

Draft Yarra Planning Scheme Amendment C271yara
Fitzroy and Collingwood

**Yarra Activity Centres Standing Advisory Committee Report 5,
Volume 1**

Planning and Environment Act 1987

11 June 2026 (version 0.3)

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Yarra Activity Centres Standing Advisory Committee Report 5 (Volume 1) pursuant to section 25 of the PE Act

Draft Yarra Planning Scheme Amendment C271yara

Fitzroy and Collingwood

11 June 2026



Lisa Kendal, Chair



Jonathan Halaliku, Deputy Chair



Jane Homewood, Member

Document version control

Version	Date	Description of changes
0.1 (Final)	11 June 2026	n/a
0.2	19 June 2026	Insert Document version control table Correct the following drafting errors: ▪ Insert 'Volume 1' on front covers and header ▪ Replace the word mandatory with discretionary in: • recommendations 2c, 3c, 4b, 7a and 8b in the Executive Summary • the recommendation relating to BFO12, 13, 14, 19 and 20 in Chapter 5.4.3(iv) ▪ In recommendation 13d relating to BFO12 in the Executive Summary: • replace Map 2 with Map 3 • replace 'building' with 'street wall' • add the word 'for' ▪ In the recommendation relating to BFO12 in Chapter 5.5 (viii): • replace Map 2 with Map 3 • replace 'building' with 'street wall' • add the word 'for' ▪ In the discussion in Chapter 5.12 (v): • replace BFO18 with BFO19.
0.3	15 July 2026	Correct the following drafting errors: ▪ In recommendation 14d relating to BFO13 in the Executive Summary: • add the words 'and amend Table 3 to show discretionary street wall heights'. ▪ In the recommendation relating to BFO13 in Chapter 5.6 (viii): • add the words 'and amend Table 3 to show discretionary street wall heights'. ▪ In the discussion relating to BFO13 in Chapter 5.6 (viii): • add the words (as underlined) "...the Committee supports discretionary <u>building and street wall height</u> controls.

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Glossary and abbreviations

Background Analysis Report	Brunswick and Smith Street Built Form Review Background Analysis Report (Hansen Partnership, November 2019)
BFF	Precinct Built Form Framework
BFO[number]	Built Form Overlay Schedule [number]
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
Charles/Merkel	Beth Zeally Charles & Ron Merkel
Coll Property	Coll Property Pty Ltd
Collingwood Boulevard/BJJM	Collingwood Boulevard Group Pty Ltd and BJJM Nominees Pty Ltd
Committee	Yarra Activity Centres Standing Advisory Committee
Council	Yarra City Council
DDO[number]	Design and Development Overlay Schedule [number]
Draft Amendment	Draft Yarra Planning Scheme Amendment C271yara
Draft Heritage Recommendations Report	Draft Heritage Recommendations: Fitzroy and Collingwood Permanent DDO Controls (GJM Heritage, November 2022)
DTP	Department of Transport and Planning
Ebenezer	Ebenezer III Pty Ltd
Foundry/Rose/Valli	Foundry Company Pty Ltd, 76 Rose Street Developments Pty Ltd and Valli DM Pty Ltd
GFM Group	GFM Group Pty Ltd
GRZ	General Residential Zone

Heritage Reviews	Series of heritage reviews prepared by GJM Heritage of the ten precincts identified in the Background Analysis Report
Koulloupas Holdings	Koulloupas Holdings Pty Ltd
Liuzzi Group	The Liuzzi Group Pty Ltd, Micheal Bacash, Marco Cimino Riviera Distributors Pty Ltd and Alessandra Brand
May 15	May 15 Pty Ltd
McLangridge	McLangridge Pty Ltd
Minister	Minister for Planning
Merlatti	Silvano Merlatti
MUZ	Mixed Use Zone
Newton/Andrianopoulos	Newtown Fitzroy Pty Ltd and Andrianopoulos Nominees Pty Ltd
NRZ[number]	Neighbourhood Residential Zone [schedule number]
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Yarra Planning Scheme
PPN59	Planning Practice Note 59: Mandatory Provisions in Planning Schemes
PPN60	Planning Practice Note 60: Height and setback controls for activity centres
PPV	Planning Panels Victoria
SBO	Special Building Overlay
SEES 2025	2025 Yarra Spatial Economics and Employment Strategy update report
Sietel	Sietel Limited
VCAT	Victorian Civil and Administrative Tribunal
VHR	Victorian Heritage Register
VIF	Victoria in Future
WHEA	World Heritage Environs Area

Overview

Amendment summary

The draft Amendment	Draft Yarra Planning Scheme Amendment C271yara
Common name	Fitzroy and Collingwood Built Form Controls
Brief description	Application of updated built form controls to land in the Fitzroy and Collingwood Major and Neighbourhood Activity Centres
Subject land	See Figure 1
The Proponent	Yarra City Council
Planning Authority	Minister for Planning
Authorisation	2 July 2024, with conditions
Exhibition	18 November 2024 to 24 February 2025
Submissions	94

Committee process

The Committee	Lisa Kendal (Chair), Jonathan Halaliku, Jane Homewood
Supported by	Chris Brennan, Planning Panels Victoria
Directions Hearing	Planning Panels Victoria, 1 Spring Street, Melbourne and by video, 18 February 2026
Committee Hearing	Planning Panels Victoria, 1 Spring Street, Melbourne; Quest Hotel, 79 Wellington Street, Collingwood; and by video on 8, 9, 10, 13, 14, 15, 16, 20, 21, 22, 23, 24 and 28 April 2026
Site inspections	Unaccompanied, 31 March 2026
Appearances at the Hearing	- Department of Transport and Planning, represented by Lauren Peek and Pippa Magnuson - Yarra City Council, represented by Susan Brennan SC and Jane Sharp of counsel, instructed by Maddocks, with evidence from: - Sandra Rigo of Hansen Partnership in planning - Jim Gard'ner of GJM Heritage in heritage - Rob McGauran of MGS Architects in urban design - Andrew Spencer of SGS in economics - Beth Zeally Charles & Ron Merkel (Charles/Merkel), represented by Tania Cincotta of Best Hooper - Christine Hancock - Coll Property Pty Ltd (Coll Property), represented by Nick Sutton of Norton Rose Fulbright, with evidence from: - Mark Sheppard of Urbis in urban design - John Patrick of John Patrick Landscape Architects in landscape

- Collingwood Boulevard Group Pty Ltd and BJJM Nominees Pty Ltd (Collingwood Boulevard/BJJM), represented by Ellen Tarasenko of Polis Legal
- Crude Pty Ltd, represented by Adriano Zarosinski of Tract
- Dakota Property, represented by Paul Lewis of Tract
- Daniel Antonello
- Ebenezer III Pty Ltd (Ebenezer), represented by Lucy Eastoe of Hall & Wilcox with evidence from:
 - Bryce Raworth of Bryce Raworth Conservation and Heritage in heritage
- Foundry Company Pty Ltd, 76 Rose Street Developments Pty Ltd and Valli DM Pty Ltd (Foundry/Rose/Valli), represented by Jarryd Gray of MinterEllison
- Gerard Holwell
- GFM Group Pty Ltd (GFM Group), represented by Rob McKendrick of Planning and Property Partners
- Koulloupas Holdings Pty Ltd (Koulloupas Holdings), represented by Vicky Grillakis of Urbis
- May 15 Pty Ltd (May 15), represented by Michael Beaconsfield of counsel, instructed by Rhodie Anderson of Rigby Cooke, with evidence from:
 - Kel Twight of Urban Planning Collective in planning
 - Matthew Furness of Ratio Consultations in urban design
- McLangridge Pty Ltd (McLangridge), represented by Sarah Thomas of Urban Planning Collective
- Newtown Fitzroy Pty Ltd and Andrianopoulos Nominees Pty Ltd (Newtown/Andrianopoulos), represented by Dominic Scally of Best Hooper
- Sietel Limited (Sietel), represented by Shem Curry and Paul Vassilacos of Contour
- Silvano Merlatti (Merlatti), represented by Christina McRae of Urbis
- Stockland, represented by Urbis
- Tanya Burdett
- The Liuzzi Group Pty Ltd, Micheal Bacash, Marco Cimino Riviera Distributors Pty Ltd and Alessandra Brand (Liuzzi Group), represented by Giovanni Gattini of G2 Urban Planning

Citation	Yarra Activity Centres SAC [2026] PPV
Date of this report	11 June 2026

Executive summary

Draft Yarra Planning Scheme Amendment C271yara (the draft Amendment) seeks to introduce permanent built form controls for 12 precincts across:

- Brunswick Street Major Activity Centre
- Smith Street Major Activity Centre
- Johnston Street (west) Neighbourhood Activity Centre
- Gertrude Street Neighbourhood Activity Centre
- nearby commercial and mixed-use zone areas in Fitzroy, Collingwood and Clifton Hill.

The draft Amendment forms a key part of City of Yarra's (Council's) broader activity centre program, which is intended to direct growth to well-served centres while ensuring development is appropriately designed, supports liveability, and minimises impacts on surrounding public and residential spaces.

The exhibited Explanatory Report describes the context and reason for the Amendment as follows:

A key challenge for council is balancing the municipality's economic role and opportunity for growth and investment (both for housing and employment) and protecting the built form fabric which defines the character and heritage of the area.

Activity centres and mixed-use areas across the municipality are experiencing development pressure with the addition of mid-rise commercial development and apartments. They will continue to accommodate much of the municipality's growth due to their proximity to transport infrastructure, shops and services making them the most suitable locations for development.

To manage this growth, the amendment is required to ensure appropriate and orderly planning outcomes are achieved through the application of a range of planning controls to provide strategic guidance certainty and protection from inappropriate development.

The Minister for Planning (Minister) appointed the Yarra Activity Centres Standing Advisory Committee (Committee) on 9 August 2021. The Minister referred the draft Amendment to the Committee on 22 December 2025 to consider specific referred matters relating to:

- Accommodating growth
- Mandatory controls
- Building heights (envelopes)
- Floor to ceiling (floor) heights
- Flood design requirements
- Draft Built Form Overlay (BFO) schedules
- Heritage
- Zoning anomalies.

The Committee Report consists of two volumes:

- Volume 1 (this report) includes the response to specific referred matters
- Volume 2 includes the Committee's recommended changes to the BFO schedules.

The draft Amendment is informed by background studies and analysis including:

- *Brunswick and Smith Street Built Form Review Background Analysis Report* (Hansen Partnership, November 2019)
- ten Built Form Framework (BFF) reports
- five heritage reviews
- *Draft Heritage Recommendations: Fitzroy and Collingwood Permanent DDO Controls* (GJM Heritage, 22 November 2022)
- traffic assessment reports.

Conclusions on specific referred matters

For each of the specific referred matters, the Committee has concluded:

- Accommodating growth
 - the draft Amendment facilitates sufficient capacity to meet future employment and housing demands
- Mandatory controls
 - subject to its recommendations relating to specific sites and planning provisions, mandatory controls are justified
- Building heights (envelopes)
 - subject to its recommendations relating to specific sites and planning provisions, the proposed building heights, setback and separation, overshadowing, street wall height and upper level setbacks are appropriate and justified
 - the draft Amendment will not have an unreasonable cumulative impact on development potential for individual sites, either for the draft Amendment area or for the City of Yarra
 - any potential conflict with approved planning permits can be appropriately managed through appropriate transitional provisions
 - impacts from overshadowing to the public realm and open spaces are acceptable based on the Committee's recommended provisions
 - impacts from wind effects to the public realm can be acceptably managed, however, future work should be undertaken to strengthen wind provisions particularly for strategic redevelopment sites
 - the provisions are appropriate for managing transition to sensitive interfaces including heritage areas
- Floor to floor heights
 - subject to its recommendations, are appropriate
- Flood design requirements
 - the proposed provisions support good design responses in areas affected by the Special Building Overlay (SBO)
 - the SBO provisions should be deleted from BFO schedules where not relevant
 - design guidelines would be beneficial and should be progressed by the Department of Transport and Planning, Melbourne Water and relevant local government authorities separate to this draft Amendment process
- BFO schedules
 - subject to its recommendations and a detailed review of drafting, the proposed BFO schedules are appropriate
 - the draft provisions support high-quality design outcomes

- it is appropriate to not use deemed to comply provisions
- it is appropriate to retain third party review rights
- transitional provisions are appropriate
- Heritage
 - it is justified to apply the Heritage Overlay to the Gasometer Hotel (HO506) and the Victoria Parade East Precinct (HO507)
- Zoning anomalies
 - the proposed rezoning of sites is appropriate apart from for 299 Smith Street, Collingwood.

Recommendations

Based on the reasons set out in this Report, the Committee recommends the following changes before the draft Amendment is finalised and approved:

Recommendations shown in Volume 2 of this Report

1. In all Built Form Overlay Schedules:

- a) **amend Standard BF02 (Building Heights) to include a new requirement to allow the redevelopment of an existing building which already exceeds a mandatory maximum building height to the same height as the existing building**
- b) **amend the overshadowing provisions to refer to no additional overshadowing and, where relevant, to refer to 'measured from the kerb' rather than 'measured three metres from the relevant property boundary'**
- c) **amend the Standard BF04 (Overshadowing of open space or public realm) provision to delete the provisions relating to 'Any opposite kerb outstand, seating, or planting area, as applicable'**
- d) **specify the decision guideline relating to wind, focus on impacts to the public realm**
- e) **amend the transitional provisions.**

2. In Built Form Overlay Schedule 12 – Brunswick Street Shops:

- a) **amend the Standard BF04 (Overshadowing of open space or public realm) provision to delete the provisions relating to 'A public open space, reserve or parklet'**
- b) **amend Standard BF05 (Setbacks above street walls and front wall) to require a 6 metre mandatory 'minimum setback above street wall or front wall' on Brunswick, Smith, Gertrude and Johnston Streets**
- c) **amend Standard BF05 (Setbacks above street walls and front wall) to require a 3 metre discretionary 'minimum setback above street wall or front wall' on side streets that are less than 10 metres in width**
- d) **amend Table 4 to show a discretionary 6 metre upper level setback 'on side streets and other streets 10 metres or greater in width'.**

3. In Built Form Overlay Schedule 13 – Smith Street Shops:

- a) **amend the Standard BF04 (Overshadowing of open space or public realm) provision to delete the provisions relating to 'A public open space, reserve or parklet'**

- b) amend Standard BF05 (Setbacks above street walls and front wall) to require a 6 metre mandatory 'minimum setback above street wall or front wall' on Brunswick, Smith, Gertrude and Johnston Streets**
 - c) amend Standard BF05 (Setbacks above street walls and front wall) to require a 3 metre discretionary 'minimum setback above street wall or front wall' on side streets that are less than 10 metres in width.**
- 4. In Built Form Overlay Schedule 14 – Gertrude Street Shops:**
 - a) amend Standard BF05 (Setbacks above street walls and front wall) to require a 6 metre mandatory 'minimum setback above street wall or front wall' on Brunswick, Smith, Gertrude and Johnston Streets**
 - b) amend Standard BF05 (Setbacks above street walls and front wall) to require a 3 metre discretionary 'minimum setback above street wall or front wall' on side streets that are less than 10 metres in width.**
- 5. In Built Form Overlay Schedule 16 – Brunswick Street Grand Residential:**
 - a) amend Standard BF05 (Setbacks above street walls and front wall) to require a 6 metre mandatory 'minimum setback above street wall or front wall' on Brunswick, Smith, Gertrude and Johnston Streets.**
- 6. In Built Form Overlay Schedule 17 – Fitzroy Town Hall and Back Blocks:**
 - a) amend the Standard BF04 (Overshadowing of open space or public realm) provision to delete the provisions relating to 'A public open space, reserve or parklet'**
 - b) amend Table 4 to apply the following provisions to 64-66 and 68-70 Hanover Street:**
 - discretionary 6 metre upper level setback for primary frontage**
 - discretionary 3 metre upper level setback on all streets.**
- 7. In Built Form Overlay Schedule 19 – Fitzroy East and Johnston Street North:**
 - a) amend Standard BF05 (Setbacks above street walls and front wall) to require a 3 metre discretionary 'minimum setback above street wall or front wall' on side streets that are less than 10 metres in width.**
- 8. In Built Form Overlay Schedule 20 – Smith Street North and South:**
 - a) amend Standard BF05 (Setbacks above street walls and front wall) to require a 6 metre mandatory 'minimum setback above street wall or front wall' on Brunswick, Smith, Gertrude and Johnston Streets**
 - b) amend Standard BF05 (Setbacks above street walls and front wall) to require a 3 metre discretionary 'minimum setback above street wall or front wall' on side streets that are less than 10 metres in width.**
- 9. In Built Form Overlay Schedule 21 – Alexandra Parade:**
 - a) amend Standard BF05 (Setbacks above street walls and front wall) to require a 6 metre mandatory 'minimum setback above street wall or front wall' on Brunswick, Smith, Gertrude and Johnston Streets**
 - b) amend Standard BF04 (Overshadowing of open space or public realm) to make overshadowing requirements for Alexandra Parade central median discretionary.**

10. In Built Form Overlay Schedule 22 - Victoria Parade:

- a) amend Standard BF04 (Overshadowing of open space or public realm) to make overshadowing requirements for Victoria Parade central median discretionary.

11. In Built Form Overlay Schedule 23 - Fitzroy West:

- a) amend the Standard BF04 (Overshadowing of open space or public realm) provision to delete the provisions relating to 'A public open space, reserve or parklet'.

Recommendations not shown in Volume 2 of this Report

12. In all Built Form Overlay Schedules:

- a) review, and if necessary, amend Map 2 to reflect building heights of all existing taller buildings
- b) in consultation with Melbourne Water, confirm the areas where the Special Building Overlay will apply and delete the Special Building Overlay provisions from any Built Form Overlay schedules where the Special Building Overlay will not apply
- c) review and update building envelope provisions (including maps) to ensure they reflect the changes:
 - adopted by Council (unless otherwise recommended in this Report)
 - recommended by the Committee.

13. In Built Form Overlay Schedule 12 – Brunswick Street Shops:

- a) amend Map 2 to increase building heights in Area 1 from 3 storeys/11.2 metres to 4 storeys/15 metres.
- b) amend Map 2 to show a mandatory maximum 6 storey building height for the properties along Brunswick Street – North of Leicester Street and Brunswick Street – southwest of Johnston Street (as shown in Figure 8)
- c) amend Map 2 to show a mandatory maximum 5 storey building height for the properties along the east side of Brunswick Street between Greeves and Victoria Streets (as shown in Figure 8)
- d) amend Map 3 to show a mandatory maximum 3 storey street wall height for the properties along Brunswick Street (as shown in Figure 9)
- e) amend Maps 1, 2 and 3 to include the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street)
- f) amend Table 1 to show discretionary building heights for the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street) and 430-444 Brunswick Street
- g) amend Map 3 and Table 3 to show discretionary 4 storey street wall heights for the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street).

14. In Built Form Overlay Schedule 13 – Smith Street Shops:

- a) amend Map 2 to increase building heights in Area 1 from 3 storeys/11.2 metres to 4 storeys/15 metres
- b) amend Map 2 to show mandatory maximum building heights for the following properties (as shown in Figure 16):

- along Smith Street – north of Johnston Street
 - 1 Stanley Street
 - 190-192, 194, 196, and 198 Smith Street and hinterland properties at 77-85 Little Oxford Street
 - 365-379 Smith Street
- c) amend Map 2 to show a mandatory 3 storey/11.2 metre street wall (replacing the section shown as 2 storeys/8 metres) at the rear of 171 Smith Street
- d) amend Table 1 to show discretionary building heights and amend Table 3 to show discretionary street wall heights for 243-255 Smith Street.
- 15. In Built Form Overlay Schedule 14 – Gertrude Street Shops**
- a) amend Map 2 to increase building heights in Area 1 from 3 storeys/11.2 metres to 4 storeys/15 metres
- 16. In Built Form Overlay Schedule 15 – Johnston Street West:**
- a) amend Table 1 to show discretionary 8 storey building height for 95-103 Johnston Street, Fitzroy
- b) amend Map 2 to show mandatory 9 storey building height for 246 and 260 Nicholson Street (as shown in Figure 28)
- c) amend Map 3 and Table 3 to show discretionary 4 storey street wall height for Argyle, Nicholson and Johnston Street (as shown in Figure 29)
- d) amend Map 3 to show discretionary 4 storey street wall heights for:
- Johnston Street and Spring Street interfaces of 41-49 Johnston Street
 - Johnston Street interface of 24-26, 28 and 30 Johnston Street
 - 67 Johnston Street.
- 17. In Built Form Overlay Schedule 17 - Fitzroy Town Hall and Back Blocks:**
- a) amend Map 2 to increase building heights in Area 1 from 3 storeys/11.2 metres to 4 storeys/15 metres
- b) amend the maps to remove the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street)
- c) amend Map 3 and Table 3 to show a discretionary 3 metre street wall to 64-66 and 68-70 Hanover Street.
- 18. In Built Form Overlay Schedule 18 – Johnston Street South and Victoria Street:**
- a) amend Map 2 to apply mandatory 5 storey building heights to (as shown in Figure 40):
- 206-208 Johnston Street, Fitzroy (bounded by George and Elliot Streets)
 - 218-226 Johnston Street and 1 and 3 Elliot Street, Fitzroy.
- b) amend map 2 to apply a mandatory 8 storey building height to 341 George Street, Fitzroy.
- 19. In Built Form Overlay Schedule 19 – Fitzroy East and Johnston Street North:**
- a) review, and if necessary, amend Map 3 to accurately reflect heritage walls.
- 20. In Built Form Overlay Schedule 21 – Alexandra Parade:**
- a) amend Map 2 to show a discretionary 6 storey building height for 43-45 Alexandra Parade.

21. In Built Form Overlay Schedule 22 – Victoria Parade:

- a) amend the maps (as required) to include the full extent of 155 Victoria Parade**
- b) amend Map 2 to show discretionary 7 storey building height for 159, 211-213 and 215-219 Victoria Parade.**

22. In Built Form Overlay Schedule 23 – Fitzroy West:

- a) amend Map 2 to show a discretionary 6 storey building height for 74-84 Rose Street.**

Heritage recommendations

23. Amend the Statement of Significance for 484 Smith Street, Collingwood (Gasometer Hotel) (HO506) to state under the heading 'How is it significant?':

- a) the Gasometer Hotel, 484 Smith Street, Collingwood is of local historical and representative (architectural) significance to the City of Yarra.**

Rezoning recommendations

24. Delete rezoning the rear part of 299 Smith Street, Fitzroy.

25. Amend Planning Scheme Map 6 to include 155 Victoria Parade in the Commercial 1 Zone.

1 Introduction

1.1 Referral to the Committee

The Minister for Planning (Minister) appointed the Yarra Activity Centres Standing Advisory Committee (Committee) on 9 August 2021.

On 22 December 2025, the Minister:

- updated the Committee's Terms of Reference (see Appendix A)
- referred Draft Planning Scheme Amendment C271yara (draft Amendment) to the Committee.

The referral letter (see Appendix B) includes specific referred matters. The referral letter states:

The specific matters are consistent with the key issues identified by the council in its review of submissions. The committee only needs to consider submissions and the council's response to the extent that they address referred matters.

Table 1 Specific matters for referral (Draft Amendment C271yara)

Topic	Key issue
Accommodating growth	Whether the draft amendment facilitates sufficient capacity to meet future employment and housing demands, including with respect to: - The housing target set by <i>Plan for Victoria</i> for the City of Yarra to accommodate 44,000 dwellings by 2051. - Access to transport, opportunities and services.
Mandatory controls	Whether the proposed mandatory provisions are appropriate and justified, including with respect to <i>Planning Practice Note 59: The role of mandatory provisions in planning schemes</i> and impact on development potential. This includes mandatory building heights, setbacks and overshadowing provisions.
Building heights	Whether the proposed building heights, setback and separation, overshadowing, street wall height and upper level setbacks are appropriate and justified, including with respect to: - Cumulative impacts on development potential. - Any potential conflict with approved planning permits. - Impacts from overshadowing to the public realm and open spaces. - Impacts from wind effects to the public realm. - Transition to sensitive interfaces including heritage areas.
Floor to ceiling heights	Whether the proposed provisions for floor to ceiling heights are appropriate to provide flexibility for both retail and commercial uses.
Flood design requirements	Whether the proposed provisions are appropriate to support good design responses in areas affected by the Special Building Overlay.

Draft Built Form Overlay schedules	Whether the proposed schedules to the Built Form Overlays are appropriate, including with respect to, but not limited to the following matters: - Supporting high-quality design outcomes - Deemed to comply provisions - Third party review rights - Transitional provisions.
Heritage	Whether the proposed application of the Heritage Overlay is justified, including with respect to Planning Practice Note 1: Applying the Heritage Overlay.
Zoning anomalies	Whether the proposed rezoning of the following sites is appropriate to correct identified errors or anomalies: - 262-266 Nicholson Street, Fitzroy - 304 Nicholson Street, Fitzroy - 95-103 Johnston Street, Fitzroy - 12 Hilton Street, Clifton Hill - 427 Smith Street, Fitzroy - 424 Gore Street, Fitzroy - 421 Smith Street, Fitzroy - 245 Gold Street, Clifton Hill - 299 Smith Street, Fitzroy - 64-66 Hanover Street, Fitzroy - 5-9 Brunswick Street, Fitzroy - 169-175 Gertrude Street, Fitzroy - 158-164 Gertrude Street, Fitzroy - 32-34 Smith Street, Fitzroy - 181 Victoria Parade, Fitzroy - 151-159 Victoria Parade, Fitzroy - 29-31 Victoria Parade, Collingwood

The referral letter states that advice from the Committee is not required on:

- requests to rezone properties other than proposed by the draft amendment
- matters relating to car parking, public transport, and bicycle infrastructure
- amenity issues relating to views from within private property, noise and construction activity
- building construction standards including structural defects
- community consultation and the amendment process
- whether the Built Form Overlay is an appropriate Victoria Planning Provisions tool to guide built form outcomes.

1.2 The draft Amendment

The draft Amendment proposes to apply permanent built form controls to land in Fitzroy, Collingwood and Clifton Hill.

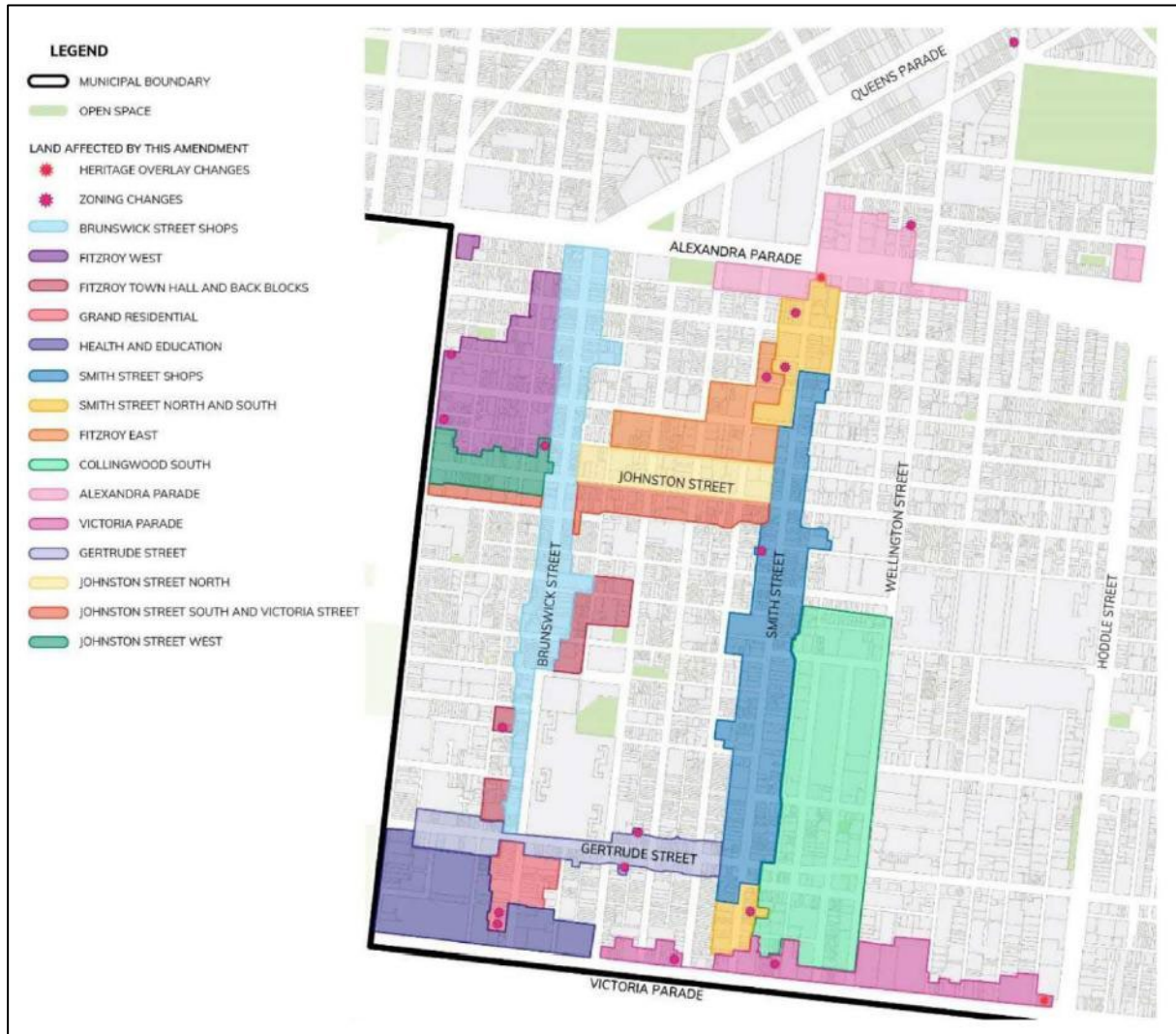
The draft Amendment seeks to:

- implement strategic work resulting from built form analysis
- introduce local policy updates to Clause 11.03-1L (Activity Centres)

- introduce 12 Design and Development Overlay (DDO) schedules (consisting of seven schedules to replace existing interim schedules, and five new schedules)
- introduce two Heritage Overlay schedules
- amend minor zoning errors.

Figure 1 shows the land affected by the draft Amendment.

Figure 1 Land affected by the draft Amendment



Source: Amendment C271yara exhibited Explanatory Report

1.3 Built Form Overlay schedules

The referral letter explained that the Department of Transport and Planning (DTP) would prepare draft Built Form Overlay (BFO) schedules to replace the exhibited DDO schedules. The BFO is a new planning tool introduced to the Victoria Planning Provisions in 2025 *"to support growth and change in and around activity centres and other well-serviced locations"*.

DTP prepared and provided the draft BFO schedules to the Committee on 4 February 2026 explaining:

The draft schedules represent a generally policy neutral translation of the Design and Development Overlay schedules prepared and consulted on by Yarra City Council, including changes endorsed by the council in response to submissions on 14 October 2025.¹

Table 1 shows how the exhibited DDO schedules relate to the draft BFO schedules.

Table 1 Exhibited DDO schedules and draft BFO schedules

Exhibited DDO schedule	Draft BFO schedule
DDO29 – Brunswick Street Shops	BFO12 – Brunswick Street Shops
DDO30 – Smith Street Shops	BFO13 – Smith Street Shops
DDO31 – Gertrude Street Shops	BFO14 – Gertrude Street Shops
DDO32 – Johnston Street West	BFO15 – Johnston Street West
DDO33 – Brunswick Street Grand Central	BFO16 – Brunswick Street Grand Residential
DDO34 – Fitzroy Town Hall and Back Blocks	BFO17 – Fitzroy Town Hall and Back Blocks
DDO35 – Johnston Street south and Victoria Street	BFO18 – Johnston Street South and Victoria Street
DDO36 – Fitzroy East and Johnston North	BFO19 – Fitzroy East and Johnston Street North
DDO37 – Smith Street North and South	BFO20 – Smith Street North and South
DDO38 – Alexandra Parade	BFO21 – Alexandra Parade
DDO39 – Victoria Parade	BFO22 – Victoria Parade
DDO40 – Fitzroy West	BFO23 – Fitzroy West

Chapter 5 summarises the provisions in each of the draft BFO schedules including:

- the development framework plan
- the building heights plan
- the street wall and front wall heights plan
- a table showing the proposed built form metrics, and whether they are proposed as mandatory or discretionary.

1.4 The Committee's approach

(i) The Committee's approach

The draft Amendment is large and complex. It:

- covers 12 precincts
- is informed by 17 background documents
- attracted 94 submissions during the public notice period.

Following exhibition, the 12 DDO schedules were translated into BFO schedules (a new Victoria Planning Provision). The Committee's process included:

- a 12 day Hearing
- hearing from DTP, Council and 20 parties, collectively calling 8 experts

¹ Document 10

- receiving 194 tabled documents
- a compressed reporting period of 30 business days from the close of the Hearing.

The Committee has reviewed a large volume of material over a short timeframe. While the Committee has reviewed all the material presented to it, it has had to be selective in referring to the details of some submissions.

The Committee thanks the PPV staff, DTP staff, Council staff and all parties and their representatives involved in its process, for contributing positively and efficiently, and accommodating the timeframes.

(ii) This Report

This Report consists of two volumes and is structured to address the specific referred matters as follows:

- Volume 1
 - Introduction
 - Strategic context and background
 - Accommodating growth
 - Mandatory controls
 - Building heights (envelope)
 - Floor to floor heights
 - Flood design requirements
 - Draft Built Form Overlay schedules
 - Heritage
 - Zoning anomalies
- Volume 2
 - Committee recommended changes to the BFO schedules.

Limitations

The Committee has not reviewed matters outside of the specific referred matters and accordingly it has not addressed issues raised in submissions that do not relate to the specific referred matters.

Drafting of the BFO schedules was not a specific referred matter and accordingly the Committee has not undertaken a full drafting review. The Committee has made some recommendations relating to drafting based on issues raised in submissions and matters it has observed. During the Committee's process, Council made some drafting changes to the BFO schedules to improve clarity and legibility of the provisions. DTP may wish to review drafting before the draft Amendment is finalised and approved to ensure consistency with guidance in the Practitioner's Guide to Victoria's Planning Schemes.

(iii) Versions of BFO schedules

In response to Committee directions, Council prepared 'Day 1' and 'Day 2' versions of the BFO schedules.

The Committee has based its recommendations on Council's Day 2 BFO schedules.² Unless otherwise stated in this Report, the Committee generally accepts Council's Day 2 changes. The Committee's recommended BFO schedules are shown in Volume 2 of this Report.

The Committee has extracted parts of the BFO schedules as required throughout this Report. In response to Mr Gard'ner's evidence, Council made changes to the maps in the Day 2 BFO schedules which greatly improve legibility, including a different colour palette. Consequently, extracts of earlier BFO schedule maps in this Report, such as Prof McGauran's recommended changes in Chapter 5, are presented differently to the Day 2 versions.

² Documents 175a - I

2 Strategic context and background

2.1 Relevant planning scheme policy and provisions

Council provided a detailed overview of the relevant planning provisions in its Part A submission. Table 2 provides a summary of the planning context.

Table 2 Planning context

	Relevant references
Victorian planning objectives	Section 4, <i>Planning and Environment Act 1987</i> (objectives of planning in Victoria): (a) to provide for the fair, orderly, economic and sustainable use, and development of land; (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity; (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e); (fa) to facilitate the provision of affordable housing in Victoria; (g) to balance the present and future interests of all Victorians.
Municipal Planning Strategy	- Clause 02.02 (Spatial vision) - Clause 02.03-1 (Settlement – Activity centres) - Clause 02.03-4 (Built environment and heritage) - Clause 02.03-5 (Housing) - Clause 02.04 (Strategic Framework Plan)
Planning Policy Framework	- Clause 11 (Settlement) incl. 11.01-1S, 11.02-1S, 11.02-2S, 11.02-3S, 11.03-1S and 11.03-1L - Clause 15 (Built environment and heritage) incl. 15.01-1S, 15.01-1L, 15.01-2S, 15.01-2L, 15.01-4S, 15.01-5S - Clause 15.03-1S (Heritage conservation) and Clause 15.01-3L (Heritage) - Clause 16 (Housing) incl. 16.01-1S, 16.01-1R and 16.01-1L - Clause 17 (Employment) incl. 17.01-1S, 17.01-R and 17.02-1S - Clause 18 (Transport) - Clause 19 (Infrastructure)
Other planning strategies and policies	- Plan for Victoria (Department of Transport and Planning, 2025) - Victoria's Housing Statement - The Decade Ahead 2024-2034

	- Train and Tram Zone Activity Centres Program (incl. Inner Melbourne Train and Tram Zone) - City of Yarra Housing Strategy (2018) - City of Yarra Spatial, Economic and Employment Strategy (2018) and updated version (November 2025)
Planning scheme amendments	- VC257 (25 Feb 2025) - Introduces Housing Choice and Transport Zone and Built Form Overlay - VC274 (28 Feb 2025) - Introduces Precinct Zone - VC267 (31 Mar 2025) - Residential development assessment provisions - VC286 (1 Jul 2025) - Licensed premises permit changes - VC283 (2 Sep 2025) - Implements Plan for Victoria - VC277 (18 Dec 2025) - Car parking changes
Ministerial directions	- Ministerial Direction on the Form and Content of Planning Schemes - Ministerial Direction No. 1: Potentially Contaminated Land - Ministerial Direction No. 9: Metropolitan Planning Strategy - Ministerial Direction No. 11: Strategic Assessment of Planning Scheme Amendments - Ministerial Direction No. 15: The Planning Scheme Amendment Process
Planning practice notes	- Planning Practice Note 1: Applying the Heritage Overlay (PPN1) - Planning Practice Note 46: Strategic Assessment Guidelines - Planning Practice Note 59: The role of mandatory provisions in planning schemes (PPN59) - Planning Practice Note 60: Height and Setback Controls for Activity Centres (September 2018) (PPN60)

2.2 Chronology

Table 3 provides a summary of the chronology of events.

