

Report to the Future Melbourne (Planning) Committee

Agenda item 6.5

Planning Scheme Amendment C278 Sunlight to Public Parks

4 February 2020

Presenter: Kate Dundas, Acting Director City Strategy

Purpose and background

1. The purpose of this report is to present the outcomes of the public exhibition of Planning Scheme Amendment C278 and to recommend that the Future Melbourne Committee requests that the Minister for Planning appoint an independent Planning Panel to consider all submissions.
2. The City is experiencing significant population growth, with an accompanying increase in the density and height of new development. This is placing increased pressure on our parks. Parks in the Central City and Southbank have planning controls protecting them from overshadowing in winter, whereas surrounding inner city neighbourhoods do not. Amendment C278 proposes to extend winter sunlight protection to all parks outside the Central City, Southbank and Docklands. Docklands has been excluded from the Amendment at the direction of the Minister for Planning.
3. Extensive research has informed the Amendment. It has included sophisticated 3D modelling, extensive analysis of the current level of overshadowing, benchmark research into sunlight controls of comparable cities, an audit of the effectiveness of current sunlight controls, research into the benefits of sunlight to health and wellbeing of people and the impacts of sunlight on ecological systems. This research revealed access to winter sun in public parks is critical to liveability and physical and mental health.
4. The proposed Amendment implements mandatory winter sun protection in all parks outside the Central City and increases the hours of protection from 11am to 2pm at the Spring and Autumn Equinox to 10am to 3pm at the Winter Solstice with some exceptions for Type 3 parks (as below). The Amendment adopts three approaches to sunlight protection in response to the existing sunlight levels within parks and anticipated level of development which may impact upon parks. These three approaches are:
 - 4.1. Type 1: Apply a mandatory 'no additional overshadowing' control to parks in areas of low growth.
 - 4.2. Type 2: Allow limited overshadowing to parks in growth areas, recognising existing built form controls established through strategic planning work, to achieve a balance between the protection of winter sunlight and additional development.
 - 4.3. Type 3: Apply a modified control reducing the hours of protection to parks to four hours on the edge of the Central City and Southbank, acknowledging shadows cast by existing development.
5. Amendment C278 is to be implemented through a new Schedule 8 to the Design and Development Overlay (DDO8) and corresponding changes to the existing Sunlight to Public Spaces Local Policy. Amendment C278 was exhibited from 1 August to 5 September 2019. One hundred and nineteen submissions were received. These are summarised and discussed in Attachments 2 and 3.

Key issues

6. Most submissions supported the principle of protecting parks from being overshadowed in winter. Ninety one submissions fully supported Amendment C278. Twenty five submissions did not support and /or raised concerns with the Amendment. Concerns included the impact of the controls on the development potential of specific sites and growth precincts; the increased hours of protection; the shift from the Equinox to the Winter Solstice; the mandatory approach to the controls and the application of the controls on developments within parks. Submissions expressed concerns that the extent of allowed overshadowing of parks in growth areas was too much.
7. In response to submissions, management recommends progressing the Amendment as exhibited with four recommended changes to DDO8, for consideration by panel. These recommended changes are the removal of Haymarket Roundabout due to its primary traffic function; the categorisation of Flagstaff Gardens as a Type 3 park (from 11am to 3pm), consistent with other parks at the edge of the Central City, such as Fawkner Park and Domain Parklands; removal of the Royal Society of Victoria property due to its private ownership; and a permit exemption for minor rail works along transport zoned rail corridors.

Recommendation from management

8. That the Future Melbourne Committee
 - 8.1. Notes management's assessment of the submissions as set out in Attachments 2 and 3.
 - 8.2. Requests the Minister for Planning appoint a Panel to consider all submissions received to Melbourne Planning Scheme Amendment C278.
 - 8.3. Notes that the form of the Amendment to be presented to the Panel will be in accordance with Attachment 4, subject to the inclusion of recommended changes outlined in the report being the removal of the Haymarket Roundabout, designation of Flagstaff Gardens as modified Type 3 park, removal of Royal Society of Victoria property and inclusion of a permit exemption for railway land.
 - 8.4. Authorises the Acting General Manager Strategy, Planning and Climate Change to make any further changes to the documents if required.

Attachments:

1. Supporting Attachment ~~Use ^ in AEC~~
2. Summary and response to individual submissions (Page 5 of 102)
3. Management response to main issues (Page 79 of 102)
4. Amendment documents (Page 93 of 102)

Supporting Attachment

Legal

1. Part 3 of the *Planning and Environment Act 1987* (the Act) deals with the amendment of planning schemes within Division 1 of the act. It sets out the requirements for exhibitions and for giving notice of proposed planning scheme amendments. Division 2 of the act outlines the public submissions process. Section 23(1) of the Act provides that:

After considering a submission which requests a change to the amendment, the planning authority must:

- (a) change the amendment in the manner requested; or
 - (b) refer the submission to a panel appointed under Part 8; or
 - (c) abandon the amendment or part of the amendment.
2. The recommendations made in the report are therefore consistent with the Act.

Finance

3. The costs associated with the recommendation to progress to an Independent Panel have been provided for in the City of Melbourne 2019-20 budget.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.
5. Noting Council's ownership and role in the Queen Victoria Market Renewal Project adjacent to Flagstaff Gardens, management will specifically seek direction from the independent Planning Panel on the revised park type for Flagstaff Gardens.

Health and Safety

6. In developing this proposal, no occupational health and safety issues or opportunities have been identified. The approach underpinning the Amendment is based on the importance of access to sunlight on our parks throughout the year for good physical health and wellbeing.

Stakeholder consultation

7. Amendment C278 was exhibited in accordance with the Act. The Amendment was exhibited from 1 August 2019 to 5 September 2019. A total of 117 submissions were received.
8. Public notices were placed on the Age newspaper on 31 July 2019 and the Government Gazette on 1 August 2019. The Amendment and supporting information was available at the Melbourne Town Hall, on the Participate Melbourne webpage and the DELWP website. A letter and copy of the statutory notice was sent to owners and occupiers, stakeholders, community groups and prescribed Ministers on 30 July 2019.
9. Public information sessions were held on Wednesday 14 August 2019 and Saturday 17 August 2019 and there were meetings with individuals and community groups.
10. All submissions received in response to the exhibition of Amendment C278 will be provided to the Panel. Submitters will have the opportunity to address the planning panel.

Relation to Council policy

11. The following sections of the Melbourne Planning Scheme are relevant:

Clause 21.06-1 Urban Design:

Strategy 1.5: To promote development that is compatible with the scale, character and amenity of public open spaces, and the environs of the Yarra River.

Strategy 5.9: To ensure that development maximises solar access in public open spaces, and creates microclimatic conditions for a high level of pedestrian comfort.

Clause 21.10-2 Open Space

Objective 1 To maintain, enhance and increase Melbourne's public open space network and promote greening of the City.

Strategy 1.2 To ensure parks, gardens, waterways and open spaces remain a prominent element of the City's structure and character.

Strategy 1.4 To support the maintenance and creation of a variety of public open space to meet the needs of the growing population for formal and informal outdoor recreation.

Strategy 1.5 To ensure that development in and surrounding the City's parks and gardens does not adversely impact on the solar access, recreational, cultural heritage, environmental and aesthetic values, or amenity, of the open space.

Strategy 2.2 To protect and enhance the biodiversity and habitat value of the City's parks, gardens, open space and waterways.

Clause 22.02 Sunlight to Public Spaces Policy

The policy provides guidance for the consideration of the impact of additional overshadowing on the amenity, quality and usability of the public space.

Objectives

To achieve a comfortable and enjoyable public realm

To ensure new buildings and works allow good sunlight access 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 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

To create and enhance public spaces which provide sanctuary, a place of visual pleasure and a range of recreation and leisure opportunities

Environmental sustainability

12. The Amendment will have positive environmental effects by achieving appropriate levels of sunlight access to all public parks by ensuring that development in and around the City's parks does not adversely impact the solar access or the amenity.

**MELBOURNE PLANNING SCHEME AMENDMENT C278:
SUNLIGHT TO PUBLIC PARKS****SUMMARY AND RESPONSE TO SUBMISSIONS**

1. Julie Kirk	5
2. Kelly Southworth	5
3. Miranda Williams	5
4. Allison Williams	6
5. Mathew O'Rourke	6
6. David Gentle	6
7. Peter May	7
8. Adel Cheah	7
9. Christine Robinson	8
10. David Barber	8
11. Robyn Phelan	8
12. Mila Arden	9
13. Dr Richard Gould	9
14. Dr Brett Scarlett	10
15. Kathleen Doerre	10
16. Mary Marasco	11
17. Lothar Doerre	11
18. Christopher Doerre	11
19. Hayley Moloney	12
20. Ian Bird	12
21. Katrina Foster	13
22. Malika Abbott	13
23. Olivia Ball	14
24. Fiona Sofra	14
25. Dr Steven Hatzikostas	15
26. Cath John	15
27. David Wark	16
28. Ray Cowling	16
29. Gary Bateman	17

30.	Samuel Johnston	17
31.	Samuel Johnston	18
32.	Samuel Johnston	18
33.	Emmy Chung	18
34.	Rupert Myer	19
35.	Anabel Myer	19
36.	Seqirus Pty Ltd	20
37.	Theo and Edith Nelson	21
38.	Friends of Moonee Ponds Creek	21
39.	Friends of Royal Park	22
40.	Carlton Residents Association	22
41.	Bernard Grinberg	23
42.	Adelaide Badgery	24
43.	Matt Morgan	24
44.	Daniel Malton	25
45.	Josephine Waterhouse	25
46.	Lucy Martin	25
47.	Hafsa Alasmar	26
48.	Mandy Mulholland	26
49.	Walter Myer	26
50.	Sarah Leer	27
51.	Geoffrey Clarke	27
52.	Gabrielle Harper	28
53.	Royal Park Protection Group	28
54.	Tak Keong Yang	29
55.	Paul Mcleod	29
56.	Sophie St George	29
57.	Kamil Ceylan	30
58.	Jane Shannon	30
59.	Marg Jungworth	30
60.	Mary Kelleher	31
61.	Ian Williams	31
62.	Anne Phefley	32
63.	Liz Rushen	32
64.	Polis on behalf of Steve Salamon	33
65.	Tract on behalf of Iglu Student Accommodation	34

66.	Bridget McDonnell.....	34
67.	Peter Sanders	35
68.	Sally Laurie	36
69.	Fiona Bell	36
70.	Jemima Myer.....	37
71.	Christine Robinson.....	37
72.	Graham Howard.....	38
73.	Margaret Farren-Price.....	38
74.	University Melbourne Business School.....	39
75.	VPA.....	40
76.	QVM Pty Ltd.....	41
77.	AECOM on behalf of Carlton Football Club	42
78.	Urbanest.....	42
79.	Department of Transport.....	44
80.	Tom Harley.....	45
81.	Sarah Kennedy	46
82.	Tilda Harley	46
83.	The University of Melbourne	47
84.	Protectors of Public Lands	48
85.	South Yarra	49
86.	Australian Red Cross	50
87.	Property Council of Australia.....	51
88.	Tract on behalf of Cedar Pacific.....	52
89.	Richmond FC	52
90.	Ratio on behalf of the Royal Society of Victoria	52
91.	Planning Studio on behalf of Andavol Pty Ltd	53
92.	SJB on behalf of Village Park Consortium	54
93.	Housing Industry Association.....	55
94.	Beveridge Williams on behalf of Nuvolink Pty Ltd.....	55
95.	AFL.....	56
96.	East Melbourne Group	57
97.	Melbourne Cricket Club & Melbourne Cricket Ground Trust.....	57
98.	Jennifer McDonald	58
99.	Orchard Piper.....	59
100.	Lendlease Communities.....	60
101.	Urbis.....	61

102.	Property Partners	62
103.	VicTrack	62
104.	Janet Graham	64
105.	Paul Billett	65
106.	Linda Dugan	65
107.	Janette Corcoran.....	66
108.	Ben Ball.....	67
109.	Les Kitchen	67
110.	Andrea Pagliaro (Urbis).....	68
111.	Karl Hessian.....	69
112.	Andrew Jay	69
113.	James Kemp	70
114.	Invest Victoria.....	70
115.	Anonymous	71
116.	Cat Woods	72
117.	Planning Backlash Inc.....	72
118.	Wolf Group	72
119.	SJB on behalf of Cricket Australia.....	73

Submitter	1. Julie Kirk
Key Issues	Supportive
Summary of submission	Supports the Amendment
Management Response	Submission noted.
Management Recommendation	No change to Amendment C278

Submitter	2. Kelly Southworth
Key Issues	Supportive Health, wellbeing and ecological benefits
Summary of submission	Supports the Amendment <ul style="list-style-type: none"> ▪ Considers that: <ul style="list-style-type: none"> - Sunlight is vital for plant life - Our green space makes Melbourne unique and special and improves our quality of life - Preserving our parks is incredibly important.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278

Submitter	3. Miranda Williams
Key Issues	Supportive Existing overshadowing of Parkville parks
Summary of submission	<ul style="list-style-type: none"> ▪ Enjoys using the park ▪ Residential complex where she resides is already shaded by adjacent buildings ▪ Enjoys the warmth from the sunshine.

Management Response	Submission noted
Management Recommendation	No change to Amendment C278.
Submitter	4. Allison Williams
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Concerned that that there are developments under construction that could potentially overshadow Royal Park. ▪ Supports the proposed planning controls to protect Royal Park and surrounding parks from being overshadowed by new developments/
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	5. Mathew O'Rourke
Key Issues	Supportive Overshadowing of Gardiner Reserve
Summary	<ul style="list-style-type: none"> ▪ Upset that the large development on Haines Streets is already overshadowing Gardiner Reserve during winter and summer. ▪ Encouraged that Council is prioritising liveability over additional heights sought by developers.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	6. David Gentle
Key Issues	Supportive Health and wellbeing benefits Importance of winter sun

Summary	<ul style="list-style-type: none"> ▪ Considers that winter sunlight is essential for happiness and well being ▪ States that if we want Melbourne to be "The World's Most Liveable City": then we need to make all city parks beautiful, and sun in winter especially is glorious.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	7. Peter May
Key Issues	-
Summary of submission	<ul style="list-style-type: none"> ▪ Unsure of what is meant by "no additional shade" and questions whether that means no more trees to be planted, trees to be removed or buildings height to be restricted. ▪ Points out that sunlight is freely available if the weather is right to anyone anywhere in Melbourne.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	8. Adel Cheah
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> • Requests that Council not let tall towers affect the liveability and beauty of the city and parks
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.

Submitter	9. Christine Robinson
Key Issues	Supportive Overshadowing of Gardiner Reserve
Summary of submission	<ul style="list-style-type: none"> States that the “Reflections” high rise building directly opposite Gardiner Reserve already shadows the park. Concerned that Council has approved three developments on Haines Street and one on the corner of Haines/Macaulay which will overshadow Gardiner Reserve. Notes that a significant amount of money has been spent expanding the park.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	10. David Barber
Key Issues	Supportive Overshadowing of Reeves Reserve
Summary of submission	<ul style="list-style-type: none"> Commends Council for proposing such controls Considers small parks particularly vulnerable to overshadowing (refers to Reeves Park, Carlton) Grateful for the clean green space in Reeves Park
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	11. Robyn Phelan
Key Issues	Supportive Overshadowing of North Melbourne parks
Summary	<ul style="list-style-type: none"> Appreciates that the Amendment is proposed

	<ul style="list-style-type: none"> ▪ Recognises that tiny blocks of public space provide a soft, green natural reprieve from the bitumen. ▪ Refers to parks in North Melbourne and considers this Amendment is too late to protect this park which is overshadowed by housing development
--	---

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	12. Mila Arden
------------------	-----------------------

Key Issues	Supportive Development overshadowing parks
-------------------	---

Summary	<ul style="list-style-type: none"> ▪ Writing as an apartment owner ▪ Supports the Amendment ▪ Concerned that the city is almost unrecognisable and if the rate of development continues we will not be able to breathe or see the sky.
----------------	---

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	13. Dr Richard Gould
------------------	-----------------------------

Key Issues	Supportive Importance of parks for health and wellbeing
-------------------	--

Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment. ▪ Notes that sunlight is important to health, happiness and wellbeing, and visual enjoyment. ▪ Winter sunlight important to facilitate use of parks and is necessary for enjoyment, health, happiness and wellbeing ▪ Refers to a park near Hawke and Miller Streets and notes it is well used by a variety of people and for various uses, all hours of the day. ▪ Considers that if the park were shadowed, it wouldn't be used as much. ▪ Mentions other nearby parks (Victoria and Chetwynd Streets) as being similarly well used.
----------------	---

Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	14. Dr Brett Scarlett
Key Issues	Supportive
Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Thanks Council for the initiative
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	15. Kathleen Doerre
Key Issues	Supportive Health and wellbeing Development overshadowing parks
Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Notes the increasing population, visitors and scale of development, considers public parks vital for health and wellbeing ▪ Potential for new development to overshadow parks is of grave concern ▪ Once overshadowed, parks are overshadowed forever, and this should be prevented in the first instance.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.

Submitter	16. Mary Marasco
Key Issues	Supportive
Summary	<ul style="list-style-type: none"> • Supportive of the Amendment • Considers that it is vital to preserve existing sunlight so people in the inner city who don't have big gardens can enjoy access to sunlight, especially in winter.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.

Submitter	17. Lothar Doerre
Key Issues	Supportive Health and wellbeing Development overshadowing parks
Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Notes the increasing population, visitors and scale of development, and considers public parks vital for the health and wellbeing of all ▪ The potential for new development to overshadow parks is of grave concern ▪ Once overshadowed, parks are overshadowed forever, and this should be prevented in the first instance.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.

Submitter	18. Christopher Doerre
Key Issues	Supportive Health and wellbeing Development overshadowing parks
Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Notes that with the knowledge that more high-rise development will be built, considers that for these places to remain pleasant places to live, outdoor

	spaces, parks and gardens are of utmost importance for the city to remain pleasant to live in.
	<ul style="list-style-type: none"> ▪ Notes that overshadowing of outdoor spaces would detract from the city and limit psychological, health and wellbeing benefits that arise from access to parks, gardens and outdoor spaces. ▪ Considers that once parks are overshadowed, parks, they are overshadowed forever ▪ Notes love for the area, but notes that parks are overshadowed, there will be no option but to move out to urban sprawl

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	19. Hayley Moloney
------------------	---------------------------

Key Issues	Supportive
-------------------	------------

Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Thanks Council for increasing the time window to allow longer sunlight hours in public parks and preventing overshadowing
----------------	---

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	20. Ian Bird
------------------	---------------------

Key Issues	Supportive Protection for parks large and small, municipal wide
-------------------	--

Summary	<ul style="list-style-type: none"> ▪ Notes increasing numbers of people are living in apartments and considers that attractive public open space is more essential than ever ▪ Notes that a vital element of open space is access to sunshine in winter and shade in summer ▪ Notes that some central city parks have existing planning controls protecting them, but others do not and considers it is essential to extend these controls to all parks within the City of Melbourne ▪ Notes that consultation in 2016 confirmed that sunlight in parks is highly valued in all seasons and at all times of the day for a range of recreational uses
----------------	--

- Commends Council for undertaking the Amendment to protect parks, small and large throughout the whole municipality.

Management Response Submission noted

Management Recommendation No change to Amendment C278 is required.

Submitter **21. Katrina Foster**

Key Issues Supportive
Health and wellbeing

Summary

- In favour of the Amendment
- Notes that being outdoors with access to sunlight is important for people's mental health
- Notes importance of public space for workers

Management Response Submission noted

Management Recommendation No change to Amendment C278 is required.

Submitter **22. Malika Abbott**

Key Issues Supportive
Health and wellbeing

Summary

- Notes that sunlight to public spaces in an essential component of wellbeing, especially in winter
- Wholeheartedly supports the protection of winter sun
- Notes that as a psychologist and lover of the city, the wellbeing of the community is valued, and notes that wellbeing is at risk if access to sunlight is impeded.

Management Response Submission noted

Management Recommendation No change to Amendment C278 is required.

