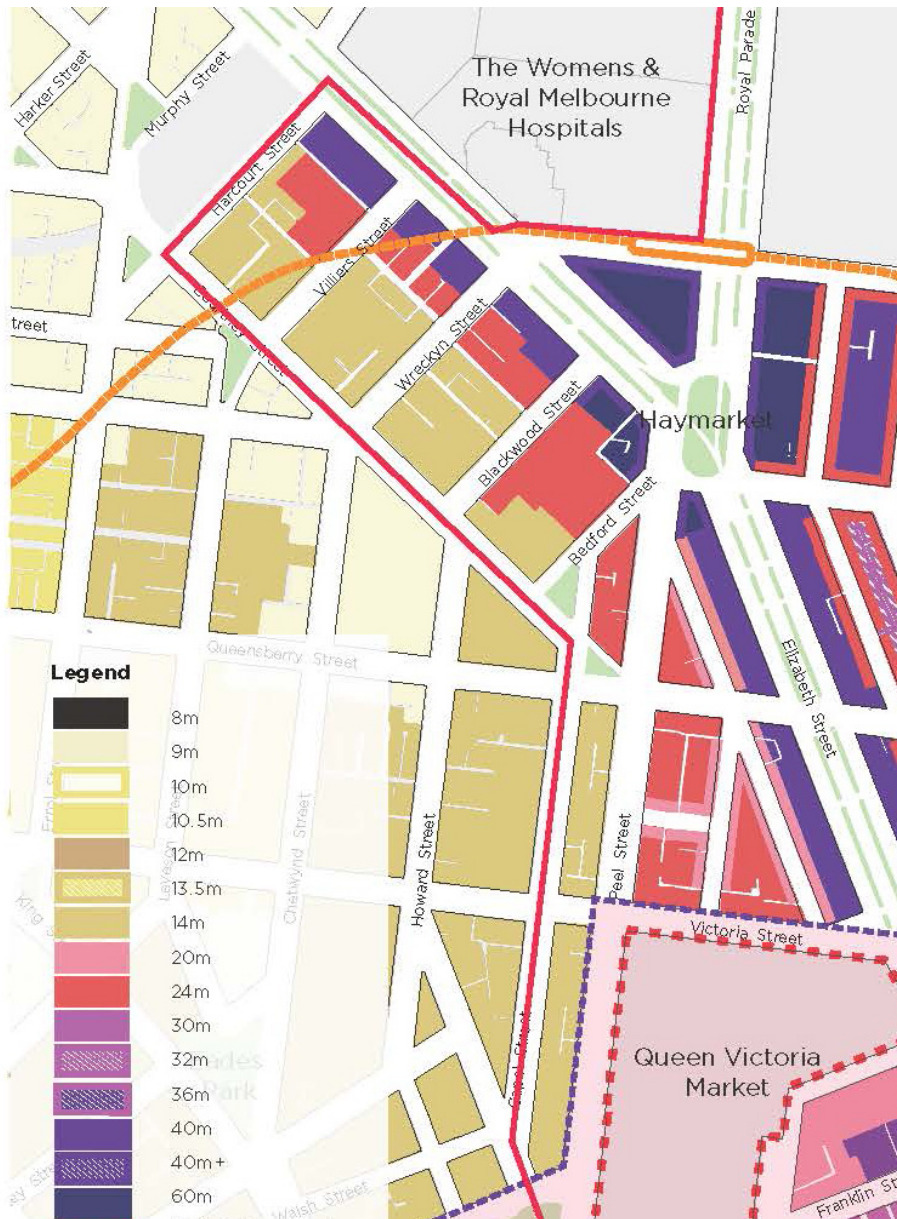


Figure 3 Built Form controls proposed in schedule of proposed changes presented to the Future Melbourne Committee on 7th February 2012.

These are the heights that were exhibited under Amendment C196.

Post exhibition of Amendment C196, a new control was introduced along the southern boundary of Area 2 (the 24 metre height area) which requires that above 14m, a setback of 45 degrees applies along the boundary adjacent to the 14 metre height limit area. This control was introduced to ensure that new development in the 24m height limit area (identified as Area 2 in Amendment C196) does not unreasonably overshadow existing or potential development to its immediate south and limits amenity impacts of excessive bulk and overshadowing.. The location of Area 2, DDO61 is shown in Figure 4 below.