Table 3 Chronology of events

Date	Action
Jun 2019 to Dec 2020	Council preparation of strategic work including Background Analysis Report, Heritage Reviews, traffic assessments and Precinct Built Form Frameworks
17 Dec 2019	Council resolved to request Ministerial approval of interim DDO schedules (Amendment C270yara – Stage 1)
30 Mar 2021	Council resolved to request Ministerial approval of further interim DDO schedules (Amendment C288yara – Stage 2)
9 Aug 2021	Yarra Activity Centres Standing Advisory Committee appointed by the Minister
27 Aug 2021	Interim DDO schedules introduced by Amendment C270yara: - Schedule 30 – Smith Street Shops - Schedule 35 – Johnston Street South - Schedule 36 – Fitzroy East and Johnston Street North - Schedule 37 – Smith Street North and South

22 Oct 2021	Interim DDO schedules introduced by Amendment C288yara: - Schedule 38 – Alexandra Parade - Schedule 39 – Victoria Parade - Schedule 40 – Fitzroy West
5 Sep to 3 Oct 2022	Council undertook early community engagement on adopted interim DDO schedules to inform the preparation of permanent controls
Nov 2022	GJM Heritage prepared Draft Heritage Recommendations: Fitzroy and Collingwood Permanent DDO Controls dated 22 Nov 2022
6 Dec 2022	Council resolved to request Ministerial consent to prepare and exhibit draft Amendment C271yara
2 Jul 2024	Minister granted conditional consent to prepare and exhibit draft Amendment C271yara
18 Nov 2024 to 24 Feb 2025	Public exhibition of draft Amendment C271yara
23 Jun 2025	Amendment C332yara gazetted to extend interim controls applied by C270 and C286 to 30 June 2026
14 Oct 2025	Council considered submissions received in response to C271yara and adopted a preferred version of the draft Amendment and resolved to request that it be referred to the Committee
22 Dec 2025	Minister referred draft Amendment C271yara to the Committee and directed DTP to prepare draft BFO schedules
Feb to Mar 2026	DTP prepared draft BFO schedules; Council resolved they are generally consistent with the form of the DDO schedules it adopted on 14 Oct 2025, except for translation errors and inconsistencies

Source: Summary based on Attachment A to Council's Part A submission

2.3 Background studies and framework plans

The draft Amendment was informed by the following background work.

Brunswick and Smith Street Built Form Review Background Analysis Report (Hansen Partnership, November 2019) (Background Analysis Report)

The Background Analysis Report reviewed existing conditions and identified a general direction for the preferred built form across the ten precincts in the study area.

Heritage Reviews

GJM Heritage undertook detailed Heritage Reviews of the ten precincts identified in the Background Analysis Report as follows:

- *Brunswick Street and Smith Street Built Form Review – Heritage Analysis and Recommendations* (25 November 2019) (covering Brunswick, Smith and Johnston Street and Fitzroy East)
- *Gertrude Street Built Form Review – Heritage Analysis and Recommendations* (9 December 2019)
- *Built Form Review: Alexandra Parade – Heritage Analysis and Recommendations* (November 2020)

- *Built Form Review: Victoria Parade – Heritage Analysis and Recommendations* (November 2020) (Victoria Parade Heritage Analysis)
- *Built Form Review: Fitzroy West Mixed Use Precinct – Heritage Analysis and Recommendations* (12 November 2020).

Draft Heritage Recommendations: Fitzroy and Collingwood Permanent DDO Controls (GJM Heritage, November 2022) (Draft Heritage Recommendations Report)

GJM Heritage updated its heritage recommendations based on the proposed built form controls and considering previous relevant panel and advisory committee reports, VCAT decisions, submissions made to the draft Amendment, and emerging built form since the Heritage Reviews.

Traffic assessments

Traffic Group assessed access arrangements throughout the draft Amendment area in the following reports:

- *Traffic Engineering Assessment, Brunswick Street and Smith Street Activity Centres* (Traffix Group, November 2019)
- *Traffic Engineering Assessment, Brunswick Street and Smith Street Activity Centres – Extended Area* (Traffix Group, November 2020).

Precinct Built Form Frameworks (BFFs)

As a result of the above strategic work, Hansen Partnership in conjunction with GJM Heritage prepared built form frameworks for each of the ten precincts in the study area as follows:

- *Alexandra Parade Built Form Framework* (Hansen Partnership, December 2020)
- *Brunswick Street and Town Hall Built Form Framework* (Hansen Partnership, November 2019)
- *Fitzroy East Built Form Framework* (Hansen Partnership, June 2019)
- *Fitzroy West Built Form Framework* (Hansen Partnership, December 2020)
- *Gertrude Street Built Form Framework* (Hansen Partnership, November 2019)
- *Johnston Street Built Form Framework* (Hansen Partnership, June 2019)
- *Smith Street Built Form Framework* (Hansen Partnership, November 2019)
- *Victoria Parade Built Form Framework* (Hansen Partnership, December 2020).

3 Accommodating growth

3.1 Specific matter for referral

The specific matter for referral is:

Whether the draft Amendment facilitates sufficient capacity to meet future employment and housing demands, including with respect to:

- The housing target set by Plan for Victoria for the City of Yarra to accommodate 44,000 dwellings by 2051.
- Access to transport, opportunities and services.

3.2 What is proposed?

The Explanatory Report states:

The City of Yarra is experiencing ongoing significant development activity, primarily in activity centres, and other areas of urban change, such as the municipality's employment precincts. A key challenge for council is balancing the municipality's economic role and opportunity for growth and investment (both for housing and employment) and protecting the built form fabric which defines the character and heritage of the area.

Activity centres and mixed-use areas across the municipality are experiencing development pressure with the addition of mid-rise commercial development and apartments. They will continue to accommodate much of the municipality's growth due to their proximity to transport infrastructure, shops and services making them the most suitable locations for development.

To manage this growth, the amendment is required to ensure appropriate and orderly planning outcomes are achieved through the application of a range of planning controls to provide strategic guidance certainty and protection from inappropriate development. The amendment applies largely to the Brunswick Street Major Activity Centre, Smith Street Major Activity Centre, Gertrude Street Neighbourhood Activity Centre and Johnston Street (west) Neighbourhood Activity Centre. The amendment also applies to mixed use and commercial land along Alexandra and Victoria Parades, east of Smith Street. These areas are identified as suitable for increased development and housing growth in Plan Melbourne 2017-2050, Yarra Housing Strategy (2018), and as areas for housing and economic activity in the Spatial Economic and Employment Strategy (2018).

3.3 Capacity to meet future housing demands

(i) The issue

The issue is whether the draft Amendment provides adequate capacity to meet future housing demands including with respect to:

- the housing target
- access to transport, opportunities and services.

(ii) Evidence and submissions

Experts

Mr Spencer provided:

- an economics expert statement before the Hearing (Document 87)
- a revised economics expert statement during the Hearing (Documents 127 and 139)

- a supplementary memorandum during the Hearing with additional comparisons of demand and capacity (Document 128)
- a supplementary memorandum with Council's Part C submission describing the housing capacity implications of Prof McGauran's evidence (Document 177).

Mr Spencer advised that in reviewing the capacity modelling he discovered an error in a spreadsheet formula that resulted in an overestimate of housing capacity in his original expert statement. The supplementary memorandum explained the error and provided additional comparisons of demand and capacity, and the revised expert statement reflects corrected capacity estimates.

Mr Spencer explained the key assumptions underpinning the capacity modelling (see Table 4).

Table 4 Capacity analysis key assumptions

Element	Assumption	Notes
Overall building height	As per maps in DDO/BFO	Heights applied on a lot-by-lot basis
Street wall height	3 storeys	Street wall heights are typically between 2 and 4 storeys so a blanket assumption of 3 has been used
Site coverage for levels up to the street wall height	70%	
Site coverage for levels above the street wall height	4 storeys or less: 60% 5 to 6 storeys: 50% 8 storeys and above: 40%	Accounts for setbacks, interface requirements, building separation and amenity requirements
Building efficiency	75%	Gross to net floor space
Non-residential levels in C1Z	1	Ground floor non-residential
Non-residential levels in MUZ	1	Ground floor non-res. or parking
Average dwelling size	75sqm and 80sqm	80sqm used in previous modelling as a conservatively high average; 75sqm is a more realistic average for Yarra and is consistent with DTPs HCAP tool.

Source: Document 128, Mr Spencer's supplementary memorandum

Mr Spencer concluded that the draft *"Amendment provides sufficient capacity to accommodate the government demand forecasts for the local areas affected by the Amendment"*.³ He provided a table (see Table 5) comparing housing capacity and demand in the draft Amendment area to 2036 and explained:

- based on Victoria in Future (VIF)⁴ data, forecast demand for the draft Amendment area between 2026 to 2036 is 3,100 dwellings
- estimated housing capacity in the draft Amendment area exceeds demand by either 5,530 or 6,110 dwellings (based on dwelling size assumptions of 80 or 75 square metres respectively)
- across Yarra there is 30 years of capacity for new housing (including 27.8-29.7 years of growth for new housing in the draft Amendment area).

³ Document 128, Mr Spencer supplementary memorandum

⁴ Victoria in Future (VIF) is the Victorian government's projection of population, households and dwellings

Table 5 Capacity and demand to 2036 compared

Item	Based on 80 sqm average dwelling size	Based on 75 sqm average dwelling size
C271 capacity	8,630	9,210
Fitzroy and Collingwood housing demand 2026-2036 (VIF2023)	3,100	3,100
Capacity in excess of demand to 2036	5,530	6,110
Ratio of capacity to demand to 2036	2.8	3.0
Years of capacity based on annual VIF demand	27.8	29.7

Source: Document 128, Mr Spencer's supplementary memorandum

Mr Spencer assessed the housing the capacity that would be generated by adopting Prof McGauran's recommended built form changes to the BFO schedules. He found that overall, this would increase capacity by around 453 to 477 dwellings (based on dwelling size assumptions of 80 or 75 square metres respectively).

Ms Rigo explained that earlier work undertaken by Council included preparation of the 2018 Yarra Housing Strategy (Housing Strategy) which responded to strategic policy of the time. There has been a significant change with the introduction of Plan for Victoria into planning schemes (to replace Plan Melbourne) and housing targets.

Ms Rigo referred to Council's submission to Plan for Victoria in August 2024 which concluded the City of Yarra could achieve the draft housing target (which at the time was 48,000 dwellings) with the bulk of development in the activity centres. Ms Rigo advised she was not concerned about the draft Amendment's ability to contribute sufficiently to the housing target, stating:

...the proposed built form controls will not unduly restrict or limit development potential within the planning policy framework and will not undermine the achievement of the Housing Target in Plan for Victoria and Clause 16.01-1S of the Planning Scheme.

Ms Rigo gave evidence on Mr Spencer's corrected expert statement and supplementary memo (Document 128). She noted that Mr Spencer concluded that while housing capacity exceeds demand, it falls short of the housing target. Ms Rigo noted that, given the housing capacity available and planned (with approximately 30 years capacity), *"there is ample opportunity and time"* for Council to review potential additional capacity (with regard to the housing target), particularly outside the draft Amendment area.

Council

Council said a key driver in Yarra is protecting heritage buildings and streetscapes and allowing appropriate development and increased housing. Overall, Council submitted the strategic basis for the draft Amendment is sound and it strikes *"the right balance between two competing imperatives: heritage protection and housing demand"*.⁵

Council noted that while the population forecasts in the Housing Strategy 2018 are now outdated, the long-term Housing Change Framework is established (in Clause 16.01-1L of the Planning Scheme) and the associated dwelling capacity far exceeds subsequent population forecasts by decades including for the draft Amendment area.

Council relied on the evidence of Mr Spencer, stating:

⁵ Document 194, Council response to Committee questions

...the draft Amendment will meet the demand for housing in Yarra for up to 30 years and make a significant contribution to meeting the State housing target of 44,000 dwellings by 2051.⁶

It estimated the draft Amendment area represented just over 20 per cent of Yarra's housing target.

Council stressed the Committee is not tasked with a municipal wide assessment of development capacity or capacity to achieve housing targets. It said the Committee's task is constrained to the draft Amendment area and considering the contribution it makes to ensuring "*sufficient realisable capacity*", noting that other activity centres, major regeneration and urban renewal areas, and other commercial areas (as informed by Clauses 02.03 and 02.04) will contribute housing opportunities.

Council advised that specific strategic redevelopment sites will be identified in collaboration with the State government (as referred to in Table 1 of Plan for Victoria). It said that questions around the strategic redevelopment sites are out of scope for the Committee.

Council submitted that "*all of the draft Amendment area has excellent access to transport, opportunities and services; this is intrinsic in its inclusion in multiple defined activity centres. The draft Amendment ensures that these locations continue to provide housing, employment and other uses which are highly accessible*".⁷

In closing submissions Council advised:

A letter from the Minister for Planning dated 27 January 2026 advised of the release of the Housing Capacity Assessment Programme by the end of January 2026 to assist Councils in determining how to address potential shortfalls. It further mentioned that a Scheme Review Report would be required to be delivered to the Minister by the end of October 2026 to outline potential pathways showing how the housing target could be met. The actual work would then commence thereafter.

The Minister did not require that Councils' planning schemes across the metropolis have to meet the housing targets by the end of October.

The Committee can be assured that Council will continue to work with DTP on finalising the Housing Capacity Assessment Programme and strategic redevelopment sites to inform what other pathways may be required.

It would be premature to comment further at this stage.⁸

Submitters

As summarised by Council:

Submissions largely supported and recognised the need to accommodate growth but many residents were concerned about the impact of accommodating growth whereas consultant and developer submissions consider the controls too restrictive to accommodate the projected growth.

Concern with the loss of neighbourhood character in order to accommodate growth.⁹

Some submitters raised issues relating to planning provisions on specific sites and general issues including:

⁶ Document 174, Council Part C submission
⁷ Document 107, Council Part B submission
⁸ Document 194, Council response to Committee questions
⁹ Document 84, Council Part A submission

- Victoria is in a housing crisis and the draft Amendment does not reflect the new planning context and strategic imperative to accommodate growth (with regard to designation of Yarra as an Inner Melbourne Activity Centre and introduction of the Train and Tram Zone Activity Centres program, the Housing Statement and Plan for Victoria)
- the proposed planning controls do not adequately respond to anticipated demand for housing or reflect the level of growth that can be accommodated in the draft Amendment area (with some raising concerns that Mr Spencer's housing capacity assessment is overly optimistic and does not adequately account for constraints or landowner, and VIF forecasts may not represent true demand as they are informed by existing planning settings)
- the controls should not artificially constrain capacity where there are limited constraints, and development potential of larger sites with limited sensitivities and on corner sites should be optimised.

(iii) Discussion

Planning policy sets housing targets at a municipal level rather than for each activity centre. The question is whether housing capacity enabled by the draft Amendment provides a sufficient contribution to the municipal target. Estimated future capacity in each activity centre would be a heightened issue if there was evidence that Yarra was unable to achieve its municipal-wide housing target.

The Committee is cognisant that work is being done through a separate process associated with the State's Housing Capacity Assessment Program to review Yarra's municipal housing target.

The assumptions in Mr Spencer's housing capacity modelling are reasonable, and no counter evidence was presented to the Committee.

The Committee is satisfied the draft Amendment will meet the forecast demand for housing for approximately 30 years, and overall will make a significant contribution to Yarra's housing target of 44,000 dwellings by 2051.

Based on Mr Spencer's supplementary memorandum, if Prof McGauran's built form recommendations were adopted, this would result in approximately an additional 453 to 477 dwellings or five per cent more dwelling capacity. This is significant. In this context, the Committee supports Prof McGauran's recommendations where adequately justified and on balance are not outweighed by heritage considerations. This is discussed as relevant to specific BFO schedules and sites in other chapters of this Report.

There was no information before the Committee that access to transport, opportunities and services was a constraint to accommodating the anticipated growth.

While Council has noted that the population forecasts in the Housing Statement 2018 are outdated, future work will address this. In the context of evolving housing policy including implementation of Plan for Victoria and Victoria's Housing Statement, any changes to Yarra's housing policy (including the Housing Change Framework), if needed, would be subject of a separate planning scheme amendment.

The background work lacks full assessment of the potential development of large strategic redevelopment sites that can accommodate significant development without compromising the offsite amenity of the public realm or adjacent sites. Plan for Victoria identifies Yarra as an Inner Melbourne Activity Centre, and that strategic redevelopment sites will be identified in collaboration with the State government. The Committee understands this work is underway and may include some sites in the draft Amendment area.

Strategic redevelopment sites are likely to make a significant contribution to achieve the municipal wide housing target and to achieve this there must be appropriate planning controls. It is beyond the Committee's scope to make recommendations on strategic redevelopment sites. In making recommendations on larger sites with development potential, the Committee has sought to appropriately balance and protect precinct values such as heritage and offsite amenity while facilitating opportunities for growth.

(iv) Findings

The Committee finds:

- The draft Amendment provides adequate capacity to contribute towards meeting future housing demand including with respect to:
 - the municipal housing target
 - access to transport, opportunities and services.
- Larger sites provide an importunity development opportunity and have not been fully assessed in the draft Amendment.

3.4 Capacity to meet future employment demands

(i) The issue

The issue is whether the draft Amendment provides adequate capacity to meet future employment demands.

(ii) Evidence and submissions

Experts

Mr Spencer gave evidence that:

- there will be demand for additional employment floor space in the draft Amendment area
- the 2025 Yarra Spatial Economics and Employment Strategy update report (SEES 2025) determined the total demand for employment floor space in Yarra is estimated at 544,073 square metres by 2041 (see Table 6)
- while the boundaries of the SEES activity assessment and draft Amendment do not exactly align, based on the forecasts in SEES 2025, suggested additional demand is for 275,667 square metres of employment floor space between 2024 and 2041 (see Table 7).

Table 6 Demand for employment floor space – City of Yarra

Precinct type	Total floorspace 2024 (sqm)	Floorspace demand to 2041	Total floor space required
Activity Centres (Population Serving)	1,498,304	156,756	1,655,060
Employment Precincts (Business Services, Health & Education, Industry)	1,317,602	387,317	1,704,919
Total	2,815,905	544,073	3,359,978

Table 7 Demand for employment floor space – draft Amendment area

Employment precinct	Existing employment floor space (2024)	Additional demand to 2041	Demand per annum
Brunswick Street (including Australian Catholic University)	126,110	41,191	2,423
Smith Street (includes MUZ land to the east)	330,637	65,635	3,861
Gertrude Street (including St Vincents Hospital)	91,559	61,733	3,631
Victoria Parade	57,748	57,748	3,397
Johnston Street (includes east of Wellington to Yarra)	159,689	49,360	2,904
Total	765,743	275,667	16,216

Mr Spencer concluded:

...although there is the potential for residential and employment uses to compete for floor space capacity in those areas affected by the draft Amendment (as is the case for all of Yarra's Activity Centres) the balance between these uses will be determined by market forces. The combined demand for housing and employment in the draft Amendment area is well within the floor space capacity that is available. If there is diversion of demand for new employment floor space from Activity Centre, these would most likely be accommodated in Yarra's other employment precincts.

Based on Prof McGauran's recommended built form changes to the BFO schedules, Mr Spencer found that non-residential floor space capacity would increase by 3,621 square metres.

Ms Rigo and Prof McGauran gave evidence that Yarra's activity centres are important for providing commercial and other uses as well as housing. Prof McGauran said the development of new housing should be balanced with employment opportunities.

Council

Council relied on the evidence of its experts. It was satisfied there is sufficient capacity to meet employment demands on a municipal wide basis.

Submitters

Some submitters raised issues relating to ensuring adequate provision of employment land and consideration of implications for housing capacity.

(iii) Discussion

The Committee is satisfied there is adequate capacity to meet foreseeable employment demand in the draft Amendment area.

While there are many variables that will inform actual take up of employment space, including market forces that cannot be fully accounted for in the modelling. The Committee accepts the evidence of Mr Spencer that the demand will be well within the floor space capacity.

(iv) Finding

The Committee finds the draft Amendment will provide adequate capacity to meet future employment demand.

3.5 Committee conclusion on accommodating growth

The Committee concludes the draft Amendment facilitates sufficient capacity to meet future employment and housing demands.

4 Mandatory controls

4.1 Specific matter for referral

The specific matter for referral is:

Whether the proposed mandatory provisions are appropriate and justified, including with respect to Planning Practice Note 59: The role of mandatory provisions in planning schemes and impact on development potential.

This includes mandatory building heights, setbacks and overshadowing provisions.

4.2 The Committee's approach

In this Chapter, the Committee has addressed whether the use of mandatory controls is justified, with regard to Planning Practice Note 59: Mandatory Provisions in Planning Schemes, August 2023 (PPN59).

In Chapter 5, the Committee has addressed whether the specific proposed mandatory controls are appropriate, with consideration of building heights, setbacks and overshadowing provisions.

4.3 What is proposed?

As submitted by Council:

Mandatory controls are generally proposed to apply to the areas with heritage fabric, smaller lots, sensitive residential interfaces and where sunlight to the public realm is to be protected.¹⁰

4.4 Background

Planning Practice Note 59: Mandatory Provisions in Planning Schemes

PPN59 sets out criteria that can be used to decide whether a mandatory provision is appropriate in a planning scheme. It states:

While mandatory provisions only provide fixed planning outcomes, there are circumstances where they are warranted. Mandatory provisions provide greater certainty and ensure a preferred outcome and more efficient process. Although mandatory provisions are the exception, they may be used to manage:

- areas of high heritage value
- areas of consistent character
- sensitive environmental locations such as along the coast
- building heights in some activity centres.

A balance must be struck between the benefits of a mandatory provision in the achievement of an objective against any resulting loss of opportunity for flexibility in achieving the objective.

...

Mandatory provisions may be considered if it can be demonstrated, through a detailed assessment and evidence-base, that discretionary provisions are insufficient to achieve desired outcomes.

¹⁰ Document 107, Council's Part B submission

PPN59 includes criteria as a guide for assessing the appropriateness of a proposed mandatory control.

Planning Practice Note 60: Height and setback controls for activity centres

Planning Practice Note 60: Height and setback controls for activity centres, September 2018 (PPN60) provides guidance on the preferred approach to the application of height and setback controls for activity centres and is to be read in conjunction with PPN59. It states:

In some instances mandatory height or setback controls may be appropriate in only particular sections of an activity centre and not the entire activity centre. In these instances, it may be appropriate to include a mix of discretionary and mandatory height and setback controls.

When to apply discretionary controls

The application of discretionary controls, combined with clear design objectives and decision guidelines is the preferred form of height and setback controls.

Discretionary controls are more likely to facilitate appropriate built form outcomes rather than mandatory controls by providing more flexibility to accommodate individual or unique circumstances.

...

When to apply mandatory controls

Mandatory height and setback controls (that is, controls that cannot be exceeded under any circumstance) will only be considered where they are supported by robust and comprehensive strategic work or where exceptional circumstances warrant their introduction.

Mandatory height or setback controls should only be applied where:

- exceptional circumstances exist; or
- council has undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context, and
- they are absolutely necessary to achieve the preferred built form outcomes and it can be demonstrated that exceeding these development parameters would result in unacceptable built form outcomes.

4.5 Are mandatory controls justified?

(i) The issue

The issue is whether mandatory controls are appropriate and justified with regard to PPN59.

(ii) Evidence and submissions

Experts

Prof McGauran gave evidence that the inclusion of mandatory controls was appropriate and justified. He referred to other activity centres where mandatory provisions have been applied in Yarra and stated:

these earlier decisions, particularly those for public transport-enabled 'main streets' with similar dimensional and character characteristics, provide important evidence and decision-making frameworks for where similar provisions should be applied.¹¹

¹¹ Document 88, Prof McGauran expert statement

He said these set useful precedent frameworks of assessment which should not be re-prosecuted in similar areas with similar attributes.

Prof McGauran referred to the findings of the Heritage Reviews in noting the area's remarkable extent of intact 19th and 20th century building stock to justify the extent of proposed mandatory provisions. He considered these attributes *"warrant the highest standards of curation, consistency in approach and outcome and restraint"*¹² and that mandatory provisions should be applied to the very intact and significant heritage streetscapes. He supported a targeted and context-specific application of mandatory controls, where:

- the Heritage Overlay applies
- places perform important functions for public transport movement, retail and hospitality activity
- streetscapes and/or individual buildings form a key part of design quality and character.

Prof McGauran recommended changes to the metrics of some other mandatory and discretionary built form controls, including overshadowing (discussed in Chapter 5 of this Report).

Ms Rigo gave evidence that the *"extent of documented background work provides a strong and robust rationale, as well as clear strategic justification for targeted mandatory controls as proposed, particularly with respect to heritage recommendations"*.¹³ She outlined the selective application of mandatory provisions, and the particular contexts where they were proposed to apply, specifically in relation to heritage fabric and overshadowing of certain public open space.

Ms Rigo considered the built form controls also met the intent of guidance in PPN59 and PPN60 and explained the approach was consistent with the findings of committees on other Yarra activity centre planning scheme amendments. She stated:

- the BFFs did not recommend whether built form parameters should be applied as mandatory or discretionary because their purpose was to make recommendations based on urban design principles not planning tools
- the Draft Heritage Recommendations Report makes clear and targeted recommendations for implementation of mandatory controls for building heights, maximum street walls and upper level setbacks which are justified *"to protect the heritage character of the street as a whole"*
- the Background Analysis Report provides the basis for understanding the application of overshadowing requirements in the context of limited open space in the area and heightened importance of footpaths and protection of canopy vegetation, particularly along boulevards.

Ms Rigo added that she broadly supported planning controls that prioritise amenity for pedestrians, open spaces and streets, and notes this aligns with policies to promote *"high quality urban design public realm outcomes and more sustainable forms of transport"*.¹⁴

¹² Document 88, Prof McGauran expert statement

¹³ Document 86, Ms Rigo expert statement

¹⁴ Document 89, Ms Rigo expert statement

Ms Rigo said:

I do acknowledge that the inclusion of some mandatory controls in the proposed overlays places a 'cap' on maximum development envelopes, but I consider that a tempered built form outcome is required in the targeted locations to appropriately address matters of heritage, urban design, built form interface and overshadowing.¹⁵

Mr Gard'ner gave evidence that mandatory controls were applied judiciously in the draft Amendment, generally consistent with the recommendations in the Heritage Reviews and in accordance with PPN59 and PPN60, and other Panel and Committee findings.

He advised that PPN59 includes guidance that while mandatory controls are the exception they may be used in areas of high heritage value and areas of consistent character for building heights in some activity centres. This is relevant as:

A substantial proportion of the land subject to proposed mandatory controls is of 'high heritage value' and much of it, especially the historic high streets areas, is of 'consistent character'.¹⁶

Regarding PPN60, Mr Gard'ner considered that exceptional circumstances exist where there is a high proportion of individually significant and contributory heritage buildings, noting that on Brunswick and Smith Streets there are Victorian Heritage Register (VHR) listed properties.

Mr Gard'ner advised:

Mandatory built form controls are therefore applied to some of the highest status and most intact 'high streets'. Even in streets that are subject the Heritage Overlay and may have a lesser degree of consistency, a mandatory minimum upper-level setback is necessary to main the visual prominence of the heritage fabric in oblique and linear views of the street.¹⁷

Mr Gard'ner recommended amending Standard BF05 (Requirements for heritage buildings and land adjoining heritage buildings) in all BFO schedules to be a discretionary control as it was not intended to be mandatory.

Council

Council submitted that mandatory controls had been applied selectively, informed by the Heritage Reviews, and that the approach was consistent with PPN59 and PPN60.¹⁸ Council identified other Yarra activity centre panel / advisory committee reports that had generally supported a similar approach (including Yarra Planning Scheme Amendments C220 (Johnston Street), C231 (Queens Parade), C293 (Collingwood South) and draft C291 (Bridge Road and Victoria Street)).

Council acknowledged the strategic context had evolved since the BFFs were prepared, through Plan for Victoria and the introduction of Yarra's housing target of 44,000 additional dwellings by 2051. It submitted, however, that this does not require wholesale conversion of mandatory controls to discretionary, and that such conversion would be both unnecessary on the evidence and highly detrimental to heritage outcomes.

In its Part B submission, Council provided a detailed explanation of how PPN59 was satisfied for each of the BFO schedules. Council recommended some changes to the

¹⁵ Document 89, Ms Rigo expert statement

¹⁶ Document 86, Mr Gard'ner expert statement

¹⁷ Document 86, Mr Gard'ner expert statement

¹⁸ Document 178, Council Part B Submission

provisions for all BFO schedules from mandatory to discretionary including to Standard BF04 overshadowing of *"streets less than 15 metres in width"* and *"any opposite kerb outstand, seating or planting area, as applicable"*.

Submitters

Some submitters (generally resident and community submitters) supported mandatory controls, and some sought stronger or more comprehensive mandatory provisions on the basis that discretionary controls fail to protect heritage values, streetscape character and amenity. Other submitters (generally development and landowner submitters) opposed the mandatory controls, submitting they lacked sufficient justification with respect to PPN59 and PPN60, were overly restrictive, constrained development potential and design flexibility, and discretionary controls should apply supported by objectives and decision guidelines.

Some submitters were concerned the background strategic work was more than five years old, and that further development had occurred since then that was not contemplated in the BFF.

Some submitters raised issues relating on whether site specific mandatory controls were appropriate (discussed in Chapter 5 of this Report).

(iii) Discussion

The draft Amendment is supported by the Background Analysis Report, the BFFs, Heritage Reviews and the Draft Heritage Recommendations Report. This is a significant body of strategic work comprising several interrelated reports that were prepared in parallel.

The BFFs do not identify or document the proposed mandatory and discretionary provisions, and rely on planning policy and the heritage analysis for this guidance. However, the Committee is satisfied the background strategic work, combined with planning policy, provides adequate guidance to inform the application of mandatory controls in the BFO schedules. Importantly, the Draft Heritage Recommendations Report informs the mandatory provisions proposed to protect heritage values and character.

Regarding the application to mandatory provisions in other Yarra activity centres as a precedent, the Committee acknowledges that consistency in approach is useful, however this is not relevant in justifying the proposed provisions, which need to be assessed against PPN59 and PPN60.

With regard to PPN59 criteria:

- the proposed application of mandatory provisions to areas containing high heritage values and of consistent character is appropriate
- the proposed mandatory provisions are strategically supported and evidence based (informed by the heritage analysis and policy)
- it is appropriate and necessary to depart from a performance-based (discretionary) approach to protect and maintain heritage character, and public and private amenity, with discretionary provisions applied where possible
- the proposed mandatory provisions will not unreasonably limit development potential and are required to avoid the risk of adverse outcomes for heritage

and amenity. As discussed in Chapter 3, the draft Amendment will facilitate sufficient capacity to meet future employment and housing demands.

Regarding guidance in PPN60, the Committee is satisfied that mandatory provisions are proposed either where:

- there are exceptional circumstances (with regard to protecting the heritage values of the area), or
- they are necessary to achieve preferred built form outcomes (with regard to overshadowing and amenity impacts on public/private realm).

While PPN60 states that strategic work forming the basis of mandatory height and setback controls should be reviewed every five years, the Committee accepts Council's submission that the strategic background work is sufficiently current for the purpose of the draft Amendment (the background work was prepared between 2019 – 2022, and consent to exhibit the draft Amendment sought in December 2022). The draft Amendment process has provided an opportunity for review (including by urban design and heritage experts) which has resulted in refinements in translation to the BFO controls.

The Committee has discussed whether mandatory provisions relating to:

- overshadowing provisions of public realm provisions are appropriate in Chapter 5.4.2
- specific sites in Chapter 5.

The Committee has generally supported greater flexibility by applying discretionary controls where appropriate for larger sites where heritage values will not be impacted (see Chapter 5).

(iv) Finding

The Committee finds that, unless otherwise recommended in this Report, the proposed mandatory controls are appropriate and justified with regard to PPN59.

4.6 Committee conclusions on mandatory controls

The Committee concludes, subject to its recommendations relating to specific sites and planning provisions, that mandatory controls are justified.

5 Building heights (envelopes)

5.1 Specific matter for referral

The specific matter for referral is:

Whether the proposed building heights, setback and separation, overshadowing, street wall height and upper level setbacks are appropriate and justified, including with respect to:

- Cumulative impacts on development potential.
- Any potential conflict with approved planning permits.
- Impacts from overshadowing to the public realm and open spaces.
- Impacts from wind effects to the public realm.
- Transition to sensitive interfaces including heritage areas.

The referred matter topic is 'building heights' while the relevant key issues include various built form elements. Collectively, the Committee refers to issues included in this referred matter as 'building envelope'.

5.2 The Committee's approach

The Committee has addressed the specific referred matter as follows:

- whether the building envelopes are adequately justified (Chapter 5.3)
- whether provisions relating to common issues (that is issues relevant to more than one BFO) are appropriate, including building heights, overshadowing of public realm, setbacks above street wall and front wall and walls on rear boundaries (see Chapter 5.4)
- whether the provisions for specific BFO schedules are appropriate (see Chapters 5.5 - 5.16)
- whether specific matters referred for consideration are adequately addressed (see Chapter 5.17).

Chapters 5.5 - 5.16 provide a summary of building envelopes for each BFO schedule, including building height and street wall height maps, and a summary table of the built form metrics and whether they are proposed as mandatory or discretionary.

5.3 Justification of building envelopes

This Chapter discusses whether the proposed building envelopes are adequately justified. Matters relating to specific sites are discussed in the following chapters. The Committee has discussed the justification of mandatory provisions in Chapter 4.

(i) The issue

The issue is whether building envelopes are justified.

(ii) Evidence and submissions

Experts

Prof McGauran explained the draft Amendment:

- builds on over 20 years of strategic work that has delivered substantial and largely successful change within the municipality
- seeks to address:
 - the preservation and legibility of unique and largely intact nineteenth century urban streetscapes and the amenity they enjoy, which in turn has long attracted distinctive hospitality, workforce, service and retail offerings, and
 - demand for both investment in this stock to preserve what is special, and leverage of its unique proximities to public transport, jobs and services to optimally deliver more housing, employment and services

He considered the draft Amendment is *"sound in its structure, precinct demarcation and scope, objectives, and toolkit of discretionary and mandatory controls"*. He recommended some changes to building envelope controls *"typically for increased capacity, but in a small number of instances, modest curtailment based on VCAT decisions with which I agree"*.¹⁹

Ms Rigo supported the building envelopes and was satisfied they are underpinned by robust strategic work, including the BFFs, heritage analysis and modelling. She said the draft Amendment strikes an appropriate balance between growth, heritage protection, pedestrian amenity and development flexibility, and the proposed controls are justified, defensible and strategically sound.

Mr Gard'ner explained the methodology of the heritage analysis, which included some testing of built form parameters using cross sectional drawings and said the proposed building envelopes reflect the maximum acceptable built form in sensitive heritage streets and precincts. The heritage studies informing the draft Amendment demonstrate that exceeding the nominated heights, street walls or setbacks would result in:

- erosion of intact heritage streetscapes
- loss of three-dimensional legibility of heritage buildings
- degradation of landmark views.

Council

Council submitted the built form envelopes have been informed by extensive strategic work, generally informed by the BFFs and heritage studies. It explained:

- the building height:
...metrics and mandatory/discretionary nature of the provisions have principally been determined by the degree of intactness of the existing heritage fabric and protection of views to significant landmarks such as St Patricks Cathedral, St Lukes and the Royal Exhibition Building²⁰
- the reasoning behind mandatory and discretionary street wall heights is explained in the evidence of Mr Gard'ner.

Council submitted the controls do not produce unreasonable cumulative impacts on development potential. The proposed controls provide a mix of mandatory and discretionary controls as the most appropriate way to balance certainty with design flexibility.

¹⁹ Document 88, Prof McGauran expert statement

²⁰ Document 107, Council Part B submission

Council provided a comparison table showing any difference between the BFF recommended building heights and the BFO schedules.²¹

Submitters

Submitters raised issues relating to building envelopes including:

- support for building height requirements but with different views on appropriate heights and mandatory/discretionary provisions
- mandatory controls reducing flexibility and design innovation
- proposed envelopes reducing development yield and feasibility on individual sites concern regarding public and private amenity including overlooking, wind and overshadowing
- support for protecting heritage and impacts of heritage on development potential.

(iii) Discussion

The proposed building envelope controls are informed by extensive background work (as described in Chapter 2.3), including:

- urban design analysis and 3D modelling testing the relationship between height, street walls, setbacks and overshadowing
- heritage studies identifying streets, blocks and precincts with varying levels of sensitivity to change
- economic and housing capacity analysis confirming that growth demand can be met within the proposed envelopes.

The draft Amendment proposes graduated and context-specific building envelope controls that respond to:

- street width and role
- adjoining heritage buildings and precincts
- interface conditions with residential areas
- the need to protect sunlight to key streets and public spaces.

The Committee is satisfied that the building envelopes generally:

- are derived from a block-by-block analysis as part of detailed precinct-based BFFs and some three-dimensional testing
- respond appropriately to varying levels of heritage sensitivity and streetscape significance
- mostly balance growth and housing delivery with protection of pedestrian amenity and public realm outcomes
- are supported by a mix of mandatory and discretionary provisions, with mandatory heights applied where unacceptable impacts would otherwise arise.

Special core heritage streetscapes (Smith, Brunswick and Gertrude Streets) warrant mandatory heights, while more diverse or transitional areas are better managed through discretionary height controls.

²¹ Document 182, Council attachment 8 to Part C submission

In other chapters of this Report, the Committee has recommended some minor modifications to the building envelope metrics and mandatory and discretionary provisions. Where changes are recommended, these are typically modest refinements to specific sites or precinct transitions rather than rejection of the overall envelope strategy. It is material that the heritage controls were undertaken at a block-by-block analysis rather than site-by-site. The Committee proposes some changes based on Prof McGauran's detailed site analysis of where additional heights can be accommodated without diminishing valued heritage character.