Submitter	23. Olivia Ball
Key Issues	Supportive Protection of of Argyle Square, Lincoln Square and Carlton Gardens
Summary	<ul style="list-style-type: none"> ▪ Mentions Argyle Square in Carlton and notes frequent personal use, many times a day, year round, with a pet ▪ Also notes Lincoln Square and Carlton Gardens, appreciating the provision and maintenance of the parks ▪ Supportive of the Amendment to protect winter sunlight in all parks within the municipality
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	24. Fiona Sofra
Key Issues	Supportive Health and wellbeing
Summary	<ul style="list-style-type: none"> ▪ Supportive of the Amendment ▪ Considers increasing population and high density living increases the importance of spaces year round for physical, mental and emotional wellbeing ▪ Considers that winter sunlight is important for the health and sustainability of parks (flora and fauna) ▪ Notes that a lack of winter sunlight contributes to dark and damp conditions leading to excess mud, moss and slime. ▪ Notes the importance of tourists and visitors to the city's gardens ▪ Commends Council on the Amendment
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.

Submitter	25. Dr Steven Hatzikostas
Key Issues	Opposes the Amendment Restriction on growth
Summary	<ul style="list-style-type: none"> ▪ Notes that high density living is inevitable and requires high rise buildings ▪ Considers that no argument should ever be proposed by local government that impedes on development of parts of Melbourne, particularly close to parkland, as considers this would negatively impact people who prefer to live in apartments to use local services. ▪ States that the alternative is to resist high rise development and push development to the urban fringe, which have a massive cost implication due to new roads and infrastructure. ▪ Opposes the City of Melbourne approach believing it restricts growth and does not acknowledge poor outcomes ▪ Does not believe high rise development near parks will impede winter light to the extent they will be uninviting, nor result in a sense of loss, instead considering that poor weather is a greater deterrent. ▪ Notes that many cities in Europe have squares and parklands encircled by tall construction and believes this is not a negative outcome, and that this in fact increases access to these areas for more people. ▪ Considers the wording of the letter to be biased because people have little time to devote to making a submission.
Management Response	<p>Over the last three decades the City of Melbourne has experienced significant change and has transformed former industrial areas into dense high rise residential and employments neighbourhoods like Southbank and Docklands. New areas of transformation with increased densities include Fishermans Bend, City North, Arden and Macaulay Precincts.</p> <p>Although this growth can be seen as a reflection of the municipality's popularity and liveability, the challenge is to not compromise this liveability with the need to support development intensification. As the city grows and the scale of development increases (with limited open private open space included within developments), the importance of nearby public parks for recreation, socialising or for being outside in the sunlight, particularly in winter, increases. This rationale is the basis for protecting winter sun access in the parks.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	26. Cath John
Key Issues	Supportive Development overshadowing parks
Summary	<ul style="list-style-type: none"> ▪ Thanks those concerned for looking after public parks ▪ Does not want parks to be overshadowed by development

Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	27. David Wark
Key Issues	Supportive
Summary	<ul style="list-style-type: none"> ▪ Notes that greater sunlight for parks (particularly in winter) encourages engagement with the community, greening of landscape, greater community access, better environment to nurture trees, less wind turbulence and engagement for all ages and uses
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	28. Ray Cowling
Key Issues	Protection of Flagstaff Gardens
Summary	<ul style="list-style-type: none"> ▪ Notes the North-West corner of Flagstaff Gardens and states it is worthy of an additional fourth category of sunlight protections ‘total protection from any new shadow’ ▪ Considers that this park is one of very few places that still has sunlight through to sunset, and that this park should receive the best possible opportunity for access to sunlight, and views to St James Old Cathedral ▪ Asks where else, close to dense populations in this area can sunset from parkland be seen ▪ Notes that the bowling club utilises this space and also enjoys the late sunshine in this area ▪ Notes that the stress on Flagstaff gardens in the last 20 years has seen all the cypress, poplars, a few elm trees and a eucalypt tree die. The addition of increasing heat in summer and increasing shade in winter will not assist tree health.
Management Response	The premise of Amendment C278 is to protect all parks across the City but to apply a balanced approach. Where Council policy allows growth and more intense development, the Amendment C278 controls are modified so that there is a balance between permitted development and the need to protect a park. In the case of areas where a structure plan is reflected in existing planning provisions, DDO8 includes the concept of an ‘allowable shadow’.

Following management’s review of park types following submissions, it is proposed that a modified Park Type 3 is applied to Flagstaff Gardens (from 11am to 3pm). This is consistent with other parks at the edge of the Central City, such as Fawkner Park and Domain Parklands. It should be noted that this change to the morning park protection time has no impact on sites to the north and west of Flagstaff Gardens.

Management Recommendation A change to Amendment C278, specifically DDO8 will be made to reflect this response identify Flagstaff Gardens as a Type 3 West park.

Submitter **29. Gary Bateman**

Key Issues Supportive
Development overshadowing parks

Summary

- Considers that the Amendment is long overdue and critical to protect the City’s greatest assets being parks and green spaces
- Notes population growth and considers that public open spaces need to be protected from overshadowing, including in winter
- Considers that developers dictate how high buildings may be, without consideration of surrounding communities or public open space.
- Requests that the Amendment is adopted by Council

Management Response Submission noted

Management Recommendation No change to Amendment C278 is required.

Submitter **30. Samuel Johnston**

Key Issues Supportive

Summary

- Strongly supports the Amendment
- States that higher density housing comes at a cost of usable public spaces
- Seeks protection of remaining public open space
- Notes the cold Melbourne climate makes parks susceptible to overshadowing, which justifies stronger controls than elsewhere in Australia
- Notes technological change, stating that people are more likely to work from home, and commuting will reduce (along with vehicular impacts) and need for parking. Considers that these shifts will continue to spur utilisation of parks
- Considers that plans should be made for reclaiming areas for public space (along Molesworth, Courtney, Haines, Chapman and O’Shanassy Streets for examples) creating green spaces.

Note that this submission is repeated another two times by the same submitter, representing three properties

Management Response Submission noted

Management Recommendation No change to Amendment C278 is required.

Submitter **31. Samuel Johnston**

Key Issues Supportive
See submission 30 above

Summary

Management Response

Management Recommendation

Submitter **32. Samuel Johnston**

Key Issues Supportive
See submission 30 above.

Summary

Management Response

Management Recommendation

Submitter **33. Emmy Chung**

Key Issues Supportive

Summary

- Fully supports the Amendment, considering it overdue

	<ul style="list-style-type: none"> ▪ Notes that parks in the inner city are precious and scarce ▪ Notes that as density increases, open green spaces are needed to counter claustrophobic apartments that have been built and to ensure plants thrive ▪ Notes that plant diversity is a good outcome
--	---

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	34. Rupert Myer
------------------	------------------------

Key Issues	Supportive Overshadowing of Yarra Park
-------------------	---

Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Notes that it is essential that parks and gardens are protected from overshadowing especially in winter. ▪ Refers to East Melbourne and Yarra Park, noting that buildings on Wellington Parade would have detrimental consequences for park users with trees suffering from diminished sunlight ▪ Notes the Amendment is well considered and supports the requirement to limit additional overshadowing, stating it will be of inestimable benefit to future generations
----------------	--

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	35. Anabel Myer
------------------	------------------------

Key Issues	Supportive Protection of Yarra Park Health and wellbeing benefits
-------------------	---

Summary	<ul style="list-style-type: none"> ▪ Refers to Yarra Park, noting personal enjoyment over 30 years, particularly with raising children, appreciating access to sunlight, particularly in winter. ▪ Concerned that development along Wellington Parade could put the park at
----------------	---

	<p>risk.</p> <ul style="list-style-type: none"> ▪ Considers the quality of the park would be affected by additional shadow, as well as the ecology of the park and attractiveness to users. States there would be long term negative cultural, economic, environmental and social consequences of weak planning regulations. ▪ Considers that all parkland in the municipality should be protected from further overshadowing ▪ Considers Vitamin D essential for health and wellbeing, therefore it is vital to protect access to sunlight where people congregate (parks). This is particularly important given population growth. ▪ Strongly supports the Amendment, recommends that the hours of the policy be altered to later in the day so school aged children can receive access to sunlight in parks.
Management Response	<p>An analysis of park usage data showed that the highest level of park usage was between 10am and 6pm.</p> <p>The digital modelling demonstrated however that providing access between 10am and 6pm was not realistic as it would have a significant impact on development opportunities across the municipality. An analysis of shadow direction and length in winter demonstrated that there is a significant increase in overshadowing before 10am and after 3pm when the sun is much lower in the sky. While peak usage spans from 10am to 6pm, the proposed sunlight access controls are between 10am and 3pm to address this need for a balanced approach.</p>
Management Recommendation	<p>No change to Amendment C278 is required.</p>
Submitter	<p>36. Seqirus Pty Ltd</p>
Key Issues	<p>Opposes mandatory controls</p> <p>Impact on development</p>
Summary	<ul style="list-style-type: none"> ▪ Refers to a site adjacent to Royal Park, which is designated as Park Type 1 with mandatory controls ▪ Notes the development potential of the site and lists its characteristics ▪ Opposes the mandatory nature of the Amendment, in particular the blanket requirement for no additional shadow onto 'Park Type 1' between 10am and 3pm on June 21. ▪ Notes that given the existing low rise buildings within the Site, any future redevelopment to completely avoid overshadowing of the park in accordance with proposed Amendment C278 would require such significant setbacks and/or reduction to height to be rendered unviable. ▪ Notes that the current policy framework in the Melbourne Planning Scheme adequately provides for consideration of amenity impacts to Royal Park associated with any application for redevelopment of the Site. ▪ Considers that in its current form, Amendment C278 will impede the development of this site which has strategic support for development potential given location close to health and medical institutions and within a National Employment and Innovation Cluster.

Management Response	<p>A general response and recommendations to the issues relating to a shift to winter sun protection, mandatory controls and loss of development potential can be found at Attachment 3.</p> <p>The current policy framework in the planning scheme is discretionary. The background work undertaken to inform this amendment has found that discretionary provisions have not been effective in protecting parks from being overshadowed.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	37. Theo and Edith Nelson
Key Issues	Supportive
Summary	<ul style="list-style-type: none"> ▪ Endorse the proposed Amendment ▪ Notes that sunlight is essential necessary for survival of humans and vegetation ▪ Notes that parks rely on solar access to survive ▪ Considers high rise buildings are depriving people and parks of essential sunlight, and future generations to come ▪ This issue can only be resolved with management from people and government ▪ Advises against waiting for the damage to occur to act, seeking the matter be addressed now
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	38. Friends of Moonee Ponds Creek
Key Issues	Supportive
Summary	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Considers the linear parklands along Moonee Ponds Creek Corridor should be subject to the Amendment, particularly as the Creek is flanked by urban renewal precincts in parts where high rise buildings would be permitted ▪ States that the Amendment should include protection of future open spaces outlined within the Strategic Opportunities Plan for Moonee Ponds Creek Corridor.

Management Response	Moonee Ponds Creek and future open spaces were not included within the Amendment which was based on the City of Melbourne Schedule of Open Spaces. Should Council wish to include the Moonee Ponds Creek a further amendment to the planning scheme could be considered once Amendment C278 has been finalised.
Management Recommendation	No change to Amendment C278 is required.
Submitter	39. Friends of Royal Park
Key Issues	Supportive Overshadowing of Royal Park
Summary	<ul style="list-style-type: none"> ▪ Refers to Royal Park, noting it is a major public open space with historical significance and recognised natural attributes that must be protected from inappropriate development from within the park and outside the boundaries (noting development such as the State Netball and Hockey Centre, Royal Children’s Hospital, CSL and Parkville Gardens among others) ▪ Considers that it is not clear whether government or agency owned buildings/complexes within the park would be exempt from the Sunlight to Public Spaces Policy and seeks clarification. ▪ Considers it is not clear from the Amendment information whether buildings and other structures in the Park, for example pavilions, constructed by the Council would be exempt from the Sunlight to Public Spaces Policy and states that such exemptions should not be allowed. ▪ Requests that the Sunlight to Public Spaces Policy must clarify its application in regard to these points. ▪ Supports the Park Type 1 Classification for Royal Park
Management Response	<p>Buildings within parks will not be subject to the proposed DDO8, but will continue to be subject to the Sunlight to Public Spaces Local Policy. The aim of this Policy is to ensure new buildings and works allow good sunlight access to public spaces and to ensure that overshadowing from new buildings or works does not result in significant loss of sunlight.</p> <p>If mandatory additional overshadowing controls were to be applied, it would have the effect of preventing any development in parks.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	40. Carlton Residents Association
Key Issues	Supportive Designation of different park types Use of existing discretionary planning controls in allowable shadow assessment Application of DDO8 on areas with low mandatory height limits

<p>Summary of submission</p>	<ul style="list-style-type: none"> ▪ Supports the proposal to increase the winter sunlight access to Melbourne’s parks ▪ Opposes Argyle Square as a Type 2 park (parks in growth areas) as the park is totally within a low rise area of 4 storeys (DDO47) ▪ Considers Argyle Square should be Type 1 park where no additional shadow should be permitted. ▪ Raises concern over the use of street wall and building heights (in DDO61) to determine allowable shadow as these requirements are not mandatory. ▪ Seeks clarification as to whether the maximum street wall and overall height in the planning become mandatory under DDO8 as this is unclear in the DDO8 controls. Considers that discretionary controls used in the Allowable Shadow test become mandatory. ▪ Concerned about the application of DDO8 on areas in a General Residential Zones and Residential Growth Zones with low mandatory height limits <ul style="list-style-type: none"> ▪ South of Faraday & Barkly Streets ▪ North of Palmerston Street ▪ Central City North (DD048) ▪ Keppel St, Cardigan St and Cemetery Rd East ▪ Elgin Street (north side)
<p>Management Response</p>	<p>Although Argyle Square is surrounded by a 4 storey height limit area (DDO47), it has a discretionary height control which means that a development could have additional floors above the 4 storeys. The park is already subject to overshadowing. Applying the no additional shadow above the street wall control (Park type 2) is in line with the balanced approach adopted in this Amendment. It provides protection to the park while allowing for some development in accordance with existing controls.</p> <p>Whilst low mandatory building height limits are specified within many of the residential zones, provisions within the Planning Scheme enable mandatory heights to be exceeded where there are existing buildings of greater height on abutting allotments or the proposed building is for a non- residential use.</p>
<p>Management Recommendation</p>	<p>No change to Amendment C278 is required.</p>
<p>Submitter</p>	<p>41. Bernard Grinberg</p>
<p>Key Issues</p>	<p>Supportive</p>
<p>Summary of submission</p>	<ul style="list-style-type: none"> ▪ Supports the Amendment, particularly Fawkner Park ▪ Notes that the park has already been adversely affected by shadowing from buildings along St Kilda Road, and will be more so resulting from development of the proposed 493 St Kilda Road building and 409 St Kilda Road building ▪ Requests that all proposed development to modified to align with the Amendment controls.

Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	42. Adelaide Badgery
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Considers that the amendment is in the best interests of all members of the public, noting that the city is famous for its parks and gardens, and their amenity should be protected ▪ Notes personal use of Carlton Gardens with pet and family, savouring the sunlight, noting that strong doses of vitamin D are appreciated especially in winter ▪ Notes the many old trees in Carlton Gardens, stating that a decrease in sunlight would detrimentally affect these. ▪ Considers it is important to protect the Gardens to ensure that future generations can enjoy them
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	43. Matt Morgan
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Draws parallels with lack of trees in urban streets and requests information on what Council is doing to vegetate urban centres, as it is considered further planting in streets is necessary
Management Response	<p>Street planting outside of the scope of this Amendment however in accordance with its Urban Forest Strategy Council has an extensive street tree planting program.</p> <p>Submission noted</p>
Management Recommendation	No change to Amendment C278 is required.

Submitter	44. Daniel Malton
Key Issues	Development potential
Summary of submission	<ul style="list-style-type: none"> ▪ Concerned that height restrictions imposed on individual sites may affect the future use or development.
Management Response	A general response and recommendations to the loss of development potential can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	45. Josephine Waterhouse
Key Issues	Supportive Health and wellbeing
Summary of submission	<ul style="list-style-type: none"> ▪ Supportive of the Amendment. Considers that if Melbourne wishes to maintain the position as one of the world's most liveable cities, it is essential to maintain sunlight to parks and protect the lungs of the city. ▪ Uninterrupted sunlight is not only critical to the health of the plants but also to the human users of the parks. Notes that Seasonal Affective Disorder is an issue and it is essential that sunlight to parks is maintained. ▪ Notes that with congestion levels at an all-time high, parks are important
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	46. Lucy Martin
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Notes increasing population and scarcity of public open space, and considers protection of winter sun to parks essential for quality of life and liveability for existing and future residents ▪ Considers that the Amendment will bring winter sunlight protection in line with current recommendations and provide enduring benefit to parkland users in an era where this is so valuable, yet hard to enjoy with modern lifestyles.

Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	47. Hafsa Alasmar
Key Issues	Supportive Health and wellbeing
Summary of submission	<ul style="list-style-type: none"> ▪ Notes that in winter, sun exposure reduced, and there are fewer opportunities to receive Vitamin D from sunlight ▪ If parks are to be shaded, it will be more difficult to receive Vitamin D and enjoy sunny days
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	48. Mandy Mulholland
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ States that the parks are essential for city living, noting that access to sunlight is a huge component. ▪ Supports keeping parks as open and sunny as possible.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	49. Walter Myer
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Yarra Park is noted as being a glorious park with year-round access to sunshine.

	<ul style="list-style-type: none"> ▪ Hopes that privilege will be available to future generations, and that Melbourne’s sunny parks will not be overshadowed by development
--	--

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	50. Sarah Leer
------------------	-----------------------

Key Issues	Supportive Health and wellbeing
-------------------	------------------------------------

Summary of submission	<ul style="list-style-type: none"> ▪ Supports the Amendment for the benefit of residents and workers ▪ Notes that sunshine encourages people and families to use the open areas and parks and states that the mental and physical benefits of being outdoors and exercising are well established. ▪ States that the parks themselves will flourish with sunlight too. As parks Victoria says "healthy parks, healthy people", and considers the issue a public health matter.
------------------------------	--

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	51. Geoffrey Clarke
------------------	----------------------------

Key Issues	Supportive
-------------------	------------

Summary of submission	<ul style="list-style-type: none"> ▪ Supports the Amendment ▪ Mentions personal use of parks for running, cycling, pets, playgrounds, and sports, notes Yarra Park as an important local park. ▪ Notes that the trees and grass are under pressure from car parking, and shadowing (including from building over the railway near Jolimont Station), would put the northern part of Yarra Park under increased stress and make the playgrounds and facilities unpleasant in winter
------------------------------	---

Management Response	Submission noted
----------------------------	------------------

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	52. Gabrielle Harper
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Strongly endorses the Amendment ▪ Considers that the City of Melbourne is taking an important stand on preventing development that will overshadow parks and reduce winter sunlight that is vital to all park users ▪ Notes Carlton Gardens, stating it is essential that no development overshadows or limits glorious winter sunlight.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	53. Royal Park Protection Group
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Strongly endorses the Amendment ▪ Notes that overshadowing of parks diminishes their value and endangers their wellbeing ▪ Mentions Royal Park noting its unique landscape and great historical significance, and its role in providing open space to support the health of the city and its residents as well as providing habitat to birds and animals. ▪ Considers that it is imperative to protect it from impingement by buildings or other developments within the Park boundaries or from outside, including those within the park boundaries such as the State Netball and Hockey Centre, the Zoo and Royal Children's hospital as well as development adjacent to the park such as the multistorey apartments in Parkville Gardens, CSL and the Orygen Youth Mental Health centre. ▪ Supports Royal Park's proposed designation under the Amendment to be Park Type 1, where 'No additional shadow onto the park to be allowed between 10am and 3pm on June 21, and considers there should be no exemptions to this provision (including for sports pavilions). ▪ Also endorses the submission made by Friends of Royal Park (Parkville) with regard to this matter.
Management Response	A general response and recommendations relating to developments within parks can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.

Submitter	54. Tak Keong Yang
Key Issues	Supportive Southbank and Docklands inclusion
Summary of submission	<ul style="list-style-type: none"> ▪ Considers the Amendment is a very good initiative ▪ Recommends Southbank and Docklands should be included in the Amendment
Management Response	<p>A general response and recommendations to the exclusion of Docklands can be found at Attachment 3.</p> <p>Parks in Southbank are already protected from winter overshadowing by recently introduced central city specific planning controls.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	55. Paul Mcleod
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Fully supports the Amendment
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	56. Sophie St George
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Requests protection of winter sun in parks so that people can continue to enjoy the city
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.