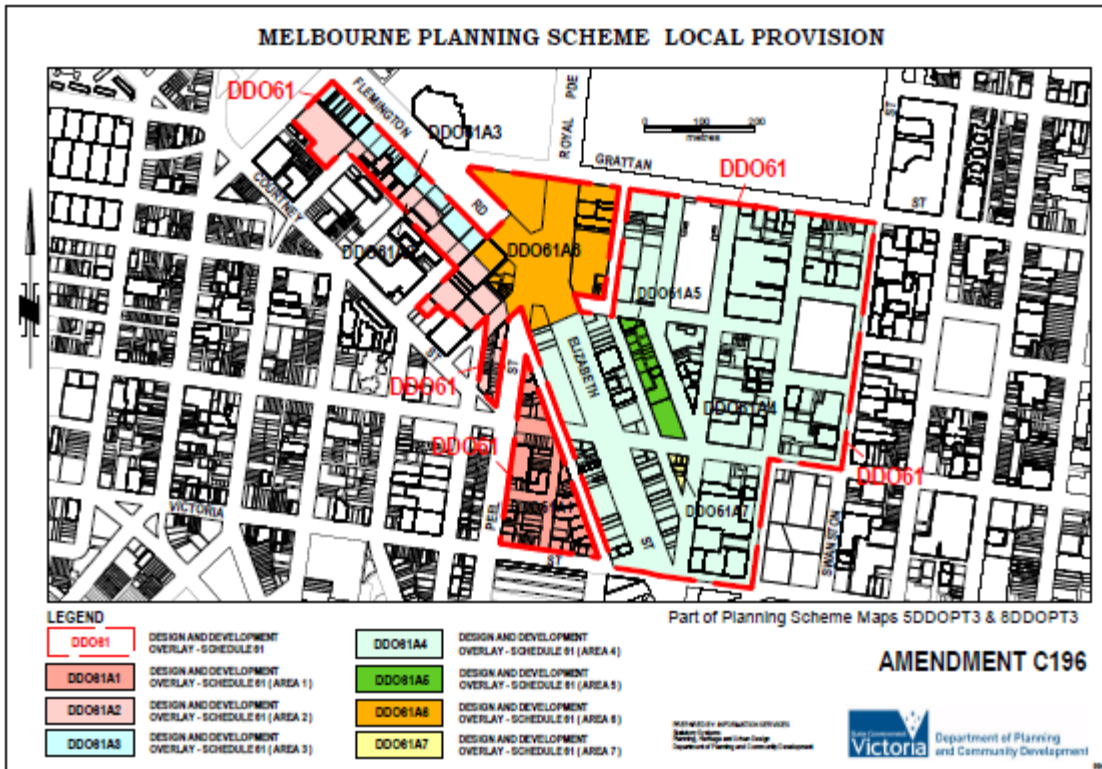


Figure 4 Amendment C196 Areas (Post exhibition version presented to Panel)

An indicative built form is illustrated in Figure 5 to show the intended outcome of the new provisions introduced into Area 2 Schedule 61 to the Design and Development Overlay.

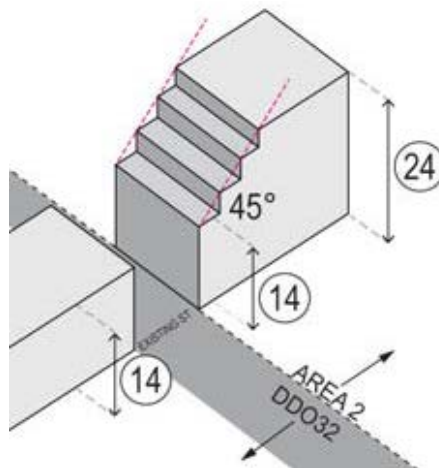


Figure 5 Indicative built form for sites in Area 2 adjoining existing Area 32 (mandatory 14 metre height limit area)

Amendment C196-Summary of Submissions and Management Response

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1. David McRae
2. James Puchlenko
3. Diana Jones Simpson, Pamela MacKinnon & Darryl Simpson
4. Ross Finlay
5. Lort Smith Animal Hospital (HWL Ebsworth)