(iv) Finding

The Committee finds that building envelopes are justified, subject to its recommendations to refine building envelope controls, as discussed in other chapters of this Report.

5.4 Common issues

5.4.1 Building heights

This Chapter discusses building height issues that relate to more than one BFO schedule.

In other chapters of this Report, the Committee has:

- discussed issues relating to building heights on specific sites (see Chapters 5.5 - 5.16)
- supported Prof McGauran's recommendation to round up building heights (see Chapter 6).

(i) What is proposed?

The draft Amendment proposes to:

- include Standard BF02 relating to building heights in all BFO schedules
- apply a mandatory maximum building height of 3 storeys/11.2 metres to designated 'Area 1' in BFO schedules BFO12, BFO13, BFO14 and BFO17.

(ii) The issues

The issues are whether:

- Standard BF02 should be amended to allow the redevelopment of an existing building which already exceeds a mandatory maximum building height to the same height as the existing building, as recommended by Ms Rigo (in BFO12, BFO13, BFO14, BFO15, BFO16, BFO18 and BFO23)
- the mandatory maximum building heights in Area 1 should be increased from 3 storeys/11.2 metres to 4 storeys/15 metres as recommended by Prof McGauran (in BFO12, BFO13, BFO14 and BFO17).

(iii) Standard BF02 and Map 2

Evidence and submissions

Ms Rigo recommended amending Standard BF02 to give exemption in the building height controls to enable an existing building which already exceeds the maximum

building height to be redeveloped up to the same height as an existing building. She said otherwise this would create an anomaly where an existing building which exceeds the mandatory building height could only be redeveloped to a lower height. She advised this would relate to BFO12, BFO13, BFO14, BFO15, BFO16, BFO18 and BFO23.

She also recommended updating mapping in BFO20 and BFO21 to reflect existing building heights which exceed the preferred heights.

Council proposed to include a new requirement in Standard BF02 for all schedules as follows:

New development may exceed the mandatory maximum building height to match the fabric of the existing heritage building, where the heritage building already exceeds the maximum building height shown on Map 2.

Discussion

The Committee agrees with Ms Rigo that Standard BF02 should be amended to take into consideration existing taller buildings. This should include all taller buildings, not just heritage buildings as proposed by Council. The change should apply to all BFO schedules and be drafted as follows:

New development may exceed the mandatory maximum building height to match the fabric of the existing building, where the existing building already exceeds the maximum building height shown on Map 2.

It is logical to make sure the mapping in the BFO schedules reflect existing conditions with regard to building heights. While Ms Rigo recommended amending the mapping in BFO20 and BFO21 to reflect existing buildings which exceed the “*preferred maximum*”, Council should review of all BFO schedule maps and update if necessary to ensure that all existing taller buildings are taken into consideration.

(iv) Area 1 building heights

Evidence and submissions

Prof McGauran raised concerns that low mandatory heights, particularly 3 storeys/11.2 metres, restrict reasonable redevelopment in some locations where abutting development outside the activity centres is already taller. He emphasised that controls should respond to urban design context rather than be uniformly applied.

Prof McGauran recommended (in his recommendation 5) the maximum building heights in Area 1 – 3 storeys/11.2 metres be amended to 4 storeys / 15 metres for BFO12, BFO13, BFO14 and BFO17. He stated he was not convinced the criteria to definitively rule out development greater than 3 storeys had been met. Further, that it was important to have consistency across activity centres with very similar heritage and built form conditions.

Prof McGauran explained:

In several instances, the mandatory provision of a maximum height of 11.2m would preclude any additional levels on the existing building's structure and, in some instances, would be lower than the heights of buildings of designated heritage significance in the precinct, such as the 3-level building at 324 Brunswick Street shown earlier. I don't believe this should be the outcome of the amendment, with relatively few examples in my view existing where no change could be made to built form.

The application of the mandatory 11.2 m height controls to taller walled two-storey structures would typically result in any new upper level applying the mandated setbacks being less visible than development with a lower street wall height at street level.

Similar contexts in the Richmond Hill/Bridge Road amendment (DDO 21 Map 1), have a 15 m height applied. It is my view that a similar approach in this instance would strike the right balance in ensuring three-level development can be achieved in all instances and 4 level in some.²²

Mr Gard'ner explained that the heritage assessment was strategic in nature and did not include a site-by-site analysis of the proposed mandatory building and street wall heights and upper level setbacks. He generally disagreed with Prof McGauran's recommendations, with one exception in BFO17. Table 8 includes a summary of their evidence.

Table 8 Prof McGauran BFO schedule recommendations and Mr Gard'ner's response

	Prof McGauran's recommendation	Mr Gard'ner's evidence
BFO12 (Brunswick Street Shops)	The mandatory maximum building heights in Area 1 should be amended from 3 storeys/11.2 metres to 4 storeys / 15 metres.	Area 1 is made up of some of the most consistent fine grained heritage shop/residences which are almost exclusively graded contributory or individually significant. There is little opportunity for development above this scale due to lot size/depth.
BFO13 (Smith Street Shops)	The mandatory maximum building heights in Area 1 should be amended from 3 storeys/11.2 metres to 4 storeys / 15 metres:	Area 1 is made up of typically shallow lots with little opportunity for development above this scale, or are landmark buildings located on key corner sites with prominent roof forms (either VHR or individually significant).
BFO14 (Gertrude Street Shops)	The mandatory maximum building heights in Area 1 should be amended from 3 storeys/11.2 metres to 4 storeys / 15 metres:	Area 1 is made up of some of the most consistent fine grained heritage shop/residences which are almost exclusively graded contributory or individually significant. There is little opportunity for development above this scale due to lot size/depth.
BFO17 (Fitzroy Town Hall and Back Blocks)	The maximum building heights should be amended from 3 storeys/11.2 metres to 4 storeys/15 metres discretionary.	Disagreed - The land bound by Moor, Young and King William Streets provides the immediate context for VHR listed All Saints Church Hall (97-107 King William Street) and the land bound by Young, Moor and Kent Streets is fine grained, heritage graded buildings.

²² Document 88, Prof McGauran expert statement

I am unconvinced that the attributes of the older social housing to the west of the former Fitzroy Town Hall and the properties to the northwest and the interfaces they have to contemporary urban form and the taller form of the town hall warrant the low mandatory limits. While the provisions are discretionary it is my view a mandatory taller provision would be appropriate.

Agreed – There is no heritage reason to apply a 3 storey building height to the non-contributory graded property with no sensitive heritage interfaces at the south east corner of the intersection of Young and St David Streets (30-38 St David Street and 204-212 Young Street).

Council relied on the evidence of Mr Gard'ner stating the heritage evidence should prevail over the urban design evidence. It submitted:

Area 1 is made up of some of the most consistent fine-grained heritage shop residences of "Contributory" and "Significant" buildings;

The lots are shallow and there is generally little opportunity for development above three storeys.²³

Discussion

The Committee is satisfied that the heritage and urban design attributes will not be diminished by increasing building heights from 3 storeys/11.2 metres to 4 storeys/15 metres in Area 1 for BFO12, BFO13, BFO14 and BFO17.

The proposal is generally compatible with the development objectives for each precinct which seek to ensure low-rise to mid-rise character which responds to heritage character, retains the prominence of existing heritage street walls and fine grained heritage character.

As noted by Mr Gard'ner, with the areas made up of fine grained heritage shops/residences on shallow lots there is little opportunity for development. Taller development generally be possible if there is consolidation of land. If this occurs, the prominence of heritage buildings will be maintained by the requirement for consistent street walls and upper level setbacks.

While Brunswick Street is dominated by heritage buildings, the scale of heritage buildings and the size of sites vary. Where sites are large and there are opportunities for site amalgamation, the Committee supports greater scale.

As outlined by Prof McGauran, recent examples of new buildings within BFO12 (such as development on the north-east corner of Brunswick and Leicester Streets, see Figure 2), integrate the objectives for more intensive development in the activity centre while respecting the heritage streetscape and environs. This example demonstrates how a new taller building can successfully integrate with the heritage streetscape.

²³ Document 107, Council Part B submission

Figure 2 Corner Leicester and Brunswick Streets – 3 storey street wall



Source: Document 88, Prof McGauran's expert statement (Figure 35)

The opportunity for additional height can strike the right balance by facilitating development opportunity without compromising valued built form and heritage amenity.

(v) Findings and recommendations

The Committee finds:

- Standard BF02 (Building Heights) in all BFO schedules should be amended to reflect existing taller buildings.
- Map 2 in all BFO schedules should be reviewed and if necessary updated to reflect building heights of all existing taller buildings.
- Building heights in Area 1 for BFO12, BFO13, BFO14 and BFO17 should be increased from mandatory 3 storeys/11.2 metres to mandatory 4 storeys/15 metres.

The Committee recommends:

In all Built Form Overlay schedules, as shown in Volume 2 of this Report:

- a) amend Standard BF02 (Building Heights) to include a new requirement to allow the redevelopment of an existing building which already exceeds a mandatory maximum building height to the same height as the existing building.**

In all Built Form Overlay schedules:

- b) review, and if necessary, amend Map 2 to reflect building heights of all existing taller buildings.**

In Built Form Overlay Schedules 12, 13, 14 and 17:

- a) amend Map 2 to increase building heights in Area 1 from 3 storeys/11.2 metres to 4 storeys/15 metres.**

5.4.2 Overshadowing of public realm

This Chapter discusses overshadowing of public realm issues that relate to more than one BFO schedule.

The Committee has discussed issues relating overshadowing of:

- Alexandra Parade central median (BFO21) in Chapter 5.14(viii)

- Victoria Parade central median (BFO22) in Chapter 5.15(iii).

(i) What is proposed?

The draft Amendment proposes to include provisions relating to overshadowing of open space or public realm. Standard BF04 (Overshadowing of open space or public realm) variously includes mandatory overshadowing requirements relating to streets and other public space and the public realm and discretionary provisions relating to private properties.

(ii) The issue

The issue is whether the 'overshadowing of public realm' provisions are appropriate.

(iii) Evidence and submissions

Prof McGauran recommended a change to overshadowing of open space or public realm provisions (Standard BF04) as follows:

- where streets are at least 15 metres in width to apply mandatory protection of opposite footpaths and plazas from additional overshadowing from the kerb between 10am and 2pm at the September equinox
- where streets are less than 15 metres in width to apply discretionary provisions to opposite footpaths and plazas from additional overshadowing from the kerb between 10am and 1pm at the September equinox.

Ms Rigo advised the mandatory overshadowing provisions were consistent with the recommendations in the BFFs which *"emphasise the protection of footpaths, 'pause places' (kerb extensions), green streets and maintaining solar access to footpaths opposite new development to ensure they provide a reasonable level of amenity and continue to be utilised"*.²⁴ Ms Rigo advised:

- each BFO schedule includes development objectives which seek to encourage development which avoids overshadowing of footpaths and opposite streets and public spaces (supported by specific requirements and Standard BF04)
- the table in Standard BF04 identifies the locations/areas to be protected and relevant measures, and whether it is mandatory or discretionary
- she supports overshadowing controls that seek to contribute to achieving high quality urban design outcomes and public realm amenity, consistent with State and local planning policies
- she considers the provisions appropriate and justified.

Mr Furness said the overshadowing controls should be discretionary.

Several submitters objected to the overshadowing provisions, stating for example:

- the provisions were not adequately justified and should be made discretionary
- overshadowing provisions should be deleted for residential streets, *"for all streets with width of less than 15 metres, and generalised controls for kerb outstands, seating areas and planting areas"*²⁵

²⁴ Document 89, Ms Rigo's expert statement

²⁵ Document 161, May 15 submission

- overshadowing provisions should be measured to the kerb not 3 metres from the property boundary
- specific street or site exemptions were warranted to facilitate development opportunities to the north (along Cecil Street and Johnston Street).

Council partially accepted Prof McGauran's recommendation noting "*a reasonable balance between development opportunity and narrower streets needs to be met*".²⁶ It proposed changes to the overshadowing requirements, maintaining mandatory provisions for streets greater than 15 metres in width and proposing discretionary provisions for other elements (apart from overshadowing 'a public open space, reserve or parklet' which it maintained as mandatory in four BFO schedules).

Council did not accept Prof McGauran's suggestion to measure the overshadowing to the kerb, but recommended it should be measured 3 metres from the property frontage. Further, it recommended the street provisions should be measured between 10am and 2pm at the September equinox.

(iv) Discussion

Fitzroy and Collingwood have a notable shortage of public open space, with the result that the street network, and particularly the footpaths of the primary retail spines, perform a heightened public amenity role that in other areas might be shared with accessible parks, plazas and reserves.

Planning controls increasingly distinguish between higher order parks, civic spaces, boulevards and key pedestrian streets, and apply different dates, times and levels of prescription according to the role and function of the protected space. Yarra C191 (Swan Street) applies the same principle, with mandatory protection for the southern footpath of Swan Street and discretionary protection for other identified footpaths. Yarra C220 (Johnston Street) accepted equinox protection for activity centre footpaths and supported a mandatory approach to avoid incremental erosion of solar access.

The Committee supports mandatory overshadowing controls for streets of 15 metres or more in width. Streets of this width generally perform a more significant public realm role in the Fitzroy and Collingwood activity centres. They carry primary retail frontages, wider footpaths and are places where people pause, gather and dwell rather than simply pass through.

The position is different for streets less than 15 metres in width. These streets are more constrained, generally perform a local or secondary access role, and carry a more limited public realm function. Prof McGauran accepted that applying a mandatory no-additional-shadow requirement to a street of half the width of a 15-metre street would result in substantial reductions in development potential on the northern side, a disproportionate outcome relative to the public amenity benefit achieved. A discretionary standard is more appropriate for these streets.

Prof McGauran proposed that the shadow should be measured from the kerb rather than 3 metres from the subject property boundary. The Committee agrees. Prof

²⁶ Document 1-7, Council Part B submission

McGauran also referred to 'additional' overshadowing. This is an important qualification, and the Committee recommends this be included in the relevant provisions.

Submitters raised concerns about justification and application of the provisions relating to 'any opposite kerb outstand, seating, or planting area, as applicable'. While the intent to protect solar access to the public realm has merit, the Committee has concerns that:

- this provision is not strategically justified or recommended in the BFFs
- some but not all BFFs identify 'kerb outstands' but not seating or planting areas, and these terms are not defined (the Background Analysis Report identifies 'kerbside seating' locations on the access and movement plan)
- the locations of these places are not identified and may change over time as public realm improvements occur
- may cause confusion with decision making.

Likewise, BFO schedules BFO12, BFO13, BFO17 and BFO23 propose mandatory overshadowing provisions for 'a public open space, reserve or parklet'. The Committee has the same reservations that the work has not been done to justify applying this provision, and it may cause confusion with decision making.

The provisions relating to 'other public space and public realm' should be deleted until such time as further work is undertaken to justify their application.

(v) Finding and recommendations

The Committee finds, subject to its recommendations, the 'overshadowing of public realm' provisions are appropriate.

The Committee recommends:

In all Built Form Overlay schedules, as shown in Volume 2 of this Report:

- a) amend the overshadowing provisions to refer to no additional overshadowing and, where relevant, to refer to '*measured from the kerb*' rather than '*measured three metres from the relevant property boundary*'**
- b) amend the Standard BF04 (Overshadowing of open space or public realm) provision to:**
 - **delete the provisions relating to 'Any opposite kerb outstand, seating, or planting area, as applicable'**

In Built Form Overlay schedules BFO12, BFO13, BFO17 and BFO23, as shown in Volume 2 of this Report:

- a) amend the Standard BF04 (Overshadowing of open space or public realm) provision to:**
 - **delete the provisions relating to 'A public open space, reserve or parklet'.**

5.4.3 Setbacks above street wall and front wall

This Chapter discusses setbacks above street wall and front wall (upper level setback) issues that relate to more than one BFO schedule. The Committee has discussed issues relating to upper level setbacks on specific sites (see Chapter 5).

(i) The issue

The issue is whether upper level setbacks are appropriate, including whether Standard BFO5 should be amended as recommended by Prof McGauran to require:

- 6 metre instead of 8 metre mandatory upper level setbacks in BFO12, BFO13, BFO14, BFO16, BFO20 and BFO21
- 3 metre discretionary setbacks in side streets where they are less than 10 metres in width in BFO12, BFO13 and BFO14.

(ii) Evidence and submissions

Prof McGauran gave evidence that he supported:

...mandatory setbacks for streets characterised by high levels of heritage value and street wall consistency, and discretionary provisions in areas noted for having more diverse character.

Where the nature of streetscapes and their retained heritage is more fragmented, I am typically supportive of mandatory setbacks from the primary facades of heritage buildings of individual value and discretionary provisions for the balance of properties.

He stated that he proposed midrise heights and lower scale incremental height increases were not of a scale that warrant greater setbacks than those in other Yarra activity centres, except where there is distinct built form including above street wall architectural and built form features that make important contributions to the street character.

Prof McGauran recommended (in his recommendation 3):

Apply mandatory maximum street wall setbacks for upper-level development as follows:

- 6m setback for upper-level development from the street wall façade as proposed for BFO15 Johnston Street West, BFO18 Johnston Street South and Victoria Street, BFO22 Victoria Parade, and BFO23 Fitzroy West, except where greater setbacks above street wall are warranted to protect the contribution of architectural features including spires, chimneys and roof forms, that form part of valued streetscape attributes
- Where an increased setback for heritage reasons is not warranted, reduce the mandatory and preferred setbacks from 8m to 6m in the following locations:
 - BFO12 Brunswick Street Shops
 - BFO13 Smith Street Shops
 - BFO16 Brunswick Street Grand Residential
 - BFO20 Smith Street North
 - BFO21 Alexandra Parade.
- Where side streets are less than 10m in width, apply a 3m rather than 6m preferred setback from the street wall to upper-level development in BFO12 Brunswick Street Shops, BFO13 Smith Street Shops, and BFO14 Gertrude Street Shops.

Prof McGauran provided a table showing his recommendations for each relevant BFO schedule (shown in red text) (see Table 9). The Committee notes this also proposes a reduced upper level setback for BFO14 Gertrude Street Shops.

Table 9 Street wall setbacks – Prof McGauran recommendations

BFO	Location	Min. setback above street wall or front wall	Discretionary or Mandatory
BFO12 Brunswick Street Shops	On Brunswick Street <i>except where above streetwall architectural features, (incl. spires, chimneys & roof forms, are part of the valued streetscape attributes.</i>	8m (6m)	Mandatory
	On side streets <i>10m or greater in width</i>	6m	Discretionary
	<i>On Side Streets less than 10m in width</i>	3m	Discretionary
BFO13 Smith Street Shops	On Smith Street	8m (6m)	Mandatory
	On Johnston Street	8m (6m)	Mandatory
	On side streets <i>10m or greater in width</i>	6m	Discretionary
BFO14 Gertrude Street	<i>On side streets less than 10m in width</i>	3m	Discretionary
	On Gertrude Street, west of Brunswick Street	10m	Mandatory
	On Gertrude Street, between 128 and 134 Gertrude Street	15m	Mandatory
BFO15 Johnston Street West	On Gertrude Street, all other properties	8m (6m)	Mandatory
	On all other Streets <i>of 10m or greater in width</i>	6m	Discretionary
	<i>On Side Streets less than 10m in width</i>	3m	Discretionary
BFO16 Brunswick Street Grand Residential	Johnston Street and Nicholson Street	6m	Mandatory
	On Side Streets	3m	Discretionary
	On the east side of Brunswick Street	8m (6m)	Mandatory
BFO18 Johnston Street South and Victoria Street	On Johnston Street	6m	Mandatory
	On the north side of Victoria Street	6m	Mandatory
	Individually significant and contributory heritage buildings on side streets	6m	Discretionary
BFO20 Smith Street North and South	Non-contributory heritage buildings on side streets	3m	Discretionary
	On Smith Street, where the Heritage Overlay (HO) applies	8m (6m)	Mandatory
	On Smith Street with no HO	8m (6m)	Discretionary
BFO21 Alexandra Parade	Heritage buildings on Smith Street	8m (6m)	Mandatory
	Heritage buildings facing other streets	6m	Mandatory
	On Victoria Parade and Wellington Street, and within or adjoining land in a Heritage Overlay	6m	Mandatory
BFO22 Victoria Parade	On Victoria Parade and Wellington Street, and within or adjoining land in a Heritage Overlay	6m	Mandatory
	Significant and contributory heritage buildings on a primary street	6m	Mandatory
	Significant and contributory heritage buildings on the secondary street of a corner site	6m	Discretionary
BFO23 Fitzroy West	Non-contributory heritage buildings on side streets	3m	Discretionary

Source: Document 88: Prof McGauran's expert statement

Mr Gard'ner generally agreed with Prof McGauran that discretionary provisions should apply to areas with more diverse character, though he said the mandatory provisions were necessary along the historic high streets (including non-contributory buildings) to avoid new development *"stepping in and out of the mandatory control which will diminish the visual separation of the primary (historic) and secondary (upper level) street walls when viewed along the streets..."*.²⁷

Mr Gard'ner noted that Prof McGauran supported 6 metre upper level setbacks for BFO15, BFO18, BFO22 and BFO23 and recognised *"that greater setbacks may be required to protect the contribution various architectural features make to the heritage buildings and the broader heritage place"*.²⁸

Mr Gard'ner stated that special circumstances apply to the three historic high streets where an 8 metre minimum upper level setback (or 10 metres for parts of Gertrude Street) is proposed to apply. He explained there are circumstances where greater upper level setbacks are required (in contrast with the other Yarra activity centres where a 6 metre upper level setback has been applied). Regarding each of these historic high streets he advised:²⁹

- Brunswick Street

As well as being a major north-south historic high street with substantially intact heritage fabric, Brunswick Street forms the axis along which terminating views of St Lukes Church

²⁷ Document 95, Mr Gard'ner reply evidence statement

²⁸ Document 95, Mr Gard'ner reply evidence statement

²⁹ Document 86, Mr Gard'ner expert statement

(121-123 St Georges Road, North Fitzroy) and St Patricks Cathedral (1 Cathedral Place, East Melbourne) are provided. These long, linear views (Figure 22 & Figure 23) are recognised within Clause 15.01-2L-02 – Landmarks. It is my opinion that these views, along with heritage values of Brunswick Street, warrant an increased upper-level setback to provide the ‘breathing space’ for the tower and spires of these churches.

- **Smith Street**

Smith Street differs from the other historic high streets in the City of Yarra through its large showrooms and emporia (Figure 24) which are evidence of its preeminent status as a major retail centre in the nineteenth and early twentieth centuries. While now fulfilling a predominantly hospitality role, Smith Street retains a substantial number of large and ornately detailed commercial buildings. These buildings have wide frontages and a scale that contrasts with the more modestly scaled two-storey shop residences that make up the majority of the City of Yarra’s historic high streets....

The rhythm of the streetscape and the depth of the buildings is substantially greater, requiring an increased upper-level setback to avoid the appearance of facadism. In my opinion an upper-level setback of 8.0m is required to maintain the visual prominence of the heritage street wall of Smith Street and to maintain the legibility of its nineteenth century status as a major retail centre.

- **Gertrude Street**

Like Brunswick and Smith streets, Gertrude Street is one of the municipality’s preeminent historic high streets and a major retail, entertainment and hospitality precinct. The dome, drum, cupola and flagpole of the Royal Exhibition Building (REB) is the principal landmark element of the REB and Carlton Gardens World Heritage Site and terminates western views along Gertrude Street. Views to the REB are identified in the World Heritage Environs Area (WHEA) Strategy Plan and Clauses 15.01-2L-02 and 15.03-1L-01. Schedule 4 of DDO4 applies mandatory built form requirements within the WHEA, which includes Gertrude Street west of Fitzroy Street.

Regarding side streets, Mr Gard’ner advised that while a lesser side setback may be appropriate, the 6 metre discretionary controls should apply as this *“will encourage the retention of the frequently highly visible end-of-terrace forms with their typical hipped roof (rather than parapeted) form”*.³⁰

Council relied on the evidence of Mr Gard’ner. It confirmed it no longer sought to apply the proposed 15 metre upper level setback on parts of Gertrude Street (also not supported by Mr Gard’ner).

Some submitters sought reduced upper level setbacks along the historic high streets, and several submitters recommended changes to building heights for specific sites.

(iii) Discussion

Historic high streets

Consistency with upper level setback in heritage places across Yarra’s activity centres has merit. The Committee supports a 6 metre upper level setback recommended by Prof McGauran along the historic high streets (along Brunswick, Smith and Gertrude). A 6 metre setback is accepted practice in the context of heritage places, and as Prof McGauran explained, will achieve a consistency of application of assessment criteria for places with similar attributes.

While the BFF recommends a default 8 metre upper setback be applied to the historic high streets to protect the primary heritage volume and local landmarks, in the context

³⁰ Document 95, Mr Gard’ner reply evidence statement

of development objectives and development opportunity no compelling reason was given. The Committee is not convinced there are sufficiently special circumstances that warrant a greater setback (apart from the 10 metre setback on part of Gertrude Street as discussed below). An 8 metre upper level setback would unreasonably limit development opportunity and would likely be a further disincentive to invest in the heritage buildings.

The Committee comments on each of the historic high streets.

Brunswick Street

The Committee is not convinced the 8 metre upper level setback width is required in this location. Mr Gard'ner focused on the need to protect the long linear view lines to landmarks at either end of Brunswick Street, and emphasised the need to provide adequate 'breathing space' for the view to the tower and spire. In a practical sense, the landmarks are clearly visible and prominent from the centre of the street. Providing greater upper level setback width will not noticeably enhance the viewshed (see Figure 3). This is consistent with Clause 15.01-2L-02 (Landmarks) which seeks to maintain the visual prominence of and protect primary views to Yarra's valued landmarks.

Smith Street

While Mr Gard'ner was of the view an increased upper level setback was required to avoid the appearance of facadism and maintain visual prominence of the heritage street wall in the context of larger lots (size and depth), the Committee is not convinced this is necessary. Combined, the relevant planning provisions (including planning policy, the BFO schedules and relevant Heritage Overlay schedules) require consideration of whether a development proposal responds appropriately to heritage character and avoids facadism.

Gertrude Street

The Day 2 BFO14 proposes a 10 metre upper level setback to the west of Brunswick Street and 8 metres to the east of Brunswick Street. This was not contested by Prof McGauran and is appropriate in the context of oblique linear views to the Royal Exhibition Building. The Committee is not convinced the 8 metre upper level setback is required to protect views to the Royal Exhibition Building for the balance of Gertrude Street given the scale of buildings and viewshed.

Figure 3 Brunswick Street landmark views

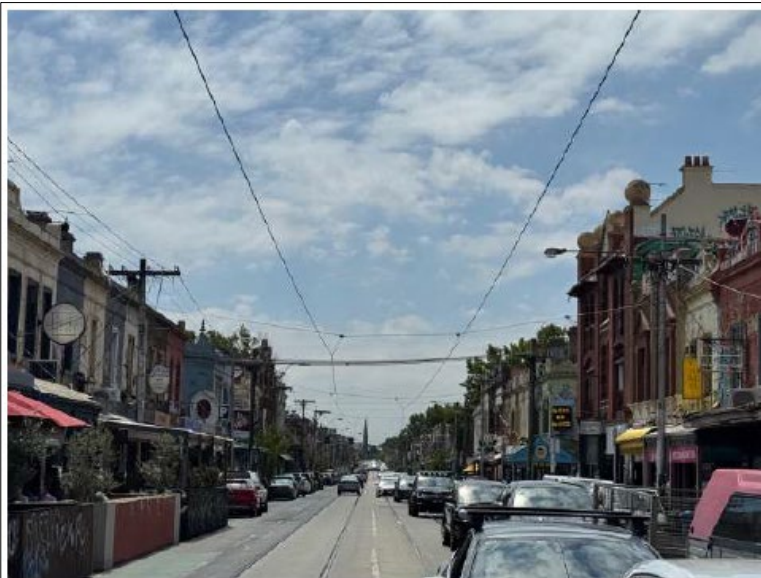


Figure 22. St Lukes Church spire viewed from Brunswick Street at the intersection with Johnston Street (GJM Heritage, February 2026)



Figure 23. St Patricks Cathedral spire viewed from Brunswick Street at the intersection with Johnston Street (GJM Heritage, February 2026)

Source: Document 86, Mr Gard'ner expert statement

Side streets

The Committee generally supports the changes proposed by Prof McGauran for discretionary 3 metre upper level setbacks for streets less than 10 metres in width in BFO12, BFO13 and BFO14.

Streets less than 10 metres in width provide limited opportunity to view properties from an oblique angle and the 3 metre discretionary upper level setback is appropriate in this context. Discretionary 3 metre upper level setbacks have been applied in other BFO schedules.

BFO19 and BFO20

The Committee notes that BFO19 (Fitzroy East and Johnston Street North) includes a discretionary 10 metre upper level setback for Argyle Street. The BFF indicates a 6 metre setback is appropriate, and the Draft Heritage Recommendations Report states the

justification for the 10 metres is unclear. For consistency, the Committee recommends this be amended to be a discretionary 6 metre upper level setback (also noting there is no consistent heritage character in that section of the street).

BFO19 also includes a 6 metre discretionary upper level setback on 'all other streets' that are not Argyle Street. Consistent with the above recommendation, the Committee supports a 3 metre discretionary upper level setback on streets less than 10 metres in width.

(iv) Findings and recommendations

The Committee finds the setbacks above street wall and front wall:

- should be mandatory 6 metres for historic high streets in BFO12, BFO13, BFO14, BFO16, BFO20 and BFO21
- should be discretionary 3 metres where streets are less than 10 metres wide in BFO12, BFO13, BFO14, BFO19 and BFO20.

The Committee recommends:

In Built Form Overlay Schedules 12, 13, 14, 16, 20 and 21, as shown in Volume 2 of this Report:

- amend Standard BF05 (Setbacks above street walls and front wall) to require a 6 metre mandatory 'minimum setback above street wall or front wall' on Brunswick, Smith, Gertrude and Johnston Streets.**

In Built Form Overlay Schedules 12, 13, 14, 19 and 20, as shown in Volume 2 of this Report:

- amend Standard BF05 (Setbacks above street walls and front wall) to require a 3 metre discretionary 'minimum setback above street wall or front wall' on side streets that are less than 10 metres in width.**

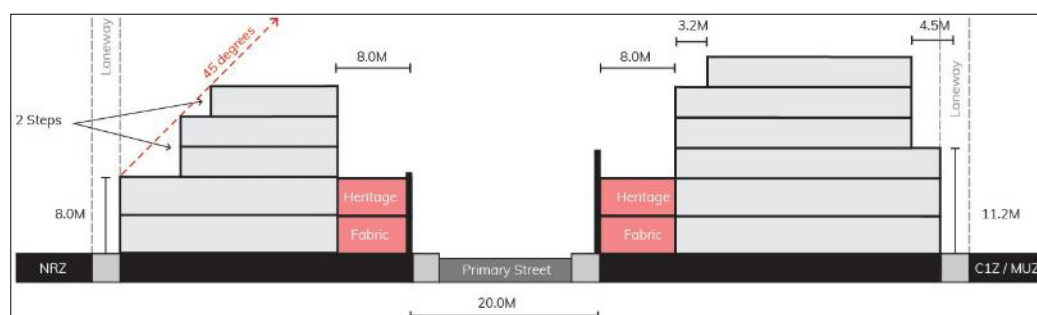
5.4.4 Wall on rear boundary

This Chapter discusses wall on rear boundary issues that relate to more than one BFO schedule.

What is proposed?

The BFO schedules include an indicative rear interface cross section in Standard BF06 (see Figure 4).

Figure 4 Indicative cross section and measurements (Standard BF06)



The issue

The issue is whether Standard BF06 (Side and rear setbacks) should be amended to require a mandatory maximum 5 metre rear wall height instead of exhibited 8 metres.

Evidence and submissions

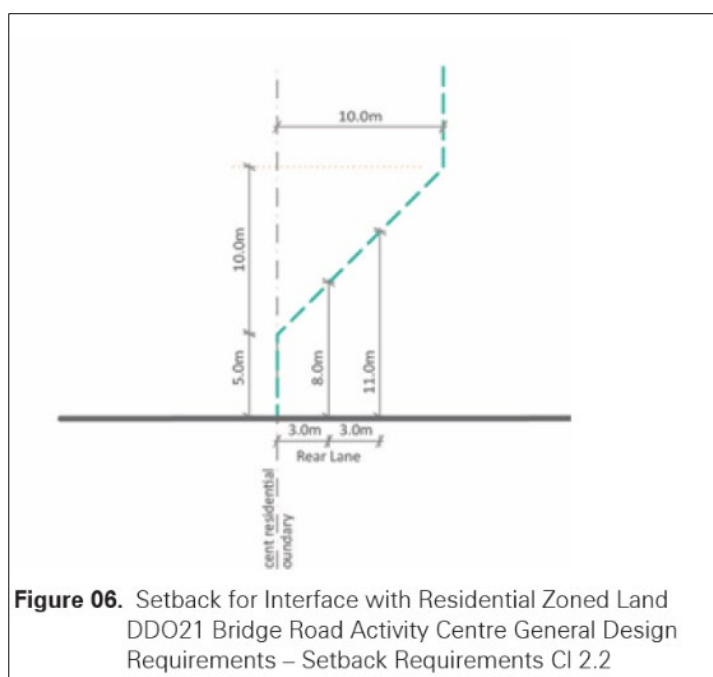
Prof McGauran recommended for interface setbacks (in his recommendation 4):

Where development shares a common boundary, upper-level development applies mandatory requirements as follows:

- A setback of a minimum of 4.5m from the common boundary, where a habitable window or balcony is proposed
- A setback of a minimum of 3.0m from the common boundary where a commercial or non-habitable window is proposed.

Where a property directly abuts residential zoned properties, apply mandatory wall heights of 5m on the boundary as depicted below [see Figure 5], rather than with a height of 8m as proposed in the BFO suite. Where a trafficable lane of at least 3m in width separates an NRZ area from the Activity Centre, the 8m maximum height for walls on a rear boundary is acceptable.

Figure 5 Prof McGauran recommended side and rear setbacks



Source: Document 88, Prof McGauran's expert statement

Prof McGauran emphasised the need to preserve:

- sunlight and privacy to the private spaces and habitable rooms of abutting and adjacent residential neighbourhoods using mandatory provisions
- equitable access to daylight through mandatory upper level setbacks from interfaces to abutting and adjacent commercial uses above podium levels.

Mr Gard'ner supported this recommendation and advised mandatory maximum wall height of 5 metres recommended by Prof McGauran would also improve the transition to low-scale heritage built form from adjacent future development of larger scale.

Council did not support Prof McGauran's recommendation, stating:

Mr McGauran's recommendation is based on the rear interface approach adopted in Bridge Road and Victoria Street. However, the rear interface conditions in Yarra vary with topography, orientation, laneway conditions, lot width and depth and accordingly, a uniform mandatory approach to a rear boundary wall across all BFO areas is inappropriate.

... a discretionary 8m or 11.2m in height is appropriate in the Fitzroy-Collingwood context to allow for integration of new development with varying floor to ceiling heights in existing heritage buildings. Further, the requirements of 4.5m and 3m respectively will separate built form from a common boundary and should remain discretionary to allow for flexibility.

The mandatory 45 degree angle will ensure appropriate separation of bulk to the low scale hinterland.

Council accepts that many rights-of-way in the draft Amendment area are less than 3m in width and in that condition, an 8m wall will have a greater amenity impact than a 5m wall. However, Council submits that the presence of a two storey form along a right-of-way is commonplace in inner-city Melbourne and is within the realms of an acceptable planning outcome for a property abutting an activity centre.³¹

As noted in Council's Part B submission:

In evidence, Ms Rigo supported the application of a boundary wall and 45 degree setback to the interface but did not recommend changes ...

Discussion

While the principles of equitable development and protection of public and private open space and amenity referred to by Prof McGauran are important, in this matter the Committee supports Council's approach.

Prof McGauran's proposed 5 metre rear wall boundary is not consistent with the strategic work underpinning the BFFs, and further work would be required to test and assess impacts of the provision. This is particularly important given the provision is proposed to be mandatory. The 8 metre rear wall boundary will provide for greater development potential, and amenity and heritage impacts can be assessed during a planning permit application.

Finding

The Committee finds the exhibited 8 metre maximum rear wall height is appropriate and justified.

5.5 BFO12 – Brunswick Street Shops

(i) What is proposed?

The development objectives for Brunswick Street Shops are:

To ensure development responds to the heritage character and open streetscape of Brunswick Street by supporting:

- A new low-rise to mid-rise character (ranging from 4 to 6 storeys) behind a consistent streetwall north of Leicester Street and south of Johnston Street.
- The existing low-rise character (ranging from 3 to 4 storeys) and consistent intact street wall between Johnston Street and Leicester Street.
- The existing low-rise character (ranging from 3 to 4 storeys) at the intersections at Johnston Street and Gertrude Street.

³¹ Document 107, Council Part B submission

To retain view lines to St Patrick's Cathedral and the St Luke's Church and to retain the prominence and integrity of corner heritage buildings, particularly at the Johnston and Gertrude Street intersections.

To ensure development maintains the prominence of the existing low-scale heritage street wall and fine-grain heritage character through recessive upper levels and a façade composition and articulation that complements the Brunswick Street character.