Submitter	57. Kamil Ceylan
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Notes that whilst developments are a necessary reality of life in Melbourne, development should not negatively impact residents and visitors to the city in the name of developer profit. ▪ States that parks are for the use and enjoyment of all. ▪ Urges that we do not compromise the quality of life of the many, to the benefit of the few, and requests that Council allow the community to enjoy sunshine during winter months
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	58. Jane Shannon
Key Issues	Supportive Municipal wide protection
Summary of submission	<ul style="list-style-type: none"> ▪ Notes that the Amendment is a positive reaction to community consultation held by Council in 2016 ▪ Notes that as the inner city becomes more dense, green space is even more vital for inner city residents ▪ Overshadowing of park areas must be stringently monitored and controlled in all areas of the City of Melbourne. North and West Melbourne must be a part of these proposed planning controls
Management Response	Submission noted The Amendment affects the whole City except for the Hoddle Grid and Southbank which were dealt with under Amendment C270 and Docklands which was removed from the Amendment at the direction of the Minister.
Management Recommendation	No change to Amendment C278 is required.
Submitter	59. Marg Jungworth
Key Issues	Supportive

	Municipal wide Overshadowing of parks by development
Summary of submission	<ul style="list-style-type: none"> ▪ States all parks need protection from development within and near their borders ▪ States parks should not have developments within them, they should remain as parkland. ▪ Notes that it is vital for sufficient sunlight in parks to grow healthy grasses, plants, bushes and trees for their own right, but also importantly for the numerous creatures whose lives they help support. ▪ Considers lack of sufficient sunlight leads to damp and mossy ground and pathways and increases the potential for accidents. ▪ States that no overshadowing of parkland by built form should be tolerated. ▪ States that conversely, artificial light can be to the park's detriment. ▪ Considers that Royal Park should remain a "dark" park. Its unique bush park characteristics make it the home of much wildlife, birds in particular and that artificial lighting upsets their daily rhythm and breeding cycles. ▪ States that people need sunlight for their own health and mental wellbeing. ▪ Notes that Royal Park was once an astronomer's ideal place to stargaze, but has become spoiled by excessive artificial lighting.
Management Response	Submission noted Issues regarding artificial lighting are beyond the scope of this Amendment
Management Recommendation	No change to Amendment C278 is required.
Submitter	60. Mary Kelleher
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Supports parks being protected from overshadowing by developments
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	61. Ian Williams
Key Issues	Supportive

Health and wellbeing

Summary of submission

- Notes that parks should be protected from overshadowing by new developments
- Mentions North Melbourne and notes that the few parks there play an important role in providing much valued recreation, respite and relaxation.
- States that unlike mushrooms we do not thrive in the dark and rely on sunshine to lift our spirits and contribute to our mental health and wellbeing.
- Notes that North Melbourne is packed with student accommodation and apartment dwellers who rely on parks to provide outdoor relief and family time away from their confining residence any time of the day.
- Considers that useable parks complete with maximum sunshine, compensate for the lack of back and front yards.
- States that the parks are owned and maintained by the community and should not be confined to curfews on use because of over shadowing that makes them less appealing.
- States that parks are not just another facility but are spaces to be treasured for community wellbeing and not compromised in any way to benefit a few trying to maximise profits

Management Response

Submission noted

Management Recommendation

No change to Amendment C278 is required.

Submitter

62. Anne Phefley

Key Issues

Supportive

Summary of submission

- Very pleased with the Amendment
- Notes that parks are under significant pressure with increasing population and need protection
- Notes that ensuring winter sunlight and protection from overshadowing will keep the parks healthy and friendly whilst supporting biodiversity.
- States that it is hoped the policy will apply to all buildings whether private or Government

Management Response

Submission noted
The Amendment applies to all building affected by DDO8.

Management Recommendation

No change to Amendment C278 is required.

Submitter

63. Liz Rushen

Key Issues	Supportive Health and wellbeing
Summary of submission	<ul style="list-style-type: none"> ▪ Supports the Amendment to achieve greater protection for sunlight access to parks in winter ▪ Regular user of the city parks, particularly given living in an apartment. ▪ Fitzroy and Treasury Gardens are mentioned as important for exercise and relaxation. ▪ States that parks are vital to our wellbeing, particularly in winter when there is a reduced amount of sunlight
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	64. Polis on behalf of Steve Salamon
Key Issues	Not supportive Weedon Reserve park protection Restrictions on future developments
Summary of submission	<ul style="list-style-type: none"> ▪ Submission made on behalf of the landowners of 2 and 10 Wellington Parade and 1071-1081 Hoddle Street, East Melbourne. ▪ Request Weedon Reserve be removed from the park protection controls ▪ Considers Weedon Reserve to be a small island land holding surrounded by a road zone which provides little function beyond that of visual amenity. ▪ Notes that the Open Space Strategy that Weedon Reserve was listed as the second least visited reserve in East Melbourne. ▪ Considers that the reserve is of aesthetic value but not recreational value. ▪ Considers the proposed planning controls contradict built form controls elsewhere in the scheme, particularly DDO12, and will result in underutilisation of abutting sites. ▪ Concerned that the Amendment has not considered the effect of existing approvals or land outside of the DDO which would overshadow the park in any case. ▪ Considers the Amendment fails to consider strategic areas for redevelopment ▪ Considers that Fitzroy Gardens and Yarra Park provide an abundance of parkland without shadow.
Management Response	A response and recommendations to the issues relating to winter sun protection and the shift away from the current park hierarchy protection approach can be

found at Attachment 3. Winter sunlight access is important for all park types regardless of their size or frequency of use.

Small local open spaces such as Weedon Reserve are generally provided for the local community living within an easy walking catchment for unstructured recreation, socialising and relaxing outdoors. The smaller size means that it is important that winter sunlight is maximised to the whole reserve. These spaces also have a role in urban greening.

In the future, small sites such as those that comprise Weedon Reserve could be amalgamated and the streets realigned to make one consolidated park. Therefore protecting the potential future space as well as the current space is important.

Management Recommendation No change to Amendment C278 is required.

Submitter **65. Tract on behalf of Iglu Student Accommodation**

Key Issues Not supportive
Flagstaff Gardens not reviewed
Loss of development potential

Summary of submission

- Submission made on behalf of landowners of 407-415 King Street, West Melbourne
- States that site has an approved planning permit No TP-2017-93, but no endorsed plans. Council is currently assessing an amended application to the planning permit for a change of use to student accommodation. No changes to the height have been requested.
- Notes that the amended application would be prohibited under the proposed mandatory controls (DDO8) but not under the current controls (DDO33)
- Notes inconsistencies in the Hodyl + Co Report in regards to Flagstaff Gardens which was not reviewed as part of the report.

Management Response Where permits are in place, they will not be affected as development is entitled to proceed in accordance with existing permits.

Management Recommendation No change to Amendment C278 is required.

Submitter **66. Bridget McDonnell**

Key Issues Supportive

Summary of submission

- Supports the Amendment to protect sunlight in the local park against any additional development overshadowing it
- Notes that low rise apartments built on the outskirts on the park are elegant

	<p>and thoughtful and should continue to be.</p> <ul style="list-style-type: none"> ▪ Notes that tasteless, high blocks of shoe box apartments are not wanted, and that there are far too many in Carlton already, destroying the suburb
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	67. Peter Sanders
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Strongly supports the Amendment, in particular the introduction of winter sun protections for Carlton Gardens, extending sunlight protection from 10-3 and the introduction of the no additional overshadowing control ▪ Proposes changes including <ul style="list-style-type: none"> ▪ The low scale areas (areas with height controls of 4 stories or less) must include Argyle square, an area that has max. 4 storey controls in place now. ▪ Where maximum height controls are 'recommended' and may be exceeded, the recommended building heights should be mandatory as the basis for overshadowing calculation. ▪ Clarification should be made for Residential areas where the maximum height is 8 metres and also for areas with Heritage controls. ▪ Existing main grassed median strips in streets such as Drummond Street should also be designated as 'no additional overshadowing' areas.
Management Response	<p>Although Argyle Square is surrounded by a 4 storey height limit area (DDO47), it has a discretionary height control which means that a development could have additional floors above the 4 storeys. The park is already subject to overshadowing. Applying the no additional shadow above the street wall control (Park type 2) is in line with the balanced approach adopted in this Amendment. It provides protection to the park while allowing for some development in accordance with existing controls. Whilst low mandatory building height limits are specified within many of the residential zones, provisions within the Planning Scheme enable mandatory heights to be exceeded where there are existing buildings of greater height on abutting allotments or the proposed building is for a non- residential use.</p> <p>Median strips were not considered as parks and therefore excluded from this study (beyond the scope).</p>
Management Recommendation	No change to Amendment C278 is required.

Submitter	68. Sally Laurie
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Notes that upkeep and improvement of parks and gardens is costly (approximately \$55million annually) and that without sunlight this resource will deteriorate. ▪ Considers that since parks and other green spaces act as Melbourne's lungs lack of sunlight will adversely impact on all. ▪ Notes increasing rates of apartment dwellers relying on parks and gardens for health and wellbeing through outdoor recreation and exercise and through essential exposure to sunlight especially in the winter months. ▪ Notes the diversity of our population – students, workers, families, retirees and visitors – meaning that people visit green spaces throughout the day. Considers that for such visits to be beneficial it is necessary to increase the sunlight protection hours from over-shading by high rise development to 10am to 3pm in winter and 10am to 2 pm in some identified parks from the current 11am to 2pm in spring and autumn. ▪ In the past many policy proposals have been compromised because of the discretionary nature of controls so I believe it is essential for the health of Melbourne's residents to introduce a mandatory no additional over-shadowing control.
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	69. Fiona Bell
Key Issues	Supportive Health and wellbeing Princess Park Southbank
Summary of submission	<ul style="list-style-type: none"> ▪ Notes that sunlight is important for wellbeing, particularly in winter ▪ Considers parks are wonderful places for nature and relaxation but will be cold and unappealing if overshadowed ▪ Notes the north end of Princes Park being at risk of overshadowing by a development in Park Street ▪ Seeks inclusion of Southbank in the Amendment

Management Response	Submission noted Parks in Southbank are already protected from winter overshadowing by recently introduced central city specific planning controls, Amendment C270.
Management Recommendation	No change to Amendment C278 is required.
Submitter	70. Jemima Myer
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Notes the personal experience of living beside Yarra Park for a long time and the privilege of seeing it bathed in sunlight year round. ▪ Hopes that this privilege will be passed on to future generations and that Melbourne’s parks do not become overshadowed by development
Management Response	Submission noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	71. Christine Robinson
Key Issues	Supportive Gardiner Reserve
Summary of submission	<ul style="list-style-type: none"> ▪ Notes Gardiner Reserve and states it can still be saved by Council ▪ Suggests Council buy the land on the corner of Haines Street/Macaulay Road to stop overshadowing if this development proceeds. ▪ Suggests City of Melbourne work better to improve outcomes and prevent what has been permitted to occur on Haines Street alongside Gardiner Reserve.
Management Response	Noted The purchase of land by council is beyond the scope of this Amendment
Management Recommendation	No change to Amendment C278 is required.

Recommendation

Submitter **72. Graham Howard**

Key Issues Supportive

Summary of submission

- Supports the Amendment
- States that the Amendment is thoroughly researched, well-considered and even-handed.
- Considers that the Amendment achieves the desired result without imposing unreasonable limitations on development.
- Notes that there are benefits to users of parks and open spaces in the City of Melbourne — residents, workers and visitors alike — that will be appreciable and enduring. Significant experiential and wellness value will be added to the City’s existing vital open space.
- Considers that it’s crucial that the planned controls be made mandatory.

Management Response Submission noted

Management Recommendation No change to Amendment C278 is required.

Submitter **73. Margaret Farren-Price**

Key Issues Supportive

Summary of submission

- Notes that parks (mentions Carlton Gardens/Exhibition gardens, Treasury and Fitzroy Gardens and Princes Park) are treasures of the City and must be protected from overshadowing by tall buildings
- Thanks Council for undertaking this work

Management Response Submission noted

Management Recommendation No change to Amendment C278 is required.

Submitter	74. University Melbourne Business School
Key Issues	<p>Not supportive</p> <p>Overly restrictive</p> <p>Inconsistent with other provisions</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Owns land at 200 Leicester Street, 150-154 and 160-170 Pelham Street, Carlton and proximity to Lincoln Square. ▪ Notes DDO61 includes discretionary heights with provisions for the protection of sunlight to public space. ▪ Submits that the Amendment: <ul style="list-style-type: none"> ○ Lacks strategic justification ○ Is overly restrictive and odds with other applicable planning policies relevant to urban renewal areas ○ Will stifle investment ○ Is at odds with how overshadowing is assessed elsewhere in the scheme. ▪ Notes that policies elsewhere in the Planning Scheme will not be amended in regards to overshadowing, and considers this a fundamental flaw and not representative of proper planning, resulting in a Planning Scheme with overlapping and conflicting provisions.
Management Response	<p>The Amendment is underpinned and informed by a comprehensive strategic piece of work undertaken by Hodyl + Co on behalf of Council which supports a revised policy approach from protecting lunchtime sun access for the equinox months of March and September, to a winter protection test across a broader range of hours.</p> <p>The introduction of a single Design and Development Overlay establishes a consistent approach to overshadowing across the Amendment area and ensures that any development that can impact a park is considered regardless of what other individual DDO the building or park is located in.</p> <p>All permit applications will be assessed pursuant to the proposed DDO8 as well as DDO61 and other zone and overlay requirements. With DDO8 being the more restrictive mandatory control, it will regulate the extent of shadow which is permissible on the parks from any development.</p> <p>The current provisions in the Planning Scheme being a Local Policy and Design and Development Overlay controls have not been effective in protecting sunlight to parks particularly in our growth areas. Recent development within growth areas has impacted upon sunlight to parks where significant overshadowing now occurs.</p> <p>A general response and recommendations relating to winter sun protection and potential development impacts can be found at Attachment 3.</p>
Management Recommendation	<p>No change to Amendment C278 is required.</p>

Submitter	75. VPA
Key Issues	Overly restrictive Impact on renewal areas-particularly Arden Precinct
Summary of submission	<ul style="list-style-type: none"> ▪ Notes that some of the land covered by the Amendment is subject to direction issued by the Minister for Planning including Arden and the Parkville NEIC and Dynon. ▪ Supports the intention of the Amendment ▪ Does not support the controls as they are considered insufficiently flexible to allow a performance-based approach in designated urban renewal areas that takes into account the role and dimensions of open spaces and the need to balance sunlight with other planning outcomes. ▪ Considers that Arden, Dynon and the NEIC are subject to the same planning consideration as other high density areas of the City such as the Hoddle Grid and Southbank and should be excluded from the overlay to allow specific solutions to be developed ▪ Considers that the Amendment will adversely impact the ability of these areas to accommodate growth and is contrary to broader policies for these areas. ▪ Seeks instead a customised approach looking at opportunities for integrated, precinct scale strategic planning ▪ Considers the Amendment does not allow for sufficiently diverse built form outcomes in the VPAs planning precincts which may limit innovative and contextually driven design responses while maximising built form envelopes, resulting in podium-tower development ▪ The Amendment doesn't consider soft and hard landscaping areas ▪ Prefers a performance-based approach such as basing permissible overshadowing on the open space hierarchy of the Council Open Space Strategy, the Metropolitan Open Space Strategy and types and intensity of uses on the open space and surrounding it ▪ Seeks testing of the proposed controls in relation to the Arden Precinct.
Management Response	<p>The provisions in this Amendment have been carefully crafted so that the need for the city to grow is balanced with protecting broader community assets and retaining amenity and liveability.</p> <p>Underpinning the approach of Amendment C278 is that all parks are important. Community consultation undertaken in the early stages of the project found that an overwhelming number of participants considered sunlight in public spaces throughout the year as very important.</p> <p>Research has shown that maximising winter sun access across all parks across the municipality is important to the health and the well-being of our community. The approach has been to provide access to sunlight to parks within walking distance of all residents in the City. This means access to sunlight is essential in smaller parks as well as the major municipal parks.</p> <p>Winter sunlight access controls were introduced for parks in the Hoddle Grid and Southbank (via Amendment C270 - Central City Built Form Review.).</p> <p>Arden, Dynon and the NEIC are subject to precinct specific planning</p>

considerations and processes which are different to those of the Hoddle Grid area.

A general response and recommendations relating to mandatory winter sun protection and impacts on development potential and growth area development can be found at Attachment 3.

Management Recommendation

No change to Amendment C278 is required.

Submitter

76. QVM Pty Ltd

Key Issues

Not supportive
 Flagstaff Gardens
 Impact on development potential

Summary of submission

- Supports the principle of maintaining appropriate access to sunlight whilst the municipality experiences significant growth and new development.
- Considers the designation of Flagstaff Gardens as a protected park is not strategically justified and noted that it was outside of the project scope for the Hodyl+Co Report.
- Considers that the shadow impacts to Flagstaff Gardens have been thoroughly considered through recent planning scheme amendments (C245, C270 and C309)
- Opposes the introduction of more restrictive controls to QVM precinct given the recent introduction of DPO11 which includes overshadowing controls.
- Considers that if Flagstaff Gardens were to be protected by DDO8, less stringent controls applicable to the Urban renewal Areas should apply.
- Requests that the Queen Victoria Market Precinct be excluded from DDO8

Management Response

The premise of Amendment C278 is to protect all parks across the City but to apply a balanced approach. Where Council policy allows growth and more intense development, the Amendment C278 controls are modified so that there is a balance between permitted development and the need to protect a park. In the case of areas where a structure plan is reflected in existing planning provisions, DDO8 includes the concept of an ‘allowable shadow’. In the case of Fawkner Park and the parklands on the eastern side of St Kilda Road, which are, and will be subject to overshadowing from existing and future permitted development in Southbank, the Amendment acknowledges existing circumstances by protecting these parklands for a reduced period of four hours rather than five, revising the time to 2pm from 3pm.

Flagstaff Gardens was not assessed as part of the Hodyl + Co Report given that winter sunlight protection controls were recently applied through Amendment C245 - Queen Victoria Market and C270 – Central City Built Form Review. Management subsequently nominated Flagstaff Gardens as a Park Type 1 to ensure that the park was protected from shadows cast from areas surrounding the park.

Following management’s review of park types, it is proposed that a modified

Park Type 3 is applied to Flagstaff Gardens (from 11am to 3pm). This is consistent with other parks at the edge of the Central City, such as Fawkner Park and Domain Parklands. This reflects the sunlight controls established through C245, extending them by one hour and making them mandatory. It should be noted that this change to the morning park protection time has no impact on sites to the north and west of Flagstaff Gardens.

Based on Council's role and potential conflict in regards to the Queen Victoria Market Renewal Project adjacent to Flagstaff Gardens, management will specifically seek direction from the panel on the proposed revised park type for Flagstaff Gardens

Management Recommendation	A change to Amendment C278, specifically to DDO8 will be made in line with the management response.
----------------------------------	---

Submitter	77. AECOM on behalf of Carlton Football Club
------------------	---

Key Issues	Supportive Development within parks
-------------------	--

Summary of submission	<ul style="list-style-type: none"> ▪ Supports and appreciates several objectives in principle ▪ Mentions Ikon Park, noting it is undergoing planning approvals for redevelopment ▪ Notes that the proposed Clause 22.02 contains controls applying to Ikon Park and that DDO8 applies to sites adjacent parks, not within the park. ▪ Seeks clarification regarding Clause 22.02 noting that it is neither explicit nor clear as to whether the controls apply to development within parks. ▪ Considers that the Amendment may cause unnecessary confusion in relation to Ikon Park redevelopment which may cast some additional shadowing to Princes Park. ▪ Seeks clarification on these matters, in particular whether and to what extent the Amendment applies to development within parks (Ikon Park).
------------------------------	---

Management Response	A general response and recommendations relating to developments within parks can be found at Attachment 3.
----------------------------	--

Management Recommendation	No change to Amendment C278 is required.
----------------------------------	--

Submitter	78. Urbanest
------------------	---------------------

Key Issues	Not supportive Mandatory controls
-------------------	--------------------------------------

Impact on development potential

Summary of submission

- Supports the broader intention of the Amendment and the simplification and consolidation of current overshadowing controls.
- Notes their decision to withdraw from potential purchase of the site at 701-713 Swanston Street, Melbourne as the economic impact of the shadow controls was untenable
- States substantial concerns with the Amendment
- Does not take issue with the broad intention of the Amendment and consolidation of dispersed overshadowing provisions, however, has concerns with the controls, particularly DDO8
- Particularly opposes the mandatory nature of the controls
- Considers the control significantly changes the relative 'overshadowing impact' of a proposal by shifting the assessment date to winter
- Considers that the mandatory provision for no additional overshadowing severely constrains development allowable on the site
- Notes that as a mandatory provision there is no flexibility for a unique architectural solution that satisfies the built form envisaged by DDO61 but not DDO8
- Notes that the control when applied to the site mentioned above would render development on site unviable, almost halving development potential.
- Considers the Amendment to have significant impacts on the potential form and composition on sites north, east and west of parks.
- Considers mandatory controls not appropriate (appropriate only for state significant areas such as Yarra River Corridor and Federation Square) and refers to Planning Practice Note 15.
- The DDO8 mandatory provisions are a substantial departure from the nuanced controls of DDO10 and are inappropriate in the context of balancing policy objectives and varying site context.
- The impact of the mandatory controls proposed by C278 renders a significant amount of strategic planning of built-form controls constrained and limits the discretion of Council in assessing positive outcomes in instances where minor variations are required to the DDO8 control, therefore, considers the introduction of mandatory controls is not strategically supported
- Considers blanket mandatory provisions inappropriate
- Opposes the widening of the overshadowing window to 10-3pm on June 21 as it will result in adverse consequences for sites located east or west of public open space, noting it can manifest in very minor amounts such as one or two hours of small amounts of overshadowing as opposed to times when sunlight access is most critical
- The issue is exacerbated for site that are not aligned along a typical north-south axis such as North Melbourne
- Won't respond to specific sites and context as a blanket approach
- Divergent from broader state and local policy seeking to intensify development in the central city and in defined urban renewal areas such as City North
- Limits where development and growth can be accommodated
- Acknowledges that overshadowing of public open space should be minimised where possible, considers that it is a natural product of development sought for central city and urban renewal areas.