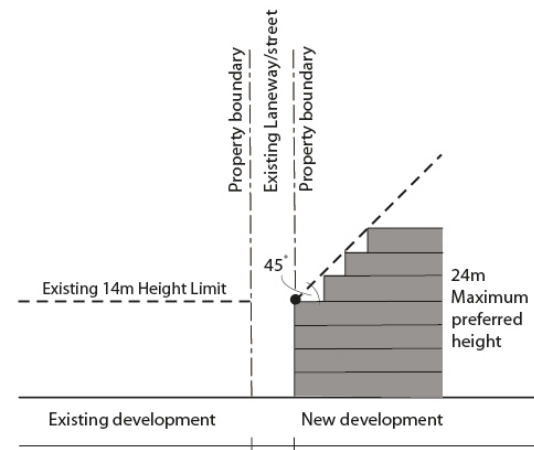
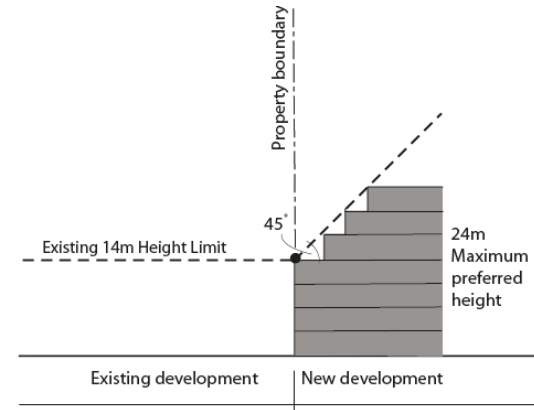
No.	Submitter	Property	Summary of Submission	Management Response
1	David McRae on behalf of owners 9, 13, 15 & 17 Hotham Place, North Melbourne	17 Hotham Place 15 Hotham Place 13 Hotham Place 9 Hotham Place	<p>States that they live adjacent and in one case about the Lort Smith Animal Hospital site.</p> <p>Does not accept the Panel's statement that members of the community were aware of the possibility of the Lort Smith's inclusion in Area 2 of the amendment. The fact that just one late submission from the community indicates a very low level of awareness.</p> <p>States that the majority of potentially affected parties did not know of this proposal until after submissions were due and then it was only discovered by chance. No notices of the proposal were directly provided at the time of the hearing or how representation might have been made to the Panel.</p> <p>States they do not oppose development on the site per se as the previous building on the now vacant site provided a buffer from the noise of Wrecklyn Street and the area's dust and pollution.</p> <p>Concerned about the prospective overshadowing and amenity impacts of any new development of the scale intimated by the representatives of Lort Smith.</p> <p>Notes that the Panel's discussion on laneways acknowledged the 3 metre difference in base heights between Hotham Place and the "ground level" of the Lort Smith property but did not allude to this fact in its consideration as to whether the site should be included in Area 2 of the Amendment. What this means is that a building of 24 metres as measures at Wrecklyn Street will be in fact 27 metres above ground level of the townhouses at Hotham Place, 6 storeys rather than 5 storeys above their roofs.</p>	<p>The height limits in Area 2 (24 metre discretionary limit) have been of interest to the community through the preparation of the City North Structure Plan and the subsequent Amendment C196. The alignment of the boundary of Area 2 shifted throughout the preparation of the Structure Plan and the amendment. (See attachment) As exhibited, Area 2 did not include the Lort Smith Hospital but the inclusion of the site into Area 2 of the Design and Development Overlay 61 (DDO61) was recommended by Panel appointed by the Minister for Planning.</p> <p>In response to submissions received following exhibition of Amendment C196, changes were made to the Area 2 controls which introduced an additional provision along the southern boundary of Area 2 for sites which adjoin the existing 14 metre height limit area.(DDO 32).</p> <p>The control was introduced to ensure that new development in the 24 metre height limit area (Area 2) between Flemington Road and Courtney Street does not unreasonably impact existing or future development to its immediate south. Above 14 metres, a setback of 45 degrees will apply along the adjacent boundary of existing DDO 32. The additional controls will limit amenity impacts of excessive bulk and ensures that the additional height over the 14 metres will not add shadow above that cast by the current height limit between 11am and 2pm at the equinox. This additional provision took into account the topography of the site which sees the steepest section of the site slope with a 1.2 metre fall and a 2metre fall across the Villiers Street frontage.</p> <p>This post exhibition version with these included changes formed part of Council's presentation to the Panel. The provisions are illustrated below.</p>

No.	Submitter	Property	Summary of Submission	Management Response
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Concerned that no draft provisions in place to enable an appropriate transition of height to occur have been provided. This makes it very difficult to comment when this transition has not been defined.

It appears that this matter of appropriate transition has been resolved by the Panel in a manner which provided maximum flexibility for the developer and minimum protection for the residents.