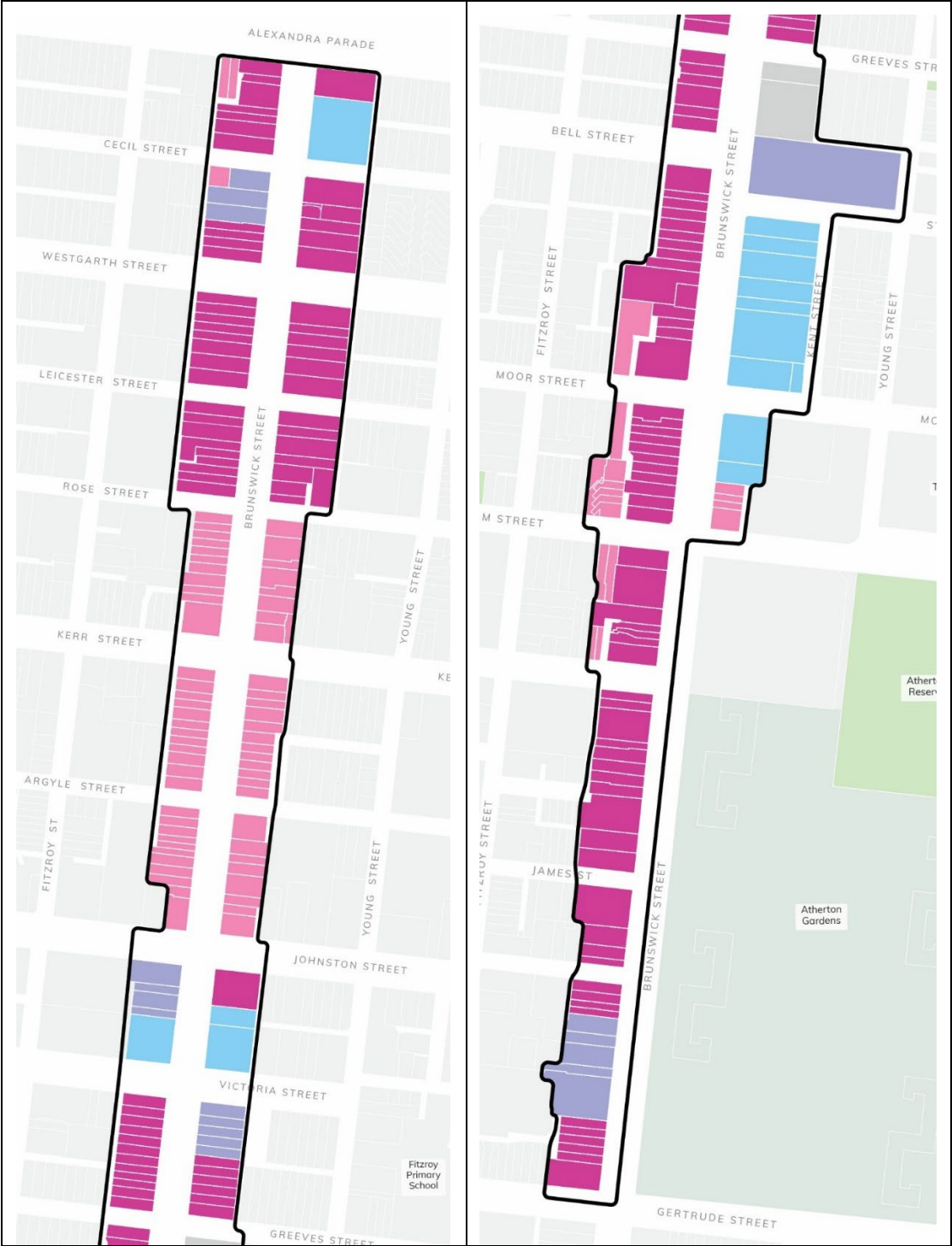
To encourage development design that promotes pedestrian activity and passive surveillance, contributes to a high-quality public realm, and avoids overshadowing of opposite footpaths on Brunswick Street, side streets and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO12:

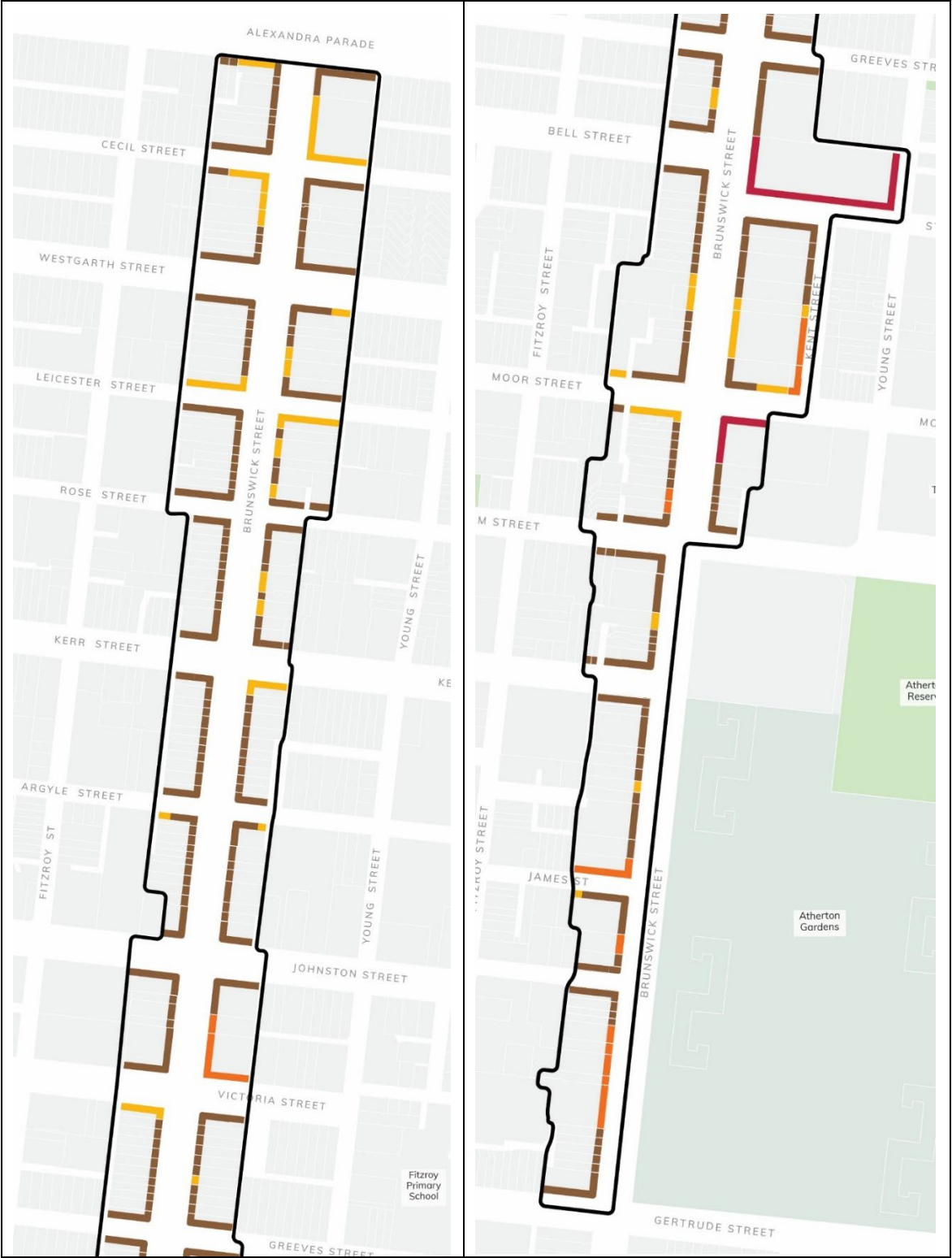
- building heights (Figure 6)
- street wall and front wall heights (Figure 7).

Figure 6 Day 2 BFO12 – Map 2a and 2b: Building heights



- Maximum Building Heights
- Limited opportunity 5 storeys / 18.0m
 - 3 storeys / 11.2m
 - 4 storeys / 15.0m
 - 6 storeys / 21.0m

Figure 7 Day 2 BFO12 – Map 3a and 3b: Street wall and front wall heights



- Maximum Streetwall Heights

 - New 2 storey streetwall / 8.0m 
 - New 3 storey streetwall / 11.2m 
 - New 4 storey streetwall / 15.0m 
- Heritage Streetwall Heights

 - Retain heritage streetwall 

Table 10 shows Council's proposed Day 2 BFO12 mandatory and discretionary built form provisions.

Table 10 BFO12 – Brunswick Street Shops building envelope controls

Day 2 BFO12	
Building heights (Standard BF02)	MANDATORY: Area 1: 3 storeys 11.2 metres Area 2: 4 storeys 15 metres Area 3: 5 storeys 18 metres Area 4: 6 storeys 21 metres <i>Note – Area references relate to the building height map above</i>
Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Streets of 15 metres or more in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Public open space, reserve or parklet: no additional overshadowing between 10am–2pm on 22 September DISCRETIONARY: Streets less than 15 metres in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstand, seating, or planting area (as applicable): no overshadowing between 10am–2pm on 22 September Properties fronting east side of Kent Street from first floor upwards: no overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	MANDATORY: Interface 1: 2 storeys 8 metres Interface 2: 3 storeys 11.2 metres Interface 3: 4 storeys 15 metres Heritage: retain heritage street wall <i>Note – Interface references relate to the street wall and front wall heights plan above</i> DISCRETIONARY: Corner buildings as specified on mapping. Retain heritage street wall for minimum length of 6 metres along front boundary.
Setbacks above street wall and front wall (Standard BF05)	MANDATORY: Brunswick Street and Johnston Street: 8 metres DISCRETIONARY: Side streets: 6 metres
Wall on rear boundary (Standard BF06)	MANDATORY: Contain within 45-degree setback envelope (does not apply to C1Z, C2Z and/or MUZ interfaces). DISCRETIONARY: NRZ: 8 metres GRZ (where no existing laneway): 8 metres GRZ (where there is an existing laneway): 11.2 metres

	MUZ: 11.2 metres C1Z: 11.2 metres
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings) Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings)

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO12 including:

- Building heights for various sites:
 - Brunswick Street - north of Leicester Street
 - Brunswick Street - southwest of Johnston Street
 - Brunswick Street (east side between Greeves and Victoria Streets)
- Street wall heights – various sites:
 - Brunswick Street - north of Leicester Street
 - 100 Kerr Street, Fitzroy
 - 322 Brunswick Street, Fitzroy (corner Argyle Street)
 - 275 Brunswick Street, Fitzroy (corner Victoria Street)
 - 196 Brunswick Street, Fitzroy (corner Moor Street)
 - 348-350 Brunswick Street, Fitzroy (corner Kerr Street)
 - 430-444 Brunswick Street (corner Cecil Street)
 - 425 and 429-431 Brunswick Street, Fitzroy
- 430-444 Brunswick Street
- Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street).

(iii) Building heights - various sites

What is proposed?

In addition to his recommendations for Area 1 (see Chapter 5.4.1 above), Prof McGauran recommended building height changes in BFO12 (in his recommendation 10).

Figure 6 shows the proposed building heights proposed for these areas:

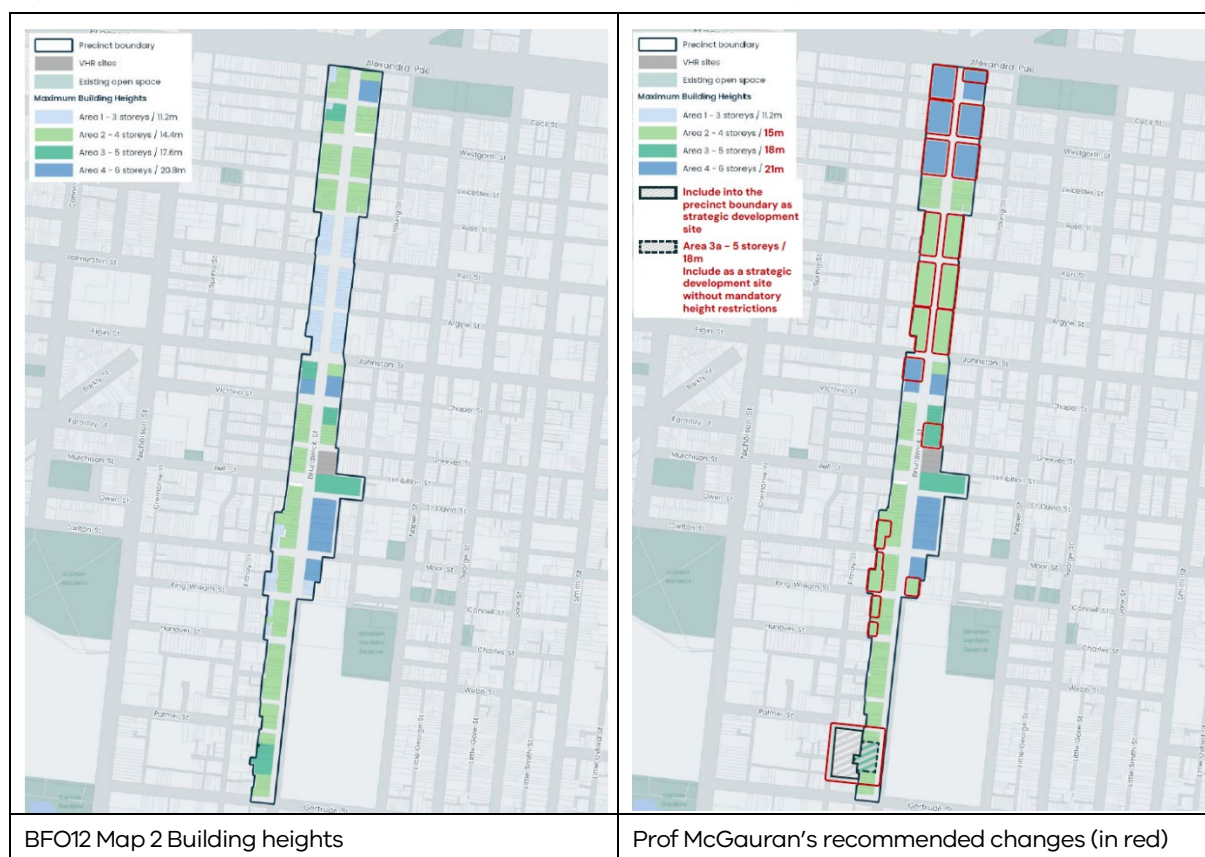
- Brunswick Street - north of Leicester Street
- Brunswick Street - southwest of Johnston Street
- Brunswick Street (east side between Greeves and Victoria Streets).

Evidence and submissions

Figure 8 shows Prof McGauran's recommended changes. Mr Gard'ner disagreed with Prof McGauran's recommended changes.

Table 11 includes a summary of the evidence relating to these building heights.

Figure 8 BFO12 – Prof McGauran recommended height changes



Source: Prof McGauran expert statement (Document 88)

Table 11 BFO12 – Building heights: summary of evidence

Location	Prof McGauran	Mr Gard'ner
Brunswick Street - north of Leicester Street	The mandatory building heights should be increased from 4 storeys/14.4 metres to 6 storeys/21 metres.	This is a highly consistent streetscape with strong two storey street wall. Increased building heights have already been allowed for larger development sites such as 430-444 Brunswick Street (Swimwear Galore site).
Brunswick Street - southwest of Johnston Street	The mandatory building height should be increased from 5 storeys/17.6 metres to 6 storeys/21 metres (corner site).	While noting that 277-281 Brunswick Street is a substantial building with roof top additions, a 6 storey/21 metre height would visually dominate the two storey AOF buildings at 287-297 Brunswick Street and 108-110 Johnston Street.
Brunswick Street - east side between Greeves and	The mandatory building heights should be increased from 4 storeys/14.4 metres to 5 storeys/18 metres.	While noting a 5 storey maximum height applies to the northern half of the block where there is an existing 3 storey commercial building, the southern part of the block contains modest single and 2

Victoria Streets)	storey heritage buildings and 4 storeys is appropriate.
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Council relied on the evidence of Mr Gard'ner stating:

North of Leicester Street, there is a highly consistent heritage streetscape with a strong two storey street wall;

Larger sites have already been proposed for a higher building height in the draft BFOs;

In the areas to the southwest of Johnston Street, an increase to six storeys would visually dominate the two storey AOF Buildings at 287-297 Brunswick Street and 108-110 Johnston Street;

On the eastern side of Brunswick Street between Greeves Street and Victoria Street, a four storey maximum building height is appropriate given the existing three storey building to the northern side and the single and double storey buildings to the south;

Discussion

Brunswick Street – north of Leicester Street

North of Leicester Street there are several corner sites with potential for taller building heights, based on lot sizes, scale and less sensitive interfaces. The Committee supports Prof McGauran's recommendation to increase the mandatory maximum building height from 4 to 6 storeys in this area.

The Committee supports the targeted increase in building and street wall height based on the scale, taller adjacent buildings and interfaces. As demonstrated in Prof McGauran's evidence, there are examples along Brunswick Street, north of Leicester Street, where heights have exceeded the 8 metres street wall and delivered a successful urban infill development. The combination of built form controls can achieve acceptable heritage outcomes while providing greater development opportunity.

Brunswick Street - southwest of Johnston Street

The development objectives for BFO12 require the "*prominence and integrity of corner heritage buildings, particularly Johnston and Gertrude Street intersections*" be retained, and decision guidelines require consideration of "*whether development impacts the prominence of heritage buildings on street corners when viewed from the opposite side of Brunswick Street*". In the context of the abutting Moran and Cato Merchants building (277-281 Brunswick Street), which is a substantial building (4 heritage storeys) with roof top additions, the Committee is satisfied an appropriate design can be achieved on this important corner site with the mandatory 6 storey building height recommended by Prof McGauran, coupled with the other built form controls in BFO12 and relevant heritage provisions (including relating to the AOF heritage buildings).

Brunswick Street - east side between Greeves and Victoria Streets

The Committee agrees with Prof McGauran that the block between Greeves and Victoria Street should be a 5 storey mandatory building height. While some of the heritage properties in the southern portion of the block are more modest in scale (2 storeys), the Committee is satisfied the combination of built form controls can achieve acceptable heritage outcomes while providing greater development opportunity.

(iv) Street wall heights – various sites

What is proposed?

Prof McGauran recommended street wall height changes in BFO12 (in his recommendation 8).

Figure 7 shows the proposed building heights proposed for these areas:

- Brunswick Street - north of Leicester Street
- 100 Kerr Street
- 322 Brunswick Street (corner Argyle Street)
- 275 Brunswick Street Fitzroy (corner Victoria Street)
- 196 Brunswick Street Fitzroy (corner Moor Street)
- 348-350 Brunswick Street (corner Kerr Street)
- 430-444 Brunswick Street (corner Cecil Street)
- 425 and 429-431 Brunswick Street.

Evidence and submissions

Prof McGauran supported mandatory maximum street wall heights and recommended the mandatory street wall heights should be increased from 2 storeys/8 metres to 3 storeys/11.2 metres for the above locations BFO12 (in his recommendation 8). Table 11 shows Prof McGauran's recommended changes.

Prof McGauran said the draft Amendment typically proposed a mandatory maximum street wall height of 8 metres in areas with extensive heritage (such as Brunswick and Smith Streets) regardless of the size and context of the site. He undertook a site-by-site assessment and advised some properties (including corner sites) had greater development potential were adjoining taller built form. He advised there are locations where *"a more substantial presence could be marked on corner and aggregated sites"* and *"there are recent successful examples within the street of built form exceeding 8m that in my view integrates the two objectives for more intensive development with heritage integration"*.³²

Mr Gard'ner disagreed with Prof McGauran's recommended changes. He advised the mandatory maximum street wall heights have been applied on a block-by-block basis to maintain the strong two storey street wall, while ensuring taller heritage buildings remain prominent.

³² Document 88, Prof McGauran's expert statement

Figure 9 BFO12 – Prof McGauran recommended street wall height changes



Source: Prof McGauran expert statement (Document 88)

Discussion

The Committee supports increasing street wall height on non-contributory buildings from 2 storeys/8 metres to 3 storeys/11.2 metres as recommended by Prof McGauran.

The corner sites north and south of Cecil Street, including the IGA site at 424 Brunswick Street, the previous Swimwear Galore site at 430-444 Brunswick Street to its north and an amalgam of shops to the west, offer more scope for significant built form, particularly if there is lot consolidation.

The Committee accepts that Prof McGauran's site by site assessment shows the sites have development potential and that taller development can be designed to integrate heritage values. The Committee is satisfied the combination of built form controls can achieve acceptable heritage outcomes while providing greater development opportunity on these sites.

(v) **Brotherhood of St Laurence site - 67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street**

What is proposed?

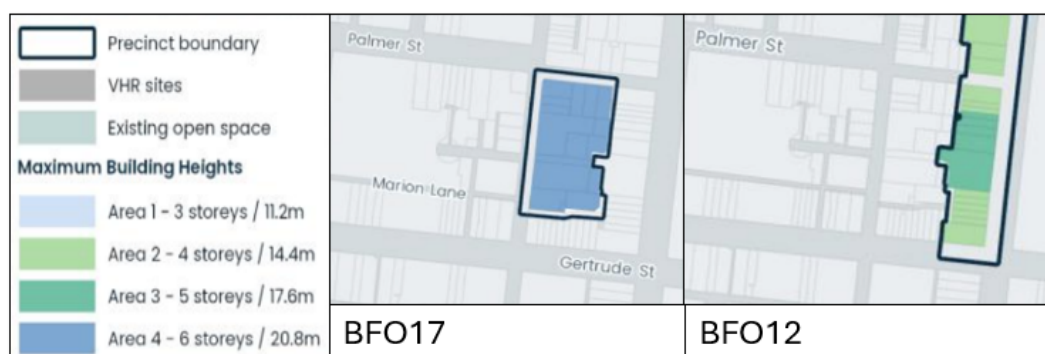
The Brotherhood of St Laurence site is partly located in BFO12 and partly in BFO17 (see Figure 10).

Figure 10 Brotherhood of St Laurence site – aerial photo



Source: Document 88, Prof McGauran's evidence

Figure 11 Brotherhood of St Laurence site – BFO12 and BFO17



The draft Amendment proposes to apply:

- BFO12:
 - mandatory building height – 5 storeys
 - mandatory street wall height – 3 storeys to Brunswick Street
 - mandatory upper level setback – 8 metres to Brunswick Street
- BFO17:
 - discretionary building height – 6 storeys
 - mandatory street wall heights – 3 storeys, retain landscape setback and retain heritage street wall
 - discretionary upper level setback – 8 metres on Fitzroy Street and 3 metres on side streets.

Evidence and submissions

For the Brotherhood of St Laurence land in BFO12, Prof McGauran recommended the:

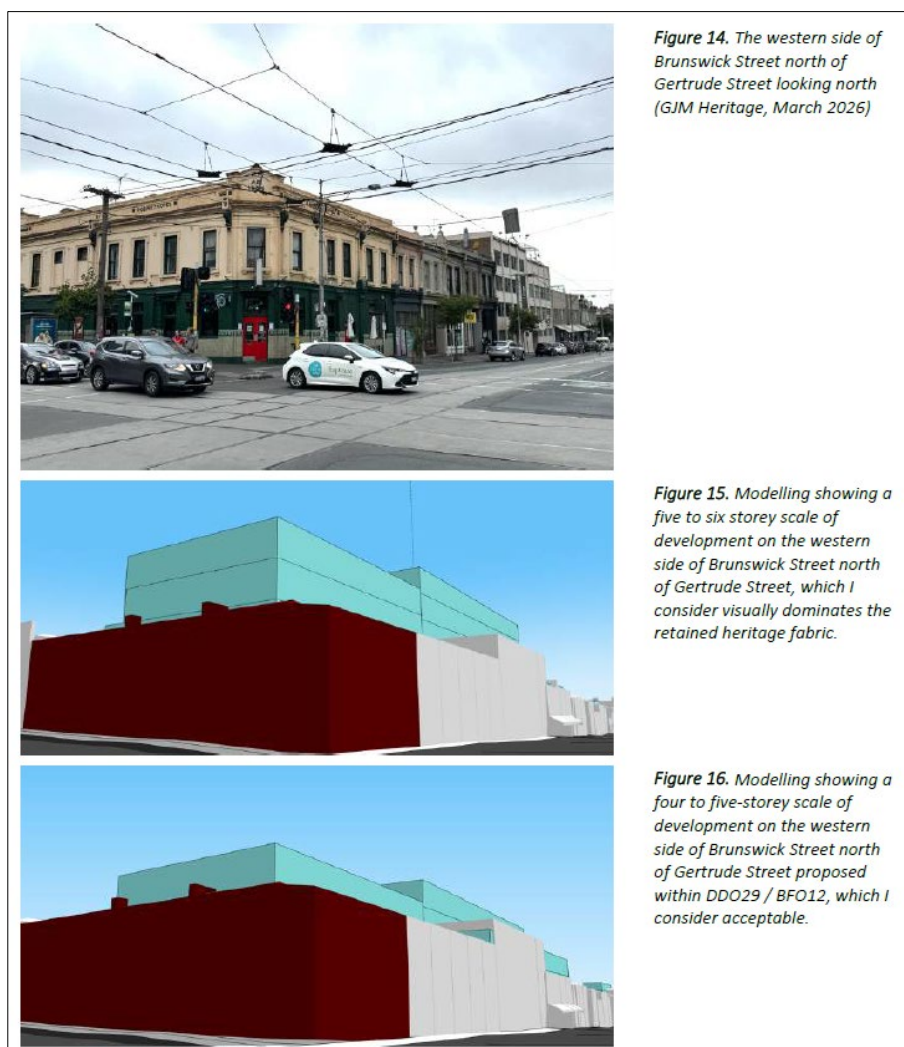
- mandatory building heights should be replaced with discretionary controls
- mandatory street wall height should be changed from 3 storeys/11.2 metres to discretionary 4 storeys/15 metres.

Mr Gard'ner advised that while these properties do not contribute to the heritage values of HO311, the Heritage Overlay applies to the land to ensure development does not adversely affect the neighbouring heritage properties and the broader streetscape of Brunswick Street. A street wall height of 4 metres will break the otherwise strong 2-3 storey scale of the heritage street wall. He referred to Figures 14 – 16 of his expert statement (see Figure 12).

Council relied on the evidence of Mr Gard'ner stating:

At 67-75, 77- 81, and 83 Brunswick Street and 74 Palmer Street (Brotherhood of St Laurence site), an increase in development potential is already provided by the five storey maximum building height and no further increase is appropriate in order to protect the neighbouring graded properties and the Brunswick Street heritage streetscape.³³

Figure 12 Mr Gard'ner's expert statement Figures 14, 15 and 16



Prof McGauran recommended the ensure site be included in BFO12 and designated strategic redevelopment site status. He stated:

As part of a much larger development footprint of ownership and as a major focus of health and community services, like the ACU and St Vincents Hospital precincts to the south and Atherton Gardens public housing opposite, it is my view that the holdings should be

assigned a strategic development site status and excluded from the amendments' mandatory provisions and subject to a separate Strategic Development protocol as has been envisaged in other centres including the SRL precincts with a preferred rather than mandatory regime for the Brunswick Street interface of 4 commercial levels commensurate with its existing scale (4.2m ground level and 3 x 3.6m upper levels) i.e. approx. 15m.³⁴

Mr Spencer responded to Prof McGauran's Finding 3 stating:

Finding 3 reassigns land from BFO17 to BFO12 and nominates the Brotherhood of St Laurence as a strategic development site with discretionary rather than mandatory height limits.

Discussion

The Committee supports Prof McGauran's recommendation for the Brotherhood of St Laurence site to:

- make building heights discretionary
- increase street wall height from mandatory 3 storeys to discretionary 4 storeys
- require a mandatory upper level setback of 6 metres along Brunswick Street (as recommended in Chapter 5.4.3)
- provide a discretionary 6 metre upper level setback on the primary frontage
- consolidate the site into BFO12 (reassigning part from BFO17).

The Committee has formed this view because:

- it is important to distinguish between the highly intact heritage spine (where mandatory controls apply) and transitional or altered blocks
- these sites sit in areas where the heritage fabric is less consistent, includes non-contributory buildings, or has later infill – in this context a discretionary street wall is appropriate
- these blocks have more varied built form, and therefore suitable for increased height
- larger sites and deeper lots can support mid-rise development, and capacity should be increased where lot size and context allow
- these areas have the physical depth to support 5-6 storeys.

The Committee agrees with Prof McGauran that the Brotherhood of St Laurence site has potential to be an important strategic development site. The site should be included in one BFO schedule (rather than split across two as currently proposed). The Committee recommends the site be included in its entirety in BFO12 and removed from BFO17.

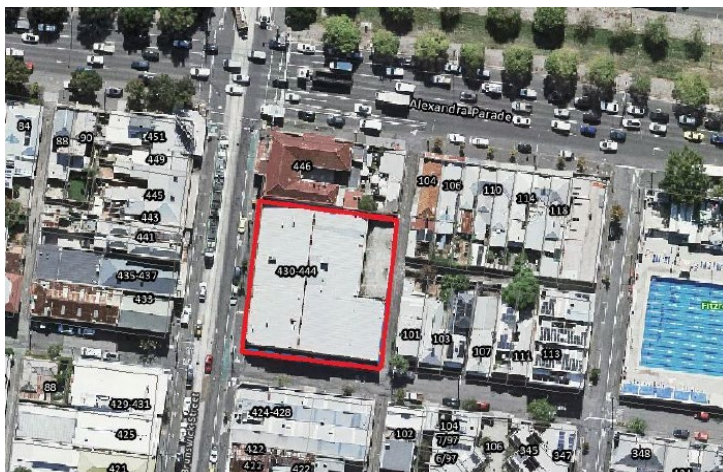
(vi) 430 – 444 Brunswick Street, Fitzroy

What is proposed?

The site is located at the north east corner of Brunswick and Cecil Streets (see Figure 13).

Figure 13 430-444 Brunswick Street – aerial photo

³⁴ Document 88, Prof McGauran's expert statement



The draft Amendment proposes to apply:

- mandatory building height of 6 storeys
- mandatory street wall height of 2 storeys
- mandatory upper level setback of 8 metres on Brunswick Street and discretionary 6 metres discretionary on side streets.

Evidence and submissions

Foundry/Rose/Valli submitted that 430-444 Brunswick Street is a large consolidated non-contributory corner site in prominent location. It represents the best opportunity for intensive development in BFO12 and has a current Notice of Decision for a 7-storey building.

The submitter said Council has not demonstrated that discretionary provisions are unacceptable and the:

- proposed mandatory 6 storey building height is not adequately justified
- street wall should be discretionary 3 storeys as recommended by Prof McGauran.

Prof McGauran supported a 6 storey building height for the site, and Mr Gard'ner said the 6 storeys already provided for development potential.

Discussion

The site is located in the Brunswick Street – north of Leicester Street group discussed above. The Committee has recommended mandatory 3 storey street wall for this site.

The Committee supports discretionary 6 storey building height for this site. This is a large consolidated non-contributory corner site in a prominent location. It represents a significant opportunity for development and accordingly discretionary building height provisions should apply. Coupled with the other built form controls for the site and surrounding area (including the 6 metre mandatory upper level setback, overshadowing provisions and 11.2 metre mandatory street wall height recommended by the Committee) this will achieve acceptable amenity impacts and retain heritage prominence.

(vii) 307 Brunswick Street, Fitzroy

The Committee has addressed the Seitel submission including this property in BFO15 Chapter 5.8(iii) below.

(viii) Findings and recommendations

The Committee finds, subject to its recommendations, that building envelope provisions are acceptable for:

- Building heights for various sites:
 - Brunswick Street - north of Leicester Street
 - Brunswick Street - southwest of Johnston Street
 - Brunswick Street (east side between Greeves and Victoria Streets)
- Street wall heights – various sites:
 - Brunswick Street - north of Leicester Street
 - 100 Kerr Street
 - 322 Brunswick Street, Fitzroy (corner Argyle Street)
 - 275 Brunswick Street, Fitzroy (corner Victoria Street)
 - 196 Brunswick Street, Fitzroy (corner Moor Street)
 - 348-350 Brunswick Street, Fitzroy (corner Kerr Street)
 - 430-444 Brunswick Street (corner Cecil Street)
 - 425 and 429-431 Brunswick Street, Fitzroy
- 430-444 Brunswick Street
- Brotherhood of St Laurence (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street).

The Committee recommends:

In Built Form Overlay Schedule 12:

- a) amend Map 2 to show a mandatory maximum 6 storey building height for the properties along Brunswick Street – North of Leicester Street and Brunswick Street – southwest of Johnston Street (as shown in Figure 8)**
- b) amend Map 2 to show a mandatory maximum 5 storey building height for the properties along the east side of Brunswick Street between Greeves and Victoria Streets (as shown in Figure 8)**
- c) amend Map 3 to show a mandatory maximum 3 storey street wall height for the properties along Brunswick Street (as shown in Figure 9)**
- d) amend Maps 1, 2 and 3 to include the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street)**
- e) amend Table 1 to show discretionary building heights for the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street) and 430-444 Brunswick Street**
- f) amend Map 3 and Table 3 to show discretionary 4 storey street wall heights for the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street).**

In Built Form Overlay Schedule 12, as shown in Volume 2 of this Report:

- a) amend Table 4 to show a discretionary 6 metre upper level setback 'on side streets and other streets 10 metres or greater in width'**

In Built Form Overlay Schedule 17:

- a) amend the maps to remove the Brotherhood of St Laurence site (67-75, 77-81 and 83 Brunswick Street and 74 Palmer Street).**

5.6 BFO13 – Smith Street Shops

(i) What is proposed?

The development objectives for Smith Street Shops are:

To ensure development responds to the heritage character and varied streetscape of Smith Street by supporting:

- a new low-rise to mid-rise character (ranging from 4 to 6 storeys) behind a consistent street wall north of Stanley and St David Streets and south of Gertrude Street.
- a new mid-rise character (ranging from 3 to 8 storeys) behind a varied heritage street wall between Stanley and St David Streets and Gertrude and Langridge Street.

To retain view lines to the former department stores and the prominence and integrity of corner heritage buildings, particularly at the Johnston Street intersection.

To ensure development maintains the prominence of the existing heritage street wall and fine-grain heritage character through recessive upper levels and a façade composition and articulation that complements the Smith Street character.

To encourage development design that promotes pedestrian activity and passive surveillance, contributes to a high-quality public realm, and avoids overshadowing of opposite footpaths on Smith Street, side streets and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO13:

- building heights (Figure 14)
- street wall and front wall heights and landscaped setbacks (Figure 15).

Figure 14 Day 2 BFO13 – Map 2a and 2b: Building heights



Figure 15 Day 2 BFO13 – Map 3a and 3b: Street wall and front wall heights and landscaped setbacks

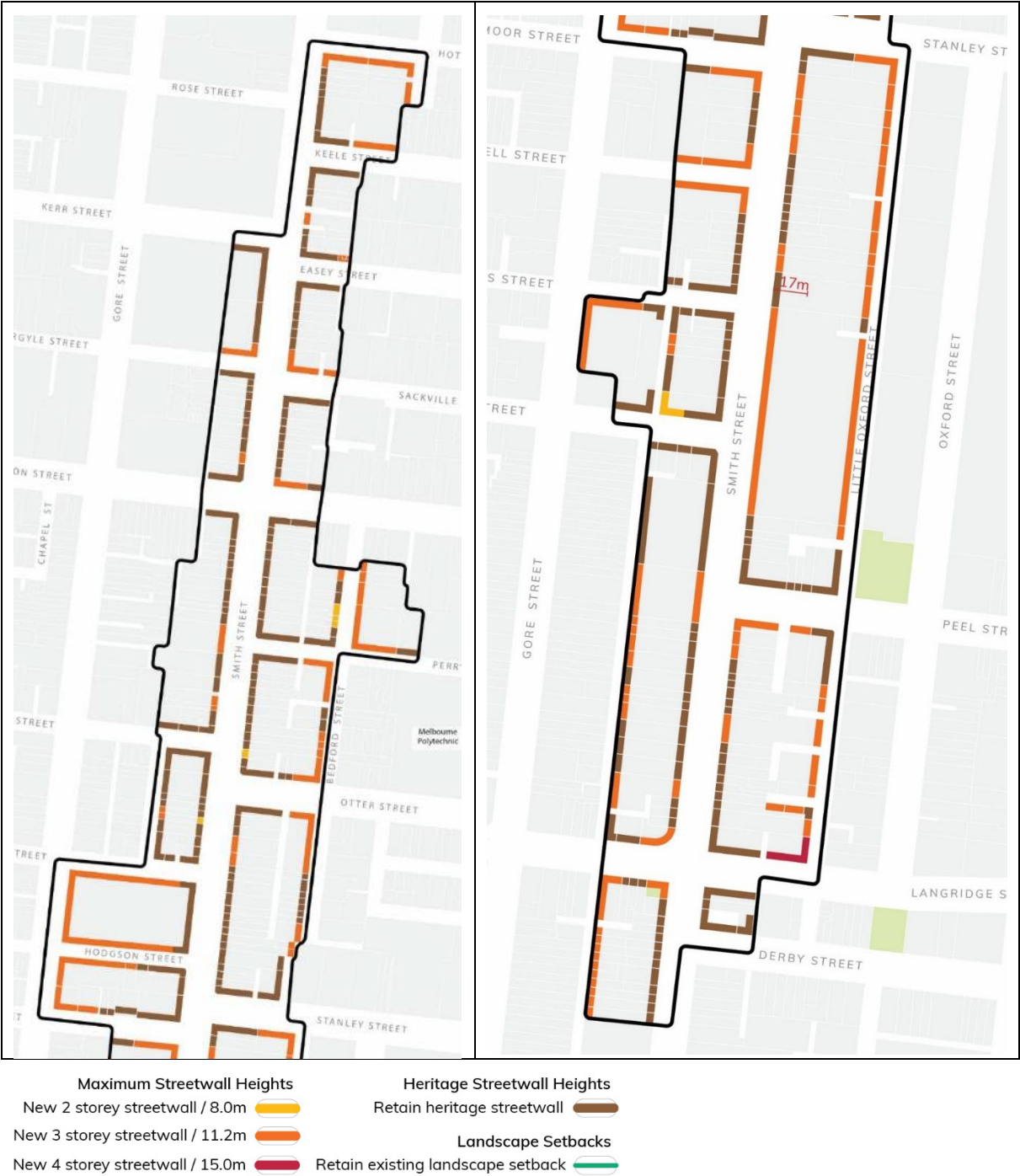


Table 12 shows Council's proposed Day 2 BFO13 proposed mandatory and discretionary built form provisions.