- States that current planning controls are largely discretionary, and these discretionary controls are supported to be further refined, but does not support mandatory controls. Mandatory controls do not enable discretion for whether the amount of additional overshadowing is a benign or unreasonable additional amount of overshadowing as is currently afforded by the Scheme.
- Notes that Lincoln Square has been extended north, exacerbating the issue. Whilst Urbanest broadly supports the potential to increase parkland (by reducing road reservations or the like) – if this is a mechanism that Council intend to pursue across the municipality this will have further substantial and unreasonable impacts on the development potential of neighbouring sites.
- Considers Council's departure from the Panel's recommendations in Amendment C196 for discretionary height and setback provisions and discretionary overshadowing protection of the public realm between 11am and 2pm at the equinox towards a more onerous mandatory control to be unreasonable in the context of the strategic work for City North (which was only gazetted less than four years ago) and will unreasonably constrain a substantial proportion of development within prominent urban renewal areas.

Management Response

The premise of Amendment C278 is to protect all parks across the City but to apply a balanced approach, so that where Council policy allows growth and more intense development, the Amendment C278 controls are modified so that there is a balance between permitted development and the need to protect a park. In the case of areas where a structure plan is reflected in existing planning provisions, DDO8 includes the concept of an 'allowable shadow', and in the case of Fawkner Park and the parklands on the eastern side of St Kilda Road, which are and will be subject to overshadowing from existing and future allowable development in Southbank, the Amendment acknowledges existing circumstances by protecting these parklands for a reduced period up to 2.00pm and not 3.00pm.

The increased scale and density of new development makes all parks vulnerable to overshadowing. The discretionary DDO controls in the planning scheme such as those on DDO61 introduced via Amendment C196 have not been effective in protecting sunlight to parks particularly in growth areas. Recent research has shown that maximising winter sun access is important to the health and the well-being of our community. Based on this evidence, Amendment C278 controls proposes a shift away from discretionary equinox protection to mandatory winter sunlight protection to all parks across a broader range of hours

A response and recommendations relating to mandatory controls, potential development impacts and park protection times can be found at Attachment 3.

Management Recommendation

No change to Amendment C278 is required.

Submitter

79. Department of Transport

Key Issues	Impact on development potential of rail land
Summary of submission	<ul style="list-style-type: none"> ▪ Requests that the proposed DDO8 not apply to the state owned rail land portfolio which is zoned Public Use Zone. Considers it necessary that in order to avoid imposing any impediment on the ability of the State to operate, maintain and develop the transport network. ▪ Considers that any planning policy which comprises a height restriction on works has the potential to restrict the ability to construct a range of rail related infrastructure within the rail corridor as well as potentially inhibiting more substantial possible future rail developments. ▪ Notes that the Amendment must have regard to the statutory requirements of the <i>Transport Integration Act 2010</i> which requires land use decisions to be made with regard to the current and future development and operations of the transport system. ▪ Request that there be clarification that the rail corridor and rail infrastructure and assets are not included within DDO8 ▪ Requests that other areas of state owned land rail land portfolio are omitted from DDO8, particularly in the Arden Precinct rail corridor. ▪ Concerned that the imposition of a height control over the active rail corridor and other parts of the state owned rail land portfolio is counterproductive and a possible constraint on the ability of the State to undertake its transport functions.
Management Response	<p>Sophisticated modelling has been developed by the City of Melbourne which has enabled management to refine the DDO8 boundary. The new boundary includes all properties which could potentially overshadow a park (based on the new controls and existing height provisions).</p> <p>The <i>Transport Integration Act 2010</i> (Act) recognises that land use and transport planning are interdependent and requires agencies and other decision makers to have regard to broader social, economic and environmental considerations.</p> <p>The intent of Amendment C278 is not to impact the current transport operations but to ensure development as part of future urban renewal projects do not cast a shadow over an existing park.</p> <p>Having regard to the “Act” and the intent of Amendment C278, it is considered appropriate to exempt development on land zoned Public Use Zone 4 (Transport) from a requiring a planning permit where the overall building height of buildings and works is 9 metres or less and the use is consistent with the intent of the public land reservation (Transport)</p>
Management Recommendation	Amend the DDO8 to include a permit requirement exemption for development on PUZ4 land where the use is consistent with the intent of the public land reservation (Transport) and the overall building height is 9 metres or less.
Submitter	80. Tom Harley
Key Issues	Supportive Fawkner Park

Summary of submission	<ul style="list-style-type: none"> ▪ Strongly supports the Amendment ▪ Notes Fawkner Park stating has been compromised by development along St Kilda Road. ▪ Believes that the parklands are among Melbourne’s greatest assets and should be more vigorously protected. ▪ Notes that visual pollution from inappropriate development interrupting vistas is also inappropriate
Management Response	<p>Submission noted</p> <p>Protection of vistas is not within the scope of this Amendment</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	81. Sarah Kennedy
Key Issues	<p>Supportive</p> <p>Fawkner Park</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Strongly supports the Amendment ▪ Notes Fawkner Park stating it has been compromised by development along St Kilda Road. ▪ Believes that the parklands are among Melbourne’s greatest assets and should be more vigorously protected. ▪ Notes that visual pollution from inappropriate development interrupting vistas is also inappropriate
Management Response	<p>Submission noted</p> <p>Protection of vistas is not within the scope of this Amendment</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	82. Tilda Harley
Key Issues	<p>Supportive</p> <p>Fawkner Park</p>
Summary of	<ul style="list-style-type: none"> ▪ Strongly supports the Amendment

submission	<ul style="list-style-type: none"> ▪ Notes Fawkner Park stating it has been compromised by development along St Kilda Road. ▪ Believes that the parklands are among Melbourne’s greatest assets and should be more vigorously protected. ▪ Notes that visual pollution from inappropriate development interrupting vistas is also inappropriate
Management Response	<p>Submission noted</p> <p>Protection of vistas is not within the scope of this Amendment</p>
Management Recommendation	<p>No change to Amendment C278 is required.</p>
Submitter	<p>83. The University of Melbourne</p>
Key Issues	<p>Exclusion of the City North Precinct</p> <p>Impact on growth potential</p> <p>Exemption for Haymarket and Fishermans Bend</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Considers the extent of the Amendment is too broad, including land on which development would have no realistic potential for overshadowing an identified public open space and does not properly respond to existing planning policy and aspirations such as Plan Melbourne and the City North Structure Plan ▪ Submits that at a minimum, the extent of DDO8 should only include land with a realistic potential to overshadow identified parks. ▪ Considers the application of DDO8 over land in the Public Use Zone (PUZ) erodes the as-of-right development privileges afforded to the University and severely restricts the redevelopment of buildings fronting Grattan Street. This represents an unreasonable constraint on the ability of the University to develop its land. ▪ The existing policy at 22.02 excludes City North with the City North Structure Plan providing appropriate protection of sunlight to parks. Submits that these controls should be maintained in the City North extent rather than the proposed Amendment ▪ States that the City Ford Site is a key development site for the University and strategically important for the delivery of the National Employment and Innovation Cluster in Plan Melbourne. Considers that the protection of winter morning sunlight to the Haymarket roundabout severely constrains the development potential of the City Ford sites and submits that the site should be developed in accordance with current built form controls ▪ States that the University recently purchased land in the Fishermans Bend Employment Precinct for the University of Melbourne’s new campus. Notes discussions occurred with Council and other relevant stakeholders resulting in an agreed degree of allowable overshadowing of proposed open space to the south of the campus which was incorporated into the Fishermans Bend Campus Development Framework (FBCDF). The University seeks

assurance that the degree of overshadowing of the public open space envisaged in the FBCDF, which is based on agreements reached with Council, will be maintained.

Management Response

The introduction of a single Design and Development Overlay establishes a consistent approach to overshadowing to parks across the amendment area. All new developments will be assessed pursuant to the proposed DDO8 as well as DDO61 and other zone and overlay requirements.

Digital modelling tools have been utilised to identify development on sites that have the potential to overshadow specified parks. Only those sites identified have been included in DDO8. The University of Melbourne Parkville campus sits to the north of an existing park. It is defined as a single parcel in Council's GIS system, and therefore the whole parcel has been identified. It is recognised that the extent of the overlay will be reviewed by the independent panel.

Proposed new public open space in the Fishermans Bend Employment Precinct is not affected by this Amendment. However, it is hoped that any new public open space created in the City is afforded the same level of protection as proposed by this Amendment.

The scope of the Amendment only provides for the protection of existing parks with the exception of the Haymarket roundabout. The inclusion of the Haymarket Roundabout as a park affords protection for this future park under DDO8. Given that this is a departure from the initial project approach to protect existing public parks outside of the Hoddle Grid and Southbank, it is considered appropriate to remove the Haymarket Roundabout as an identified public park from this Amendment.

Management Recommendation

Amend Amendment C278 in line with the recommendation to remove the Haymarket Roundabout as an identified public park.

Submitter

84. Protectors of Public Lands

Key Issues

Supportive
 Health and wellbeing
 Park amenity

Summary of submission

- Supports the Amendment
- Considers winter sunshine is vital for human health and people must have maximum access to this amenity in parks
- Notes that protection of sunlight necessarily means that construction of high buildings in the vicinity of parks must be tightly controlled.
- Mentions ongoing rapid population growth and the need protect public open space. Considers that Melbourne's liveability has already

deteriorated significantly over recent decades with densification of living especially close to the city and anything the Council can do to stop further deterioration with respect to parks is vital.

- Considers that in winter, people will avoid shaded areas, naturally concentrating usage of a given space in the more pleasant sunny areas.
- Considers that more shade can change microclimates and make once suitable vegetation unsuitable to new conditions in shadow, affecting other biota such as birds, animals, insects and microbial life in the area.
- Points out that overshadowing will occur with constructions both inside and outside park boundaries (apart from the even more serious issue of alienating parkland from public use) and should be avoided.
- Considers that parks need protection from overshadowing as proposed in Amendment C278 and also from the visual effect of tall buildings near parks. Part of the calming effect of being in a park is the illusion of isolation and the visual pleasure from seeing an uncluttered sky, noting that the effect of surrounding buildings is not solely about overshadowing.
- Notes the conflict between maintaining current amenity and the push for growth and building of high rise accommodation. The latter should be resisted at least to the extent that all the precious parkland in the municipality is preserved with the current level of amenity.
- Would like to see the standard of June 21 from 10am-3pm applied to all the parks that have been assessed .for this exercise.
- The parks designated as Type 2 will deteriorate amenity. MCC should fight to preserve current amenity even if it means battling the planning system with respect to allowable heights in order to do this.
- In the case of parks Type 3, this standard should be extended to 3.00pm.

Management Response

A response and recommendations relating to Type 2 and 3 parks can be found at Attachment 3.

Management Recommendation

No change to Amendment C278 is required.

Submitter

85. South Yarra

Key Issues

Supportive
 Health and well being
 Balanced approach

Summary of submission

- Commends Council for extending the hours to provide more sunlight into public parks.
- Concerned about the exceptions for inner city parks to balance sunlight access with the need to support development intensification as:
 - It is even more important for city neighbourhoods where sunlight is already (and increasingly) reduced by high-rise buildings
 - The health of the public is more important than the construction of tall buildings. There are numerous ways inner city population increases can

	<p>be accommodated without Interfering with our increasingly important parks.</p> <ul style="list-style-type: none"> ▪ There are and should be simple rules controlling the overshadowing of our parks not subjective exceptions. ▪ Why is it that “development” (and developers) are so often given importance by councils. In this case, and in every case, priority should be given to the health and wellbeing of the population well ahead of development. ▪ Support the extended hours protecting our parks but strongly opposes the proposed exception applying to inner city parks.
Management Response	A response and recommendations relating to Type 2 and 3 parks can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	86. Australian Red Cross
Key Issues	<p>Not supportive</p> <p>Impact on development potential</p> <p>Mandatory controls</p> <p>Design response</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Owns and occupies 163-175 Bouverie Street, Carlton ▪ Considers that the proposed controls will impact on the development potential of the Red Cross site as they are too onerous on future development. ▪ Highlights that proposed DDO8 will have a significant impact on what shadow may be permissible to Lincoln Square. ▪ Supports the current discretionary shadow controls which protect the amenity of the area (as agreed to by Amendment C196 Panel). ▪ Considers that a new building will likely to be forced to adopt a “wedding cake” stifling the opportunity to deliver a site responsive and innovative design. ▪ Requests that DDO8 not apply to the DDO61 area.
Management Response	<p>The increased scale and density of new development makes all parks vulnerable to overshadowing. The discretionary DDO controls in the planning scheme such as those on DDO61 introduced via Amendment C196 have not been effective in protecting sunlight to parks particularly in growth areas. Recent research has shown that maximising winter sun access is important to the health and the well-being of our community. Based on this evidence, Amendment C278 controls propose a shift away from discretionary equinox protection to mandatory winter sunlight protection to all parks across a broader range of hours</p> <p>Design innovation is an important ambition. There is no reason why mandatory controls should limit creativity.</p> <p>A response and recommendations relating to mandatory controls and</p>

development impacts can be found at Attachment 3.

Management Recommendation No change to Amendment C278 is required.

Submitter **87. Property Council of Australia**

Key Issues Not supportive
 Impact on future development
 Appropriateness of testing times
 Lack of transitional provisions

Summary of submission

- Concerned that the proposed controls for all parks are far more onerous mandatory winter shadow test than the current performance based equinox approach.
- Considers that discretionary controls that allow for the amenity and the actual utility of the land as a park will ensure that the site's context, economic and special value be measured in conjunction with public benefit and need.
- Considers the proposed testing times comes at a significant cost.
- Concerned that the proposal was based on park usage data in August 2017 while the recommendation proposes changes aimed at increasing park usage during the winter solstice in June.
- States that June is amongst the cloudiest month of the year hence implementing stricter height controls to facilitate additional sun access to parks in this month is cumbersome and unlikely to yield significant social benefit.
- Considers the current protection hours of 11am and 2pm at the equinox gives opportunity for people to access sunlight throughout the day.
- Considers the discretionary controls allow for architectural innovation.
- States that DDO8 contains no transitional provisions. Requests that applications which have been lodged should be assessed under the planning scheme at the time of lodgement.

Management Response A response and recommendations relating to transitional arrangements, mandatory controls and park protection times and winter can be found at Attachment 3.

Management Recommendation No change to Amendment C278 is required.

Submitter	88. Tract on behalf of Cedar Pacific
Key Issues	Not supportive Mandatory controls
Summary of submission	<ul style="list-style-type: none"> ▪ Opposes mandatory overshadowing controls. ▪ Considers that the existing overshadowing controls introduced under Amendment C196 are most appropriate for an urban renewal area.
Management Response	A response and recommendations relating to mandatory controls can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	89. Richmond FC
Key Issues	Exemptions form sites within Yarra Park
Summary of submission	<ul style="list-style-type: none"> ▪ States that Yarra Park, is nominated as a Type 2 park. This park is home to the Richmond Football Club which is undergoing significant expansion projects. ▪ Concerned that the Amendment is silent on the extent to which the mandatory controls apply within parks and trusts that it was a conscious decision of Council to exclude Yarra Park from the proposed DDO8. ▪ Seeks confirmation that this was Council's intention. ▪ Request that the local policy be amended to make specific commentary regarding exemptions from mandatory controls not only for Punt Road but also for the MCG.
Management Response	A response and recommendations relating to developments within parks can be found at Attachment 3. Yarra Park is identified as Park Type 2 in Amendment C278.
Management Recommendation	No change to Amendment C278 is required.
Submitter	90. Ratio on behalf of the Royal Society of Victoria

Key Issues	Mapping inaccuracy
Summary of submission	<ul style="list-style-type: none"> ▪ On behalf of the owner of 1 Victoria Street, Melbourne ▪ Supports the overarching vision for the protection of sunlight to public parks and recognises the values of parks for residents, workers and visitors. ▪ Identifies that the Amendment incorrectly references RSV's land as a public park. Whilst the lawn area in the north and western part of the site is made available to the public as per an agreement with Council, it is crown land, not a public park. ▪ Concerned that this classification may unreasonably prejudice the ongoing utility of the land. ▪ Identifies that the background modelling report by Hodyl + Co does not outline how it identified land for inclusion under the heading "park*". ▪ Notes that the proposed DDO8 controls apply to the entire RSV site and not just the existing lawn space. ▪ Requests: <ul style="list-style-type: none"> ▪ All references to the RSV site being a public park be removed from Amendment C278 including the modelling report. ▪ Amend any mapping within the exhibition package which references the RSV and its gardens or open space to coincide with the identified open space of the Melbourne 3000 precinct.
Management Response	Advice has been received confirming that the RSV land is Crown land which has been formally set aside for non- public use. On that basis, it is considered appropriate to remove the park from Amendment C278 which is only applied to parks in public ownership.
Management Recommendation	Amend the DDO8 mapping to remove the Royal Society of Victoria land.
Submitter	91. Planning Studio on behalf of Andavol Pty Ltd
Key Issues	<p>Not supportive</p> <p>Impact on future development potential</p> <p>Reconfiguration of Lincoln Square.</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Owner of Rydges on Swanston, 701-713 Swanston Street, Carlton ▪ Notes that a pre-application proposal provided to Council demonstrates compliance with the current overshadowing provisions in the planning scheme. ▪ Submits that any additional value anticipated by virtue of the C196 Amendment will be removed by the introduction of the proposed Amendment C278. ▪ Submits that Impacts arising from the introduction of the C278 Amendment

are further exacerbated by the reconfiguration of Lincoln Square currently being undertaken by Council.

- While Clause 22.02 does not currently apply to City North, amending the relevant overshadowing principles from being applicable in March and September to June, will have a direct and unreasonable impact on the development of the site.
- Requests that C278 Amendment be varied to continue to exclude the subject land from proposed DD08, or provide allowances for the subject land to be developed in accordance with the current provisions that are outlined in DDO Schedule 61.

Management Response A general response and recommendations relating to impacts on development potential can be found at Attachment 3.

Management Recommendation No change to Amendment C278 is required.

Submitter **92. SJB on behalf of Village Park Consortium**

Key Issues Recognition of site specific controls

Summary of submission

- States that Village Park Consortium is the developer for the former Commonwealth Games Athletes Village which is affected by site specific planning controls. The built form outcomes for the redevelopment of the former Commonwealth Games athlete’s village are governed by site specific controls articulated within the Incorporated document entitled The Games Village Project, Parkville, September 2015 and the approved Siting and Design Guidelines and Master Plan. These documents operate in place of any other planning scheme controls, such as a Design and Development Overlay and exempt subdivision, use and development from the requirements of the Melbourne Planning Scheme to extent provided for within the incorporated document.
- Requests that proposed DDO8 should exclusively state that the redevelopment of Commonwealth Games athletes village is exempt from the requirements of Design and Development Overlay Schedule 8 where development is undertaken consistent with the site specific controls contained within the Incorporated document entitled The Games Village Project, Parkville, September 2015 and the endorsed Siting and Design Guidelines and Master Plan which apply to the land.