Post exhibition provisions for Area 2 presented to Panel



No.	Submitter	Property	Summary of Submission	Management Response
2	James Puchlenko	17 Hotham Place Nth Melbourne	<p>Owner of the property adjacent to the Lort Smith Animal Hospital. Concerned about the harm it would cause to his property which would result from the proposal.</p> <p>Concerned that the Panel based its evidence of community awareness of the proposed inclusion of the Lort Smith site into Area 2 on one late submission. States that a site visit would highlight that there are properties and people affected by the proposal therefore requiring an open and transparent process. This has not been the case.</p>	<p>As identified in the submission, the recommendation to include the Lort Smith site into Area 2 would result in the site having a side boundary with the existing low scale residential buildings that front Hotham Place. It is considered appropriate to maintain this boundary as 14 metres. The buildings on Hotham Place are approximately 9 metres high and have a width of 4 metres. It is accepted that a 24 metre high building constructed immediately to the north would adversely impact the amenity of these dwellings. The Lort Smith site however is approximately 40 metres wide and it would be possible to transition from a high built form on Vale Street to 14 metres on the southern boundary that could be designed to protect the amenity of these dwellings.</p> <p>It is management's position to accept the Panel's recommendation to include the Lort Smith Animal Hospital into Area 2 of DDO61 with a setback provision along the southern boundary as per the above diagrams.</p> <p>No change recommended</p>
3	Diana Jones Simpson, Pamela MacKinnon & Darryl Simpson	24-36 Villiers Street Nth Melbourne	<p>States that the property borders the southern side of the Lort Smith Animal Hospital. Understands that the proposal, if it proceeds will allow the Lort Smith site to be developed to a maximum height of 24 metres with a requirement this this be tapered off to a height of 14 metres at our northern</p>	<p>In its discussion on the appropriateness of the controls for Area 2, the Panel noted the concerns at the hearing about the interface along Harcourt Street to the North Melbourne Primary School and North Melbourne generally regarding building heights. In response, the Panel are recommending a 14 metre street edge height along</p>

No.	Submitter	Property	Summary of Submission	Management Response
			<p>boundary.</p> <p>Extremely concerned about the impact of the amendment on their property as proposed and seeks to have conditions placed to ensure that the amenity of their property is maintained.</p> <p>Highlights that their property is an old brick factory, 20 metres in width fronting Viliers and heritage listed. In developing the property, the only access to light is via the northern wall that currently faces the Lort Smith carpark or through the roof of the property. They want to retain their ability to use this light in developing their property.</p> <p>Potentially, the Lort Smith can develop to a height of 14 metres. If this occurs, then the only access to natural light will be through the roof. Considers that overlooking is also an issue.</p>	<p>Harcourt Street to facilitate an appropriate interface with the sites that adjoin to the south to limit the impact of excessive building bulk and overlooking and overshadowing.</p> <p>It is management's position to accept the recommendation of the Panel to include a requirement to transition in height from 14 metres to boundaries with Harcourt Street and the existing DDO32 area.</p> <p>No change recommended</p>
4	Ross Finlay	33 Wrecklyn Street North Melbourne	<p>Owner and resident of an apartment in a block with extensive views- secured by the height of the apartment in the block together with the planning height limit of 14 metre which exist for the adjacent sites to the south. States that the purchase price reflected the quality of the views. Would not have purchased the apartment had the mandatory limits not been in place to the south.</p> <p>Considers that an increase in the height limit from 14 metres to 24 metres represents an inappropriate scale of development for this location. This will have a significantly negative impact on this area which has until now retained low to medium mixed use development in areas other than along main roads. This proposed height may establish precedence for future applications.</p>	<p>While the Lort Smith animal Hospital is included in the area of Amendment c196, it was not included in, Area 2 of DDO 61..</p> <p>Area 2 generally lies south of properties which front Flemington Road and includes the properties bounded by Harcourt Street, Peel and O'Connell Streets. It is an intermediary zone between the taller commercial buildings along Flemington Road and the lower scale residential areas of North Melbourne to the south. Area 2 abuts the predominantly residential area that is subject to Schedule 32 (DDO32)-14 metre mandatory height limit.</p> <p>The Panel acknowledged the development opportunity which the Lort Smith site offers and the ability for this to contribute to the strategic aim of increasing capacity and urban renewal in the City North area. The Panel recommendation to include this site is accepted on the basis that the site is capable of accommodating the extra height and the height transitioning requirements as presented</p>

No.	Submitter	Property	Summary of Submission	Management Response
				<p>in the post exhibition version of the Amendment without compromising amenity objectives for adjoining residences.</p> <p>No change recommended</p>
5	<p>Lort Smith Animal Hospital</p> <p>(represented by HWL Ebsworth Lawyers</p>	<p>24-36, 38 Villiers Street and 15-27 Wrecklyn Street Nth Melbourne</p>	<p>Fully endorses and supports the findings of Planning Panels Victoria who were satisfied that the Lort Smith site is within the scope of the Amendment and that the community were aware of the possibility of their sites inclusion in the Amendment and no further notification was necessary.</p> <p>Submits that a discretionary height control of 24 metres is entirely appropriate given the location of their land, its strategic context and significant size and the lower built form of North Melbourne and adjoining DDO32 area.</p> <p>Requests that the Planning Panel's recommendations are adopted in full incorporating the increased height limits and setback controls as proposed by the Panel.</p>	<p>Noted.</p> <p>No change recommended.</p>

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