Table 12 BFO13 – Smith Street Shops building envelope controls

Day 2 BFO13	
Building heights (Standard BF02)	MANDATORY: Area 1: 3 storeys 11.2 metres Area 2: 4 storeys 15 metres

	Area 3: 5 storeys 18 metres Area 4: 6 storeys 21 metres Area 5: 7 storeys 24 metres Area 6: 8 storeys 28 metres Area 7: 9 storeys 31 metres <i>Note - Area references relate to the building height map above</i>
Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Streets of 15 metres or more in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Public open space, reserve or parklet: no additional overshadowing between 10am–2pm on 22 September DISCRETIONARY: Streets less than 15 metres in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstand, seating, or planting area (as applicable): no overshadowing between 10am–2pm on 22 September Properties fronting Bedford Street, Little Oxford Street or Little Smith Street from first floor upwards: no overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	MANDATORY: Interface 1: 2 storeys 8 metres Interface 2: 3 storeys 11.2 metres Interface 3: 4 storeys 15 metres Heritage: retain heritage street wall <i>Note – Interface references relate to the street wall and front wall heights plan above</i> DISCRETIONARY: Corner buildings as specified on mapping. Retain heritage street wall for minimum length of 6 metres along front boundary.
Setbacks above street wall and front wall (Standard BF05)	MANDATORY: Smith Street: 8 metres Johnston Street: 6 metres DISCRETIONARY: Langdridge Street: 6 metres Side streets: 6 metres
Wall on rear boundary (Standard BF06)	MANDATORY: Contain within 45-degree setback envelope (does not apply to C1Z and/or MUZ interfaces). DISCRETIONARY: NRZ: 8 metres GRZ (where no existing laneway): 8 metres GRZ (where there is an existing laneway): 11.2 metres MUZ: 11.2 metres C1Z: 11.2 metres

	DISCRETIONARY:
Building separation (Standard BF06)	Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings)
	Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings)
	Development over 27 metres: set back by a minimum of 6 metres

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO13 including:

- Smith Street - north of Johnston Street
- 1 Stanley Street, Collingwood
- 190-192, 194, 196, and 198 Smith Street and hinterland properties at 77-85 Little Oxford Street, Collingwood
- 1-5 Perry Street, Collingwood
- 171 Smith Street, Fitzroy
- 82-84 Smith Street, Collingwood
- 4-12 Langridge Street, Collingwood
- 365-379 Smith Street, Fitzroy
- 243-255 Smith Street, Fitzroy.

(iii) Building heights – various sites

What is proposed?

In addition to his recommendations for Area 1 (see Chapter 5.4.1 above), Prof McGauran recommended building height changes to some locations in BFO13 (in his recommendation 11).

Figure 14 shows the proposed building heights proposed for these areas:

- Smith Street - north of Johnston Street
- 1 Stanley Street, Collingwood
- 190-192, 194, 196, and 198 Smith Street, Collingwood and hinterland properties at 77-85 Little Oxford Street, Collingwood.

Evidence and submissions

Figure 16 shows Prof McGauran's recommended changes. Mr Gard'ner disagreed with Prof McGauran's recommended changes.

Table 13 includes a summary of the evidence and Council's submissions.

Figure 16 BFO13 – Prof McGauran recommended height changes



Source: Prof McGauran expert statement (Document 88)

Table 13 BFO13 – Building heights: summary of evidence and Council's submission

Location	Prof McGauran	Mr Gard'ner	Council
Smith Street - north of Johnston Street	The mandatory building heights should be increased from 4 storeys/14.4 metres and 5 storeys/17.6 metres to 6 storeys/21 metres.	This part of Smith Street remains a highly consistent heritage streetscape with a strong two storey street wall.	Did not support Prof McGauran's recommendations on heritage grounds, noting Mr Gard'ner's view that despite potential for site amalgamation the additional height would have an impact on heritage qualities of Smith Street including highly consistent streetscape and strong two storey street wall.
1 Stanley Street	The mandatory building heights should be increased from 5 storeys/17.6 metres to 6 storeys/21 metres.	No specific comment	
190-192, 194, 196, and 198 Smith Street and hinterland properties at 77-85 Little Oxford Street	The mandatory building heights should be increased from 5 storeys/17.6 metres to 6 storeys/21 metres to align with western abutting neighbour.	The single storey heritage shops located on the eastern side of Smith Street north of the VHR-listed Collingwood Post Office would be visually dominated by	

development above 5
storeys in scale

Discussion

Smith Street - north of Johnston Street

The BFF Emerging Framework Plan shows the area of Smith Street (north of Johnston Street) as an area with moderate, significant and back block infill with some but not extensive heritage significance (see Figure 17). There is some existing taller built form in the abutting interface areas, and there is potential for taller buildings without compromising heritage values or amenity impacts.

Figure 17 Smith Street, north of Johnston Street (BFF excerpt)



The Committee supports the building heights recommended by Prof McGauran (from 4 storeys and 5 storeys to 6 storeys). This is consistent with the development objectives that envisage new low-rise to mid-rise character (ranging from 4 to 6 storeys). The Committee agrees with Prof McGauran that there are enhanced opportunities for development in this area if site consolidation occurs, and without consolidation the taller heights cannot be achieved. Accordingly, provision should be made for this by providing for greater building height.

1 Stanley Street, Collingwood

BFO13 proposes a building height of 5 storeys/18 metres for 1 Stanley Street. The site is identified for moderate infill development in the BFF and is on a corner and abutting properties proposed for 21 and 24 metres.

The Committee supports Prof McGauran's recommended building height of 6 storeys/21 metres for 1 Stanley Street. The Committee agrees with Prof McGauran that the topography and surrounding development provides for greater development opportunities on the site.

190-192, 194, 196, and 198 Smith Street and hinterland properties at 77-85 Little Oxford Street, Collingwood

The Committee supports Prof McGauran's recommended building height of 6 storeys/21 metres for these properties.

The Committee notes Mr Gard'ner's concerns that development above 5 storeys would dominate the heritage listed single storey shops and VHR listed post office, however the site (if consolidated) offers a significant development opportunity. The Committee is satisfied an appropriate design could be achieved that protects heritage values, guided by the BFO13 built form controls and relevant heritage provisions.

(iv) 1-5 Perry Street, Collingwood

Evidence and submissions

Prof McGauran recommended mandatory street wall heights be increased from 8 metres to 11.2 metres. Council accepted Prof McGauran's recommendation as there is no heritage sensitivity.

Discussion

An increase from 8 metres to 11.2 metres for 1-5 Perry Street is uncontroversial. The Committee accepts this change as shown in Council's Day 2 BFO13.

(v) 171 Smith Street, Fitzroy

Evidence and submissions

Prof McGauran recommended mandatory street wall heights should be increased from 8 metres to 11.2 metres. Mr Gard'ner gave evidence the street wall height should not be increased as the site is occupied by a neoclassical former National Bank Building of Australasia and it is assumed the heritage form will be retained and development to the rear should transition to the lower scale of Webb Street.

Council relied on the evidence of Mr Gard'ner and did not accept Prof McGauran's recommendation.

Discussion

The property at 171 Smith Street is identified in the BFF as an individually significant landmark heritage corner site with limited development opportunity, occupied by the former National Bank Building of Australasia. The corner building is intact and has high integrity as a neoclassical heritage building. Figure 18 shows an excerpt from the BFF Emerging Framework Plan.

Figure 18 171 Smith Street – BFF excerpt



BFO13 proposes the heritage street wall be retained to the corner part of the property, and an 8 metre street wall at the rear part that interfaces with the lane.

While Prof McGauran’s recommendation shows the whole southern boundary of the property should be 11.2 metres, it is possible he was referring to the rear part only (which is subject to the 8 metre street wall control). There is development potential at the rear of the property (along Webb Street) and it is appropriate for an 11.2 metre street wall height control to be applied to this portion of the site that does not contain the heritage building.

The Committee is satisfied the combination of built form controls can achieve acceptable heritage outcomes while providing greater development opportunity.

(vi) 4–12 Langridge Street, Collingwood

Evidence and submissions

McLangridge submitted it has a permit for 8 storey building. It recommended that BFO13 reflect its existing permit envelope and preferred maximum aligned to permit (27.1 metre height; 14.4 metre street wall).

Prof McGauran did not recommend any changes and advised:

- the site has an interface with the sensitive/special area along Smith Street
- it is important to protect overshadowing of footpaths.

Council submitted it is not practical or desirable for the BFO13 built form provisions to reflect the existing permit. The permitted building exceeds the mandatory provisions supported by Prof McGauran and Mr Gard’ner.

Discussion

The property has a permit for an 8 storey building, while BFO13 provides for mandatory maximum 6 storeys/21 metres. Planning requires planning provisions to be strategically justified therefore it is inappropriate to specify them based on an existing permit approval.

The BFF identifies the area for backblocks infill adjacent to moderate infill along Smith Street. The Committee agrees with Prof McGauran the BFO13 proposed building height is appropriate with consideration of interfaces and overshadowing. No change is required to the provisions.

(vii) 365-379 Smith Street, Fitzroy

What is proposed?

The site is located on the corner of Smith and Argyle Streets (see Figure 19).

Figure 19 365-379 Smith Street – map



The draft Amendment proposes to apply mandatory:

- 4 storey building height
- 3 storey street wall height
- 8 metre upper level setback.

Evidence and submissions

One submitter considered:

- the controls are ultra-conservative and not consistent with major activity centre status/will lead to broadscale underdevelopment
- the area immediately surrounding area has greater building heights (8-9 storeys).

It requested the building height be increased to match the existing approval (8 storeys/27.2 metres rather than 4 storeys).

Prof McGauran recommended (in his recommendation B) increasing the mandatory building height from 4 storeys to 8 storeys. Mr Gard'ner did not support a change stating the permit has now lapsed permit, and was approved prior to the interim DDO30 which was informed by heritage analysis.

Council relied on the evidence of Mr Gard'ner and did not propose any change.

Discussion

The property is identified as a significant infill opportunity in the BFF (located on the west side of Smith Street between Argyle and Kerr Streets, see Figure 17).

The Committee supports the building heights recommended by Prof McGauran. It is a significant corner site that while is somewhat constrained in size/depth, an appropriate design could achieve the greater height and protect heritage values, guided by the BFO13 built form controls (such as 6 metre mandatory upper level setback and relevant heritage provisions).

(viii) 243–255 Smith Street, Fitzroy

Evidence and submissions

GFM Group submitted that all BFO13 built form controls should be discretionary and align with its permit, stating:

- the existing permit demonstrates exceedance of the mandatory provisions achieves an acceptable outcome
- Prof McGauran and Mr Gard'ner supported the permit and variations to the existing DDO at the VCAT hearing.

Prof McGauran supported the exhibited mandatory building height and street wall provisions on the site.

Mr Gard'ner advised:

- this is a large and deep site
- the proposed controls reflect the high development potential of the site
- the permit reflects the controls in place at the time
- the exhibited BFO13 provisions are appropriate.

Council submitted that the permit is an acceptable outcome under the interim DDO30 provisions the mandatory controls are needed for consistent heritage/public realm outcomes across BFO13 (not assessed site-by-site). While a variation on one site may not undermine the achievement of objectives, exceedance for more sites will. It did not agree to align BFO13 to a permit envelope as it would embed exceedances.

Discussion

The permit for the site allows for a mixed use development with supermarket, office and dwellings in an 11 storey building above basement car parking.

The Committee understands the permit reflects the controls of the day at the time the permit was issued, however the approved design demonstrates significant improvement to the heritage and built form outcomes for the overall site. As a strategic redevelopment site, the Committee supports discretionary building and street wall height controls.

(ix) Recommendations

The Committee recommends:

In Built Form Overlay Schedule 13:

a) amend Map 2 to show mandatory maximum building heights for the following properties (as shown in Figure 16):

- **along Smith Street – north of Johnston Street**
- **1 Stanley Street**

- **190-192, 194, 196, and 198 Smith Street and hinterland properties at 77-85 Little Oxford Street**
- **365-379 Smith Street**
- b) **amend Map 2 to show a mandatory 3 storey/11.2 metre street wall (replacing the section shown as 2 storeys/8 metres) at the rear of 171 Smith Street.**
- c) **amend Table 1 to show discretionary building heights and amend Table 3 to show discretionary street wall heights for 243-255 Smith Street.**

5.7 BFO14 – Gertrude Street Shops

(i) What is proposed?

The development objectives for Gertrude Street Shops are:

To ensure development responds to the heritage character and intact streetscape of Gertrude Street by supporting a low-rise character (ranging from 3 to 4 storeys).

To ensure development retains view lines to the drum from the southern footpath of Gertrude Street between Fitzroy Street and Brunswick Street (west side), dome, lantern and flagpole of the Royal Exhibition Buildings and respects the prominence and integrity of corner heritage buildings.

To ensure development maintains the prominence of the low-scale heritage street wall and buildings through recessive upper levels and façade composition and articulation that complements the Gertrude Street character.

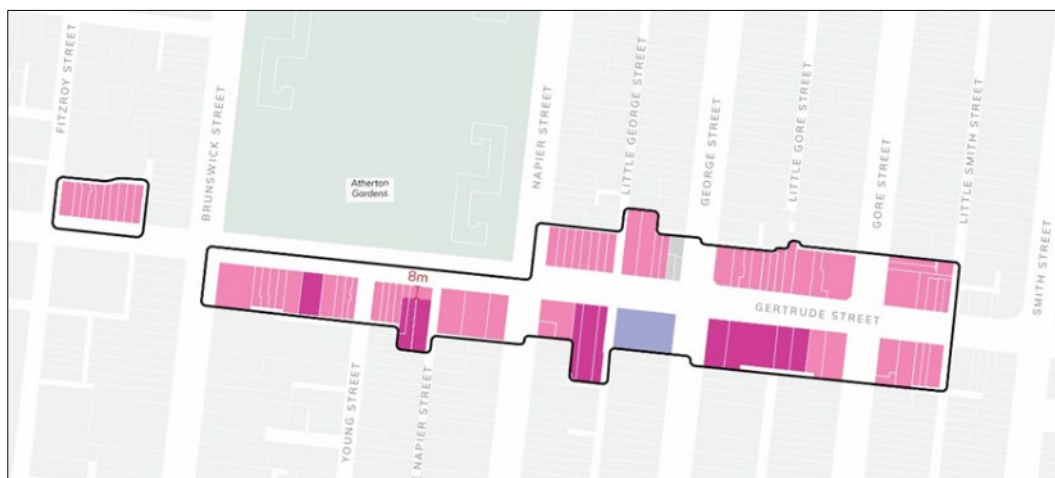
To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on Gertrude Street, side streets and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO14:

- building heights (Figure 20)
- street wall and front wall heights (Figure 21).

Figure 20 Day 2 BFO14 – Map 2: Building heights



Maximum Building Heights

Limited opportunity	4 storeys / 15.0m
3 storeys / 11.2m	5 storeys / 18.0m

Figure 21 Day 2 BFO14 – Map 3: Street wall and front wall heights



Table 14 shows Council’s proposed Day 2 BFO14 proposed mandatory and discretionary built form provisions.

Table 14 BFO14 – Gertrude Street Shops building envelope controls

	Day 2 BFO14
Building heights (Standard BF02)	MANDATORY: Area 1: 3 storeys 11.2 metres Area 2: 4 storeys 15 metres Area 3: 5 storeys 18 metres
Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Streets of 15 metres or more in width (measured boundary to boundary): No overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary DISCRETIONARY: Streets less than 15 metres in width (measured boundary to boundary): No overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstand, seating, or plant area, as applicable: No overshadowing between 10am and 2pm on 22 September
Street wall and front wall heights (Standard BF05)	MANDATORY: Interface 1: 2 storeys 8 metres Interface 2: 3 storeys 11.2 metres
Setbacks above street wall and front wall (Standard BF05)	MANDATORY: On Gertrude Street, west of Brunswick Street: 10 metres On Gertrude Street, east of Brunswick Street: 8 metres DISCRETIONARY: On all other streets: 6 metres
Wall on rear boundary (Standard BF06)	DISCRETIONARY: NRZ whether or not separated by a laneway: 8 metres GRZ where there is no existing laneway: 8 metres GRZ where there is an existing laneway: 11.2 metres MUZ whether or not separated by a laneway: 11.2 metres C1Z whether or not separated by a laneway: 11.2 metres
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: 4.5 metres (9 metres for multi buildings) Non-habitable window or balcony: 3 metres (6 metres for multi buildings)

(ii) The issue

The issue is whether the building envelope provisions are appropriate for BFO14.

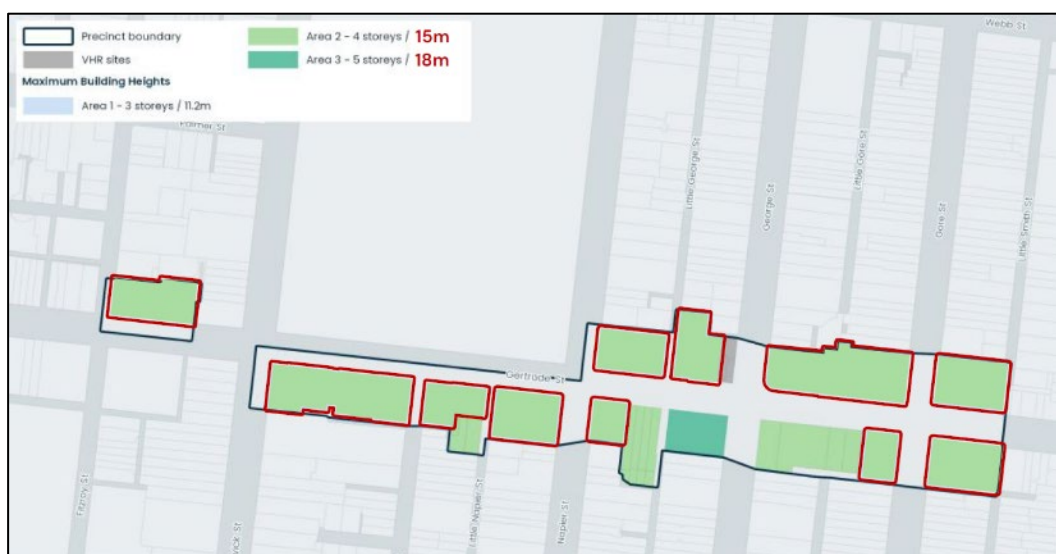
(iii) Discussion

The Gertrude Street Neighbourhood Activity Centre consists of a highly intact and consistent heritage streetscape. The World Heritage listed Royal Exhibition Building and Carlton Gardens site is an important heritage feature to the west, with view lines to the Royal Exhibition Building's drum and dome visible from the south side of Gertrude Street. The 'retain heritage street wall' provision applies to most properties along Gertrude Street, with only one area of 3 storey street walls.

In other chapters of this Report, the Committee has recommended:

- increasing building height in Area 1 from 3 storeys/11.2 metres to 4 storeys/15 metres as recommended by Prof McGauran (Area 1 is shown in Figure 21) (see Chapter 5.4.1)
- applying a discretionary 3 metre upper level setback where streets are less than 10 metres wide (Chapter 5.4.3).

Figure 22 BFO14 – Prof McGauran proposed building height change Area 1



Source: Prof McGauran expert statement (Document 88)

(iv) Finding

The Committee finds the building envelope provisions for BFO14 are appropriate, subject to its recommendations.

5.8 BFO15 – Johnston Street West

(i) What is proposed?

The development objectives for Johnston Street West are:

To ensure development responds to the varied character and open streetscape of Johnston Street by supporting:

- a new mid-rise character (ranging from 4 to 9 storeys) behind a new street wall along the northside of Johnston Street.
- a mid-rise character (ranging from 4 to 8 storeys) behind a low, consistent heritage street wall on the south side of Johnston Street.

To ensure development creates a new mid-rise character (ranging from 6 to 9 storeys) along Nicholson Street that is set behind a robust street wall and transitions down towards Johnston Place and the former Avon Butter Factory.

To ensure development respects the lower-scale street wall through recessive upper levels and façade composition and articulation that complements the heritage character of the street.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on Johnston Street and properties fronting Victoria Street.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO15:

- building heights (Figure 23)
- street wall and front wall heights (Figure 24).

Figure 23 Day 2 BFO15 – Map 2: Building Heights



Figure 24 Day 2 BFO15 – Map 3: Street wall and front wall heights



Table 15 shows Council’s proposed Day 2 BFO15 proposed mandatory and discretionary built form provisions.

Table 15 BFO15 – Johnston Street West building envelope controls

Day 2 BFO15	
Building heights (Standard BF02)	MANDATORY: Area 1: 4 storeys 14.4 metres Area 2: 5 storeys 18 metres Area 3: 6 storeys 21 metres Area 4: 7 storeys 24 metres Area 5: 8 storeys 28 metres Area 6: 9 storeys 31 metres <i>Note - Area references relate to the building height map above</i>
	MANDATORY: Streets of 15 metres or more in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary
	DISCRETIONARY: Streets less than 15 metres in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstand, seating, or planting area (as applicable): no overshadowing between 10am–2pm on 22 September
Overshadowing of open space or public realm (Standard BF04)	
Street wall and front wall heights (Standard BF05)	MANDATORY: Interface 1: 2 storeys 8 metres

	Interface 2: 3 storeys 11.2 metres Interface 3: 4 storeys 15 metres Heritage: retain heritage street wall <i>Note – Interface references relate to the street wall and front wall heights plan above</i> DISCRETIONARY: 244 – 260 Nicholson Street, Fitzroy: 4 storeys 15 metres Retain heritage street wall for minimum length of 6 metres along front boundary.
Setbacks above street wall and front wall (Standard BF05)	MANDATORY: Johnston Street: 6 metres DISCRETIONARY: Argyle Street and Nicholson Street: 6 metres Side streets: 3 metres
Wall on rear boundary (Standard BF06)	MANDATORY: 11.2 metres where a street wall and front wall height is specified for the boundary on Map 3. DISCRETIONARY: Development should respond to existing secluded private open spaces by setting back at upper levels to create a sense of separation, minimise overshadowing and reduce building bulk.
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings) Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings) Development over 27 metres: set back by a minimum of 6 metres

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO15 including:

- 95 – 103 Johnston Street, Fitzroy
- 244, 246 and 260 Nicholson Street, Fitzroy
- 24-26, 28, 30 and 41 – 49 Johnston Street, Fitzroy
- 67 – 83 Johnston Street, Fitzroy.

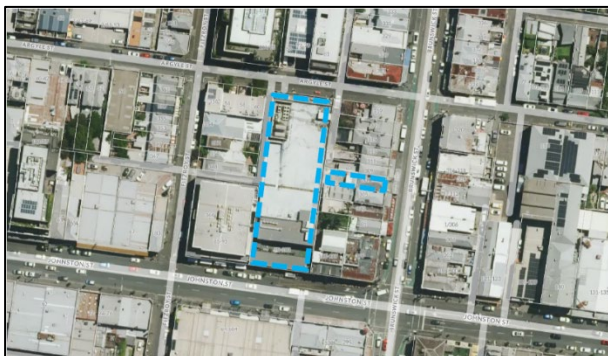
(iii) 95–103 Johnston Street, Fitzroy

What is proposed?

The Sietel land relates to:

- 95 – 103 Johnston Street, Fitzroy (BFO15)
- 307 Brunswick Street, Fitzroy (BFO12).

Figure 25 95-103 Johnston Street and 307 Brunswick Street, Fitzroy – aerial map



The draft Amendment proposes to apply to 95-103 Johnston Street as follows:

- building height:
 - mandatory maximum – 8 storeys / 27.2 metres
- street wall height:
 - mandatory to Argyle Street – 3 storeys
 - retention of heritage street wall to Johnston Street
- upper level setback:
 - mandatory along Johnston Street– 6 metres
 - discretionary along Argyle Street – 3 metres
- rezone the rear of 95-103 Johnston Street, Fitzroy from MUZ to C1Z (see Chapter 10).

The draft Amendment proposes to apply to 307 Brunswick Street (BFO12):

- 3 storeys / 11.2 metres
- retain heritage street wall
- upper level setback of 8 metres.

Evidence and submissions

Sietel submitted the Johnston Street and Brunswick Street activity centres were primary locations for growth, given the access to transport, services and employment. It said the proposed provisions were not consistent with the BFF which supports mandatory controls on the south side of Johnston (which is more intact from a heritage perspective) and recommends discretionary 8 storey building height controls. It said the mandatory controls were not justified in this location.

Sietel sought discretionary controls for both properties.

Council submitted it relied on the evidence Mr Gard'ner that a mandatory 8 storey building height on 95 – 103 Johnston Street was appropriate on heritage grounds. It supported discretionary upper level setback controls to Argyle Street.

Council did not support changes to the provisions for 307 Brunswick Street.

Discussion

The Committee supports discretionary controls for 95-103 Johnston Street. This is a large site with development potential. The Committee is satisfied the combination of planning provisions can achieve acceptable heritage outcomes while providing greater development opportunity and avoiding unreasonable amenity impacts.

For consistency, the Committee supports a mandatory 6 metre upper level setback to Johnston Street.

In other chapters of this Report, the Committee has recommended for 307 Brunswick Street (BFO12):

- mandatory building height of 4 storeys / 15 metres as part of Area 1 (see Chapter 5.4.1)
- mandatory upper level setback of 6 metres (see Chapter 5.4.3).

(iv) 244, 246 and 260 Nicholson Street, Fitzroy

What is proposed?

The properties at 244, 246 and 260 Nicholson Street are located between Johnston and Argyle Streets (see Figure 26).

Figure 26 240, 246 and 260 Nicholson Street, Fitzroy – aerial map



The draft Amendment proposes to apply:

- mandatory building heights of:
 - 244 Nicholson Street – 9 storeys
 - 246 Nicholson Street – 8 storeys
 - 260 Nicholson Street – 7 storeys
- mandatory street wall heights of 4 storeys to Nicholson Street and 3 storeys to Johnston and Argyle Streets.
- mandatory upper level setbacks of 6 metres for Nicholson and Johnston Streets and discretionary upper level setbacks of 3 metres for Argyle Street.

Evidence and submissions

Merlatti made submissions regarding 260 Nicholson Street. It said the property is in an eclectic mixed use area and the *“surrounding built form includes a mix of repurposed*

*warehouse sites, contemporary developments and low-density Victorian-style buildings that contribute to the heritage fabric of the area”.*³⁵ It described the context, including:

- there is a heritage building to the rear 10 Argyle Street at the rear (See Figure 27)
- the property is located on Nicholson Street which is a principal road with tram lanes
- the property is opposite is a Homes Victoria 16 and 18 storey development
- the abutting property at 246 Nicholson Street has approval for an 8 storey development.

Figure 27 10 Argyle Street, rear of 260 Nicholson Street – street view



Source: Document 158, Merlatti submission

It referred to the new Clause 11.03-1L which includes a strategy to

Support mid-rise developments along the north side of Johnston Street and Nicholson Street...

It noted the BFF proposed building heights of 6-9 storeys.

Merlatti submitted mandatory provisions are not appropriate and the proposed provisions unduly limit development potential on the site. It supported the evidence of Prof McGauran, who recommended (in his recommendation 14) the mandatory building heights for 246 and 260 Nicholson Street be increased to 9 storeys/31 metres.

It sought:

- discretionary street wall requirements
- for Argyle Street street wall to be 4 storeys
- upper level setback to Nicholson Street of 3 metres
- removal of the requirement for street setbacks to match heritage buildings.

Prof McGauran recommended 9 storeys for these properties (see Figure 28) and also recommended discretionary 4 metre street wall height for Argyle, Nicholson and Johnston Street interfaces for the properties (see Figure 29).

³⁵ Document 158, Merlatti submission

Figure 28 BFO15 – Prof McGauran recommended building heights



Figure 29 BFO15 – Prof McGauran recommended street wall heights



Source: Document 88, Prof McGauran expert statement

Council recommended (see Figure 23 and Table 15):

- mandatory building heights, transitioning down (9, 7 and 5 storeys) from Nicholson Street to the rear heritage building
- discretionary 4 storey street wall heights to Nicholson and Argyle Streets.

Discussion

Nicholson Street is a key transport corridor and there are significantly taller buildings opposite the property to the west (Homes Vic developments). As identified in the BFF, together these properties offer a significant development 'opportunity parcel'. As noted

by Prof McGauran, there is potential for site consolidation and an enhanced urban outcome.

The Committee agrees with Prof McGauran's recommendations for these properties including the maximum 9 storey building height and discretionary 4 storey street wall to Argyle, Nicholson and Johnston Street.

The Committee does not agree with the submitter's request to remove street setbacks to match heritage buildings. The Committee supports Council's Day 2 BFO15 upper level setbacks as follows:

- Johnston Street – 6 metres mandatory
- Argyle and Nicholson – 6 metres discretionary
- side streets – 3 metres discretionary.

(v) 24-26, 28, 30 and 41-49 Johnston Street, Fitzroy

Evidence and submissions

Prof McGauran recommended (in his recommendation 8) to amend the discretionary street wall for (see Figure 29):

- Johnston Street and Spring Street interfaces of 41-49 Johnston Street from 3 storeys to 4 storeys
- Johnston Street interface of 24-26, 28 and 30 Johnston Street from 2 storeys to 4 storeys.

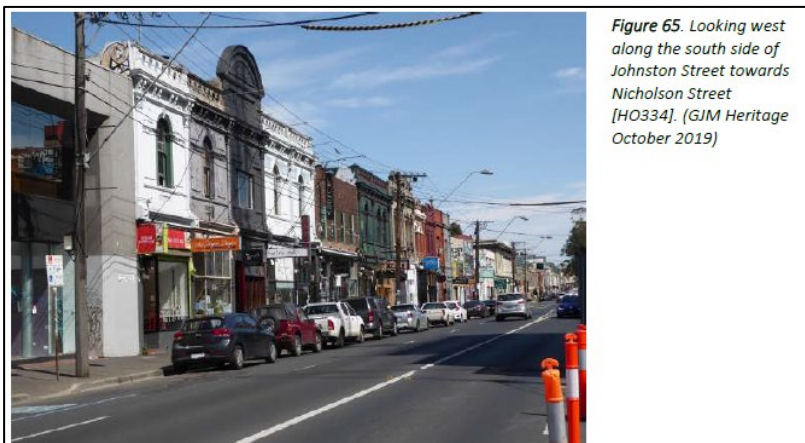
Mr Gard'ner agreed and explained the street wall heights are tailored to respond to existing heritage fabric, with 2 – 3 storey street wall heights proposed for more intact areas. Mandatory provisions will ensure prominence of the street wall height is maintained along frontages.

Mr Gard'ner agreed with Prof McGauran's recommendation relating to 41-49 Johnston Street, but disagreed with the recommendation for 24-26, 28 and 30 Johnston Street. He said *"the southern side of Johnston Street has a strong consistent two storey street wall"*³⁶, with reference to his Figure 65 (see Figure 30 below).

Council supported the experts' recommendation to amend the street wall heights for 41-49 Johnston Street, but accepted Mr Gard'ner's advice regarding for 24-26, 28 and 30 Johnston Street and did not support any change.

³⁶ Document 95, Mr Gard'ner reply evidence statement

Figure 30 Mr Gard'ner's Figure 65: Johnston Street – street view



Source: Document 86, Mr Gard'ner expert statement

Discussion

The Committee supports the changes proposed by Prof McGauran for 24-26, 28, 30 and 41-49 Johnston Street.

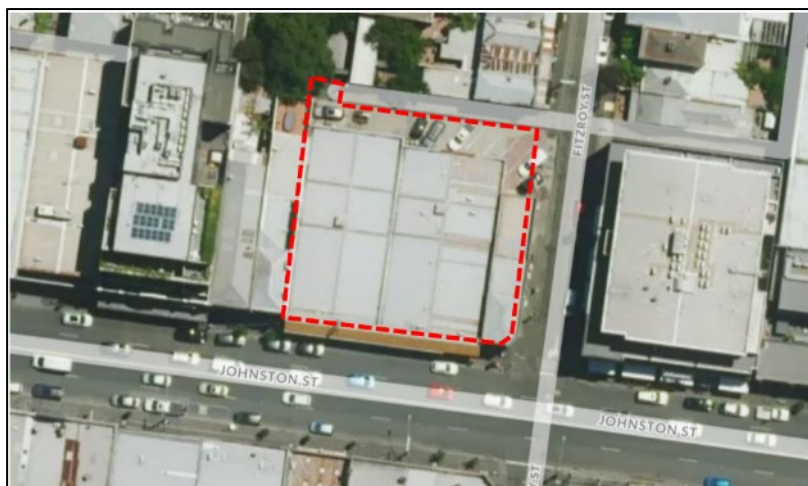
This area of Johnston Street is an opportunity for additional growth. It does not have the heritage integrity of Brunswick Street, has less sensitive interfaces and provides an important opportunity to accommodate additional growth.

(vi) 67-83 Johnston Street, Fitzroy

What is proposed?

The properties are located on the north side of Johnston Street, with the heritage building at 83 Johnston Street located on the corner of Fitzroy Street (see Figure 31).

Figure 31 67 – 83 Johnston Street, Fitzroy – map



The draft Amendment proposes to apply mandatory:

- building height of 8 storeys for 67 Johnston Street and 4 storeys for 83 Johnston Street
- upper level setback of 6 metres

- street wall height of 3 storeys for 67 Johnston Street and no higher than the adjoining heritage property for a minimum of 6 metres.

Evidence and submissions

One submitter sought discretionary controls for the property, stating this was consistent with policy and development potential for the site.

It also sought a taller street wall height and recommended 14.4 metres consistent with the BFF. It said there was no justification for the mandatory control that is not consistent with the BFF.

Mr Gard'ner advised:

It is my view that the mandatory maximum building height and upper-level setback is necessary to protect the visual primacy of the two-storey street wall on this main thoroughfare. I agree with Submitter 51 in relation to the requirement for the street wall height to match the adjoining heritage being articulated as discretionary rather than mandatory...³⁷

Mr Gard'ner agreed with the submitter the street wall height should be discretionary 4 storeys (14 metres). He stated *"in my opinion the absence of a strong or consistent heritage context along the northern side of this part of Johnston Street makes a 14.4m street wall appropriate"*.³⁸

Council proposed 4 storey street wall height for 67 Johnston Street. It did not support other changes in response to the submission.

Discussion

The Committee agrees with Mr Gard'ner and Council that a discretionary 4 storey street wall height for 67 Johnston Street is appropriate. For consistency along Johnston Street, the Committee supports a mandatory 6 metre upper level setback to Johnston Street.

(vii) Finding and recommendations

The Committee finds the building envelope provisions for BFO15 are appropriate, subject to its recommendations.

The Committee recommends:

In Built Form Overlay Schedule 15:

- d) amend Table 1 to show discretionary 8 storey building height for 95-103 Johnston Street**
- e) amend Map 2 to show mandatory 9 storey building height for 246 and 260 Nicholson Street (as shown in Figure 28)**
- f) amend Map 3 and Table 3 to show discretionary 4 storey street wall height for Argyle, Nicholson and Johnston Street (as shown in Figure 29)**
- g) amend Map 3 to show discretionary 4 storey street wall heights for:**
 - **Johnston Street and Spring Street interfaces of 41-49 Johnston Street**
 - **Johnston Street interface of 24-26, 28 and 30 Johnston Street**
 - **67 Johnston Street.**

³⁷ Document 86, Mr Gard'ner expert statement

³⁸ Document 86, Mr Gard'ner expert statement

5.9 BFO16 – Brunswick Street Grand Residential

(i) What is proposed?

The development objectives for Brunswick Street Grand Residential are:

To ensure development responds to the heritage character and open streetscape of Brunswick Street by supporting:

- The retention of the low-rise character (generally up to 4 storeys) along the west side of Brunswick Street with development being located behind the heritage buildings.
- A low-rise character (up to 4 storeys) along the east side of Brunswick Street behind the low, varied street wall.

To retain view lines to St Patrick's Cathedral and the St Luke's Church and the prominence of the 'grand' residential heritage buildings on the west side of Brunswick Street.

To ensure development maintains the varied heritage street wall and buildings on the east side through recessive upper levels and façade composition and articulation that complements the Brunswick Street character.

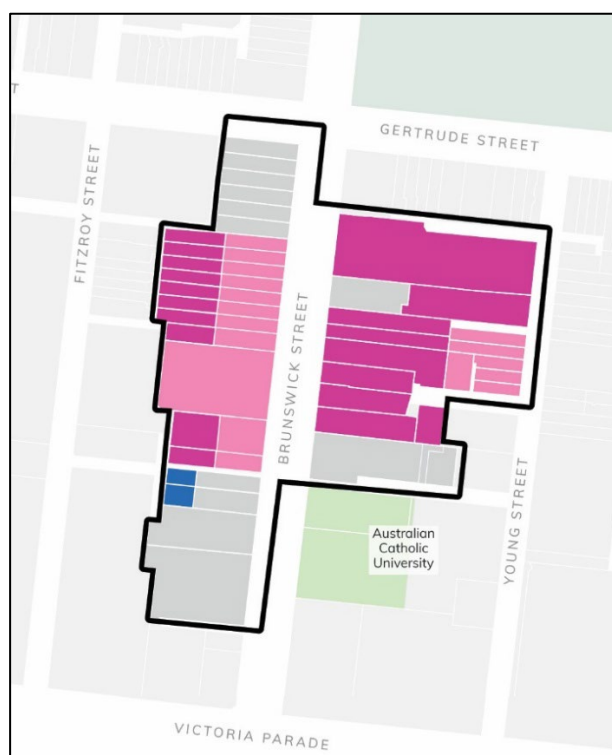
To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on Brunswick Street, side streets and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO16:

- building heights (Figure 32)
- street wall and front wall heights (Figure 33).