Management Response Approved Amendment C281 inserted an Incorporated Document titled “The Games Village Project, Parkville, September 2015” into the planning scheme on 3 May 2018 on order to allow an increase to the maximum number of storeys from 11 to 17 storeys.

Where an approved planning permit or approved Incorporated Plan (which has a statement to override all other controls in the planning scheme) is in place development may proceed in accordance with these plans. On this basis, the site has development entitlements afforded by the Incorporated Document

	which operate over and above the requirements of DDO8.
Management Recommendation	No change to Amendment C278 is required.
Submitter	93. Housing Industry Association
Key Issues	Not supportive Ad hoc approach Impact on development potential
Summary of submission	<ul style="list-style-type: none"> ▪ Owner of 70 Jolimont Street, East Melbourne ▪ Considers that if the proposed provisions were approved, it would result in: <ul style="list-style-type: none"> ▪ an ad hoc approach to the management of overshadowing of parks compared to other local government agencies within Victoria. ▪ a heightened level of uncertainty within the planning approvals process, causing financial risk, additional costs, delays and ultimately the restriction of land zoned for its intended purpose. ▪ additional overshadowing reports to be submitted- These reports may often be expensive, resulting in additional costs associated with the planning approvals process. ▪ developers being restricted in their ability to develop a site to its full potential. This in turn will impact the financial viability of a project, in reality this means a project may not be able to go ahead leading to a negative impact on housing supply and housing affordability.
Management Response	<p>Generally digital shadow modelling is required with an application for a planning permit. The proposed DDO does not introduce new requirements but applicants will be required to consider existing shadowing as well. .</p> <p>A general response and recommendations relating to impacts on development potential can be found at Attachment 3.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	94. Beveridge Williams on behalf of Nuvolink Pty Ltd
Key Issues	Not supportive Limit opportunity for development intensification and diversity Mandatory controls
Summary of submission	<ul style="list-style-type: none"> ▪ Owner of 86-88 and 90-94 Jolimont Street, East Melbourne ▪ Considers that the proposed Amendment: <ul style="list-style-type: none"> ▪ does not appropriately consider or address these low amenity areas of Yarra Park. Further, it imposes unreasonable mandatory restrictions on this site and other sites with similar amenities.

- will result in reduced development opportunities for a variety of uses
- will restrict or reduce the ability or opportunities for housing diversity, particularly when considering the needs of elderly people and people with disabilities who would likely prefer to live in close proximity to recreation areas such as parks.
- Requests the mandatory provisions approach applying shadow controls be abandoned and an appropriate localised merit assessment be adopted for the overall policy.
- Provides the example of a site at 102-104 Jolimont Road (west of the subject site) which has a street wall height of up to 9 stories and would likely have a shadow cast projection to Yarra Park greater than any shadow cast projection of any future development at the subject site This further emphasises the need for a localised assessment, which would be beneficial instead of the blanket approach proposed by the mandatory DDO8 controls.

Management Response

The proposed controls recognise existing overshadowing of parks and are proposed to be introduced so that parks are protected into the future from further overshadowing.

A general response and recommendations relating to mandatory controls and impacts on development potential can be found at Attachment 3.

Management Recommendation

No change to Amendment C278 is required.

Submitter

95. AFL

Key Issues

Development within parks

Summary of submission

- Concerned that the draft policy or the proposed DDO8 does not explicitly discuss the potential for the on-going redevelopment and expansion of sporting facilities within public parks such as Yarra Park and Princes Park.
- Considers that not only is it appropriate that sporting facilities are permitted to develop, they should be able to do so unconstrained by shadowing controls. Concerned that that even without the DDO8 applying to these stadium and club facilities, any future development will arguably be constrained in the absence of more explicit exemptions.
- Requests the inclusion of wording in the policy at Clause 22.02 to provide clear exemptions for the stadiums and club facilities and their associated structures.

Management Response

A general response and recommendations relating to development within parks can be found at Attachment 3.

Clause 22.02 currently applies to all public spaces in the City. Amendment C278 does not alter how or where Clause 22.02 applies. The AFL and associated football clubs are important to the City of Melbourne. It is important however, that public parks are also for public recreation and the needs of all parties need to be balanced.

Management Recommendation	No change to Amendment C278 is required.
Submitter	96. East Melbourne Group
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Congratulates Council on this initiative. ▪ Supports the mandatory provisions and considers that the discretionary controls applied to date have not been effective, ▪ Supports the shift to a winter test with extended hours ▪ States that maintaining and enhancing the East Melbourne's precincts' built-form as low scale with maximum protection of its parks from overshadowing, will enhance the attractiveness of the heritage precinct to both tourists and locals.
Management Response	Noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	97. Melbourne Cricket Club & Melbourne Cricket Ground Trust
Key Issues	Exclusion of developments within parks
Summary of submission	<ul style="list-style-type: none"> ▪ In principle support for the Amendment objectives. ▪ Highlights the recently completed Yarra Park Precinct Framework Plan (in conjunction with Council and the State Government) ▪ Understands that the local policy at Clause 22.02 (Sunlight to Public Spaces Policy) applies to Yarra Park including any future redevelopment to the MCG with an emphasis on maximising winter sun on any identified public park. ▪ Understands that DDO8 is proposed to be applied only to sites adjacent to parks in order to apply mandatory overshadowing requirements. ▪ States there do not appear to be prescribed standards for development within parks ▪ Notes that MCG footprint and its concourse were excluded from Yarra Park

	<p>(Type 2 Park) on the pre authorised draft of the Amendment but is not excluded in the exhibited version.</p> <ul style="list-style-type: none"> ▪ Concerned that if the Type 2 Park requirements were applied to the MCG, this would create significant constraints on any future developments or additions to the MCG. ▪ Whilst DDO8 appears not to be intended to apply directly to the MCG, the changes to Clause 22.02 do not provide sufficient clarity as to whether they apply to development within parks (such as Yarra Park). ▪ Requests that Amendment (Changes to Clause 22.02 local policy and DDO8) should not apply to the MCG and Clause 22.02 should be amended to specify that developments within parks are excluded, listing those parks to which this exclusion applies.
Management Response	<p>A general response and recommendations relating to development within parks can be found at Attachment 3.</p> <p>Clause 22.02 currently applies to all public spaces in the City. Amendment C278 does not alter how or where Clause 22.02 applies. While the Melbourne Cricket Club is important to the City of Melbourne, public parks are for public recreation and the needs of all parties need to be balanced.</p>
Management Recommendation	<p>No change to Amendment C278 is required.</p>
Submitter	<p>98. Jennifer McDonald</p>
Key Issues	<p>Supportive</p> <p>Health and wellbeing</p> <p>Ecology</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Welcomes focus on increased winter sunlight protection including extending the window to 10am to 3pm. ▪ Supports mandatory no additional overshadowing controls ▪ Concerned that protection for Fawkner Park and the Botanic Gardens is not as strong as only includes up to 2pm (Park Type 3 East) ▪ Considers that these parks as highly valued Melbourne heritage parks require more (not less protection for winter sun) ▪ Notes that sunlight in winter is essential for human and ecological health to support the abundance of plants and trees ▪ Notes that people come from afar to experience the parks and that winter sun is a benefit ▪ Considers that the relatively limited additional high rise apartments that may be built near the Parks with an allowance of overshadowing after 2pm does not compensate for any diminishment in the Parks value for all people.
Management Response	<p>Noted</p> <p>A general response and recommendations relating to mandatory controls and</p>

	Park Type 3 controls can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	99. Orchard Piper
Key Issues	Opposed Growth areas Mandatory controls Area of park to be protected
Summary of submission	<ul style="list-style-type: none"> ▪ Submission on behalf of the owners of land at 364-366 and 370 Albert Street, East Melbourne. ▪ States that there is already strong protection for overshadowing within the existing planning controls within this northern section of Fitzroy Gardens DD020-A43). These controls protect equinox shadows which are in line with best practice in Victoria. ▪ Concerned that that the allowable shadow within DD020-A43 could be read in two ways and the distinction is unclear: <ul style="list-style-type: none"> ▪ The 22 degree shadow plane ▪ As per the built form outcomes in DDO20 ▪ Concerned that the Amendment will inhibit growth of key suburbs surrounding the central city. ▪ Key areas of concern: <ul style="list-style-type: none"> ▪ Mandatory controls which do not allow architectural discretion or as in DDO10 whether the overshadowing would prejudice the amenity of the space. ▪ The use of winter controls as the measure of protection. ▪ Drafting of controls-it is unclear how allowable shadow is determined in the absence of street wall or overall height limits. ▪ Incorrect analysis undertaken by Hodyl + Co which concludes that redevelopment of two development sites along Clarendon Street is low ▪ Unreasonable protection of the Fitzroy Gardens given its size. ▪ No transitional provisions for applications lodged but yet to be determined. ▪ Failure of Council to consider the matters raised in the Ministerial authorisation.
Management Response	<p>The intention of DDO8 is that any discretionary or mandatory height limit in the planning scheme sets the benchmark for allowable shadow to a Park Type 2. The allowable shadow in DDO20 Area 43 is determined by the nominated maximum building height requirements described as the 22 degree shadow plane from the southern alignment of Albert Street and not the descriptive built form outcomes.</p> <p>The modelling for Fitzroy Gardens undertaken by Hodyl + Co demonstrates that partial overshadowing occurs from two sites in Clarendon Street being 44-58 Clarendon Street and 150-158 Clarendon Street. The modelling correctly identifies that these sites, which are built to the current height limits in DDO21</p>

are unlikely to be redeveloped.

Council was authorised to prepare Amendment C278 subject to the removal of the Docklands and Spring Street South areas from the Amendment, and to review the impact of the controls on other strategic priority areas such as Arden Central and the Fishermans Bend Precinct of Excellence. In response to these conditions, the Docklands and Spring Street South areas have been removed from the Amendment, and expert evidence is to be provided at the panel hearing to show the impact of the controls on development potential as well as addressing other areas of consideration such as mandatory winter controls, and park hierarchy.

A general response and recommendations relating to mandatory controls, winters sun protection, the balanced approach (Park Type 2) and transitional provisions can be found at Attachment 3.

Management Recommendation

No change to Amendment C278 is required.

Submitter

100. Lendlease Communities

Key Issues

Support exclusion of Docklands

Summary of submission

- Significant landholdings in Docklands
- Generally supportive of the Amendment excluding the Docklands area.
- Considers the draft policy at 22.02 to be ambiguous and unclear as to whether the policy applies to potential overshadowing of parks and other public spaces outside the Docklands from development within the Docklands. Request that this be clarified to specifically exclude Docklands.
- Requests an amendment to the reference document by Hodyl + Co to delete all references to the Docklands Zone.

Management Response

The City of Melbourne was instructed to remove the proposed DDO8 from applying to parks within Docklands as a condition of authorisation.

The policy at Clause 22.02 does not apply to Docklands which is specifically excluded.

Docklands was initially included within the scope of the project, due to the importance of protecting sunlight access to its parks, and in particular on maintaining the remaining slivers of sunlight to heavily overshadowed open space assets within the precinct. Further, the most unencumbered open space at Ron Barassi Park was to be protected as the largest open space asset for passive and active recreation within Docklands. Given the original project scope, it is not appropriate to remove the reference to Docklands in the Hodyl + Co Report.

Management Recommendation

No change to Amendment C278 is required.

Submitter	101. Urbis
Key Issues	<p>Loss of development potential</p> <p>Impacts on the Arden Macaulay Urban Renewal Area</p> <p>Mandatory controls</p> <p>Park hierarchy</p> <p>Protection hours</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Relates to land at 23-37 Boundary Road, 222-232 & 244 Macaulay Road, North Melbourne for which a pre-application meeting to discuss the redevelopment of the site has been undertaken. ▪ Estimates loss of development yield in the order of 2,615sqm as well as additional; roof terrace of 732sqm if Amendment C278 is introduced. ▪ Agrees that maintaining some winter sunlight is good planning. ▪ Considers that: <ul style="list-style-type: none"> ▪ The issue of sunlight to parks has already been robustly and recently considered for the Arden Macaulay Urban Renewal Area and there has been no comprehensive assessment of the accumulative impacts of the effect across the precinct in regards to loss of development area. ▪ The broader impacts of the Amendment against other objectives of the renewal precincts have not been considered. ▪ The Amendment is not underpinned by robust analysis ▪ The Amendment to introduce winter shadow controls exceeds other national and international examples such as New York, Sydney and London. ▪ Concerned with the mandatory nature of the controls where there is no discretion to consider other elements such as how the park is used, the area to be overshadowed, degree of sunlight access and partial overshadowing ▪ Considers that some parks should be subject to equinox controls and that only parks of the highest order should have winter protection. Considers that for example Canning and Clayton Reserves are local scale and winter shadow controls are not important. ▪ Requests that the testing times for winter controls be applied to lunchtime hours between 10am and 2pm. Highlights that testing at 3pm during winter does not represent a balanced approach. ▪ Notes that no analysis has been taken of the lower order parks such as Canning Street. ▪ Requests that: <ul style="list-style-type: none"> ▪ The Arden Macaulay area be removed from the C278 or If the amendment is to remain applicable, ▪ Identify a hierarchy of parks with winter controls applied to the most important metropolitan parks and retain equinox sunlight controls to local parks ▪ Make controls discretionary ▪ Reduce the testing times during winter to the lunch period of 11am - 2pm ▪ Apply transitional provisions.

Management Response	<p>A general response and recommendations relating to application of a balanced approach, mandatory controls, winter sun protection, loss of development potential, impact on growth areas and transitional provisions can be found at Attachment 3.</p> <p>Canning Street and Macaulay Reserve and Clayton Reserve area located in adjacent to growth areas with height limits over four storeys. (Design and Development Overlay Schedule 63). Access to winter sunlight in parks within or adjacent to growth areas is at the greatest risk and yet where sunlight is most needed.</p>
Management Recommendation	<p>No change to Amendment C278 is required.</p>
Submitter	102. Property Partners
Key Issues	<p>Consequences of policy changes</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Submission made on behalf of the owners of 63 Exhibition Street. ▪ States that Planning Permit 2014/003155 as approved which allows for the construction of a mixed use residential tower and is seeking review of a condition of permit. ▪ Opposes the Amendment and submits that: <ul style="list-style-type: none"> ▪ No change is required to Clause 22.02 ▪ Specific controls relating to the overshadowing should be included specific DDO's ▪ The proposed changes to the Clause 22.02 will have unintended consequences altering the objective relating to public spaces both inside and outside the Hoddle Grid which was not the intention of the Amendment.
Management Response	<p>The policy objectives distinguish between the Hoddle Grid and Southbank, and the other parts of the City.</p> <p>It should be noted that 63 Exhibition Street is outside of the Amendment C278 area.</p>
Management Recommendation	<p>No change to Amendment C278 is required.</p>
Submitter	103. VicTrack
Key Issues	<p>Opposes</p>

Land required for transport purposes

Mandatory controls

Summary of submission

- Considers the application of mandatory controls to state transport land without due regard for the primary transport purpose of the land is inappropriate and contrary to the Planning and Environment Act 1987 and the Transportation Integration Act 2010.
- States that land zoned on Public Use Zone Zone-4 Transport (PUZ4) is primarily for transport and public utility and community services and facilities although land used for other purposes a such as open space may revert to transport use as some stage. Considers that land temporarily used as open space should be treated differently in planning to other forms of public open space.
- Considers the definition of “allowable shadow” is unclear
- Considers there is no justification for mandatory controls
- Considers that overshadowing controls should not be applied to transport land as the land may be needed in the future for transport purposes and should not be constrained without regard to other planning objectives such as transport.
- Provides specific comments relating to land in the Arden Precinct and Weedon Reserve East Melbourne.
- Considers applying mandatory controls to the Arden Precinct will significantly inhibit and constrain proposed land use and transport planning and that single purpose mandatory controls should not be applied to urban renewal areas.
- Considers the Amendment should differentiate between different types of open space as per DELWP’s Planning Practice Note 70 relating to Open Space Strategies which sets up a hierarchy of open space.
 - VicTrack has an interest in Weedon Reserve and owns a small proportion of the reserve.
 - Park has poor amenity as a usable park
 - Is in close proximity to larger, high amenity parks (Yarra Park, Brunton Park, Fitzroy Gardens) and therefore unlikely to be under pressure or demand for use as a park when high amenity options are still available.
 - Mandatory controls are not in proportion to the role and function of the reserve
 - Is within DDO21 which has height controls and guidance on overshadowing.

Arden/Dynon Precinct

- Land within the perimeter of Arden is used for transport purposes and generally has low amenity
- As some of the land is landscaping amongst major roads and infrastructure, it is unclear why the land is being protected
- Controls such as these, proposed well in advance of any urban renewal plans for E-gate and Dynon precincts is premature and unreasonably encumbers land that is currently needed for transport purpose.

Management Response

It is considered important that public land should be treated the same as private land as it has the opportunity to be redeveloped and thereby have the potential to overshadow a park.

The parks identified for protection under Amendment C278 were based on the City of Melbourne Open Space Schedule.

The intent of Amendment C278 is not to impact the current transport operations but to ensure development as part of future urban renewal projects do not cast a shadow over an existing park. Consistent with the management response to Submission 79 from the Department of Transport, it is recommended that new development on land zoned Public Use Zone 4 (Transport) be exempt from a requiring a planning permit where the overall building height of buildings and works are 9 metres or less and the use is consistent with the intent of the public land reservation (Transport).

A general response and recommendations relating to the balanced approach, impacts on growth areas and key development sites can be found at Attachment 3.

Management Recommendation	Amend DDO8 to include a permit requirement exemption for development on PUZ4 land which are where the overall building height is 9 metres or less.
----------------------------------	--

Submitter	104. Janet Graham
------------------	--------------------------

Key Issues	Supportive Waterway controls
-------------------	---------------------------------

Summary of submission	<ul style="list-style-type: none"> ▪ Welcomes the Amendment ▪ Supports the no additional overshadowing control from 10am-3pm ▪ Notes that Unfortunately, Flagstaff Gardens and especially Gardiner Reserve have already been compromised by tall buildings and considers that the effect on Gardiner Reserve has been mitigated to some extent by the reserve's well-designed expansion to the east, but no more developments should be allowed that cast shadows over the playground in winter ▪ Notes several benefits of access to open space including for mental and physical health, wildlife and ecology and to address the heat island effect. ▪ Notes that lack of sunlight can lead to Vitamin D deficiency and stress to plants and trees, inhibition of flowering and fruiting. Refers to the failure of the original Docklands Stadium grass surface due to overshadowing ▪ States that there must be no more developments in Royal Park which has suffered incremental incursions ▪ Considers that the no additional overshadowing controls should be applied to waterways such as the Yarra, Maribyrnong and Moonee Ponds Creek, noting the work of the Friends of Moonee Ponds Creek and the Chain of Ponds collaboration to improve the creek, applauding Council's plan to turn degraded creek stretches to connected parklands and wetlands. ▪ Notes that now is the time to commit to significant parkland with new trees and access to sunlight in the Arden precinct. Relying on the ever-busier North Melbourne football ground and the proposed linear park along the creek to provide the open-space needs of the 15,000 people expected to be living in this new suburb is not an option, especially if a new school is built.
------------------------------	--

Management Response	<p>Support noted.</p> <p>The parks identified for protection under Amendment C278 were based on the City of Melbourne Open Space Schedule which does not include waterways such as the Yarra, Maribyrnong River and Moonee Ponds Creek. The rivers were therefore excluded from this study (beyond the scope).</p> <p>The Yarra River Corridor, including 15 metres from the edge of the north bank of the river to the south bank of the river across the Central City, Southbank and South Warf is protected from additional winter shadow by recently introduced planning scheme controls.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	105. Paul Billett
Key Issues	<p>Supportive</p> <p>Docklands</p>
Summary of submission	<ul style="list-style-type: none"> ▪ States that Docklands should be a Family/ Community centre of Melbourne and to exclude Docklands from this Amendment is to steal more community space and cast shadow on what should be a sun filled family location in the City. ▪ Notes that recent high rises built on North wharf and New Quay have already taken popular public space or created 'dark' areas in both these locations. ▪ Considers that allowing more unnecessary and unattractive high-rise development along the waterfront, which this omission will do, is simply an invitation to ruin more valuable public and waterfront space. ▪ Questions what happened to the principle of allowing the City to flow into the waterfront
Management Response	A general response and recommendations relating to exclusions of Docklands can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	106. Linda Dugan
Key Issues	<p>Supportive</p> <p>Docklands</p>
Summary of	<ul style="list-style-type: none"> ▪ Strongly believes Docklands must be included in the scope

<p>submission</p>	<ul style="list-style-type: none"> ▪ Notes that sunlight in Docklands is vital to the benefit of residents and the many workers ▪ Considers that poor early planning allowed many tall buildings to overshadow public spaces and in some spaces has led to the detriment of outdoor living and this must not be allowed to continue within Docklands. ▪ Requests that Docklands be included as part of this opportunity to protect and improve outdoor spaces.
<p>Management Response</p>	<p>A general response and recommendations relating to the exclusion of Docklands can be found at Attachment 3.</p>
<p>Management Recommendation</p>	<p>No change to Amendment C278 is required.</p>
<p>Submitter</p>	<p>107. Janette Corcoran</p>
<p>Key Issues</p>	<p>Supportive Exclusion of Docklands</p>
<p>Summary of submission</p>	<ul style="list-style-type: none"> ▪ Writes as an owners corporation committee member of a large residential building in Docklands ▪ States in the strongest possible terms that Docklands should not be excluded from the Amendment ▪ Notes Docklands is a fast growing precinct with a population of 15000 people and 65000 workers, with limited green space provided in buildings ▪ Notes the heat island effect in Docklands ▪ Notes the recent creation of Ron Barassi Snr Park, providing much needed space and facilities for physical activity, socialising and for enjoying the benefits of green space and states that the park is well utilised by the community (including the Docklands Sports Club which is to bring people together through sport and recreation). ▪ Considers that the park is at serious risk of being overshadowed by the proposed construction of neighbouring high-rise buildings, impacting on the usability of the park as overshadowing reduces the appeal of the area for informal social interactions. ▪ Notes that high-rise precincts such as Docklands have very few areas that promote informal social interactions and increasingly Ron Barassi Snr Park is providing an inviting area where such interactions are increasingly occurring. Overshadowing will greatly impact the appeal of this area for residents and workers. ▪ In particular, overshadowing in parkland significantly impacts upon women’s perceptions of safety, as noted in the “Free To Be” project. It has been specifically noted that areas which receive natural lighting and that attract the participation of others help create perceptions of a safe environment. ▪ On behalf of fellow residents, advocated for the inclusion of Docklands in the Amendment to protect access to sunlight in parks and ensure that residents and workers continue to enjoy natural sunlight locally ▪ Particularly important given that new parks are often not possible to create.

Management Response	A general response and recommendations relating to the exclusion of Docklands can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	108. Ben Ball
Key Issues	Supportive Docklands
Summary of submission	<ul style="list-style-type: none"> ▪ States Docklands should not be excluded from the proposal ▪ Notes Buluk Park and Ron Barassi Snr Park, stating they need to be protected from reduced sunlight by development to ensure that the grass keeps growing and is usable year round
Management Response	A general response and recommendations relating to the exclusion of Docklands can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	109. Les Kitchen
Key Issues	Supportive Gardiner Reserve
Summary of submission	<ul style="list-style-type: none"> ▪ Strongly endorses the Amendment ▪ States that overshadowing of parks in wintertime, when sunlight exposure is all the more critical for people's health, is a serious problem. ▪ Notes personal proximity to Gardiner Reserve, having raised the issue of overshadowing in objections to various developments adjacent, pointing out the gross inadequacy of the existing shadowing criterion of 2pm at the equinox. ▪ Pleased that Council is taking action on this, though considers it too late for Gardiner Reserve. ▪ Mentions that at least the proposed amendment will prevent the situation from becoming even worse in future
Management Response	Noted

Management Recommendation	No change to Amendment C278 is required.
Submitter	110. Andrea Pagliaro (Urbis)
Key Issues	<p>Not supportive</p> <p>Mandatory controls</p> <p>Winter shadow and testing times</p> <p>Transitional provisions</p> <p>Drafting (allowable shadow)</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Considers the intent to maintain winter to some parks is good planning but does not support the Amendment in its current form ▪ Concerned of the cumulative impact of the planning controls and their economic impact on the broader functions of major development areas <ul style="list-style-type: none"> ▪ Arden Macaulay renewal area ▪ The Parkville National Employment and Innovation Cluster (NEIC) ▪ East Melbourne and Alfred Health and Knowledge Precincts ▪ St Kilda Road commercial precinct ▪ Provides the example of the City Ford site in Elizabeth Street as one of the last large development sites left in the Parkville NEIC which will be significantly constrained. ▪ Concerned that the Amendment will have the effect of turning discretionary (performance based) controls into mandatory controls. There is no assessment on the implications of creating de-facto mandatory controls around parks. ▪ Given ongoing population growth pressures throughout metropolitan Melbourne, is concerned with the potential loss of housing and commercial floor area from unplanned mandatory height controls around parks. ▪ Opposed to the winter controls on the parks with equinox controls such as Fitzroy Gardens and Yarra Park ▪ Considers proposed controls should be discretionary, allow for some overshadowing to the edges of the park and include decision guidelines for discretion. ▪ Concerned that the testing times are too onerous and would preference lunchtime hour protection (peak usage times) ▪ Is of the view that winter shadow controls are more appropriately used for high use parks ▪ Questions the quality of the data analysis undertaken in the Hodyl + Co report. ▪ Considers DDO8 should be amended to include <ul style="list-style-type: none"> ▪ Revised park types based on usage ▪ Clarification of Type 2 parks ▪ Mix of spring and winter controls ▪ Discretionary controls ▪ Decision guidelines ▪ Transitional provisions

	<ul style="list-style-type: none"> Allowance for partial shading around the periphery of the park.
Management Response	A general response and recommendations relating to mandatory controls, winter sun protection times, park types 2 and 3, park protection times, impact on growth areas and transitional provisions can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	111. Karl Hessian
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> From the Hodyl + Co report, considers it unclear how new parks are assigned a park type. Requests that all new parks are automatically assigned Type 2 status and that all parks are automatically upgraded to Type 1 status 15 years after the latter of either their creation or the adoption of Amendment C278. Appalled at the destruction of the Corkman Hotel and requests that any park overshadowed by a illegally demolished building should revert to being park Type 1 irrespective of the designate park type. Applauds the detail in the Hodyl + Co report and the implementation of the recommendations into planning controls, in particular the extension of protection hours between 10am and 3pm.
Management Response	<p>Comprehensive research and digital modelling analysis underpins the recommendations in the Hodyl+ Co Report which seek to apply a “no additional overshadowing winter sunlight access protection control” to all parks which is only moderated in certain circumstances.</p> <p>The Corkman Hotel demolition is outside of the scope of this Amendment.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	112. Andrew Jay
Key Issues	<p>Supportive</p> <p>Docklands exclusion</p>
Summary of submission	<ul style="list-style-type: none"> Considers sunlight to all parks is a necessity Disappointed that Docklands has been excluded from the Amendment
Management	A general response and recommendations relating to the exclusion of

Response	Docklands can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	113. James Kemp
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Considers the protection from overshadowing is important for residents, workers and visitor. ▪ Request that the Amendment be updated to include the future park being constructed along Southbank Boulevard.
Management Response	<p>Support noted.</p> <p>Parks in the Central City and Southbank are outside the Amendment scope as they are currently protected from overshadowing in winter by specific planning controls.</p>
Management Recommendation	No change to Amendment C278 is required.
Submitter	114. Invest Victoria
Key Issues	<p>Not supportive</p> <p>Restrict development</p> <p>Mandatory controls</p> <p>Transitional provisions</p>
Summary of submission	<ul style="list-style-type: none"> ▪ Considers Council's objective to protect sunlight is positive ▪ States controls as exhibited would place significant restrictions on development opportunities in areas like the Parkville NEIC and Fishermans Bend. Therefore the Amendment is not supported. ▪ Invest Victoria would support a more balanced approach provided that urban renewal and growth are not compromised ▪ Seeks an economic impact analysis ▪ Seeks discretionary rather than mandatory provisions, applying a mixture of equinox and winter solstice and transitional provisions to minimise impacts on business confidence.
Management	A general response and recommendations relating to the mandatory winter

Response	controls, impacts on development potential and impacts on growth areas, which includes Fishermans Bend and the Parkville NEIC can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	115. Anonymous
Key Issues	Supportive Protection times
Summary of submission	<ul style="list-style-type: none"> ▪ Strongly supportive of winter protection, the extension of protection hours and the mandatory provisions. ▪ In relation to Fawkner Park, Melbourne Observatory, Domain Parklands and the Royal Botanic Gardens of Victoria, opposes the balanced approach allowing limited overshadowing (Park type 2) or less winter afternoon protection from overshadowing for Park type 3 (10am-20pm) relevant for Fawkner Park, the Botanic Gardens and smaller parks on the edge of the city. ▪ Disagrees with the exclusion of Fawkner Park and RBGV (which includes the Melbourne Observatory) from the extra protection from overshadowing and requests that Melbourne Observatory be listed in that name and be afforded the strongest protection. ▪ Requests Council endorse the new Australian Standards for the Control of Obtrusive Effects of Outdoor Lighting, April 2019 ▪ Opposes exemption for limited overshadowing ▪ Agrees with the health and wellbeing benefits of sunlight to humans, including the benefits of vitamin D exposure and the benefit of sunlight for healthy plant life. ▪ Requests that the Amendment disregard existing buildings if re-development occurs so that the shadow from the existing building becomes irrelevant. ▪ Considers that Docklands should not be excluded from the Amendment. ▪ Considers that the protection time for Park type 3 (for Fawkner Park, RGVB and Melbourne Observatory be extended to 4pm
Management Response	<p>Lighting is beyond scope of the Amendment.</p> <p>A general response and recommendations relating to the park protection times, development within parks and the exclusion of Docklands can be found at Attachment 3.</p>
Management Recommendation	No change to Amendment C278 is required.

Submitter	116. Cat Woods
Key Issues	Supportive Seeks stronger controls
Summary of submission	<ul style="list-style-type: none"> ▪ States that the massive overdevelopment without protection for public parks and the sunlight available is highly irresponsible of Council ▪ Seeks an amendment to planning laws to ensure all parkland in Victoria is receiving sunlight from 9-5pm
Management Response	Noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	117. Planning Backlash Inc.
Key Issues	Supportive
Summary of submission	<ul style="list-style-type: none"> ▪ Strongly supports extending the hours of sunlight access to public parks and controlling overshadowing in winter.
Management Response	Noted
Management Recommendation	No change to Amendment C278 is required.
Submitter	118. Wolf Group
Key Issues	Opposed Mandatory no overshadowing controls Loss of development potential
Summary of submission	<ul style="list-style-type: none"> ▪ Relates to 509 St Kilda Road, Melbourne ▪ Considers the proposed controls will impede the development of this site resulting in a missed opportunity to fulfil the increasing demand for commercial floor space along the boulevard and insufficient and unreasonable tower floorplates and irregular built form. ▪ States that existing buildings along the east side of St Kilda Road already cast shadows onto Fawkner Park which is considered acceptable in the light

	<p>of the already stringent controls.</p> <ul style="list-style-type: none"> States that the proposed building envelope for this site will overshadow Fawkner Park for a very limited south westerly are of Fawkner Park. Given the large size of Fawkner Park, considers there is ample are available to provide for the reasonable sunlight needs of the public. Requests that Fawkner Park be changed to a Park Type 2 which would provide for limited overshadowing (under DDO17 and DDO19).
Management Response	A general response and recommendations relating to winter sun protection, mandatory controls and potential loss of development potential, and Park Type 3 can be found at Attachment 3.
Management Recommendation	No change to Amendment C278 is required.
Submitter	119. SJB on behalf of Cricket Australia
Key Issues	
Summary of submission	<ul style="list-style-type: none"> Submission on behalf of Cricket Australia, owners of land at 60-62 Jolimont Street, East Melbourne. Does not object to the outcomes sought by DDO8 but is concerned about the wording of the permit requirement for Type 2 parks. Submits that the use of the “or* can potentially be problematic in circumstances where there are stark contrasts between an existing shadow and allowable shadow at different hours of the day. Considers that the provision does not take into consideration circumstances in which the greater of existing and allowable shadows vary from hour to hour between 10am and 3pm on June 21. Seeks clarity around the intention of permit requirement to make it clear that new buildings do not require planning permission to cast a shadow in line with the greater of the existing and allowable shadowing on an hour to hour basis as opposed to the greater of the two. Requests the following re-wording: “Buildings and works must not cast additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow and/or allowable shadow (whichever is the greater).
Management Response	The line of shadow across an entire site may vary from being the existing or allowable shadow. In applying the Park Type 2 control, the proponent is required to measure the existing and allowable shadow at intervals between 10am and 3pm across the site and then show compliance with the greater of the two measurements. The suggested inclusion of “ and ” translates to a requirement to comply with both existing and allowable shadow lines which is not the intent.
Management	No change to Amendment C278 is required.

Recommendation

Management response to key matters raised in submissions

1.	Support for the Amendment	2
2.	Winter sun protection	2
3.	Mental health and well-being benefits of winter sun access	4
4.	Mandatory Controls	5
5.	Park protection times.....	6
6.	Balanced approach (Park Type 2)	7
7.	Modified protection times (Park Type 3)	8
8.	Loss of development potential	9
9.	Impact on Growth Areas/Key development sites	11
10.	Development within parks	12
11.	Overshadowing of Gardiner Reserve.....	13
12.	Absence of transitional provisions.....	13
13.	Exclusion of Docklands	13

1. Support for the Amendment

91 Supportive Submissions	1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,26,27,28,29,30,31,32,33,34,35,37,38,39,40,41,42,43,45,46,47,48,49,50,51,52,53,54,55,56,57,58,59,60,61,62,63,66,67,68,69,70,71,72,73,77,80,81,82,84,85,96,98,100,104,105,106,107,108, 109, 112, 113,115,116,117
----------------------------------	---

25 Not supportive Submissions	25,36,44,64,65,74,75,76,78,79,83,86,87,88,91,92,93,94,99,101,102,103,110,114, 118
--------------------------------------	---

2. Winter sun protection

Submission Number	87, 101, 103,110
--------------------------	------------------

Issue in brief

These submissions raised issues relating to the shift from protecting sunlight access at the equinox to protecting winter sunlight access to all parks across the municipality.

The main concern was that the proposed controls introduce a more onerous mandatory winter shadow test than the current performance-based equinox approach.

Some submissions queried why there was a need to introduce winter sunlight protection as they consider that there is already strong protection for overshadowing within the planning scheme. They consider that the controls protecting equinox shadows are in line with best practice in Victoria and suggested that the winter shadow controls exceeds other national and international examples such as New York, Sydney and London.

Other submissions suggested that winter shadow protection should only be afforded to high use/high order parks.

One submission suggested that Canning and Clayton Reserves are classed as local parks and therefore do not warrant winter shadow protection.

Some submissions recommended a revised approach which would identify a hierarchy of parks with winter controls applied to the most important metropolitan parks and equinox sunlight controls retained for local parks.

Management Response	<ul style="list-style-type: none"> ▪ Enabling people to receive sunlight each day throughout the year is critical to their overall physical and mental health. Winter is when people need it most and the reason why we need to protect winter sunlight. Access to winter sunlight is currently only prioritised in the Central City. ▪ The equinox provision does not reflect the need to provide access to sun in winter when people need it most.
----------------------------	--

-
- The increased scale and density of new development makes all parks vulnerable to overshadowing. The local policy and discretionary DDO controls have not been effective in protecting sunlight to parks in growth areas resulting in unacceptable overshadowing.
 - It is often not possible to create new parks as land values are high. Public parks must be able to support the growing population and remain enjoyable places to be. The proposed planning controls are the appropriate way to future-proof all parks for generations to come.
 - The notion of a hierarchy of importance is inconsistent with the purpose of the provisions, which is that all residential communities should have walking distance access to parks with adequate sun levels throughout the year and that local parks are very important to local communities.
 - Research has shown that maximising winter sun access is important to the health and the well-being of our community. The approach has been to provide access to sunlight to parks within walking distance of all residents in the City. This means access to sunlight is essential in smaller parks as well as the major municipal parks. Treating all parks as equal rather than ranking parks based on their frequency of use recognises that often the most important park is the one closest to where someone lives or works.
 - The presence of sunlight in parks in winter is a significant determinant of park utilisation due to the impact on thermal comfort in a temperate city.
 - Benchmarking reveals that cities with comparable temperatures consistently employ winter as the relevant test.
 - Vitamin D needs are greatest in winter and the presence of sun in parks is a key contribution to the ability to access Vitamin D in a densifying city.

**Management
Recommendation**

No changes are recommended to Amendment C278 in response to these submissions

3. Mental health and well-being benefits of winter sun access

Submission Number	6,13,15,16,17,18,20,21,22,23,27,29,34,35,46,47,50,52,57,59,61,63,69,72,84,97,98,104,109,115
--------------------------	---

Issue in brief	<p>These submissions acknowledged the health and well-being and liveability benefits of winter sunlight and supported the need to provide access to sun in the parks in winter when people need it most.</p>
-----------------------	--

Submissions provided the following reasons for their support:

- It is vital to preserve existing sunlight so people in the inner city who don't have big gardens can enjoy access to sunlight, especially in winter.
- Overshadowing of outdoor spaces would detract from the city and limit psychological, health and wellbeing benefits that arise from access to parks, gardens and outdoor spaces.
- With the knowledge that more high-rise developments are to be built, outdoor spaces, parks and gardens are of utmost importance for the city to remain pleasant to live in.
- Given the increasing numbers of people are living in apartments attractive public open space is more essential than ever.
- Increasing population and high density living increases the importance of public spaces year round for physical, mental and emotional wellbeing
- Considers that winter sunlight is important for the health and sustainability of parks (flora and fauna)
- A lack of winter sunlight contributes to dark and damp conditions leading to excess mud, moss and slime.
- Greater sunlight for parks (particularly in winter) encourages engagement with the community, greening of landscape, greater community access, better environment to nurture trees, less wind turbulence and engagement for all ages and uses
- Uninterrupted sunlight is not only critical to the health of the plants but also to the human users of the parks. Notes that Seasonal Affective Disorder is an issue and it is essential that sunlight to parks is maintained.
- The Amendment will bring winter sunlight protection in line with current recommendations and provide enduring benefit to parkland users in an era where this is so valuable, yet hard to enjoy with modern lifestyles.
- In winter, sun exposure is reduced and there are fewer opportunities to receive Vitamin D from sunlight.

Management Response	Noted
----------------------------	-------

Management Recommendation	No changes are recommended to Amendment C278 in response to the submissions.
----------------------------------	--

4. Mandatory Controls

Submission Number 36,75,78,86,87,88,94,99,103,100,110,114, 118

Issue in brief These submissions raised concerns about the mandatory nature of the controls with the main concerns relating to a loss of flexibility and the stifling of innovative design responses.

Several submissions suggested that the controls are insufficiently flexible to allow a performance-based approach that takes into account the role and dimensions of open spaces and the need to balance sunlight with other planning outcomes.

Other submissions noted that the mandatory provisions provide no opportunity for unique architectural solutions that satisfy the built form envisaged by areas within existing DDO's, citing DDO61 as an example. Concern was expressed that a new building will likely be forced to adopt a "wedding cake" form, stifling the opportunity to deliver a site responsive and innovative design.

Some submissions expressed concern that the Amendment will not allow for sufficiently diverse built form outcomes in the urban renewal precincts which may limit innovative and contextually driven design responses while maximising built form envelopes, resulting in podium-tower development.

A few submissions requested that the proposed controls should be discretionary to allow for some overshadowing to the edges of the park.

Management Response

- The existing discretionary controls have proven ineffective in protecting winter sunlight to Melbourne's parks, particularly in growth areas (4 storeys and above). The modelling of cumulative overshadowing impacts in June has demonstrated that within low scale areas (4 storeys and below), high levels of winter sunlight access are already present. However, within the growth areas, the existing level of winter sunlight varies from high levels of sunlight access to being significantly overshadowed.
 - Examples where parks are overshadowed in winter by existing buildings include Gardiner Reserve in North Melbourne, University Square and Lincoln Square in Carlton, Canning Street and Macaulay Road Reserve and Railway Place and Miller Street Park in West Melbourne.
 - Design innovation is an important ambition. There is no reason why mandatory controls should limit creativity.
 - The shaping of building envelopes in accordance with planning provisions including shadow criteria is an established planning principle in areas of Melbourne, Sydney and international examples such as New York.
 - The notion of protecting some parts of parks does not have regard to the utilisation of different areas across a park and how this may change over time. For example in West and North Melbourne where over a short period of time a number of parks have expanded and transformed, these perimeter areas of the park become more intensively programmed with active uses.
-

Management Recommendation	No changes are recommended to Amendment C278 in response to these submissions.
----------------------------------	--

5. Park protection times

Submission Number	18,30,31,32,87,101,110
--------------------------	------------------------

Issue in brief	These submissions raised issues relating to the increase to sunlight protection hours.
-----------------------	--

Some submissions supported Council increasing the time window to allow longer sunlight hours in public parks, noting that with technological change, people are more likely to work from home and will therefore use the parks at different times across the day.