Figure 32 Day 2 BFO16 – Map 2: Building heights



Maximum Building Heights

- | | | |
|---------------------|-------------------|---|
| Limited opportunity | 4 storeys / 15.0m | |
| 3 storeys / 11.2m | 7 storeys / 24.0m | |

Figure 33 Day 2 BFO16 – Map 3: Landscaped setbacks and street wall and front wall heights

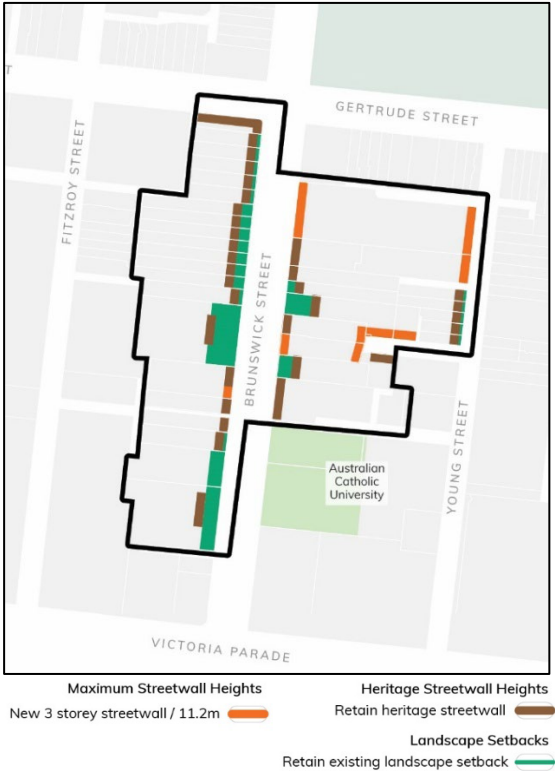


Table 16 shows Council’s proposed Day 2 BFO16 proposed mandatory and discretionary built form provisions.

Table 16 BFO16 - Brunswick Street Grand Residential building envelope controls

	Day 2 BFO16
Building heights (Standard BF02)	MANDATORY: Area 1: 3 storeys 11.2 metres Area 2: 4 storeys 15 metres Area 3: 7 storeys 24 metres <i>Note - Area references relate to the building height map above</i>
Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Brunswick Street: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary DISCRETIONARY: Any opposite kerb outstand, seating, or planting area (as applicable): no overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	MANDATORY: Interface 1: 3 storeys 11.2 metres Heritage: retain heritage street wall <i>Note – Interface references relate to the street wall and front wall heights plan above</i> DISCRETIONARY: Retain existing landscaped setback where shown on Map 3.

	Retain heritage street wall for minimum length of 6 metres along front boundary.
Setbacks above street wall and front wall (Standard BF05)	MANDATORY: On the east side of Brunswick Street: 8 metres DISCRETIONARY: On the west side of Brunswick Street: behind the existing heritage building as indicated on Map 3
Wall on rear boundary (Standard BF06)	DISCRETIONARY: NRZ whether or not separated by a laneway: 8 metres MUZ whether or not separated by a laneway: 11.2 metres C1Z whether or not separated by a laneway: 11.2 metres
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings) Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings)

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO16.

(iii) Discussion

There were no site specific submissions relating to BFO16.

The Committee has recommended changes to BFO16 in other chapters of this report, including changes to Standard BF02 and upper level setbacks, (see Chapter 4).

(iv) Finding

The Committee is satisfied the building envelope provisions in BFO16 are appropriate, subject to its recommendations as show in Volume 2 of this Report.

5.10 BFO17 - Fitzroy Town Hall and Back Blocks

(i) What is proposed?

The development objectives for Fitzroy Town Hall and Back Blocks are:

To ensure development supports a low-rise to mid-rise character (ranging from 3 to 6 storeys) in the Fitzroy Town Hall precinct and back blocks behind Brunswick Street.

To ensure development retains view lines to the Fitzroy Town Hall clock tower from the western corner of Kent Street and Moor Street.

To ensure development respects the low-scale heritage street wall and buildings through recessive upper levels and façade composition and articulation that complements the mixed industrial and residential character of each area.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and

protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO17:

- building heights (Figure 34)
- street wall and front wall heights (Figure 35).

Figure 34 Day 2 BFO17 – Map 2a, 2b and 2c: Building heights



Figure 35 Day 2 BFO17 – Map 3a, 3b and 3c: Street wall and front wall heights and landscaped setbacks

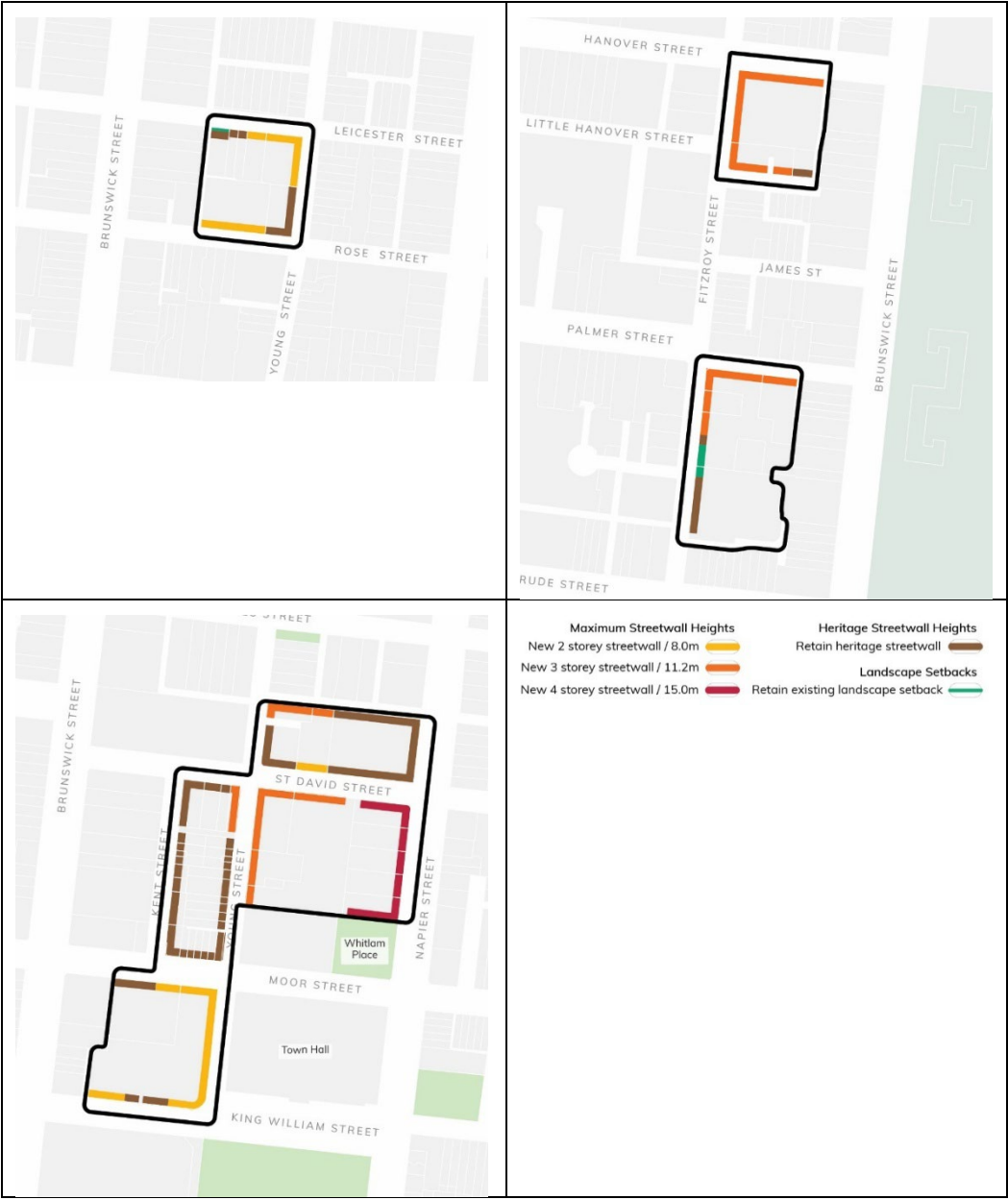


Table 17 shows Council’s proposed Day 2 BFO17 proposed mandatory and discretionary built form provisions.

Table 17 BFO17 - Fitzroy Town Hall and Back Blocks building envelope controls

Day 2 BFO17	
Building heights (Standard BF02)	DISCRETIONARY:
	Area 1: 3 storeys 11.2 metres
	Area 2: 4 storeys 15 metres
	Area 3: 5 storeys 18 metres
	Area 4: 6 storeys 21 metres
	<i>Note - Area references relate to the building height map above</i>

Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Streets of 15 metres or more in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary A public open space, reserve or parklet: no additional overshadowing between 10am–2pm on 22 September DISCRETIONARY: Streets less than 15 metres in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstand, seating or planting area (as applicable): no overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	MANDATORY: Interface 1: 2 storeys 8 metres Interface 2: 3 storeys 11.2 metres Interface 3: 4 storeys 15 metres Heritage: retain heritage street wall <i>Note – Interface references relate to the street wall and front wall heights plan above</i> DISCRETIONARY: Retain existing landscaped setback where shown on Map 3. Retain heritage street wall for minimum length of 6 metres along front boundary.
Setbacks above street wall and front wall (Standard BF05)	DISCRETIONARY: On the primary frontage except on King William Street or Fitzroy Street: 6 metres On the primary frontage on King William Street or Fitzroy Street: 8 metres On side streets: 3 metres
Wall on rear boundary (Standard BF06)	MANDATORY: 11.2 metres where a street wall and front wall height is specified for the boundary on Map 3. DISCRETIONARY: Development should respond to existing secluded private open spaces by setting back at upper levels to create a sense of separation, minimise overshadowing and reduce building bulk.
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings) Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings)

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO17 including:

- 64-66 and 68-70 Hanover Street, Fitzroy.

(iii) 64–66 and 68–70 Hanover Street, Fitzroy

What is proposed?

The site is located at 64–66 and 68–70 Hanover Street, to the west of Brunswick Street (see Figure 36).

Figure 36 64–66 and 68–70 Hanover Street – aerial



The draft Amendment proposes to apply:

- discretionary 6 storey building height
- mandatory 3 storey street wall height
- discretionary upper level setbacks – 6 metres on primary frontage except Fitzroy Street, 8 metres on primary frontage on Fitzroy Street and 3 metres on side streets.

Evidence and submissions

Crude sought a discretionary 8 storey building height, discretionary 4 storey street wall height and reduced upper level setbacks to 5 metres. Crude submitted the property is in the back blocks of the sensitive heritage streetscape of Brunswick Street and does not have significant development constraints. While the WHEA is nearby, the site is large enough to provide a suitable transition. It said there was no testing supporting Mr Gard'ner's evidence.

Regarding the mandatory street wall, Crude said the guidelines in PPN59 and PPN60 were not satisfied, and there was no evidence to demonstrate the exceeding the provision would result in unacceptable outcomes. The BFF identifies the site as a back bloc infill site and nominates a 3 storey street wall. The Draft Heritage Recommendations Report intended for mandatory provisions to be applied to the Brunswick Street corridor itself rather than back blocks.

Regarding upper level setbacks it said the 6 and 8 metre proposed setbacks were unfounded and not strategically justified.

Ms Rigo advised:

When comparing this background strategic work with BFO17, I note there is not an exact alignment between BFO17 and the Town Hall & Back Blocks precinct identified within the background work and the coverage and extent the proposed overlay. Notwithstanding this, I

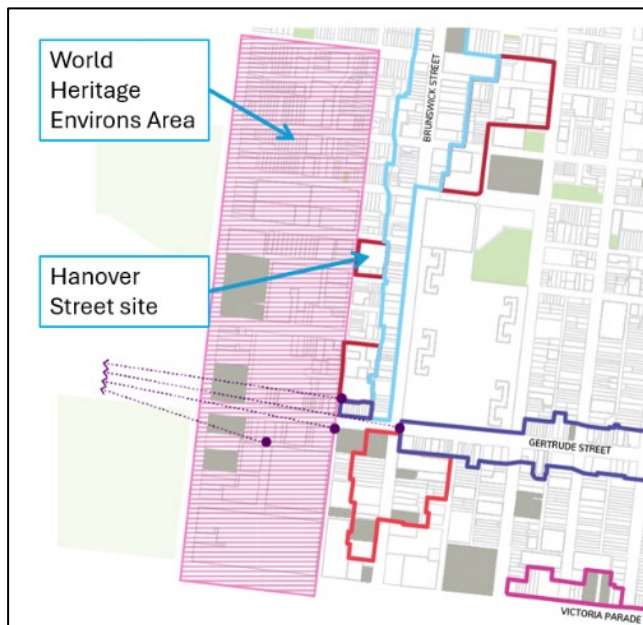
note that the BFO17 has translated and captured all key aspects of this background work and its recommendations.³⁹

Mr Gard'ner stated:

While this site is larger than typical, it is located in a generally low-rise, fine-grained heritage precinct and massing greater than what is proposed within BFO17 would, in my view, likely visually dominate the immediate context.

Council relied on the evidence of Mr Gard'ner and did not propose to change the provisions. It said the provisions were appropriate including 6 storey building height, given the narrow width of Fitzroy Street and low scale residential area to the west, the proximity to the WHEA (see Figure 37).

Figure 37 WHEA / Hanover Street site – map



Source: Document 107e, Attachment to Council Part B submission (expert and marked up)

Discussion

The Committee supports the proposed discretionary 6 metre building height and recommends:

- discretionary 3 metre street wall
- discretionary 6 metre upper level setback for primary frontage and discretionary 3 metre upper level setback on all streets.

This is an important strategic development site that can accommodate increased development while managing and protecting sensitive interfaces. The site abuts but is outside the WHEA to the west (with a non-sensitive interface). The Committee is satisfied combination of built form controls can achieve acceptable heritage outcomes while providing greater development opportunity.

³⁹ Document 89, Ms Rigo expert statement

(iv) Finding and recommendations

The Committee finds the building envelope provisions for BFO17 are appropriate, subject to its recommendations.

The Committee recommends:

In Built Form Overlay Schedule 17, as shown in Volume 2 of this Report:

a) amend Table 4 to apply the following provisions to 64-66 and 68-70

Hanover Street:

- **discretionary 6 metre upper level setback for primary frontage**
- **discretionary 3 metre upper level setback on all streets.**

In Built Form Overlay Schedule 17:

b) amend Map 3 and Table 3 to show a discretionary 3 metre street wall to 64-66 and 68-70 Hanover Street.

5.11 BFO18 – Johnston Street South and Victoria Street

(i) What is proposed?

The development objectives for Johnston Street South and Victoria Street are:

To ensure development responds to the heritage character and varied streetscape by supporting:

- a mid-rise character (ranging from 3 to 8 storeys) behind a consistent street wall along Victoria Street.
- a low-rise to mid-rise character (ranging from 3 to 6 storeys) behind a low street wall between Johnston, Victoria and Chapel Streets.

To retain the prominence and integrity of corner heritage buildings, particularly the former AvonButter Factory and heritage warehouse buildings on Victoria Street.

To ensure development respects the heritage street wall and buildings through recessive upper levels and façade composition and articulation that complement:

- the commercial character of Johnston Street.
- the varied commercial and residential character along side and rear streets.
- the heritage warehouse streetscape of Victoria Street.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on Victoria Street, opposite footpaths of Kerr, George and Gore Streets and properties south of Chapel Street, including the primary school.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO18:

- building heights (Figure 38)
- street wall and front wall heights and landscaped setbacks (Figure 39).

Figure 38 Day 2 BFO18 – Map 2a and 2b: Building heights



Figure 39 Day 2 BFO18 – Map 3a and 3b: Street wall and front wall heights and landscaped setbacks





Table 18 shows Council’s proposed Day 2 BFO18 proposed mandatory and discretionary built form provisions.

Table 18 BFO18 – Johnston Street South and Victoria Street building envelope controls

	Day 2 BFO18
Building heights (Standard BF02)	MANDATORY: Area 1: 3 storeys 11.2 metres Area 2: 4 storeys 15 metres Area 3: 5 storeys 18 metres Area 4: 6 storeys 21 metres Area 5: 8 storeys 28 metres <i>Note – Area references relate to the building height map above</i>
Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Streets of 15 metres or more in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary DISCRETIONARY: Streets less than 15 metres in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstands, seating and/or planting areas (as applicable): no overshadowing between 10am–2pm on 22 September Land within a Public Use Zone, south of Chapel Street: no overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	MANDATORY: Interface 1: 2 storeys 8 metres Interface 2: 3 storeys 11.2 metres Interface 3: 4 storeys 15 metres Heritage: retain heritage street wall <i>Note – Interface references relate to the street wall and front wall heights plan above</i>

	DISCRETIONARY: Retain landscaped setback where shown on Map 3. Retain heritage street wall for minimum length of 6 metres along front boundary.
Setbacks above street wall and front wall (Standard BF05)	MANDATORY: On Johnston Street: 6 metres On the north side of Victoria Street: 6 metres DISCRETIONARY: On Chapel Street: 6 metres Individually significant and contributory heritage buildings on side streets: 6 metres Non-contributory heritage buildings on side streets: 3 metres
Wall on rear boundary (Standard BF06)	DISCRETIONARY: NRZ whether or not separated by a laneway: 8 metres MUZ whether or not separated by a laneway: 11.2 metres C1Z whether or not separated by a laneway: 11.2 metres
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings) Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings) Development over 27 metres: set back by a minimum of 6 metres

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO18 including:

- 188 – 200 Johnston Street, Fitzroy
- 206 – 208 and 218-226 Johnston Street and 1 and 3 Elliot Street, Fitzroy
- 124 Johnston Street, Fitzroy
- 341 George Street, Fitzroy.

(iii) 188–200 Johnston Street, Fitzroy

Evidence and submissions

Ms Burdett requested the building height for 188 – 200 Johnston Street be increased to 7 storeys. Ms Burdett sought to retain the heritage and landscape setbacks, and was satisfied with the mandatory building heights, but said a taller building height would provide opportunity to consolidate the lots.

Council relied on the evidence of Mr Gard'ner and Prof McGauran and did not support the change proposed by the submitter.

Discussion

The Committee agrees with Council to retain the exhibited building height because this is a row of low-rise fine grain heritage residences on narrow and short lots. The proposed 7 storeys would be excessive in this location.

(iv) 206-208 and 218-226 Johnston Street and 1 and 3 Elliot Street, Fitzroy

Evidence and submissions

Prof McGauran recommended (in his recommendation 13) applying a 5 storey building height to (see Figure 40):

- 206-208 Johnston Street, Fitzroy (bounded by George and Elliot Streets)
- 218-226 Johnston Street and 1 and 3 Elliot Street, Fitzroy.

Figure 40 BFO18 – Prof McGauran recommended building heights



Mr Gard'ner did not agree with Prof McGauran, stating that 1 and 3 Elliot Street are contributory single storey houses. He said a 5 storey building would dominate these properties.

Council agreed with Mr Gard'ner.

Discussion

The Committee prefers the evidence of Prof McGauran. This is not a highly intact heritage streetscape and the Committee is satisfied there is potential for greater development opportunity. The combination of built form and heritage controls will ensure a development proposal considers and manages impacts on heritage.

(v) 124 Johnston Street, Fitzroy

Evidence and submissions

Prof McGauran recommended (in his recommendation 8) reducing the street wall height from 3 storeys to 2 storeys for 124 Johnston Street, Fitzroy.

Mr Gard'ner agreed, stating this will achieve an improved heritage outcome by maintaining the consistent two storey street wall between 122-136 Johnston Street, and protect the three storey Mansard-roofed building at 120 Johnston Street.

Council supported this change, which is shown in the Day 2 BFO18.

Discussion

The Committee supports this change.

(vi) 341 George Street, Fitzroy

Evidence and submissions

Prof McGauran recommended (in his recommendation 13) to apply an 8 storey building height to 341 George Street, Fitzroy.

Mr Gard'ner and Council agreed with Prof McGauran's recommendation.

Discussion and findings

Council and the experts agreed an 8 storey building height should apply to 341 George Street, Fitzroy. The Committee agrees.

The Committee has reviewed Council's Day 2 BFO18 and it appears the site is shown as a 7 storey building height rather than 8 storeys (see Figure 41). This should be corrected in Map 2 of BFO18.

Figure 41 241 George Street – Day 2 BFO18 (with Committee markup)



(vii) Finding and recommendations

The Committee finds the building envelope provisions for BFO18 are appropriate, subject to its recommendations.

The Committee recommends:

In Built Form Overlay Schedule 18:

a) amend Map 2 to apply a mandatory 5 storey building height to (as shown in Figure 40):

- 206-208 Johnston Street (bounded by George and Elliot Streets)
- 218-226 Johnston Street and 1 and 3 Elliot Street.

- b) amend map 2 to apply a mandatory 8 storey building height to 341 George Street.**

5.12 BFO19 – Fitzroy East and Johnston Street North

(i) What is proposed?

The development objectives for Fitzroy East and Johnston Street North are:

To ensure development responds to the heritage character and streetscape by supporting:

- a new mid-rise character (ranging from 6 to 9 storeys) with a new prominent street wall along the northern side of Johnston Street and scale of development transitioning down to Argyle Street.
- mid-rise development (ranging from 3 to 8 storeys) in the mixed use precinct in Fitzroy East, north of Argyle Street, which ensures the varied but low heritage street wall remains the visually dominant element of the streetscape and upper level developments are recessive providing a clear visual distinction between lower street walls and upper level development.

To ensure the façade composition and articulation development responds to:

- the commercial character of Johnston Street.
- the varied industrial and residential heritage character of Fitzroy East.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on the southern side of Johnston Street, opposite footpaths of Kerr, George and Gore Streets and upper levels along the south side of Argyle Street.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO19:

- building heights (Figure 42)
- street wall and front wall heights (Figure 43).

Figure 42 Day 2 BFO19 – Map 2: Building heights

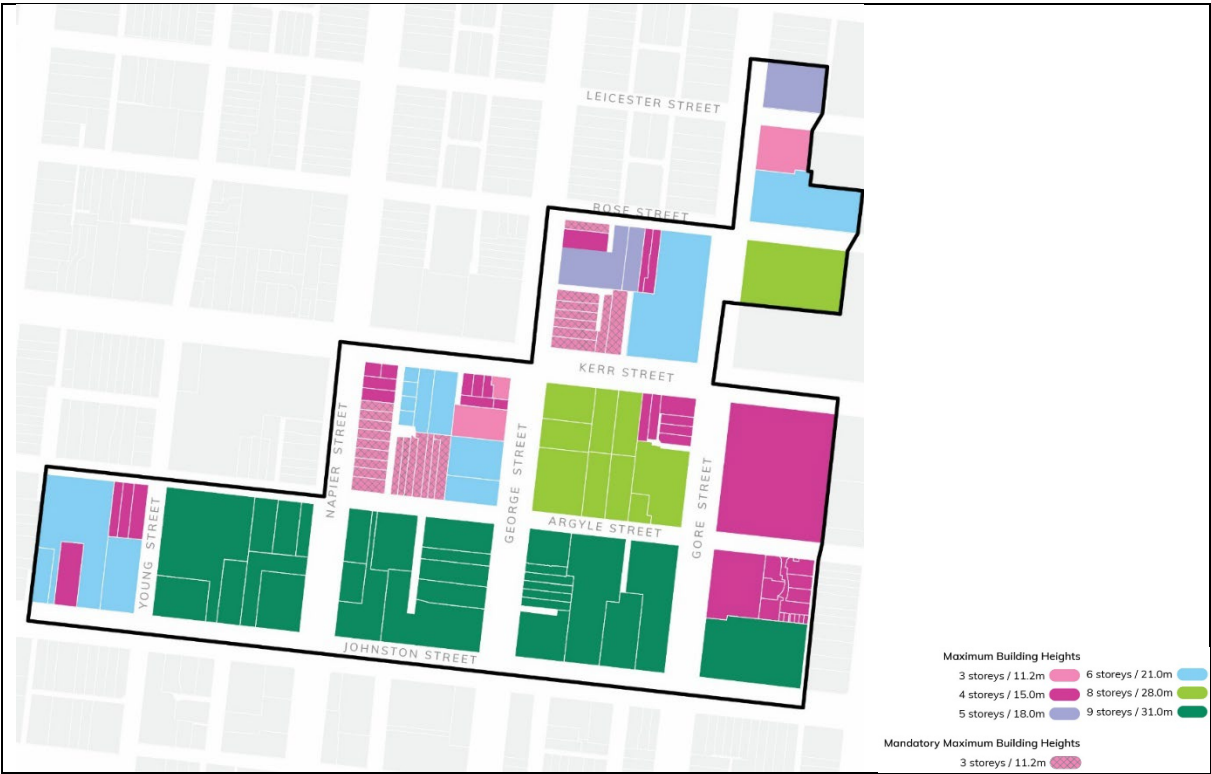


Figure 43 Day 2 BFO19 – Map 3: Street wall and front wall heights and landscaped setbacks



Table 19 shows Council’s proposed Day 2 BFO19 proposed mandatory and discretionary built form provisions.

Table 19 BFO19 – Fitzroy East and Johnston Street North building envelope controls

	Day 2 BFO19
Building heights (Standard BF02)	MANDATORY: All Hatched: 3 storeys 11.2 metres DISCRETIONARY: Area 1: 3 storeys 11.2 metres Area 2: 4 storeys 14.4 metres Area 3: 5 storeys 18 metres Area 4: 6 storeys 21 metres Area 5: 8 storeys 28 metres Area 6: 9 storeys 31 metres <i>Note – Area references relate to the building height map above</i>
Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Streets of 15 metres or more in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary DISCRETIONARY: Streets less than 15 metres in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstand, seating, or planting area (as applicable): no overshadowing between 10am–2pm on 22 September Properties fronting the south side of Argyle Street from the first floor upwards: no overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	
Setbacks above street wall and front wall (Standard BF05)	DISCRETIONARY: On Argyle Street: 10 metres On all other streets: 6 metres
Wall on rear boundary (Standard BF06)	MANDATORY: 11.2 metres DISCRETIONARY: Development above the street wall or front wall on the primary street frontage must be set back by a minimum of 6 metres. Development above a secondary street wall should be set back by 6 metres.
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings) Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings) Development over 27 metres: set back by a minimum of 6 metres

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO19 including:

Council agreed that buildings taller than 9 storeys may be designed with acceptable planning outcomes, and accordingly the height provisions are discretionary. Council did not support increasing the discretionary maximum building height. It advised an application would be assessed on its merits against the requirements in BFO19, including those relating to *"variations to discretionary building height standards"*.⁴⁰

Council noted that Prof McGauran did not recommend an increase in building height for the land. It proposed changes to Standard BF05 for heritage street wall requirements to be discretionary, in response to Mr Gard'ner's evidence.

Discussion

The Committee has addressed issues relating to overshadowing in Chapter 5.4.2.

The Committee is satisfied the proposed planning provisions are appropriate for the site. Appropriately, the building height provisions are discretionary, and a proposal for a taller building can be tested on its merits through a planning permit assessment process

(iv) 430 – 434 George Street, Fitzroy

Evidence and submissions

One submitter sought to increase the maximum building height for 430-434 George Street from 5 storeys to 6 storeys. The current (interim) DDO schedule allows 6 storeys and the proposal is for a 5 storey building.

Prof McGauran recommended (in his recommendation 6) to amend the maximum street wall height for 430-434 George Street from 3 storeys to 2 storeys on the George Street interface. He referred to a recent VCAT decision relating to 430 George Street which recommended 2 storey street wall height, and overall building height to be 6 storeys. He added, the property is far more embedded with the low scale historic Fitzroy neighbourhood than larger properties along its main street interfacing edge.

Mr Gard'ner agreed with the reduced street wall height stating it will achieve an improved heritage outcome.

Ms Rigo believed the one storey difference was not significant the context of discretionary controls.

Council supported Prof McGauran's recommendation.

Discussion

BFO19 proposes a range of building heights in this block (see Figure 45).

⁴⁰ Document 174, Council Part C submission

Figure 45 430-434 George Street – building heights



The Committee accepts the two storey street wall is acceptable in the context of the site. This is shown in Council's Day 2 BFO19. The discretionary 5 storey building height is appropriate. Both built form provisions are appropriate because they are justified based on a built form assessment within the context of surrounding heritage buildings. Any proposal that exceeds these metrics should be assessed through a planning permit application.

(v) 121-123, 125-129, 131-135, and 137-141 Johnston Street, Fitzroy

Evidence and submissions

Prof McGauran recommended (in his recommendation 8) to increase the discretionary street wall height from 3 storeys to 4 storeys to the properties at 121-123, 125-129, 131-135, and 137-141 Johnston Street including their eastern interface with Young Street.

Mr Gard'ner agreed with Prof McGauran and identified some errors in the mapping showing 'retain heritage wall' on some non-heritage buildings (121-123 and 131-135 Johnston Street). The proposed increased street wall is unlikely to have any adverse heritage impacts.

Council supported Prof McGauran's recommendation.

Discussion

The Committee supports the changes proposed by Prof McGauran. The taller street walls will provide some design flexibility and growth opportunity.

It is not clear in the Day 2 BFO19 if the mapping errors relating to 'retain heritage wall' identified by Mr Gard'ner have been resolved. Map 3 should be reviewed and if necessary amended to correct the application of 'retain heritage wall' to properties on Johnston Street.

(vi) Finding and recommendation

The Committee finds the building envelope provisions for BFO19 are appropriate, subject to its recommendations.

The Committee recommends:

In Built Form Overlay Schedule 19:

- c) review, and if necessary, amend Map 3 to accurately reflect heritage walls.**

5.13 BFO20 – Smith Street North and South

(i) What is proposed?

The development objectives for Smith Street North and South are:

To ensure development responds to the heritage character and varied, open streetscape by supporting:

- a new mid-rise character (ranging from 6 to 10 storeys) along Smith Street behind a consistent low street wall.
- a new low-rise to mid-rise character (ranging from 3 to 6 storeys) along side and rear streets.

To retain the prominence and integrity of heritage warehouses and corner heritage buildings, particularly at Smith Street intersections.

To ensure development respects the low-scale heritage street wall and buildings through recessive upper levels and façade composition and articulation that complements the commercial character of Smith Street and the mixed industrial and residential character of side and rear streets.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on Smith, Emma, Westgarth, Leicester, Hotham and Kerr Streets and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO20:

- building heights (Figure 46)
- street wall and front wall heights (Figure 47).

Figure 46 Day 2 BFO20 – Map 2: Building heights



Figure 47 Day 2 BFO20 – Map 3: Street wall and front wall heights



Table 20 shows Council’s proposed Day 2 BFO20 proposed mandatory and discretionary built form provisions.

Table 20 BFO20 – Smith Street North and South building envelope controls

	Day 2 BFO20
Building heights (Standard BF02)	DISCRETIONARY: Area 1: 3 storeys 11.2 metres Area 2: 4 storeys 15 metres Area 3: 5 storeys 18 metres Area 4: 6 storeys 21 metres Area 5: 7 storeys 24 metres Area 6: 8 storeys 28 metres Area 7: 9 storeys 31 metres Area 8: 10 storeys 34 metres <i>Note - Area references relate to the building height map above</i>
Overshadowing of open space or public realm (Standard BF04)	MANDATORY: Streets of 15 metres or more in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary
	DISCRETIONARY:

	Streets less than 15 metres in width: no overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary Any opposite kerb outstands, seating and/or planting areas (as applicable): no overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	DISCRETIONARY: Interface 1: 2 storeys 8 metres Interface 2: 3 storeys 11.2 metres Heritage: retain heritage street wall <i>Note – Interface references relate to the street wall and front wall heights plan above</i> Retain existing landscaped setback where shown on Map 3. Smith Street development should provide a street wall or front wall no higher than the street wall or front wall height of an adjoining heritage building for a minimum length of 6 metres along front boundary.
Setbacks above street wall and front wall (Standard BF05)	MANDATORY: On Smith Street, where the Heritage Overlay applies: 8 metres DISCRETIONARY: On Smith Street, where no Heritage Overlay applies: 8 metres On side streets: 6 metres
Wall on rear boundary (Standard BF06)	MANDATORY: Contain within 45-degree setback envelope (does not apply to C1Z, C2Z and/or MUZ interfaces). DISCRETIONARY: NRZ whether or not separated by a laneway: 8 metres GRZ where there is no existing laneway: 8 metres GRZ where there is an existing laneway: 11.2 metres MUZ whether or not separated by a laneway: 11.2 metres C1Z whether or not separated by a laneway: 11.2 metres
Building separation (Standard BF06)	DISCRETIONARY: Habitable window or balcony: set back by a minimum of 4.5 metres (9 metres for multiple buildings) Commercial or non-habitable window: set back by a minimum of 3 metres (6 metres for multiple buildings) Development over 27 metres: set back by a minimum of 6 metres

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO20 including:

- 454-464 Smith Street and 35-53 Emma Street, Collingwood
- 148 and 150 Cecil Street, Collingwood
- 12 Smith Street, Collingwood
- Various properties – southern section
- 1 Mater Street, Collingwood.

(iii) 454-464 Smith Street and 35-53 Emma Street, Collingwood

What is proposed?

The Koulloupas Holdings land relates to (see Figure 48):

- 454-464 Smith Street and 35-53 Emma Street, Collingwood (BFO20)
- 5-9 Alexandra Parade, Collingwood (BFO21).

Figure 48 454-464 Smith Street, 35-53 Emma Street and 5-9 Alexandra Parade – aerial map



The draft Amendment proposes to apply:

- discretionary building heights as follows:
 - 454-464 Smith Street – 7 storeys (BFO20)
 - 35-53 Emma Street – 5 storeys (BFO20)
 - 5-9 Alexandra Parade – 7 storeys (BFO21)
- discretionary street wall heights of 2 and 3 storeys for the Smith and Emma Street sites.

Evidence and submissions

Koulloupas Holdings submitted the provisions were too conservative for the site, noting there are taller developments around 10-11 storeys. It sought:

- discretionary building height of 10-14 storeys for the Smith Street and Alexandra Parade land
- discretionary height of 9 storeys for the Emma Street land
- street wall heights of greater than 3 storeys for the Smith Street and Emma Street land
- deletion of the building separation of 6 metres above 27 metres
- deletion of the discretionary 11.2 metre maximum rear boundary wall height within C1Z.

Koulloupas Holdings considered the proposed heights do not respond to the emerging policy context, with reference to building heights of up to 20 storeys in activity centres approved through Amendment GC270. The 5-9 Alexandra Parade property previously had a permit for 10 storeys (which has lapsed) and the interim DDO38 includes a discretionary building height of 10 storeys.

Koulloupas Holdings submitted the Smith Street BFF identifies the norther end of Smith Street has development potential due to larger lots and limited heritage fabric. It explained the sites are identified as opportunity sites (Smith and Emma Street sites) and for higher density development (Alexandra Parade site).

Ms Rigo noted the building height and street wall height provisions relating to these properties are discretionary and she did not see any reason to increase the heights.

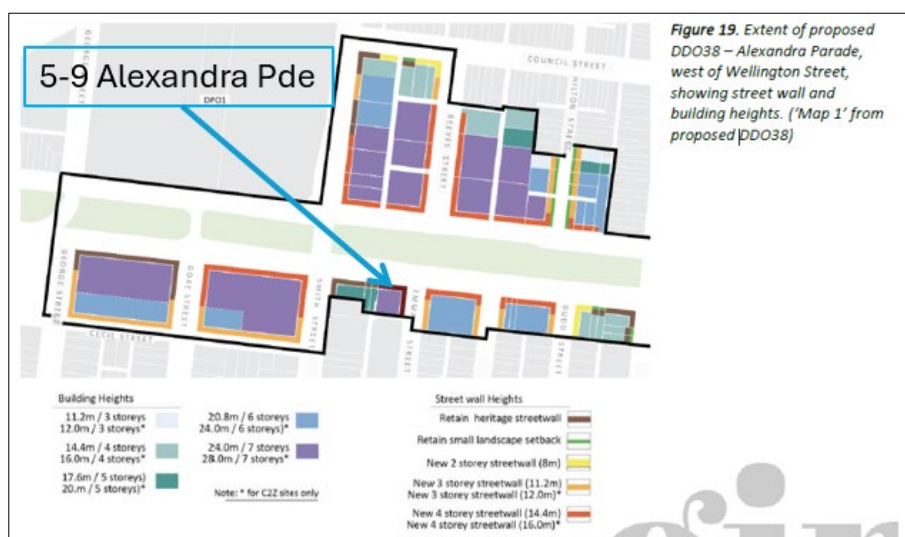
Council did not recommend any change to BFO20 in response to the submission.

Discussion

The Smith and Emma Street (BFO20) sites building heights align with the metrics in the Smith Street BFF, however the Alexandra Parade BFF shows 5-9 Alexandra Parade as 10 storeys. The BFF also identifies 5-9 Alexandra Parade as having significant infill potential.

It is unclear why 7 storeys is proposed for the Alexandra Parade site, however it is noted the Draft Heritage Recommendations Report shows the property as 7 storeys and recommends building heights reflect this plan (see Figure 49).

Figure 49 5-9 Alexandra Parade – Draft Heritage Recommendations Report



The 7 storey recommendation appears to be derived from the heritage recommendations. This is appropriate in the context of the immediately abutting heritage properties. BFO21 appropriately proposes a discretionary 4 storey street wall for the Alexandra Parade site, and any development will respond appropriately to this heritage interface.

The discretionary rear boundary and building separation provisions are appropriate because they are justified based on a built form assessment.

The Committee does not recommend any changes to BFO20 for this site.

(iv) 148 and 150 Cecil Street, Collingwood

What is proposed?

The draft Amendment proposes to apply discretionary building heights of 4 and 6 storeys.