Several submissions opposed the widening of the overshadowing window to 10-3pm on June 21 stating that it will result in adverse consequences for sites located east or west of public open spaces.

Some submitters consider that the current protection hours of 11am and 2pm at the equinox gives ample opportunity for people to access sunlight throughout the day and would preference a lunch hour protection.

Management Response	<ul style="list-style-type: none">▪ The proposed park protection times maximise the opportunities for people to access and enjoy sunlight throughout the day for a variety of uses.▪ The preference for reduction in the hours of protection does not accord with research underpinning the project, which shows that due to changing demographic needs, less regular working hours and work options, increased casualization of the workforce, and the growing presence of families and residential park users, increases the hours within which sunlight is required within park.
----------------------------	--

Management Recommendation	No changes are recommended to Amendment C278 in response to these submissions.
----------------------------------	--

6. Balanced approach (Park Type 2)

Submission Number 18,30,31,32,40,84,85,99

Issue in brief

These submissions raised issues relating to the use of street wall height to determine allowable shadow and allowing limited shadow in growth area parks.

The main concern was the use of street wall and building heights to determine allowable shadow given that generally these requirements are not mandatory. Specifically, submissions sought clarification as to whether the maximum street wall and overall height in the Planning Scheme become mandatory under DDO8. They considered this to be unclear in the DDO8 controls.

Several submissions supported the notion that discretionary controls used in determining allowable shadow become mandatory.

Some submissions queried how allowable shadow is to be determined in the absence of street wall or overall height limits.

Several submissions highlighted the conflict between maintaining current amenity and the push for growth and building of high rise accommodation. They opposed allowing limited overshadowing of growth area parks. These submissions state that sunlight is more important in city neighbourhoods where sunlight is already (and increasingly) reduced by high-rise buildings.

Management Response

- The premise of Amendment C278 is to protect all parks across the City but to apply a balanced approach. This means that where Council policy allows growth and more intense development, the Amendment C278 controls are modified so that there is a balance between permitted development and the need to protect a park. In the case of areas where a structure plan is reflected in existing planning provisions, DDO8 includes the concept of an ‘allowable shadow’. The balanced approach has the effect of allowing limited additional overshadowing to the edges of Type 2 parks. While not ideal from a park usability perspective, this is considered a necessary approach to allow for development as envisaged in Council’s Municipal Strategic Statement. In the case of Fawkner Park and the parklands on the eastern side of St Kilda Road which are subject to existing overshadowing from existing development in Southbank, the Amendment acknowledges existing circumstances by protecting these parklands for a reduced period up to 2pm and not 3 pm.
- Access to winter sunlight in parks within growth areas is at the greatest risk and yet where sunlight is most needed. In these areas, significant population growth is supported. As development intensification occurs, overshadowing of existing parks increases at the same time as more people, particularly those living in high density developments are using public parks. This raises a tension between supporting growth and maintaining winter sunlight access to parks. The balanced approach moderates the impact of the “no additional overshadowing protection” for

public parks within growth areas to allow limited overshadowing to balance sunlight protection to parks with development intensification.

- The intention in DDO8 is that any discretionary or mandatory height limit in the planning scheme sets the benchmark for allowable shadow. This is how submitters have (correctly) understood the controls to operate.
- The integration of the allowable shadow extent with existing discretionary street walls is intended to ensure a precinct specific approach that maintains the intent of the applicable controls for street definition and enclosure.
- Areas currently lacking a street wall provisions such as the industrial areas adjacent to the North Melbourne Recreational Reserve, are limited in geographic coverage in the municipality and will be subject to further precinct planning prior to substantive regeneration. When structure plans are prepared for these areas, the new street wall heights will be calibrated in order to integrate with the new control, in order to protect parks. For example within Arden the definition of new street walls relative to adjacent parks will need to have regard to both the acceptable extent of allowance overshadowing and the resultant level of upper form above the street wall.

Management Recommendation	No changes are recommended to Amendment C278 in response to these submissions.
----------------------------------	--

7. Modified protection times (Park Type 3 East and West)

Submission Number	18,30,31,32,76,84,98,115,118
--------------------------	------------------------------

Issue in brief	The submissions predominantly raised issues relating to the reduced park protection times from 3 pm to 2pm for parks on the eastern side of St Kilda Road. The main concern was that Fawkner Park and the Botanic Gardens, are highly valued Melbourne heritage parks and require more (not less protection for winter sun).
-----------------------	--

Concern was also raised in relation to the restrictive Park Protection Type 1 for Flagstaff Gardens with the request for less stringent controls to apply.

Management Response	<ul style="list-style-type: none"> ▪ From the research and modelling undertaken, the areas with a Type 3 classification are located and oriented in a way that because of existing overshadowing from the tall buildings to the west in Southbank, protection of an additional hour between 2 and 3pm would have a negligible impact on the level of sun in the park. Within Southbank the cluster of tall buildings casts a relatively continuous shadow in the afternoon between 2 and 3pm and further protection at this time would have a negligible benefit to sunlight access within the park.
----------------------------	---

In the case of Fawkner Park and the parklands on the eastern side of St Kilda Road, which are, and will be subject to overshadowing from existing and future

permitted development in Southbank, the Amendment acknowledges existing circumstances by protecting these parklands for a reduced period of four hours rather than five, revising the time to 2pm from 3pm.

Flagstaff Gardens was not assessed as part of the Hodyl + Co Report given that winter sunlight protection controls were recently applied through Amendment C245 - Queen Victoria Market and C270 – Central City Built Form Review. Management subsequently nominated Flagstaff Gardens as a Park Type 1 to ensure that the park was protected from shadows cast from areas surrounding the park.

Following management’s review of park types, it is proposed that a modified Park Type 3 is applied to Flagstaff Gardens (from 11am to 3pm). This is consistent with other parks at the edge of the Central City, such as Fawkner Park and Domain Parklands. This reflects the sunlight controls established through C245, extending them by one hour and making them mandatory. It should be noted that this change to the morning park protection time has no impact on sites to the north and west of Flagstaff Gardens.

Based on Council’s role and potential conflict in regards to the Queen Victoria Market Renewal Project adjacent to Flagstaff Gardens, management will specifically seek direction from the panel on the proposed revised park type for Flagstaff Gardens

Management Recommendation

A change to Amendment C278, specifically to DDO8 will be made to rename the parks identified as Park Type 3 to Park Type 3 East and apply a new Park Type 3 West to Flagstaff Gardens.

8. Loss of development potential

Submission Number

25,44, 65, 74,86,91, 93, 94, 101,118

Issue in brief

These submissions raised issues relating to the loss of development potential on individual sites, particularly in identified growth areas.

A few submissions specifically referenced the Macaulay Precinct (Amendment C190) and the City North Precinct (Amendment C196) overshadowing controls. They considered that a more onerous municipality wide winter mandatory control with extended hours to be unreasonable in the context of the strategic work for these precincts (which was only gazetted a few years ago) and would unreasonably constrain a substantial proportion of development.

Several submissions stated that to completely avoid overshadowing of a park in accordance with Amendment C278 would require such significant setbacks and/or reduction in height so as to render any future redevelopment unviable.

The majority of submissions supported the current discretionary shadow controls which they believe adequately protect sunlight to parks and requested

that their sites be allowed to developed in accordance with current built form controls.

**Management
Response**

- Council has the responsibility of protecting the amenity of parks for existing and future users. In a rapidly growing municipality the number of new parks created for future residents will be significantly lower than that provided in the past, and as a result existing parks will need to work harder to provide an acceptable level of amenity. This will make the protection of sunlight to these parks in winter more and more important.
- Modelling has shown that the loss of development potential across the municipality is not substantial and that the City can still expect substantial growth and development. Benefit of this Amendment to the broader community is evident in the positive response to the Amendment.

**Management
Recommendation**

No changes are recommended to Amendment C278 in response to these submissions.

9. Impact on Growth Areas/Key development sites

Submission Number 25,75,83,99,103,110,114

Issue in brief These submissions raised issues relating to inhibiting growth areas to reach their projected capacity.

The main concern was that the Amendment would inhibit growth of key suburbs surrounding the central city (for example Arden Macaulay, Parkville, East Melbourne).

Some submissions raised concerns with the potential loss of housing and commercial floor area from unplanned mandatory height controls around parks given ongoing population growth pressures throughout metropolitan Melbourne. Others considered the Amendment would adversely impact the ability of these areas to accommodate growth stating that this is contrary to broader policies for these areas.

Some submissions considered that city shaping urban renewal precincts such as Arden, the Parkville National Employment and Innovation Cluster (NEIC) and Dynon are subject to the same planning considerations as other high density areas of the City such as the Hoddle Grid and Southbank and should be excluded from the overlay to allow specific solutions to be developed.

Management Response

- The current discretionary provisions in the Planning Scheme have not been effective in protecting sunlight to parks, particularly in our urban renewal areas. Recent development within these areas has impacted upon sunlight to parks, for example in Gardiner Reserve, North Melbourne where significant overshadowing now occurs from new development.
- Growth areas within the City of Melbourne are the most underserved by parks. As a result the protection of sunlight within existing parks is critical to ensuring the usability and quality of these parks for the growing communities.
- Given the growth levels around these precincts and limited opportunities for new open space, the protection of existing open space, is critical to maintain the competitiveness and attractiveness of the area for residents, workers and visitors.
- If Melbourne’s renewal areas are to remain competitive in the pursuit of knowledge workers, then the expectations of quality living environments, including provision of, and sunlight within public space will be critical.

Management Recommendation No changes are recommended to Amendment C278 in response to these submissions.

10. Development within parks

Submission Number 39,53,77,89,97

Issue in brief

A key concern of many submissions was whether the proposed mandatory controls under DDO8 would apply to development within parks.

Many submissions recognised that whilst DDO8 appears not intended to apply to development within park, considered that the changes to Clause 22.02 did not provide sufficient clarity as to whether they apply to development within parks or not.

A number of submissions from major sporting venues located in parks requested that the local policy be amended to specify that developments within parks are excluded, listing those parks to which this exclusion applies.

Several submissions raised concerns relating to the exclusion of development within parks due to the detrimental impact over shadowing could have on biodiversity, habitat and park amenity. They considered that it is imperative to protect parks from impingement by buildings or other developments within the park boundaries such as the State Netball and Hockey Centre, the Zoo and the Royal Children’s Hospital as well as development adjacent to the park such as the multistorey apartments in Parkville Gardens, CSL and the Orygen Youth Mental Health Centre.

Management Response

- Major sporting venues play a big part in the vibrancy, attractiveness and appeal of the City of Melbourne. However they are located in public parks. The application of the Sunlight to Public Spaces Policy at Clause 22.02 of the Scheme is appropriate as it means that applications for development of major sporting venues can be considered on their merits by Council or the Minister for Planning.
- Sites within parks are not affected by the mandatory provisions of proposed DDO8 but will continue to be subject to the local policy at Clause 22.02 which applies to all public spaces across the City. Under Amendment C278, the sunlight test in the Clause 22.02 policy has been changed from the equinox to the winter solstice. However all provisions under this policy are discretionary.
- If mandatory additional overshadowing controls were to be applied, it would have the effect of preventing any development in parks.

Management Recommendation No changes are recommended to Amendment C278 in response to these submissions.

11. Overshadowing of Gardiner Reserve

Submission Number 5,9,11,71,104,109

Issue in brief All submissions were concerned that Gardiner Reserve was already compromised by tall buildings in Haines Street and considered that the overshadowing of Gardiner Reserve in summer and winter was disappointing given the a significant amount of money which had been spent expanding the park.

Several submissions mentioned that the proposed amendment will at least prevent the situation from becoming even worse in the future.

Management Response

- The level of impact upon the usability of Gardiner Reserve in the winter months has occurred because the current controls being discretionary, have proved ineffective. From the modelling undertaken there is substantial winter shadow cast by completed, under construction, and permitted development. There are a few development sites left which could cast additional shadowing of this park, however the small amount of remaining winter sunlight to this park will be protected.

Management Recommendation No changes are recommended to Amendment C278 in response to these submissions.

12. Absence of transitional provisions

Submission Number 87, 99,101,110,114

Issue in brief All submissions raised concern regarding the absence of transitional provisions in DDO8 and requested that applications which have been lodged but yet to be determined should be assessed under the planning scheme at the time of lodgement.

Management Response

- In the absence of interim planning controls, applicants have had ample opportunity for their development proposal to be considered under the current policy position and applicable discretionary planning controls. Any further delay in applying the Amendment C278 planning controls will undermine the whole amendment to protect winter sun access to parks and could have significant implications for parks that are already subject to winter overshadowing.

Management Recommendation No changes are recommended to the exhibited Amendment C278 in response to these submissions

13. Exclusion of Docklands

Submission Number 54, 105,106, 107, 108, 112, 113

Issue in brief These submissions expressed concern relating to the exclusions of Docklands from overshadowing protection and sought for all Docklands parks to be included in the Amendment.

Several submissions stated that poor early planning allowed many tall buildings to overshadow public spaces and in some spaces has led to the detriment of outdoor living and this must not be allowed to continue within Docklands.

Specific reference was made to the Ron Barassi Senior Park. The submissions highlighted that the park provided much needed space and facilities for physical activity, socialising and for enjoying the benefits of green space; and states that the park is well utilised by the community (including the Docklands Sports Club which brings people together through sport and recreation).

The submissions considered that the park is at serious risk of being overshadowed by the proposed construction of neighbouring high-rise buildings, impacting on the usability of the park as overshadowing will reduce the appeal of the park for informal social interaction.

Management Response

- Docklands was initially included within the Amendment sent to the Minister for Planning for authorisation, due to the importance of protecting sunlight access to its parks, and in particular of maintaining the remaining sunlight to heavily overshadowed open spaces within Docklands. Further, the most unencumbered open space at Ron Barassi Park was to be protected as the largest open space asset for passive and active recreation within Docklands.
 - The Minister instructed the City of Melbourne to remove Docklands from the Amendment.
-

Management Recommendation No changes are recommended to Amendment C278 in response to these submissions.

22.02 SUNLIGHT TO PUBLIC SPACES

31/08/2017
G245
Proposed
C278

This policy applies to public spaces throughout the municipality including parks and gardens, squares, streets and lanes, and privately owned publicly accessible spaces within developments, including building forecourts, atria and plazas.

The policy does not apply to land within the Docklands Zone, ~~and Schedule 5 to the Capital City Zone (City North).~~

Policy Basis

The State Planning Policy Framework sets out objectives for a high quality public realm. Similarly, the Municipal Strategic Statement sets out objectives for public realm quality. A fundamental feature of Melbourne's character, liveability, comfort and attractiveness is its ability to offer sunlight to its streets and public spaces ~~at the times of the year when the intensity of pedestrian activity is highest.~~

The policy recognises that sunlight contributes to the amenity and useability of public space, public health and well being and supports trees and other plants.

~~The policy recognises that not all public spaces have the same sunlight access requirements.~~ Public spaces in the Hoddle Grid and Southbank make a contribution to Melbourne's character and cultural identity, where specific controls are required to maintain sunlight access and prevent additional overshadowing when the spaces are intensively used. Elsewhere in the municipality, the city is undergoing transformative change. All parks are of value as the population grows and the usage of the parks increases. Specific controls are required to prevent additional overshadowing and to maximise winter sunlight access to provide the opportunity for people to access and enjoy sunlight in all the parks throughout the year.

The policy provides guidance for the consideration of the impact of additional overshadowing on the amenity, quality and useability of the public space.

Objectives

- To achieve a comfortable and enjoyable public realm.
- To ensure new buildings and works allow good sunlight access 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 protect, and where possible increase the level of winter sunlight access to public spaces ~~during the times of the year when the intensity of use is at its highest.~~
- To create and enhance public spaces to provide sanctuary, visual pleasure and a range of recreation and leisure opportunities.

Policy

It is policy that development proposals are assessed against the following requirements.

Key Public Spaces in the Hoddle Grid and Southbank

Development must not cast additional shadow across the following spaces at key times and dates identified in the planning scheme:

- The Yarra River corridor, including 15 metres from the edge of the north bank of the river to the south bank of the river
- Federation Square
- City Square

- State Library Forecourt
- Bourke Street Mall south of the tram tracks
- Shrine of Remembrance and its Northern Forecourt
- Boyd Park

Development should not cast additional shadow across the following spaces at key times and dates identified in the planning scheme:

- Parliament Gardens
- Treasury Gardens
- Flagstaff Gardens
- Gordon Reserve
- Parliament Steps and Forecourt
- Old Treasury Steps
- Flinders Street Railway Station Steps
- Batman Park
- Birrarung Marr
- Sturt Street Reserve
- Grant Street Reserve and the Australian Centre for Contemporary Art Forecourt, south side of Grant Street between Sturt Street and Wells Street
- Dodds Street between Southbank Boulevard and Grant Street
- Swanston Street between south bank of the Yarra River and La Trobe Street
- Elizabeth Street between Flinders Street and Flinders Lane
- Hardware Lane and McKillop Street
- The southern footpath of Bourke Street between Spring Street and Exhibition Street
- The southern building line of Little Bourke Street between Spring and Swanston Streets and Cohen Place/ Chinatown Plaza
- Liverpool Street and Crossley Street
- Market Street between Collins Street and Flinders Lane

Public Parks Outside the Hoddle Grid and Southbank

Development must not cast additional shadow on any public park at key times and dates identified in the planning scheme.

Other Public Spaces within the municipality

Development should not unreasonably reduce the amenity of public spaces by casting additional shadows on any public space, public ~~parks and~~ gardens, public squares, major pedestrian routes including streets and lanes, open spaces associated with a place of worship and privately owned plazas accessible to the public between 11.00 am and 2.00 pm on 22 September.

Policy Implementation

In considering the impact of additional overshadowing as set out in this policy, the responsible authority will assess whether the additional overshadowing adversely affects the use, quality and amenity of the public space. The following matters will be considered as appropriate:

- The area of additional overshadowing relative to the area of remaining sunlit space compared to the total area of the public space;
- Any adverse impact on the cultural or social significance of the public space;

- Any adverse impact on the natural landscaping, including trees and lawn or turf surfaces in the public space;
- Whether the additional overshadowing compromises the existing and future use, quality and amenity of the public space;
- Whether allowing additional shadows on other public spaces such as streets and lanes, is reasonable having regard to their orientation and shadows cast by adjacent buildings.

Definitions for the Purpose of this Policy

The south bank is the north edge of the existing physical boundary bordering the south side of the [Yarra R-river](#).

The north bank is the south edge of the existing physical boundary bordering the north side of the [Yarra R-river](#).

Policy Reference

Places for People (1994)

Bourke Hill Heritage, Planning and Urban Design Review, Department of Transport, Planning and Local Infrastructure, September 2014

Central City Built Form Review Synthesis Report, Department of Environment, Land, Water and Planning, April 2016

Central City Built Form Review Overshadowing Technical Report, Department of Environment, Land, Water and Planning, April 2016

[*Sunlight Access to Public Parks Modelling Analysis Report, February 2018, Hodyl +Co*](#)

SCHEDULE 8 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO8**

SUNLIGHT ACCESS TO PUBLIC PARKS

1.0 Design objectives

To ensure the amenity of parks is protected throughout the year by maximising winter sunlight access.

To protect sunlight access to parks to support the health and wellbeing of all park users and the ecological health of the park.

To ensure new development responds with appropriate building heights and setbacks to protect sunlight access to parks.

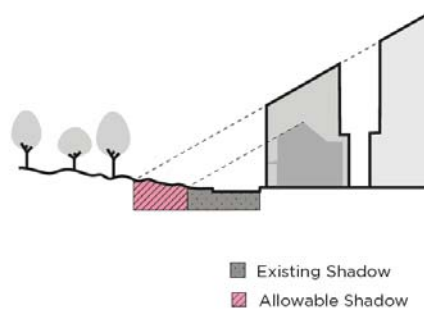
2.0 Buildings and works

Definitions

For the purpose of this schedule:

- **Park** means the land identified as Park Type 1, 2 or 3 on Maps 1 to 10
- **Land abutting a park** means land with a common boundary to a park or land separated from the park by a public street or laneway.
- **Existing shadow** means any shadow cast by existing buildings and works
- **Allowable shadow** means the shadow that would be cast on the park, between 10am and 3pm, June 21, by a street wall of a building on land abutting a park, built to the lower of any street wall height requirement or building height requirement specified in this planning scheme as shown in Figure 1 below.

Figure 1



Buildings and works for which no permit is required

A permit is not required for:

- Buildings and works where the overall building height is 9 metres or less.
- Buildings and works to an existing building(s) which do not alter the height or setback of any part of an existing building.
- Buildings and works which would cast a shadow across the Yarra River Corridor between 11am and 2pm on 22 June caused by unenclosed structures associated with the construction of gangways, mooring poles and pontoons which are constructed by or on behalf of Melbourne Parks and Waterways or Parks Victoria under the

Water Industry Act 1994, the Water Act 1989, the Marine (Drug, Alcohol and Pollution Control) Act 1988, the Parks Victoria Act 1998, or the Crown Land (Reserves) Act 1978.

Permit requirements

A permit cannot be granted for buildings and works that do not comply with the requirements set out in Table 1. In the event that buildings and works cast shadow over two or more parks in different categories, the requirement for each respective park must be met.

Table 1

Park type on Maps 1-10	Hours and date
1	Buildings and works must not cast additional shadow onto the park between 10am and 3pm, on June 21 beyond the existing shadow.
2	Buildings and works must not cast additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow or allowable shadow (whichever is the greater).
3	Buildings and works must not cast additional shadow onto the park between 10am and 2pm, June 21 beyond the existing shadow.

3.0 Subdivision

A permit is not required to subdivide land.

4.0 Signs

A sign must meet the requirements of this Schedule.

5.0 Application requirements

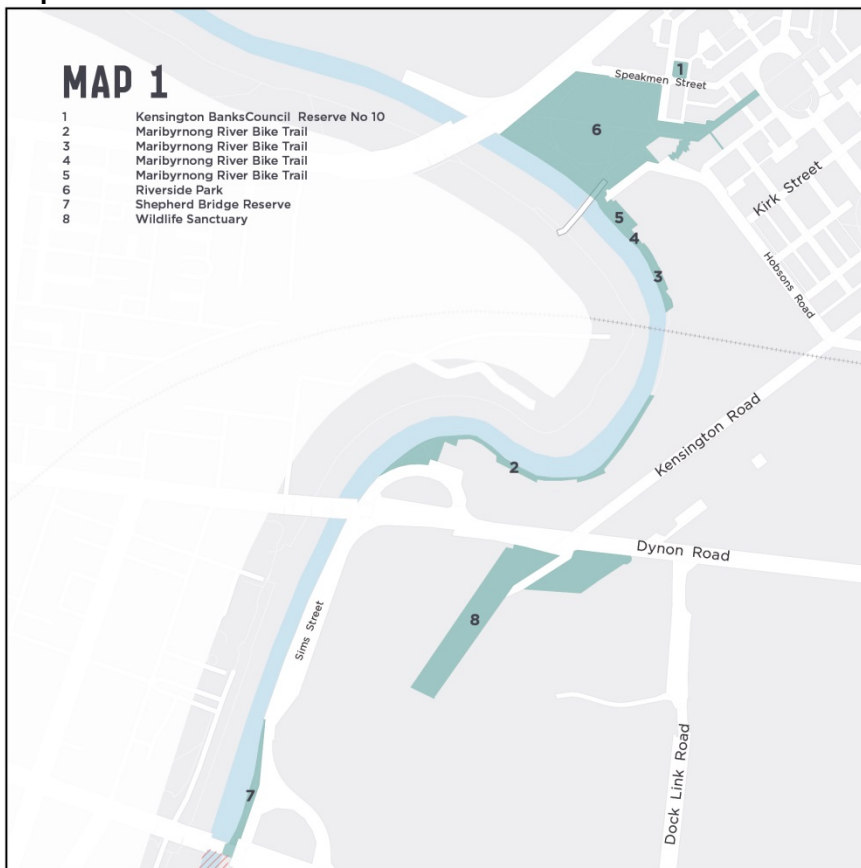
The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A 3D model of the proposed buildings and works in a format in accordance with the City of Melbourne 3D Digital Modelling Advisory Note. The 3D model must show:
 - The existing shadow cast on the park during the defined period by existing buildings and works.
 - If applicable, the extent of allowable shadow cast onto a park during the defined period resulting from future built form compliant with nominated requirements in the planning scheme.
 - The extent of shadow to be cast by the proposed buildings and works.
 - Compliance with the requirements in Table 1 to this schedule.

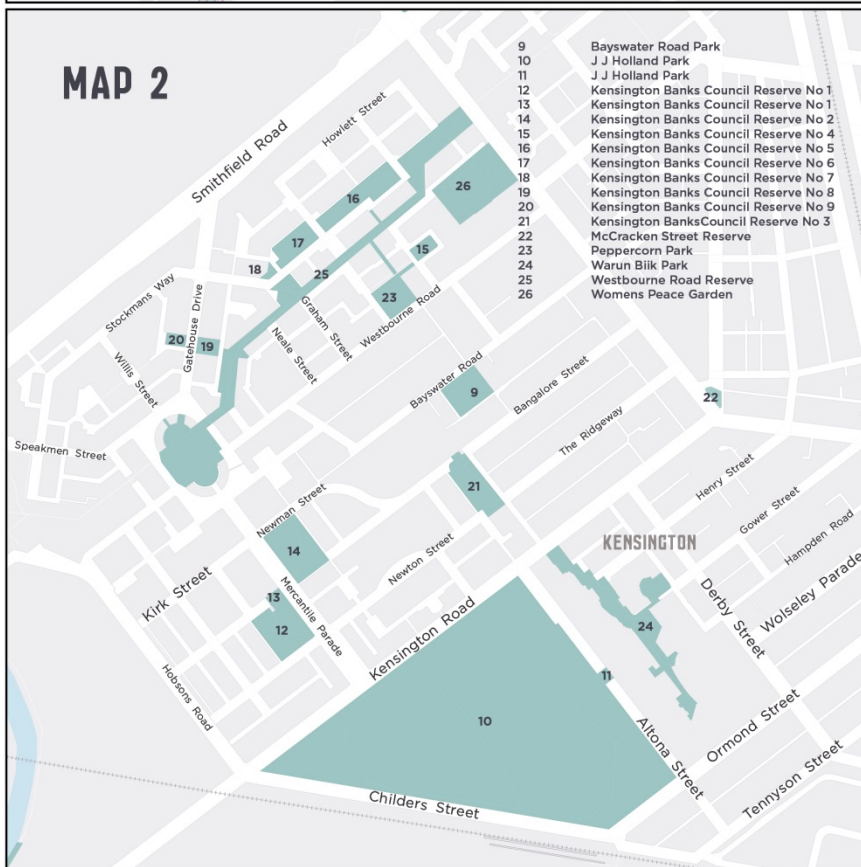
6.0 Decision guidelines

None specified.

Maps 1-10 to Schedule 8



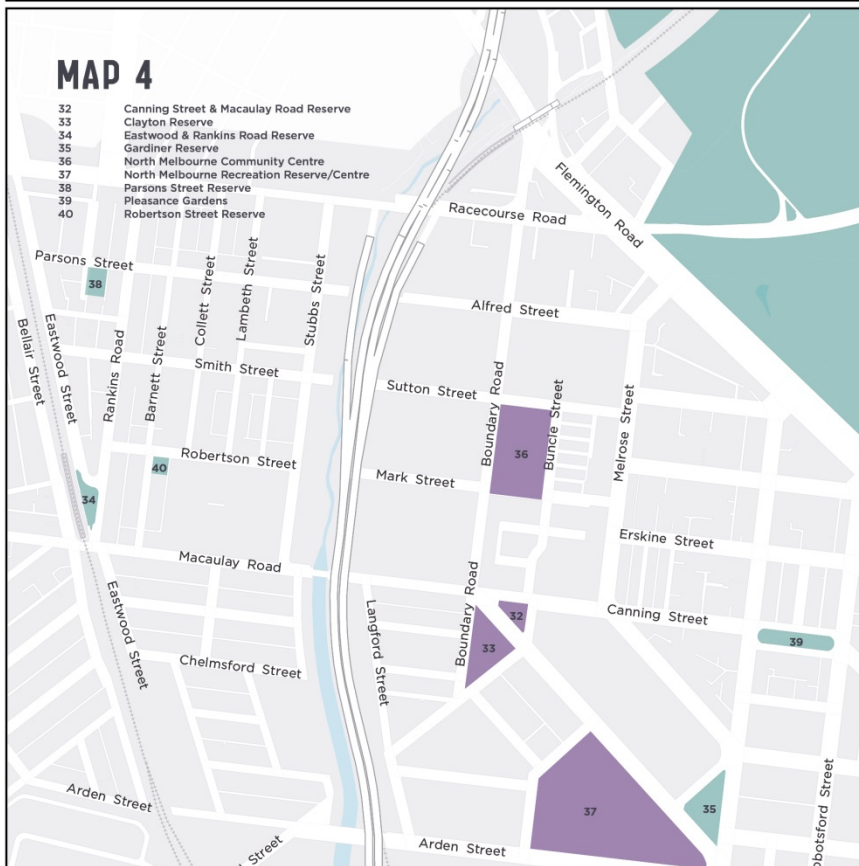
- **Park Type 1**
No additional shadow onto the park between 10am and 3pm on June 21
- **Park Type 2**
No additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow or allowable shadow (whichever is the greater)
- **Park Type 3**
No additional shadow onto the park between 10am and 2pm on June 21
- ▨ **Area excluded from DDO8**



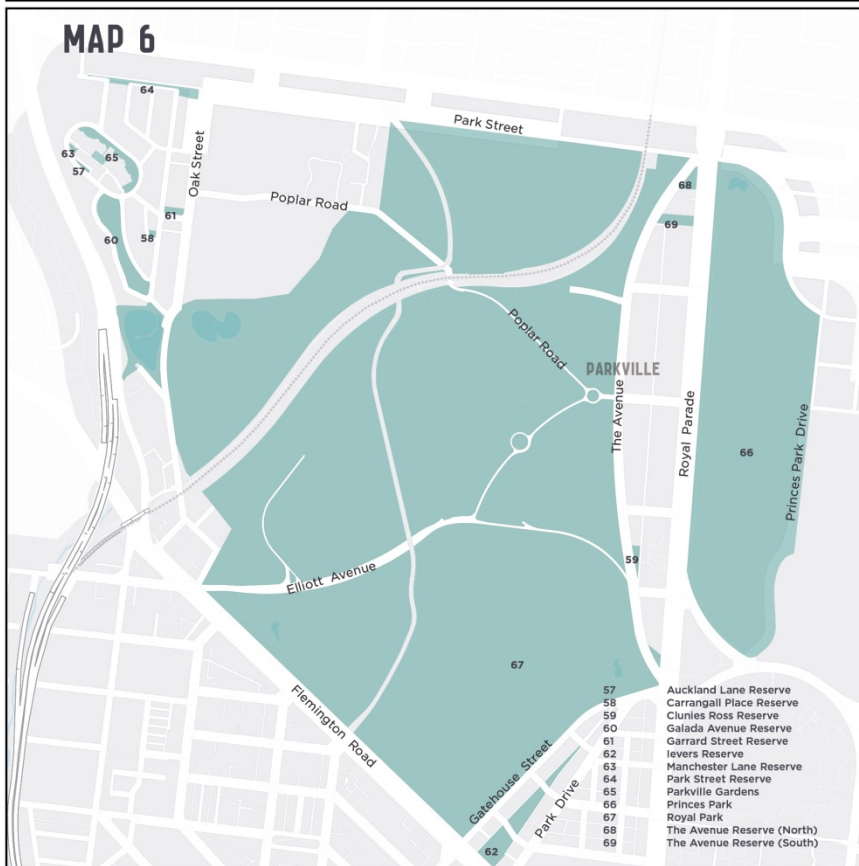
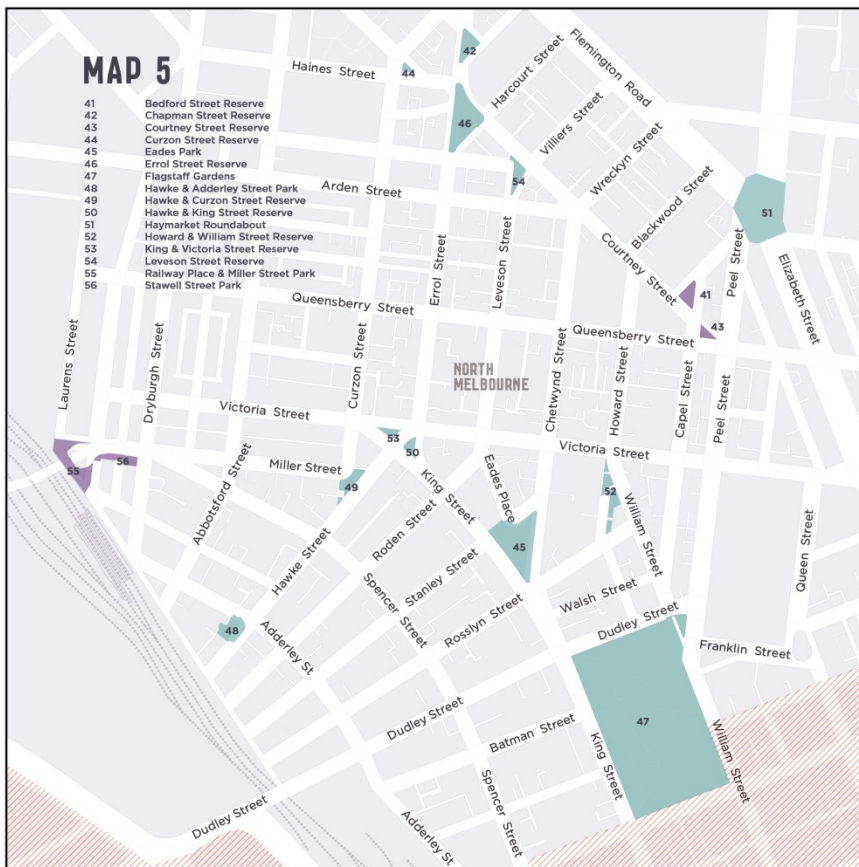
- **Park Type 1**
No additional shadow onto the park between 10am and 3pm on June 21
- **Park Type 2**
No additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow or allowable shadow (whichever is the greater)
- **Park Type 3**
No additional shadow onto the park between 10am and 2pm on June 21
- ▨ **Area excluded from DDO8**

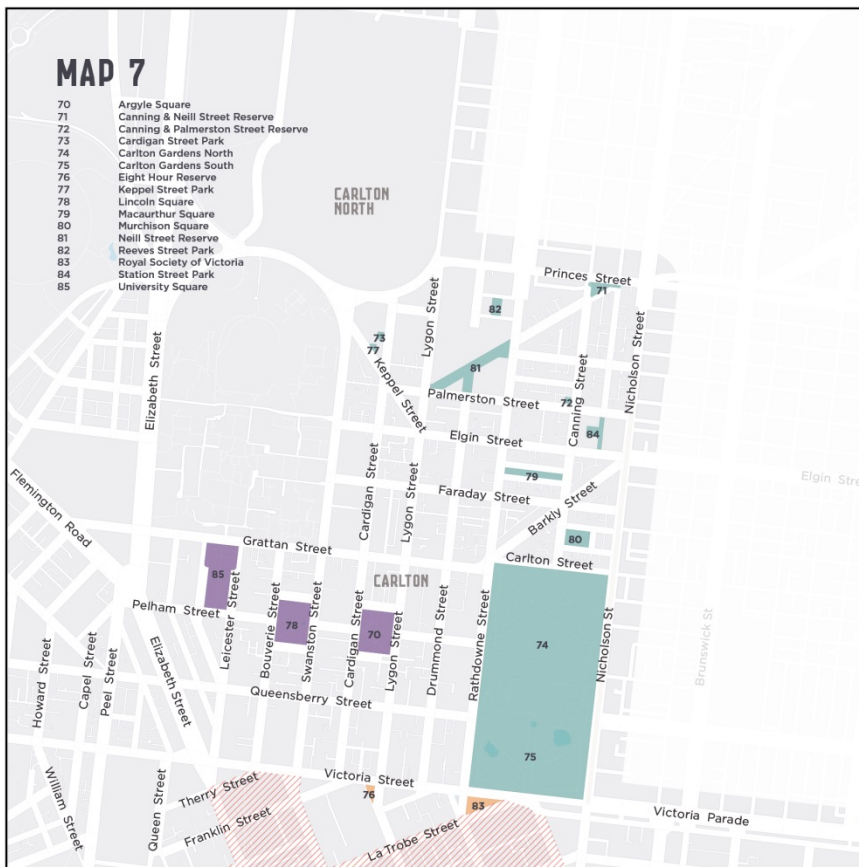


- Park Type 1**
No additional shadow onto the park between 10am and 3pm on June 21
- Park Type 2**
No additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow or allowable shadow (whichever is the greater)
- Park Type 3**
No additional shadow onto the park between 10am and 2pm on June 21
- Area excluded from DDO8**

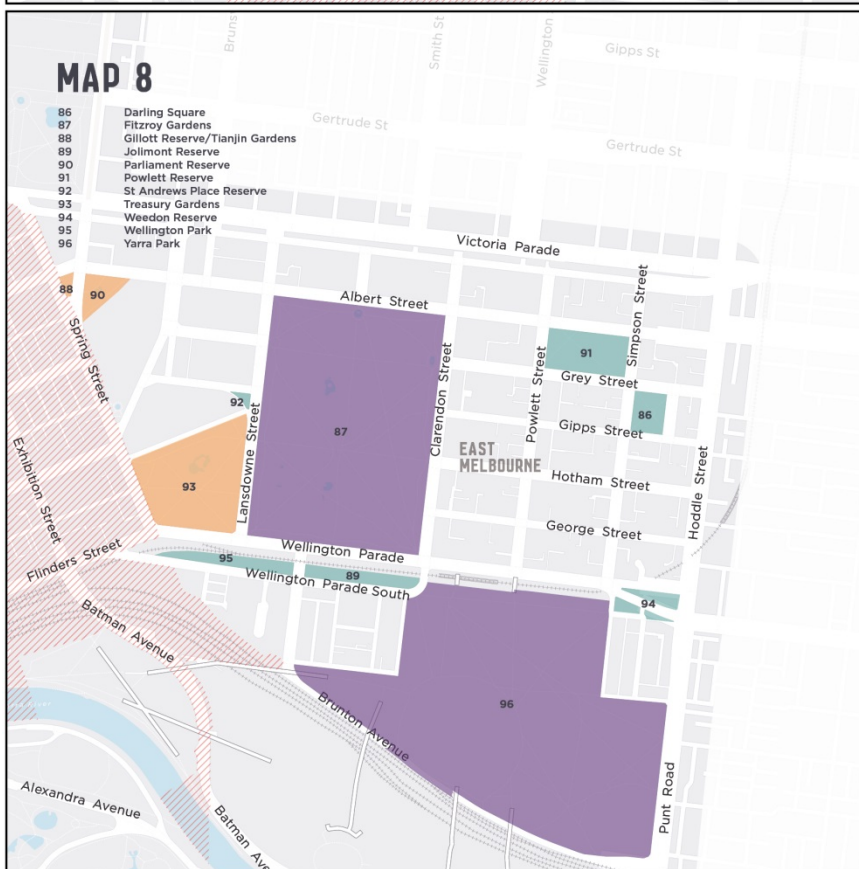


- Park Type 1**
No additional shadow onto the park between 10am and 3pm on June 21
- Park Type 2**
No additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow or allowable shadow (whichever is the greater)
- Park Type 3**
No additional shadow onto the park between 10am and 2pm on June 21
- Area excluded from DDO8**





- Park Type 1**
No additional shadow onto the park between 10am and 3pm on June 21
- Park Type 2**
No additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow or allowable shadow (whichever is the greater)
- Park Type 3**
No additional shadow onto the park between 10am and 2pm on June 21
- Area excluded from DDO8**



- Park Type 1**
No additional shadow onto the park between 10am and 3pm on June 21
- Park Type 2**
No additional shadow onto the park between 10am and 3pm on June 21 beyond the existing shadow or allowable shadow (whichever is the greater)
- Park Type 3**
No additional shadow onto the park between 10am and 2pm on June 21
- Area excluded from DDO8**