Evidence and submissions

Mr Antonello submitted the proposed building heights would result in overlooking, overshadowing, visual bulk, wind impacts and would negatively impact heritage values. He requested a 3 storey building height and 2 storey street walls for sites along Cecil Street adjoining residences (see Figure 50).

Figure 50 148 and 150 Cecil Street – recommended building and street wall height



Source: Document 165, Mr Antonello submission

Council acknowledged there would be taller and larger buildings and the character of the area and Cecil Street streetscape would change. It said the solar protection, development objectives and decision guidelines would protect residential amenity. Council did not recommend any change to BFO20 in response to the submission.

Discussion

The Committee is satisfied the Day 2 BFO20 overshadowing provisions will adequately address issues of solar access to the public realm and properties to the south of Cecil Street (as discussed in Chapter 5.4.2). The BFF has considered offsite impacts of development. The BFO parent clause and schedule provisions, along with other Planning Scheme provisions, will ensure acceptable amenity and heritage outcomes. For example, BFO20 includes:

- development objectives to contribute to high quality public realm, avoid overshadowing footpaths and public spaces, and to ensure development responds to sensitive residential interfaces and unreasonable loss of amenity

- decision guidelines to consider impacts on existing residential amenity and heritage.

(v) 12 Smith Street, Collingwood

What is proposed?

The property at 12 Smith Street is located on the corner of Smith and Mason Streets (see Figure 51). It is subject to the Heritage Overlay (HO464) as a non-contributory building within the heritage precinct.

Figure 51 12 Smith Street, Collingwood – aerial map



The draft Amendment proposes to apply a discretionary 5 storey building height and 3 storey street wall.

Evidence and submissions

One submitter sought a 7 storey discretionary building height for the site because it is in a Major Activity Centre and can accommodate heights greater than 5 storeys. It explained this was reasonable in the context of emerging development context that includes buildings of 10 storeys.

Prof McGauran did not support increased height for this site. He stated that as the provisions are discretionary there was an opportunity to demonstrate how objectives and standards could be met with increased height.

Council did not recommend any change to BFO20 in response to the submission.

Discussion

The Committee agrees with Prof McGauran. The provisions are discretionary, and a proposal for a taller building can be assessed on its merits through a planning permit application process.

(vi) Various properties – southern section

Evidence and submissions

Prof McGauran recommended (in his recommendation 12) amending (see Figure 52):

...Map 2 for properties at 7, 9, and 21 Smith Street to indicate preferred stepping down of built form from a preferred 7storey/24m scale to the Smith Street interface down to a

preferred maximum of 5 storeys/18m in the western third of the site and 3 storey/12m street walls.

...10 Little Victoria and 33, 35, 37-39, and 41-47 Smith Street to a preferred 5 storeys/18m height in the western third of the site.

Figure 52 BFO20 – Prof McGauran recommended building height changes



Source: Prof McGauran expert statement (Document 88)

Prof McGauran explained:

The plan indicates a 7-level preferred height over the entire parcel. This reflects characteristics of the 11 to 17 Smith Street but contrasts with the lower transitional and successful 3 to 5 levels of the longitudinal rear interface.

Given similar attributes of rear private open space abutments to the west of Little Smith Street, north of Little Victoria Street, similar aspirations for scaling down to this low-scale interface should be sought.

On the eastern side of the street, the area is bounded to the south by a large land parcel and carpark with frontages to Smith St., Mason Street, and Victoria Parade with preferred heights south of Mason Street of 5 levels or 17.4m and north of Mason Street a mix of 6 and 4 storeys.

The development at 10, 33, 35, 37-39, and 41-47 Smith Street appears to have only been partially included within the DDO. Logically, the boundary would reflect this development footprint.

Mr Gard'ner supported this recommendation, stating it will provide an improved transition to the low scale, highly intact heritage buildings and streetscape.

Council supported this recommendation.

Discussion

The Committee supports the changes proposed by Council, and shown in the Day 2 BFO20. The lower building height on part of the block will ensure development respects and responds appropriately to the heritage values and character of the area, consistent with the development objectives. It will assist with achieving and appropriately sensitive interface.

(vii) 1 Mater Street, Collingwood

Evidence and submissions

Prof McGauran recommended amending the discretionary street wall for 1 Mater Street from 2 storeys/8 metres to 3 storeys/11.2 metres (see Figure 53).

Figure 53 BFO20 – Prof McGauran recommended street wall height changes



Council partly accepted the change and recommended amending the street wall from 2 storeys to 3 storeys *“with a step down towards the dwelling to the east”*.⁴¹ This is shown in Council’s Day 2 version of BFO20 with a 2 storey “step down” to the east before the heritage property (see Figure 47).

Discussion

The Committee accepts Council’s approach to stepping the street wall down to the east, where it interfaces with the heritage property, as included in the Day 2 BFO20. This will assist with providing a sensitive transition to the abutting heritage building.

(viii) Finding

The Committee finds the building envelope provisions are appropriate, as shown in the Day 2 BFO20.

5.14 BFO21 – Alexandra Parade

(i) What is proposed?

The development objectives for Alexandra Parade are:

To ensure development responds to the heritage character and varied streetscape of Alexandra Parade by supporting:

- a new mid-rise character (ranging from 3 to 10 storeys) behind a consistent street wall to the west of Emma Street on the south side and west of Hilton Lane on the north.
- a new low-rise to mid-rise character (ranging from 3 to 6 storeys) behind a consistent street wall between Emma and Charlotte Streets on the south side.
- a new mid-rise character (ranging from 3 to 7 storeys) behind a varied heritage street wall east of Gold Street on the north and south sides.

⁴¹ Document 107, Council Part B submission

To ensure development retains view lines to the Clifton Hill Shot Tower (municipal landmark) and maintains the prominence and integrity of corner heritage buildings.

To ensure development maintains the prominence of the existing heritage street wall and fine-grain heritage character through recessive upper levels and a façade composition and articulation that complements the prevailing character.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of footpaths on the opposite side of streets, central median of Alexandra Parade and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing

The following maps are included in Council's Day 2 BFO21:

- building heights (Figure 54)
- street wall and front wall heights (Figure 55).

Figure 54 Day 2 BFO21 – Map 2a and 2b: Building heights



Figure 55 Day 2 BFO21 – Map 3a and 3b: Street wall and front wall heights and landscaped setbacks



Table 21 shows Council’s proposed Day 2 BFO21 proposed mandatory and discretionary built form provisions.

Table 21 BFO21 – Alexandra Parade building envelope controls

Day 2 BFO21	
Building heights (Standard BFO2)	DISCRETIONARY
	Area 1: 9 metres
	Area 2: 3 storeys 12 metres (C2Z)
	Area 3: 4 storeys 15 metres / 16 metres (C2Z)
	Area 4: 5 storeys 18 metres / 20 metres (C2Z)
	Area 5: 6 storeys 21 metres / 24 metres (C2Z)
	Area 6: 7 storeys 24 metres / 28 metres (C2Z)

	Area 7: 8 storeys 28 metres /32 metres (C2Z)
	Area 8: 9 storeys 31 metres /36 metres (C2Z)
	Area 9: 10 storeys 34 metres /40 metres (C2Z)
Overshadowing of open space or public realm (Standard BF04)	MANDATORY
	Alexandra Parade central median: 12pm 22 Sep
	Streets of 15 metres or more in width: 10am–2pm 22 Sep
	DISCRETIONARY
	Streets less than 15 metres in width: 10am–2pm 22 Sep
Street wall and front wall heights (Standard BF05)	Hilton Street properties from first floor upwards: 10am–2pm 22 Sep
	Any opposite kerb outstand, seating, or planting area, as applicable: 10am–2pm 22 Sep
	MANDATORY
	(Retain heritage street wall)
	DISCRETIONARY
Setbacks above street wall and front wall (Standard BF05)	2 storeys 8 metres
	3 storeys 11.2 metres
	3 storeys 12 metres
	4 storeys 15 metres
	4 storeys 16 metres
Wall on rear boundary (Standard BF06)	Corner buildings as specified on mapping
	Retain existing street wall height of adjoining heritage building (max street wall of 11.2 metres where adjoining heritage street wall is taller)
	MANDATORY
	Heritage buildings on Smith Street: 8 metres
	Heritage buildings on other streets: 6 metres
	DISCRETIONARY
	Sites adjoining land in the Heritage Overlay: 6 metres
	Non-contributory sites (north Alexandra Parade): 6 metres
	Non-contributory sites (side streets): 3 metres
	Non-contributory on Cecil, Council, George, Gore and Smith Streets: 6 metres
	Smith St frontage of 230 Alexandra Parade: 6 metres
	Noone Street: Limited
	MANDATORY
	Contain within 45-degree setback envelope (does not apply to C1Z, C2Z and/or MUZ interfaces).
	DISCRETIONARY
	NRZ: 8 metres GRZ, where there is an existing laneway: 11.2 metres
	GRZ, where no existing laneway: 8 metres
	MUZ / C1Z: 11.2 metres

	DISCRETIONARY
Building separation (Standard BF06)	Habitable window or balcony: 4.5 metres (9 metres for multi buildings) Commercial or nonhabitable window: 3 metres (6 metres for multi buildings) Development over 27 metres: 6 metres

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO21 including:

- 230 Alexandra Parade, Fitzroy
- 592-622 Smith Street, 2-12 Alexandra Parade and 1-7 Reeves Street, Clifton Hill
- 5-9 Alexandra Parade, Collingwood (Koulloupas)
- 24 and 26-42 Alexandra Parade, Clifton Hill
- 16 Alexandra Parade and 10 Reeves Street, Clifton Hill
- 33 and 43-45 Alexandra Parade, Collingwood.

(iii) 230 Alexandra Parade, Fitzroy

What is proposed?

The property at 230 Alexandra Parade is located on the south west corner of Alexandra Parade and Smith Street (see Figure 56).

Figure 56 230 Alexandra Parade – aerial map



Source: Document 107, Council Part B submissions

The draft Amendment proposes to apply:

- 6 and 7 storey discretionary building heights
- 4 storey discretionary street wall to Alexandra Parade and 3 storey discretionary street wall to Smith Street and Cecil Street
- 8 metres discretionary upper level setback to Alexandra Parade and 6 metres to Cecil Street.

Evidence and submissions

The owner, May 15, relied on the evidence of Mr Twite and Mr Furness. It sought:

- a new mid rise character referring to 12 storeys in the development objectives

- discretionary 12 storey building height, based on the merging built form character at the key junction of Alexandra Parade and Smith Street. It considered this is an appropriate height for the gateway site
- discretionary 6 metre upper level setback along Smith Street.

The evidence of Mr Twite and Mr Furness included modelling for a 12 storey building and architectural concept plans. May 15 submitted:

- the 12 storey development with 6 metre upper level setbacks to Smith Street can be achieved without unreasonable amenity impacts
- the 6 metre upper level setback was consistent with the BFF
- there had been a material change since the BFF was prepared, in particular the Gasworks site to the north across Alexandra Parade which has a permit for up to 14 storeys
- a planning permit has also been issued for the north east corner of Smith Street and Alexandra Parade for 10 storeys
- the transition in scape to dwellings along Cecil Street had been addressed by the 6 storey southwest corner of the land.

Prof McGauran gave evidence that the site occupies an important gateway site to the Smith Street Major Activity Centre but disagreed with the increased height as the site is not without constraints and will require considerable moderation in its offsite impacts. He said:

Whilst there should be little doubt that the Alexandra Parade frontage provides robust potential for scale, the interfaces to Smith Street and Cecil Street require more constraint.⁴²

Prof McGauran recommended the 6 metre upper level setback be mandatory.

Ms Rigo supported a discretionary 10 storey building height as it would be consistent with the BFF and the 10 storey discretionary building height proposed to the south in BFO20. She supported an 8 metre upper level setback on the basis it was consistent with BFO20.

Another submitter raised issues about impacts on surrounding residences of the proposed building heights at 230 Alexandra Parade including solar access and wind. It requested the building heights along Cecil Street should be a maximum 3 storeys.

Council agreed to:

- a discretionary building height of 10 storeys for the C1Z land and 9 storeys for C2Z land (apart from the south west corner which is 6 storeys)
- discretionary 6 metre upper level setback to Smith Street
- amending the objectives to refer to 3-10 storeys.

Discussion

The property at 230 Alexander Parade, on the corner of Smith Street, is an important gateway site to the Major Activity Centre. While there are some site constraints:

- these can be managed with good design
- the combination of planning controls will help avoid unreasonable amenity impacts.

⁴² Document 96, Prof McGauran reply evidence statement

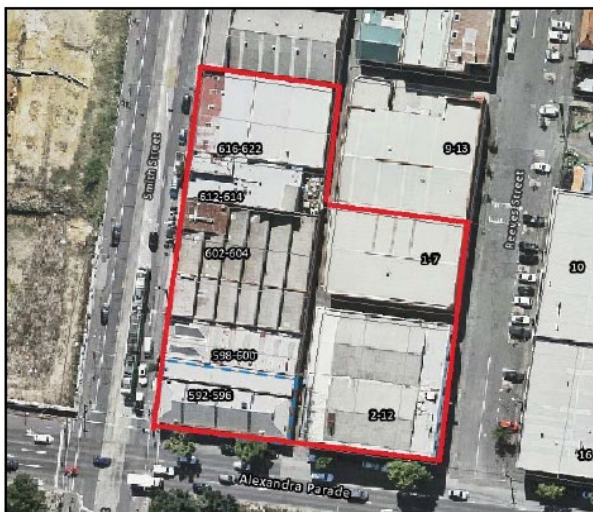
The Committee supports the changes proposed by Council. The changes are shown in the Committee's recommended version of BFO21 in Volume 2 of this Report.

(iv) 592-622 Smith Street, 2-12 Alexandra Parade and 1-7 Reeves Street, Clifton Hill

What is proposed?

The property at 592-622 Smith Street, 2-12 Alexandra Parade and 1-7 Reeves Street, Clifton Hill is on the north east corner of Alexandra Parade and Smith Street (see Figure 57).

Figure 57 592-622 Smith Street, 2-12 Alexandra Parade and 1-7 Reeves Street – aerial map



Source: Document 111, Valli/Rose/Foundry submission

The draft Amendment proposes to apply a discretionary 7 storey building height.

Evidence and submissions

Foundry/Rose/Valli submitted a 9 storey discretionary building height should be applied to the site.

Foundry/Rose/Valli said this was supported by Prof McGauran in his recommendation D. Prof McGauran's recommended building heights for BFO21 are shown in Figure 58. It also referred to the reply evidence of Ms Rigo in which she advised (in relation to 230 Alexandra Parade) there was no strategic reason to reduce the building heights recommended in the BFF.

Figure 58 BFO21 – Prof McGauran recommended changes to building heights



Source: Prof McGauran expert statement (Document 88)

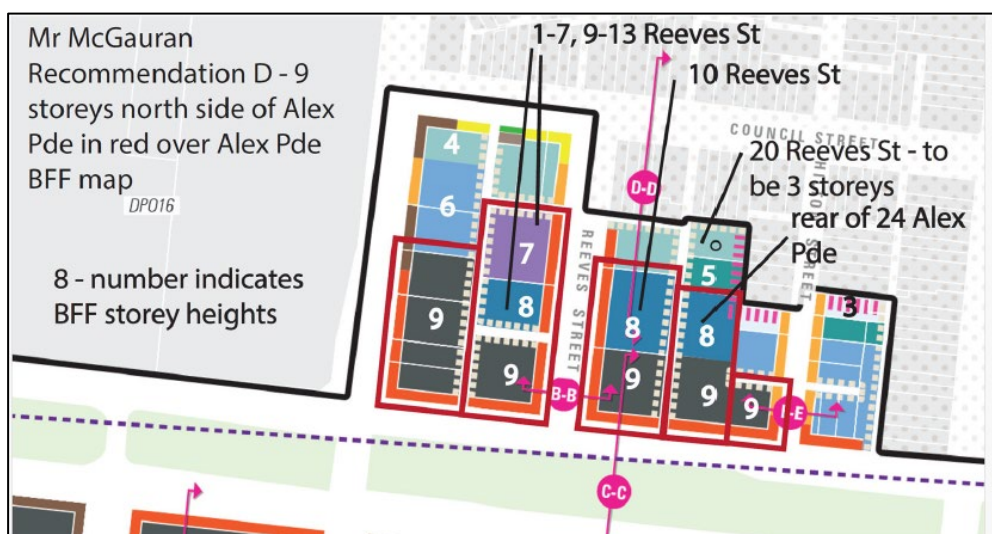
Mr Gard'ner disagreed with Prof McGauran in relation to 612-614 Smith Street stating the land is subject to HO317 (Clifton West Precinct). He advised the proposed 7 storey/28 metre building height in this location represents a relatively generous maximum building height in the context of modestly scaled heritage buildings in the precinct.

In response to Prof McGauran's recommendation D, Council proposed to amend the building heights consistent with the BFF (see Figure 59). It proposed:

- 592-614 Smith Street - 9 storeys/36 metres
- 2-12 Alexandra Parade - 9 storeys/36 metres
- 1-7 Reeves Street - 8 storeys/32 metres.

Council did not propose to increase maximum building height for 616-622 Smith Street as sought by the submitter.

Figure 59 Council response to Prof McGauran's Recommendation D



Source: Document 174, Council Part C submission

Discussion

The property is located at an important gateway site to the Major Activity Centre. There is significant taller built form approved in the area, however the Committee can see no reason to depart from the BFF, including for the property at 616-622 Smith Street.

The provisions are discretionary, and a proposal for a taller building can be assessed on its merits through a planning permit application process.

The Committee supports the changes proposed by Council. The changes are shown in the Committee's recommended version of BFO21 in Volume 2 of this Report.

(v) 5-9 Alexandra Parade, Collingwood

The Committee has addressed the Koulloupas Holding submission including this property in Chapter 5.13(iii) above.

(vi) 16, 24 and 26-42 Alexandra Parade, and 10 Reeves Street, Clifton Hill

What is proposed?

The properties at 16, 24 and 26-42 Alexandra Parade are located on the north side of Alexandra Parade, between Reeves and Hilton Streets (see Figure 60).

Figure 60 24 and 26-42 Alexandra Parade – aerial map



The draft Amendment proposes to apply discretionary maximum building heights of 6 and 7 storeys.

Evidence and submissions

One submitter objected to changing the building height provisions for 24 and 26 – 42 Alexandra Parade from the current 6, 8 and 9 storeys because it considered it to be a significant change that is not supported by analysis.

Regarding 24 and 26 – 42 Alexandra Parade, Prof McGauran recommended applying a discretionary maximum building height of 9 storeys / 31 metres to the properties. He

advised *"this site forms a continuous area of large sites to the est anchored by the Fitzroy Gasworks"*.⁴³ He said these sites offer significant transformational opportunities.

Prof McGauran supported the same maximum building height for 16 Alexandra Parade and 10 Reeves Street.

Figure 58 shows Prof McGauran's recommended changes to the maximum building height (in red).

Council supported a 9 storey/36 metre maximum building height for 16, 24 and 26-42 Alexandra Parade and 10 Reeves Street, in line with the BFF and Prof McGauran's recommendations.

Discussion

The Committee agrees with Council and Prof McGauran that this site can accommodate greater building height than the maximum height of 7 storeys proposed in the draft Amendment. The recommended maximum height of 9 storeys is appropriate and is consistent with the BFF.

As noted by Prof McGauran, the site offers significant development potential in a well serviced area. It forms part of a contiguous larger land parcels (with Gasworks to the west).

The change is shown in the Committee's recommended version of BFO21 in Volume 2 of this Report.

(vii) 33 and 43-45 Alexandra Parade, Collingwood

Evidence and submissions

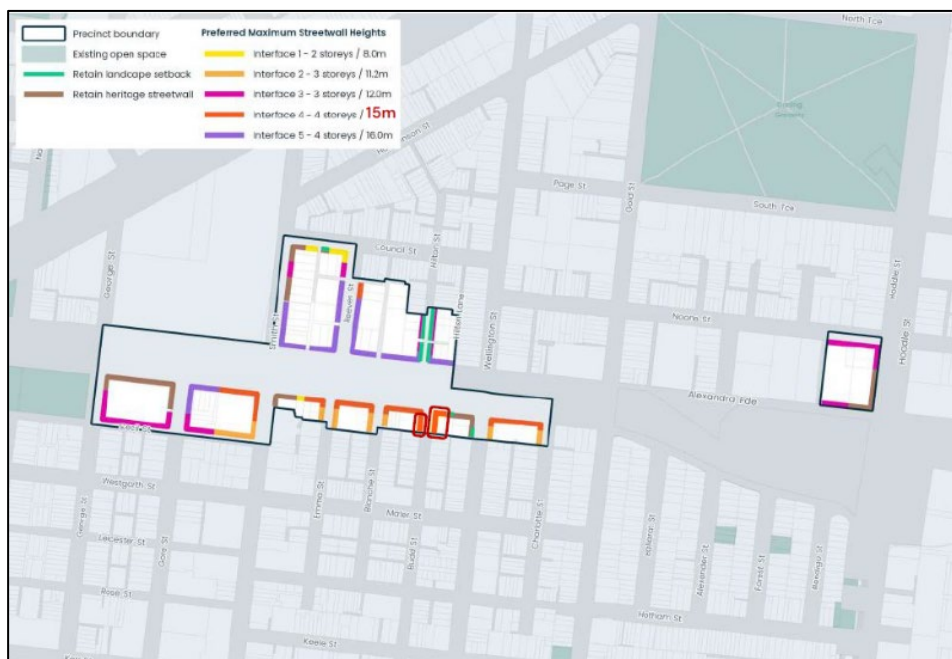
Prof McGauran recommended to amend:

- the discretionary building height for 43-45 Alexandra Parade from 4 storeys/14.4 metres to 6 storeys/21 metres
- discretionary maximum street wall height for 43-45 and 33 Alexandra Parade from 2 storeys/8 metres and 3 storeys/11.2 metres to 4 storeys/15 metres along Budd Street and Alexandra Parade.

Figure 61 shows McGauran's proposed street wall changes (shown in red).

⁴³ Document 88, Prof McGauran expert statement

Figure 61 BFO21 – Prof McGauran recommended street wall height changes (shown in red)



Source: Document 88, Prof McGauran expert statement

Prof McGauran explained that while the BFF methodology was generally sound there are some locations with opportunities for greater development. For example:

The proposed 8m street wall height for 43-45 Alexandra Parade is an example of where more ambitious development outcomes should be sought, given the laneway separation to the hinterland, a freeway off-ramp interface, its Mixed-Use Zone that invites a differing typology and the presence of built form of 4 levels on the site currently.

Mr Gard'ner did not have a view on 33 Alexandra Parade, however he disagreed with Prof McGauran in relation to 43-45 Alexandra Parade. He explained while this property does not contribute to the heritage values of HO321, it directly abuts graded single storey residences to the east. The Heritage Overlay applies to this property to ensure development does not adversely affect the heritage values of the neighbouring properties and the precinct. Also, the heritage properties to the south of the site (addressing Budd Street) are single storeys and a 4 storey street height would not achieve an acceptable heritage outcome.

Council relied on the evidence of Mr Gard'ner.

Discussion

Council's Day 2 BFO21 shows a discretionary 3 storey street wall height for 33 Alexandra Parade as recommended by Prof McGauran. This property has a 6 storey discretionary building height and the taller street wall height is appropriate.

The Committee agrees with Prof McGauran the building height for 43-45 Alexandra Parade should be 6 storeys/21 metres. Given its location, rear laneway and land use zone (MUZ) the site offers greater development potential. The Committee notes Mr Gard'ner's concerns relating to the adjoining heritage buildings to the east, however is satisfied the BFO21 contains provisions (Standard BF05) relating to land adjoining a heritage building that will manage impacts to the abutting properties. Of note, if a property can seriously

impact the heritage fabric on an abutting property, it should be included within the Heritage Overlay curtilage.

(viii) Overshadowing Alexandra Parade

What is proposed?

The draft Amendment proposes to apply mandatory overshadowing provisions to northern edge of the Alexandra Parade central median, with no overshadowing at 12 noon on 22 September.

Discussion and findings

The Committee has concluded in Chapter 5.14 that overshadowing provisions for Victoria Parade central median should be discretionary.

For the same reasons, the Committee finds the Alexandra Parade central median should be discretionary. Alexandra Parade is dominated by very high volumes of vehicular traffic and is not currently used for open space recreation or highly pedestrianised areas. The road includes large strategic redevelopment sites which provide an important opportunity for higher commercial, residential and mixed-use buildings, such as the Gasworks site.

(ix) Finding and recommendations

The Committee finds the building envelope provisions for BFO21 are appropriate, subject to its recommendations.

The Committee recommends:

In Built Form Overlay Schedule 21:

- a) amend Map 2 to show a discretionary 6 storey building height for 43-45 Alexandra Parade**

In Built Form Overlay Schedule 21, as shown in Volume 2 of this Report:

- b) amend Standard BF04 (Overshadowing of open space or public realm) to make overshadowing requirements for Alexandra Parade central median discretionary.**

5.15 BFO22 – Victoria Parade

(i) What is proposed?

The development objectives for Victoria Parade are:

To ensure development responds to the varied character and open streetscape of Victoria Parade by supporting:

- a new low-rise to mid-rise character (ranging from 3 to 7 storeys) behind a varied heritage street wall west of Wellington Street, excluding the Smith Street junction.
- a new mid-rise character (ranging from 3 to 10 storeys) behind a consistent street wall at the Smith Street junction.
- a new mid-rise to higher-rise character (ranging from 3 to 12 storeys) behind a new, street wall east of Wellington Street.

To ensure development to the west of Wellington Street respects the low-scale, fine grain heritage street wall and buildings, through recessive upper levels and façade composition, and articulation that complements the heritage character.

To ensure new development responds to the grand, tree lined, boulevard character of Victoria Parade.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of footpaths on the opposite side of streets, central median of Victoria Parade and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO22:

- building heights (Figure 62)
- street wall and front wall heights (Figure 63).

Figure 62 Day 2 BFO22 – Map 2a and 2b: Building heights



Figure 63 Day 2 BFO22 – Map 3a and 3b: Front setbacks, landscaped setbacks and street wall and front wall heights



Table 22 shows Council’s proposed Day 2 BFO22 proposed mandatory and discretionary built form provisions.

Table 22 BFO22 – Victoria Parade building envelope controls

Day 2 BFO22	
Building heights (Standard BFO2)	DISCRETIONARY
	Area 1: storeys 11.2 metres
	Area 2: 4 storeys 15 metres
	Area 3: 5 storeys 18 metres
	Area 4: 6 storeys 21 metres
	Area 5: 7 storeys 24 metres
	Area 6: 8 storeys 28 metres

	Area 7: 10 storeys 34 metres
	Area 8: 12 storeys 40 metres
Overshadowing of open space or public realm (Standard BF04)	MANDATORY
	The northern edge of the Victoria Parade central median: No overshadowing at 12pm on 22 September
	Streets of 15 metres or more in width (measured boundary to boundary): No overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary
	DISCRETIONARY
	An opposite kerb outstand, seating, or planting area, as applicable: No overshadowing between 10am–2pm on 22 September
	Properties fronting Cromwell, Islington, Rokeby and Rupert Streets from the first floor upwards: No overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	DISCRETIONARY
	Interface 1: 2 storeys 8 metres
	Interface 2: 3 storeys 11.2 metres
	Interface 3: 4 storeys 15 metres
Setbacks above street wall and front wall (Standard BF05)	MANDATORY
	On Victoria Parade and Wellington Street, and within or adjoining land in a Heritage Overlay: 6 metres
	DISCRETIONARY
	All other land on Victoria Parade and Wellington Street: 6 metres
	Rupert Street frontage of 165 Victoria Parade, Collingwood: 6 metres
	On Smith Street: 8 metres
Wall on rear boundary (Standard BF06)	Land in a Heritage Overlay on a secondary frontage: 6 metres
	All other land on a secondary frontage: 3 metres
	DISCRETIONARY
	NRZ whether or not separated by a laneway: 8 metres
	GRZ where there is no existing laneway: 8 metres
	GRZ where there is an existing laneway: 11.2 metres
Building separation (Standard BF06)	MUZ whether or not separated by a laneway: 11.2 metres
	C1Z whether or not separated by a laneway: 11.2 metres
	DISCRETIONARY
	Habitable window or balcony: 4.5 metres (9 metres for multi buildings)
	Commercial or nonhabitable window: 3 metres (6 metres for multi buildings)
	Development over 27 metres: 6 metres

(ii) The issues

The issues are whether:

- the overshadowing provisions are appropriate for BFO22
- the building envelope provisions are appropriate for BFO22 including:
 - 165, 169–175 and 177 Victoria Parade, Collingwood
 - 207–209 Victoria Parade, Fitzroy (also known as 1 Smith Street)
 - 211–213 and 215–219 Victoria Parade, Fitzroy
 - 79–81 Victoria Parade, Collingwood
 - 159 Victoria Parade, Collingwood.

(iii) Overshadowing Victoria Parade

What is proposed?

The draft Amendment proposed to apply mandatory overshadowing provisions to northern edge of the Victoria Parade central median, with no overshadowing at 12 noon on 22 September.

Evidence and submissions

Mr Sheppard recommended:

- removing overshadowing provisions for the northern edge of the Victoria Parade central median
- removing overshadowing provisions for properties fronting Cromwell and Rupert Streets at and above the first storey
- correcting the mistranslated provision concerning overshadowing to the western side of the street.

Mr Patrick gave evidence that there is no landscaping justification for overshadowing controls on Victoria Parade median. He found the future buildings to the north are unlikely to negatively affect the environmental qualities of the median, including canopy trees and grassed areas, given the approximately 24 metre separation between any new development and the northern row of Elms. His evidence was not disputed.

Prof McGauran supported the overshadowing provisions to Victoria Parade.

During cross examination:

- Prof McGauran advised he was not aware of any DDO schedule that mandates equinox protection for pedestrian crossings
- Mr Sheppard stated that shadow protection for tram stop platforms has no precedent in Victoria.

Council proposed to retain the overshadowing provision to Victoria Parade central median, and amended the provisions relating to other 'streets' and 'other public space and public realm' areas to match the approach adopted for other BFO schedules (see Chapter 5.4.2).

Council relied on the evidence of Prof McGauran, who supported the mandatory overshadowing provisions to Victoria Parade central median, and it submitted:

- Mr Patrick had not adequately considered boulevard character and heritage significance, and optimum growing conditions

- the memo it submitted from Mr Partos stated (among other things) that consistent solar access is required for developing a cohesive boulevard with consistent treed character on both sides of the median along its length
- protection of sunlight to Victoria Parade does not unreasonably prevent development.

Council submitted that *"Victoria Parade is unique to Melbourne and the tree lined median is the iconic boulevard entry to the Melbourne CBD from the east"*. It strongly advocated for protection of sunlight to the Victoria Parade central median for the following reasons:

Protection of the heritage significance of the boulevard and its avenue of significant trees;
Protection of the character of median which includes expanses of dappled sunlight, trees and grass;
Protection of optimal future growing conditions for replacement trees in the future;
Protection of consistency and balance between trees on either side of the tram tracks; and
Protection of pedestrian amenity including at the tram stops, public waiting areas and on pathway connections between Collingwood and East Melbourne across the median.⁴⁴

Several submissions sought to remove the overshadowing provision of Victoria Parade central median from BFO22. They considered:

- there are no precedents for mandatory overshadowing provisions for pedestrian environments such as this
- the Victoria Parade median is a transitory space, not designated for open space or public realm embellishments
- there is no detailed analysis or modelling showing this provision is necessary.

Coll Property submitted the overshadowing provisions to Victoria Parade were *"precariously conservative"* and there was no reason or justification to apply them. If not removed it sought for the provisions to be discretionary as there has been no assessment demonstrating that discretionary provisions are insufficient.

Stockland submitted the provisions should be discretionary, stating:

Exceptional circumstances do not exist in this case. In particular, the application of a mandatory overshadowing requirement to Victoria Parade overstates the exceptional or significant nature of the streetscape. Victoria Parade is similar in scale and significance to other boulevards throughout Metropolitan Melbourne such as Royal Parade, St Kilda Road or Dandenong Road. None of these examples have any mandatory overshadowing controls, excepting those relating to the Shrine of Remembrance.⁴⁵

Discussion

The overshadowing control for the Victoria Parade central median should be discretionary. The BFF identifies solar access to the median as a design objective, expressed in performance-based terms. It does not conclude that a mandatory regime is required. The evidence does not demonstrate that proposals casting some additional equinox shadow would produce unacceptable outcomes, or that a discretionary control would be insufficient. A mandatory control would impose an unnecessary and unjustified loss of development flexibility in contrast with the guidance in PPN59 and PPN60.

⁴⁴ Document 174, Council Part C submission

⁴⁵ Document 146, Stockland submission

The central median is zoned Transport Road Zone Schedule 2. It is not mapped public open space, is not identified in Council's Open Space Strategy, and is not identified in any adopted policy document as a key pedestrian connection. It functions primarily as a transport corridor, accommodating tram stops, pedestrian waiting areas and boulevard landscape planting, rather than as a place where people dwell or recreate. Both Ms Rigo and Prof McGauran accepted that pedestrian use is transitory and that paths within the median serve movement to tram stops and crossings rather than occupation or recreation. No analysis of pedestrian dwell times or the functional impact of incremental shadow was undertaken.

(iv) 165, 169-175 and 177 Victoria Parade, Collingwood

What is proposed?

Figure 64 shows the location of the property on Victoria Parade.

Figure 64 165, 169-175 and 177 Victoria Parade – aerial photo

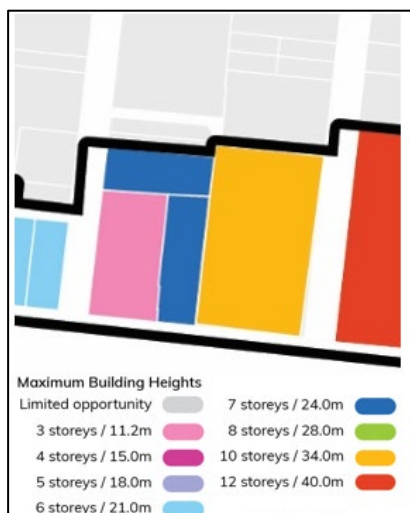


The draft Amendment proposes (see Figure 65 for proposed Day 2 BFO22 building heights):

- 7 storey and 10 storey discretionary maximum building heights
- 4 storey discretionary street wall to Victoria Parade and Cromwell Street and 3 storey discretionary street wall to Rupert Street
- mandatory overshadowing protection to:
 - Victoria Parade central medium at 12pm at the equinox
 - the footpath on the western side of any street at 10am at the equinox
 - the footpath of the eastern side of any street (except Cromwell, Islington, Rokeby and Rupert Streets) at 2pm equinox
 - the opposite kerb outstand, seating or planting area between 10am and 2pm at the equinox
- discretionary overshadowing provisions for properties fronting Cromwell, Islington, Rokeby and Rupert Streets from the first floor upwards between 10am and 2pm at the equinox
- mandatory minimum upper level setback of 6 metres to Victoria Parade

- discretionary minimum 3 metre setback to Rupert Street.

Figure 65 Day 2 BFO22 – 165, 169-175 and 177 Victoria Parade building heights



Evidence and submissions

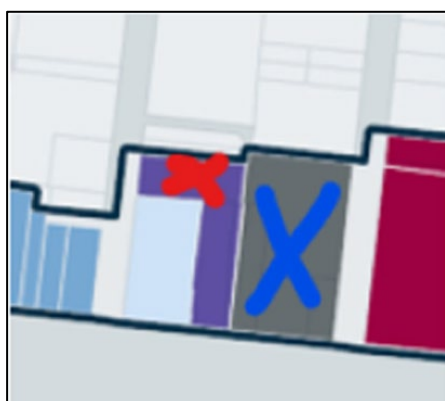
Coll Property relied on the evidence of Mr Sheppard and Mr Patrick. The building envelope changes sought are summarised by Mr Sheppard as follows:

- the discretionary maximum building height for the eastern portion of the Property be increased to 12 storeys/40m;
- the discretionary maximum building height in the western portion of the Property be increased to 8 storeys/27m;
- the discretionary maximum street wall height along Victoria Parade be increased to 12 storeys/40m;
- the maximum street wall height along Rupert Street be increased to 4 storeys/14.4m.⁴⁶

The location of proposed building height changes is shown in Figure 66:

- eastern part of the land proposed to increase from 10 storeys to 12 storeys (shown as blue X)
- western part of the land proposed to increase from 7 storeys to 8 storeys (shown as red X).

Figure 66 Coll Property requested building heights



⁴⁶ Document 92, Mr Sheppard expert statement

Source: Document 134, Coll Property submission

Coll Property submitted the proposed 12 storeys is consistent with the adjacent (Bunnings) site and broadly consistent with discretionary heights in Victoria Parade, east of Wellington Street. Based on the methodology in the BFF which recommends a 2:1 street width to overall building height, Mr Sheppard concluded a 12 storey height can be applied in part of the precinct including the site.

Mr Sheppard recommended drafting refinements including:

- for the mandatory requirement adjacent to a Heritage Overlay to only apply to the frontage of a development adjacent to the front boundary of a heritage property
- to delete the phrase *"unless a street wall or front wall height for the side street is shown on Map 3"* from the street wall height provision relating to corner sites.

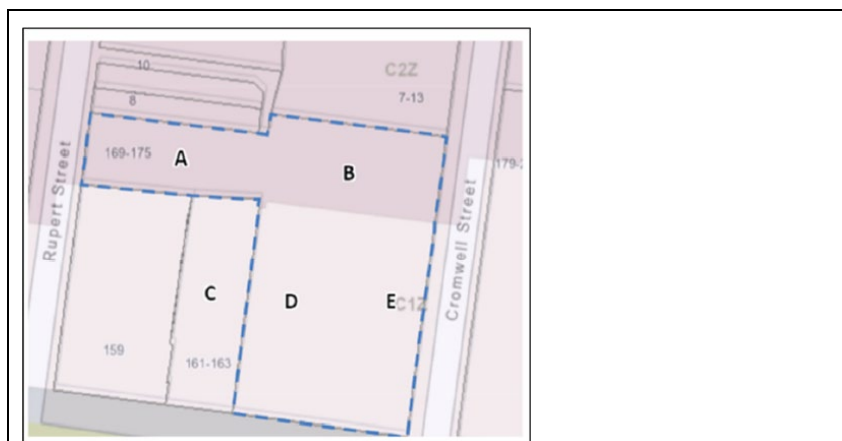
Prof McGauran advised he was supportive of the following changes proposed by Council (after exhibition):

- increasing the maximum building height of 165 and 177 Victoria Parade, Collingwood from 7 storeys to 10 storeys
- increasing the maximum building height from 7 stories to 10 storeys for the eastern portion of 169-175 Victoria Parade, Collingwood, including the rezoned rear of property
- applying a maximum building height of 7 storeys the western portion of 169-175 Victoria Parade, Collingwood.

Prof McGauran did not support the further increase in building height proposed by the submitter based on overshadowing impacts to Cromwell Street and Victoria Parade.

Council resolved to make changes to the proposed provisions following exhibition, and these are reflected in the Day 2 BFO22 (see Figure 65). Figure 67 shows and explains the changes proposed by Council.

Figure 67 161-175 Victoria Parade – Council proposed provisions



Side D & Site E - Increase the maximum building height of 165 & 177 Victoria Parade, Collingwood from 7 storeys / 24.0m to 10 storeys / 33.6m.
Site B, Site D & Site E - Increase the maximum building height from 7 storeys / 24.0m to 10 storeys / 33.6m for the eastern portion of 169-175 Victoria Street, Collingwood (including the rezoned rear of property).
Site A - Apply a maximum building height of 7 storeys / 24m to the western portion of 169-175 Victoria Street, Collingwood (previously not included and had no height control).
Site A & Site B - Rezone section of 167-175 Victoria Parade, Collingwood from C2Z to C1Z to match property boundaries and make associated building height and street wall height inclusion on the relevant map in DDO39.
Site A - Apply 'New 3 storey streetwall / 11.2m' to 167-175 Victoria Parade, Collingwood along Rupert Street (previously not included and no street wall control).
Site B - Extend 'New 4 storey streetwall / 14.4m' to the entire property at 167-175 Victoria Parade, Collingwood along Cromwell Street (previously not included and had no street wall control).
Site C - No change from exhibited controls (retain 7 storeys height and 3 storey street wall to north and east / abutting church).

Source: Document 174, Council Part C submission

Council submitted the proposed provisions are all discretionary except for:

- upper level setbacks to Victoria Parade
- on land adjoining a Heritage Overlay
- overshadowing to Victoria Parade central median
- additional vehicle access to Victoria Parade.

It did not support the 40 metre street wall recommended by Mr Sheppard, stating this is contrary to the BFF. It explained the BFF proposed 12 storey building heights on sites considerably larger than the Coll property site.⁴⁷

Council's Day 2 BFO22 also proposed to amend the upper level setback to Rupert Street to be discretionary 6 metres.

Discussion

The Committee supports Council's proposal to increase the exhibited maximum building heights to 7 storeys and 10 storeys, and to apply a discretionary upper level setback to Rupert Street at the frontage of 165 Victoria Parade. The building envelope provisions appropriately response to the site and its context.

While the site is large, it is smaller than sites where 12 storey maximum building heights have been applied. The draft Amendment proposes to apply 12 storeys to the larger property to the immediate east. The building heights step down from the east to the west, towards the heritage property at 159 Victoria Parade (this property is discussed in Chapter 5.15(viii)). This is appropriate.

The discretionary provisions (apart from the 6 metre upper level setback to Victoria Parade) allow for a design that responds to site constraints and opportunities, and for a taller building to be contemplated in the context of all relevant planning provisions and policy.

⁴⁷ Document 183

The Committee has recommended the overshadowing provisions for Victoria Parade should be discretionary (see Chapter (iii)).

(v) 207–209 Victoria Parade, Fitzroy (1 Smith Street)

What is proposed?

The site is located on the north-west corner of Smith Street and Victoria Parade.

The draft Amendment proposes to apply a discretionary building height of 8 storeys, discretionary 4 storey street wall and mandatory 6 metre upper level setback.

Evidence and submissions

One submitter advised it has a permit for a 14 storey building, granted by the Minister for Planning. It considered the planning provisions too restrictive.

Council submitted there was an accrued right to develop the site in accordance with the permit and the proposed provisions were not overly restrictive. It did not propose any changes in response to submissions.

Discussion

The Committee agrees with Council and notes that transitional provisions are proposed (see Chapter 8.6). Planning is required to strategically justify provisions before introducing them into the Planning Scheme. Applying built form provisions that reflect a planning permit does not meet this test.

(vi) 211-213 and 215-219 Victoria Parade, Fitzroy

What is proposed?

The properties are located on the corner of Victoria Parade and Hoddle Street (see Figure 68).

Figure 68 211-213 and 215-219 Victoria Parade – aerial photo



The draft Amendment proposes to apply various provisions including:

- discretionary building height of 4 storeys, 6 metre upper level setback on secondary frontages

- mandatory retention of heritage street wall and 6 metre upper level setback above Victoria Parade street wall
- the Heritage Overlay (HO507) (see Chapter 9).

Evidence and submissions

Dakoda Property represented several submitters. It submitted the provisions should reflect the gateway location of the site on a key junction. It sought:

- a 12 storey discretionary building height
- removal of the street wall requirement to retain the heritage street wall and application of a 4 storey street wall
- discretionary upper level setback
- changes to overshadowing provisions
- the development framework map to show the intersection of Victoria Parade and Hoddle Street as a key junction.

Dakoda Property submitted a feasibility study and precedent images of heritage podium buildings with taller recessed upper level development.⁴⁸

Prof McGauran and Mr Gard'ner did not recommend changes to the proposed building height and upper level setbacks for the properties.

Council did not propose changes in response to the Dakoda Property submission. It said:

The proposal depicted in the Feasibility Study would completely dominate and visually overwhelm this area of Victoria Parade to the point that it would create a podium and tower model contrary to the built form envisaged for Victoria Parade through the background studies.⁴⁹

Discussion

The Committee considers the properties at 211–213 and 215–219 Victoria Parade provide an important opportunity for redevelopment as a strategically important gateway site. Road widening for the slip lane to Hoddle Street and the heavy traffic environment have changed the terraces' setting, reducing their visual cohesion, prominence and capacity to support active, high-amenity uses.

The redevelopment of these sites provides an opportunity to both invest in the current heritage properties, improve the functioning and amenity of development along the Victoria Parade street frontage and provide an overall improved gateway development.

The Committee therefore recommends a higher discretionary height of 7 storeys, subject to an appropriate heritage response. This is consistent with other sites to the east of Wellington Street designated as 'moderate infill' in the BFF, such as behind and to the east of the Ebenezer land (see Chapter (viii)).

The Victoria Parade Hoddle Street corner is identified in the BFF as important. The draft Amendment proposes 12 metre discretionary building height to the land immediately to the west of the site. The opportunity for greater height on the site is important to ensure the site is not dwarfed and overwhelmed by surrounding development. Effective redevelopment of the Dakota site will require masterful architecture to both respect and

⁴⁸ Document 167b

⁴⁹ Document 174, Council Part C submission

incorporate the existing heritage properties into a larger development that holds the corner as a gateway and an important entrance marker.

The Committee has recommended the:

- Heritage Overlay be applied to these properties (see Chapter 9)
- overshadowing provisions for Victoria Parade central median be discretionary (see Chapter 5.15(iii)).

(vii) 79–81 Victoria Parade, Collingwood

What is proposed?

The site is located at the north-east corner of Victoria Parade and Wellington Street (see Figure 69).

Figure 69 79–81 Victoria Parade – aerial photo



The draft Amendment proposes to apply mandatory overshadowing provisions and discretionary:

- 12 storey building height
- 4 storey street wall
- 6 metres upper level setback
- overshadowing controls.

Evidence and submissions

Stockland sought discretionary controls including 20 storey building height and 12 storey street wall height. It submitted taller controls were warranted in the context of changing policy context, and size and location of the site on a prominent corner location, lack of heritage constraints and sensitive interfaces.

Council relied on the evidence of Ms Rigo and Prof McGauran (who did not recommend any changes to the provisions for the site). It said the requested building heights are well outside of the BFF and planning policy intent to achieve mid-rise outcomes for the site. It added:

this preferred height and street wall appropriately recognises the development opportunity of the Stockland site and, at the same time, provides a uniformity in street wall to Victoria Parade and protects solar access to the Victoria Parade median.⁵⁰

Council proposed to amend the development framework plan in BFO22 to show the Victoria Parade and Wellington Street intersection as a key junction.

Discussion

The Committee supports the building envelope provisions proposed by the draft Amendment. The provisions are discretionary, and a proposal for a taller building can be assessed on its merits through a planning permit application process.

The Day 2 BFO development framework plan appropriately shows the corner of Victoria Parade and Wellington Street as a key junction.

The Committee has addressed issues of overshadowing of Victoria Street in Chapter 5.15(iii) and other overshadowing provisions in Chapter 5.4.2.

(viii) 159 Victoria Parade, Collingwood

What is proposed?

The property at 159 Victoria Parade, on the corner of Rupert Street, is developed with the former Ebenezer Particular Baptist Church (see Figure 70).

Figure 70 159 Victoria Parade (former Ebenezer Particular Baptist Church) – street view



The draft Amendment proposes to apply discretionary 3 storey building height and other built form provisions.

Evidence and submissions

Ebenezer sought a discretionary 7 metre building height and relied on the evidence of Mr Raworth. Ebenezer explained:

As Mr Raworth said when giving his evidence, the difference in the heritage experts approach to building height on the Land is one which looks at the issue from the perspective of the glass being half full or half empty. The merits of a future development of the Land are ultimately for another day; however, both experts agree that a development exceeding 3 storeys may be approved for the Land. His evidence is that a proposed building height of 3 storeys is conservative. This is not surprising given this scale is comparable for the existing conditions.⁵¹

Ebenezer submitted:

⁵⁰ Document 174, Council Part C submission

⁵¹ Document 160, Ebenezer submission

- Mr Gard'ner's evidence was on a precinct-wide basis whereas Mr Raworth had undertaken a detailed review of the site and surrounds
- proposed provisions were informed by cross-sectional analysis and focused on a more typical heritage-built form response
- Mr Gard'ner's evidence preceded on the basis that increased height should not be supported as it would be visually dominant, however local heritage policy does not require additions to heritage buildings to be invisible
- Mr Gard'ner noted that a taller building may be approved if the responsible authority is satisfied it satisfactorily addresses the Planning Scheme requirements.

Mr Raworth gave evidence that local heritage policy does not preclude the possibility of development and stated:

It may be appropriate to contemplate within the DDO/BFO something as substantial as the 6 storeys and 7 storeys that are posited for neighbouring sites, accepting that the determination of height for any proposal on the site would ultimately rely upon a range of factors including design, visual bulk, relationship to the retained church fabric and the like. That is to say, while the discretionary maximum height may be set at 7 storeys, any proposal for the site would need to be considered within the context of heritage policy at Clause 43.01 and Clause 15.03-1L, and not just within the terms of the specified discretionary maximum height. Depending upon what is proposed, it may be determined that the height should be less than the discretionary maximum height.⁵²

Mr Raworth and Mr Gard'ner broadly agreed:

- with the place history and description of the heritage building experts
- at its highest point, the existing building is equivalent to a 3 storey building.

Mr Gard'ner said *"the rear 10m of 159 Victoria Street should in my opinion, remain of low-scale to protect the legibility of the nineteenth century form of the church and provide an appropriately scaled immediate setting"* (see Figure 68).⁵³ Mr Gard'ner explained the abutting property proposed 7 storey buildings and noted that land is not subject to the Heritage Overlay. He remained of the opinion:

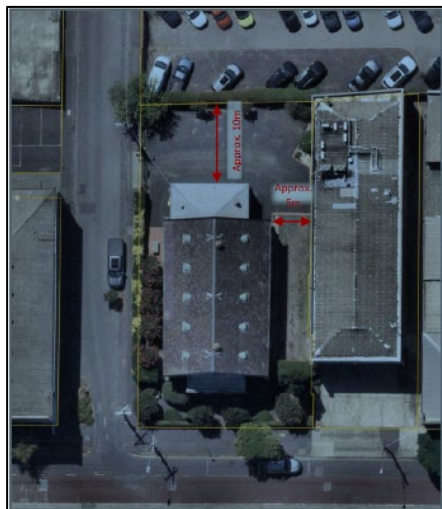
that this site has little opportunity for development of anything beyond a low-rise scale and that a 3 storey / 11.2m preferred height limit is appropriate due to the site's limited area of undeveloped land to the rear (measuring approximately 22m x 10m), the highly intact historic building and the need to appropriately transition from the single storey scale of the vestry to any new development to the north.⁵⁴

⁵² Document 85, Mr Raworth expert statement

⁵³ Document 95, Mr Gard'ner reply evidence statement

⁵⁴ Document 95, Mr Gard'ner reply evidence statement

Figure 71 159 Victoria Parade – aerial map



Source: Document 95, Mr Gard'ner reply evidence statement

Council relied on the evidence of Mr Gard'ner and did not propose any changes to the provisions for 159 Victoria Parade.

Discussion

The Committee supports a discretionary 7 level height limit at the rear of the Church.

Victoria Parade can successfully accommodate significant growth as demonstrated by existing development, notably the institutional development of Australian Catholic University and St Vincent's Hospital. The Committee agrees with Mr Raworth that a well-designed new building at the rear of the Church could be developed without compromising the legibility of the nineteenth century form of the church, acknowledging that any development design would need to take into consideration, among other things, design, visual bulk and relationship to the heritage fabric. Importantly a development proposal would need to be assessed with regard to relevant policy, including heritage policy.

(ix) Finding and recommendations

The Committee finds the building envelope provisions for BFO22 are appropriate, subject to its recommendations.

The Committee recommends:

In Built Form Overlay Schedule 22, as shown in Volume 2 of this Report:

- a) amend Standard BF04 (Overshadowing of open space or public realm) to make overshadowing requirements for Victoria Parade central median discretionary**

In Built Form Overlay Schedule 22

- b) amend Map 2 to show discretionary 7 storey building height for 159, 211-213 and 215-219 Victoria Parade.**

5.16 BFO23 – Fitzroy West

(i) What is proposed?

The development objectives for Fitzroy West are:

To ensure development responds to the mixed typology and heritage character in the streetscape by supporting:

- a mid-rise character (ranging from 3 to 8 storeys) in the mixed use precinct of Fitzroy West which ensures the varied but low heritage street wall remains the visually dominant element of the streetscape and upper level developments are recessive providing a clear visual distinction between lower street walls and upper level development.
- a new mid-rise character (ranging from 3 to 7 storeys) behind a new street wall in the Commercial 2 Zone land which reflects the Alexandra Parade corner, Nicholson Street frontages and surrounding heritage influences.

To ensure the façade composition and articulation of development responds to:

- the prominent heritage character of mixed industrial and residential heritage buildings within the streetscape of Fitzroy West; and
- the boulevard character of Alexandra Parade, transitioning down to sensitive interfaces behind the pocket of Commercial 2 Zone land at the western junction of Alexandra Parade.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high-quality public realm, and avoids overshadowing of footpaths on opposite side of streets and public spaces.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The following maps are included in Council's Day 2 BFO23:

- building heights (Figure 72)
- street wall and front wall heights (Figure 73).

Figure 72 Day 2 BFO23 – Map 2: Building heights

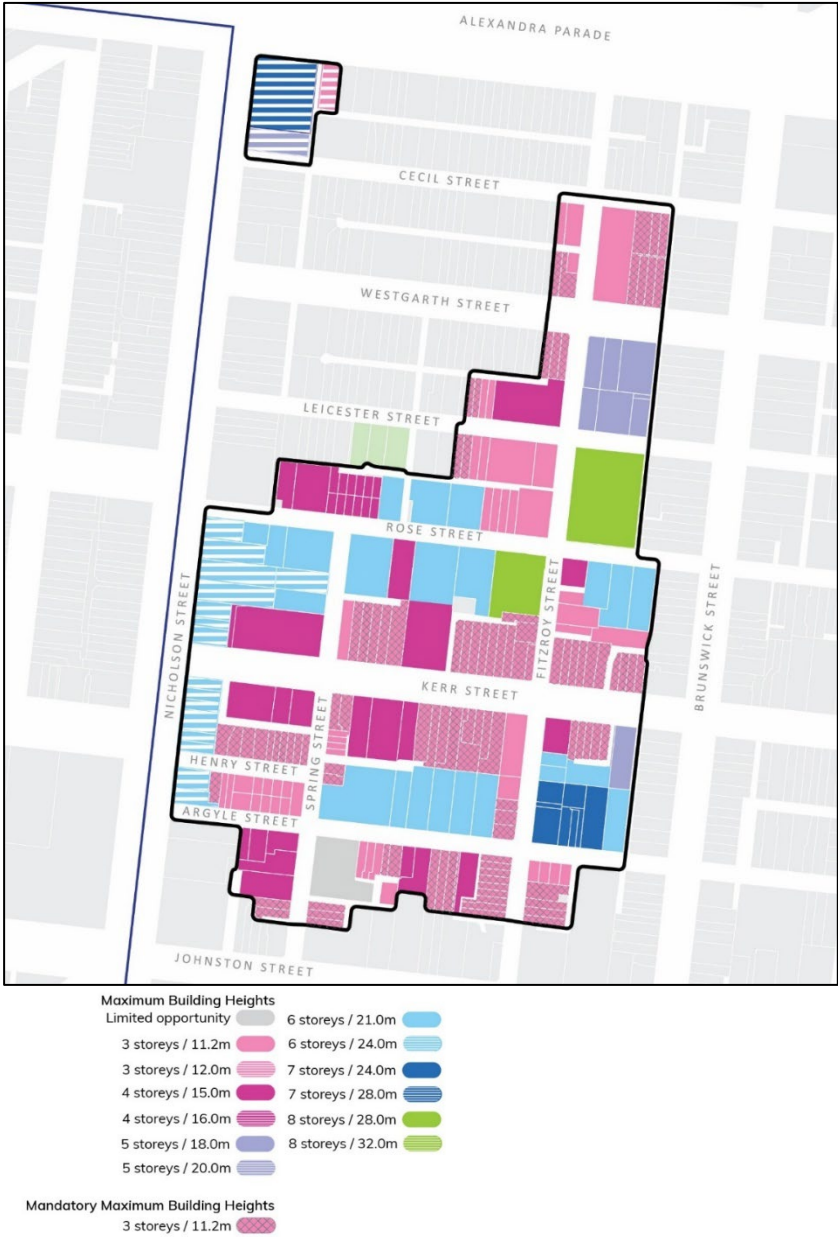


Figure 73 Day 2 BFO23 – Map 3: Street wall and front wall heights and landscaped setbacks

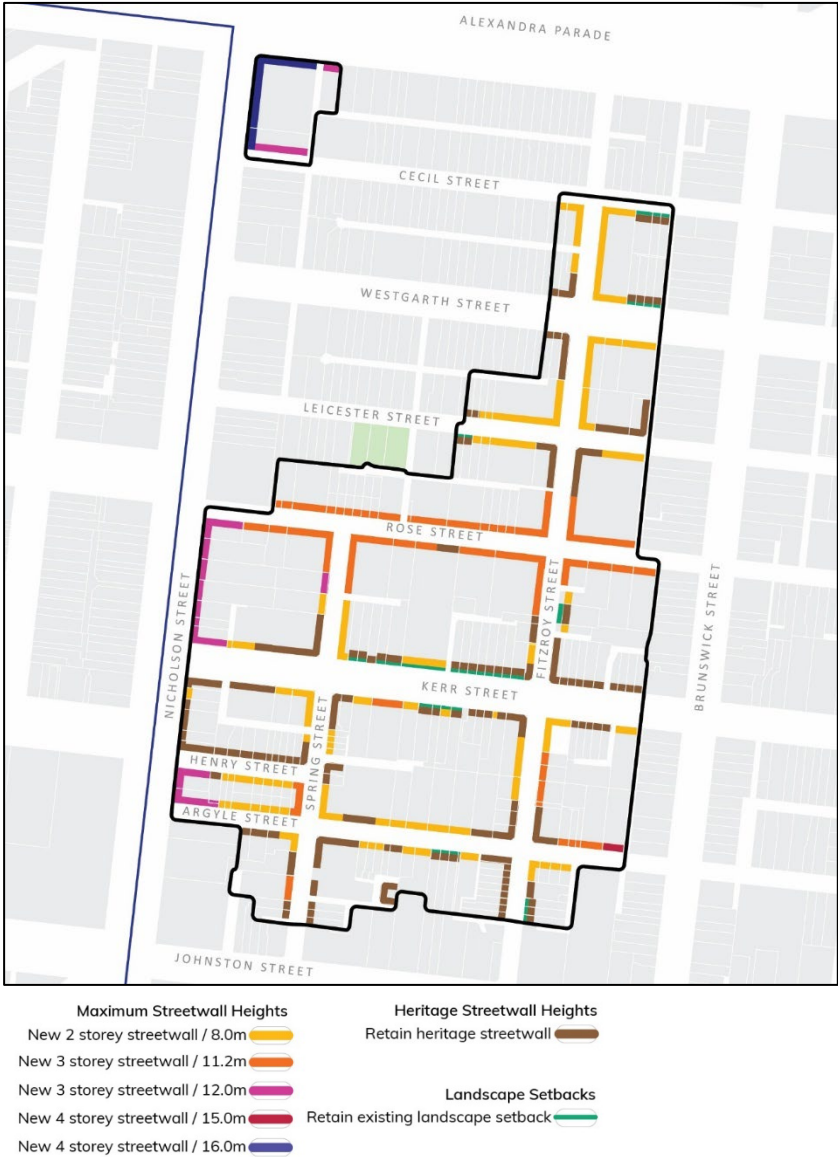


Table 23 shows Council’s proposed Day 2 BFO23 proposed mandatory and discretionary built form provisions.

Table 23 BFO23 – Fitzroy West building envelope controls

Day 2 BFO23	
Building heights (Standard BF02)	MANDATORY
	All Hatched: 3 storeys (11.2 metres)
	DISCRETIONARY
	Area 1: 3 storeys 11.2 metres /12 metres (C2Z)
	Area 2: 4 storeys 15 metres /16 metres (C2Z)
	Area 3: 5 storeys 18 metres /20 metres (C2Z)
	Area 4: 6 storeys 21 metres /24 metres (C2Z)
	Area 5: 7 storeys 24 metres /28 metres (C2Z)
	Area 6: 8 storeys 28 metres /32 metres (C2Z)

Overshadowing of open space or public realm (Standard BF04)	MANDATORY Streets of 15 metres or more in width (measured boundary to boundary): No overshadowing between 10am–2pm on 22 September on the opposite footpath measured 3 metres from the relevant property boundary A public open space, reserve or parklet: No additional overshadowing between 10am–2pm on 22 September DISCRETIONARY Any opposite kerb outstands, seating, and/or plant areas, as applicable: No overshadowing between 10am–2pm on 22 September Buildings on the opposite side of all other streets from the first floor upwards: No overshadowing between 10am–2pm on 22 September
Street wall and front wall heights (Standard BF05)	DISCRETIONARY Interface 1: 2 storeys (8 metres) Interface 2: 3 storeys (11.2 metres) Interface 3: 3 storeys (12 metres) Interface 4: 4 storeys (15 metres) Interface 5: 4 storeys (16 metres)
Setbacks above street wall and front wall (Standard BF05)	MANDATORY Significant and contributory heritage buildings on a primary street: 6 metres DISCRETIONARY Non-contributory heritage buildings on a primary street: 6 metres Non-contributory heritage buildings on a secondary street: 3 metres Significant and contributory heritage buildings on the secondary street of a corner site: 6 metres
Wall on rear boundary (Standard BF06)	DISCRETIONARY NRZ whether or not separated by a laneway: 8 metres GRZ where there is no existing laneway: 8 metres GRZ where there is an existing laneway: 11.2 metres MUZ whether or not separated by a laneway: 11.2 metres C1Z whether or not separated by a laneway: 11.2 metres
Building separation (Standard BF06)	DISCRETIONARY Habitable window or balcony: 4.5 metres (9 metres for multi buildings) Commercial or nonhabitable window: 3 metres (6 metres for multi buildings) Development over 27 metres: 6 metres

(ii) The issues

The issues are whether building envelope provisions are appropriate for BFO23 including:

- 74-84 Rose Street, Fitzroy

- 15–19 Kerr Street, 268–280, 262–266, 300, 302–304 Nicholson Street, 20 Rose Street, Fitzroy West.

(iii) 74–84 Rose Street, Fitzroy

What is proposed?

The site is located on the corner of Fitzroy Street and Rose Street. The draft Amendment proposed to apply discretionary building heights of 3, 4 and 6 storeys (see Figure 74).

Figure 74 74–84 Rose Street – proposed building heights



Source: Document 151, Valli/Foundry/Rose submission

Evidence and submissions

Valli/Foundry/Rose advised the property has a planning permit for an 8 storey development. It submitted the proposed provisions have been designed around a fragmented lot configuration, however the lots are now consolidated and accordingly can accommodate a more intensive built form outcome.

The submitter sought 8 storey discretionary building height, consistent with other large, consolidated corner sites it is adjacent to, and if not, it should have a 6 storey building height limit as recommended by Prof McGauran. Further:

In circumstances where Mr Gardner's office does not consider that the Rose Street Site should be within a heritage overlay, it would be wrong to base the built form requirements in the BFO on heritage advice.⁵⁵

Valli/Foundry/Rose also submitted that increasing the upper level setback from 3 to 6 metres is not justified and GJM Heritage has recommended the Heritage Overlay be removed from the site.

Ms Rigo said consideration should be given to simplifying the controls for the consolidated Rose Street site.

⁵⁵ Document 151, Valli/Foundry/Rose submission

Prof McGauran recommended to increase the discretionary maximum height from 4 storeys to 6 storeys up to and including Council's laneway, and a lower 3 storey discretionary building height scale south of the laneway at the interface with the former church.

Mr Gard'ner disagreed with Prof McGauran on the basis a *"four-storey street wall would exceed, and be out of keeping with, the established street wall heights for Rose and Fitzroy streets"*.⁵⁶

Council relied on the evidence of Mr Gard'ner.

Discussion

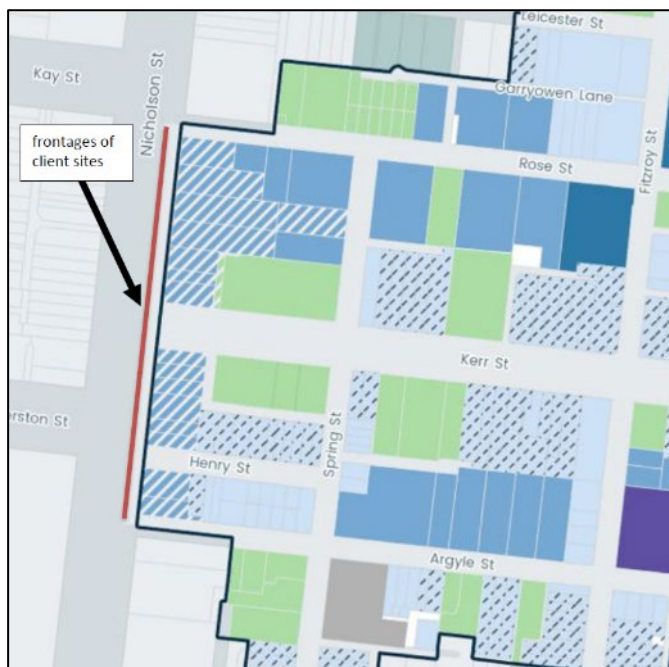
The Committee prefers the evidence of Ms Rigo and Prof McGauran. The property at 74 – 84 Rose Street is a large consolidated lot with development potential. A discretionary 6 storey building height should be applied, along with a discretionary 6 metre upper level setback (as a non-contributory building).

(iv) 15–19 Kerr Street, 268–280, 262–266, 300, 302–304 Nicholson Street, 20 Rose Street, Fitzroy West

What is proposed?

Figure 75 shows the properties are generally located along Nicholson Street between Rose and Argyle Streets.

Figure 75 Submitter 43 – relevant properties



Source: Document 155, Submitter 43 submission

The draft Amendment proposes to apply:

- mandatory 6 storey building heights
- discretionary 3 storey street wall heights and some retain heritage street walls

⁵⁶ Document 86, Mr Gard'ner expert statement

- a combination of mandatory 6 metre upper level setbacks (on heritage buildings on a primary street) and discretionary 6 metre upper level setbacks (non-contributory building on a primary street/contributory on a secondary street) and 3 metres discretionary (non-contributory on a secondary street).

Evidence and submissions

One submitter (representing the owners of these properties):

- sought a discretionary 6 metre upper level setback
- considered the mandatory 6 metre upper level setback to be unreasonable when considering the site context, size and depth, and it will impede development potential of the site.

Council relied on the evidence of Mr Gard'ner that a discretionary upper level setback is not an appropriate heritage outcome, noting the upper level setback is discretionary for a non-heritage building.

Discussion

The Committee agrees with Council and Mr Gard'ner. The proposed provisions are appropriate and provide for mandatory 6 metre upper level setbacks for heritage buildings on primary streets.

(v) Finding and recommendation

The Committee finds the building envelope provisions for BFO23 are appropriate, subject to its recommendations.

The Committee recommends:

In Built Form Overlay Schedule 23:

- a) amend Map 2 to show a discretionary 6 storey building height for 74-84 Rose Street.**

5.17 Specific referred matters for consideration

(i) The issues

The issues are whether the proposed building envelopes are appropriate and justified with respect to:

- cumulative impacts on development potential
- any potential conflict with approved planning permits
- impacts from overshadowing to the public realm and open spaces
- impacts from wind effects to the public realm
- transition to sensitive interfaces including heritage areas.

(ii) Cumulative impacts on development potential

Evidence and submissions

Council submitted the draft Amendment will not have an unreasonable cumulative impact on development potential for individual sites for the draft Amendment area or Yarra as a whole. It relied on the evidence of its experts, stating:

- Ms Rigo found no unreasonable cumulative impacts, stating that the interaction of heights, setbacks, street walls and overshadowing controls is proportionate and does not unduly constrain development potential.
- Mr Spencer was satisfied the draft Amendment provides sufficient capacity for growth.

Discussion

The Committee concludes in Chapter 3 that anticipated housing and employment demand can be satisfied.

In other chapters of this Report, the Committee recommends:

- discretionary building height controls are applied to large and extra large sites with greater development potential
- taller building height and street wall height, and reduced upper level setback controls for some sites/areas.

These recommendations are made in the context of protecting heritage values, interfaces with residential areas and public realm amenity. Subject to the Committee's recommendations the proposed provisions are strategically justified and appropriate.

Overall, the Committee is satisfied:

- the draft Amendment proposes an appropriate mix of mandatory and discretionary controls in response to existing conditions, context and development potential
- the proposed built form controls, with some minor changes, adequately balance the need to protect the existing heritage fabric and public realm amenity while still enabling housing and employment growth in the draft Amendment area
- the draft BFO schedules.

Overall, the proposed building envelope provisions will:

- facilitate better design and heritage outcomes for individual sites as well as the draft Amendment area overall
- not have an unreasonable cumulative impact on development potential for individual sites, either for the draft Amendment area or for the City of Yarra as a whole based on available information.

(iii) Any potential conflict with approved planning permits

Evidence and submissions

Ms Rigo advised that while the new planning provisions are likely to create some inconsistencies with existing planning permits, this is not a concern. Existing planning permits will remain valid (subject to its conditions and timeframes). She stated:

The draft Amendment does not alter the validity of existing permits nor the approach to assessing a request to extend the time of an existing permit.

An approved development which exceeds the built controls proposed by the draft Amendment would likely be inconsistent with the proposed updated planning policy and controls. In this scenario it would be reasonable to assume that an extension of time may not be granted. I do not have issue with this potential outcome. Nor do I consider this to be a significant issue which warrants any specific exemption or transitional provision.

In response to a direction from the Committee, Council provided a 'Permit Development Pack' with information about recent development sites (permits approved, refused and ongoing in and adjacent to the draft Amendment area).⁵⁷

Council relied on the evidence of Ms Rigo, and said the decision about whether a permit should be extended will be assessed using usual legal principles.

Discussion

The Committee agrees with Council and Ms Rigo. As discussed in Chapter 8.6 of this Report, subject to the Committee's recommendations the BFO schedules contain appropriate transitional provisions.

The Committee has not recommended planning provisions be amended to reflect existing permits because this approach is not strategically justified or considered good practice. However, the Committee has recommended discretionary provisions apply in certain circumstances. If applied, these discretionary provisions will be considered when assessing any future permit applications.

Overall, the Committee is satisfied any potential conflict with approved planning permits can be appropriately managed through appropriate transitional provisions.

(iv) Impacts from overshadowing to the public realm and open spaces

The Committee has addressed issues relating to overshadowing Chapters 5.4.2, 5.14(viii) and Chapter 5.15(iii) of this Report. Subject to its recommendations, the Committee finds impacts from overshadowing to the public realm and open spaces acceptable.

(v) Impacts from wind effects to the public realm

What is proposed?

The Clause 43.06 Built Form Overlay parent provision includes:

Clause 43.06-7.8 Wind effects on the public realm

Outcome

Development that minimises wind impacts to create and maintain a safe and pleasant environment in the public realm for pedestrians to walk, sit or stand.

Standard BF08

Development of five or more storeys, excluding a basement:

- must not cause new or exacerbate existing unsafe wind conditions specified in Table 1 in public land, publicly accessible areas on private land, private open space and communal open space; and
- should achieve comfortable wind conditions specified in Table 1 in public land and publicly accessible areas on private land,

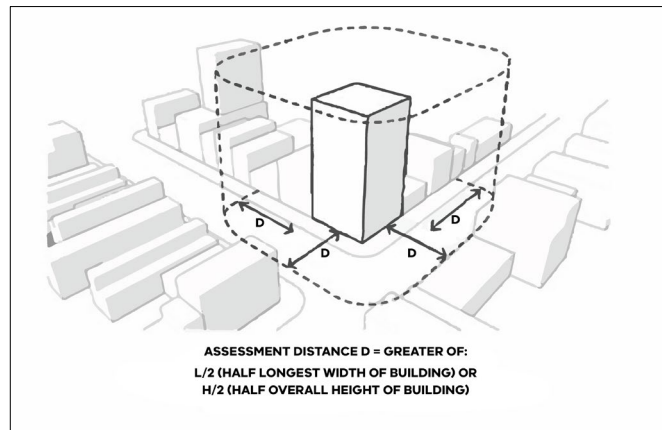
within the assessment distance shown in Diagram 1 [see Figure x below].

Trees and landscaping should not be used to mitigate wind impacts. This does not apply to sitting areas where trees and landscaping may be used to supplement fixed wind mitigation elements.

Wind mitigation elements, such as awnings and screens, should be located within the site boundary, unless consistent with the existing urban context or preferred future development of the area.

⁵⁷ Document 107c, Council Part B Attachment C – Permit Development Pack

Figure 76 Standard BF08 Diagram 1 – assessment distance for wind effects



It also contains provisions relating to:

- building heights (Clause 43.06-7.2) – with an outcome for building heights to maintain an inviting and comfortable environment within the public realm in terms of its sense of sunlight, daylight and wind conditions, and associated Standard BF02
- weather protection (Clause 43.06-7.11) – with an outcome to deliver pedestrian comfort in the public realm from rain, wind and summer sun.

The BFO schedules:

- do not include any specific requirements relating to Wind effects (Clause 6.2-7)
- include an application requirement for a wind impact assessment which must:
 - Explain the effect of the proposed development on the wind conditions in publicly accessible areas within a distance equal to half the longest width of the building, measured from all façades, or half the total height of the building, whichever is greater.
 - For development with a total building height in excess of 30 metres, model the wind effects of the proposed development and its surrounding buildings (existing and proposed) using wind tunnel testing, unless otherwise agreed by the Responsible Authority.
 - Identify the principal role of each portion of the publicly accessible areas for sitting, standing or walking purposes.
 - Explain whether the outcome and Standard BF08 at Clause 43.06-7.8 are met.
- include a decision guideline as follows:
 - Whether the proposed built form mitigates negative wind impacts created by the development.

Evidence and submissions

Prof McGauran considered the wind provisions were weak and fall well short of the benchmark that is needed in a high-density environment such as this. He stated:

The higher-density soho-scaled residential, commercial precincts reliant on green travel for their viability, retail and hospitality areas, as well as health and education precinct areas impacted by the BFOs, are each typically dependent on the high-quality environments for walking, sitting, standing and cycling.

Wind standards based on simply maintaining standards that are safe for walking are poorly aligned with these ambitions and have typically been replaced by bespoke solutions that have enabled each of the wind impacts to be moderated to meet the interfacing programmatic needs for both public and private space.

In the City of Yarra, where the growth in enterprises, hospitality, health and education sectors is dependent on the creation of collaborative and comfortable urban environments for the existing and future success, establishing performance criteria aligned with these objectives is critical.⁵⁸

He raised issues including:

- the wind controls don't clearly cover shared communal space within private development
- wind degradation reduces the functionality and equity of these scarce outdoor places (especially for people without private yards) with flow-on impacts to wellbeing, street life, safety, and main-street economic activity
- it should be mandatory rather than discretionary to provide comfortable wind conditions in external shared spaces at all times of the year, with reference to guidance in the Urban Design Charter for Victoria.

Prof McGauran recommended mandatory wind provisions stating that new development must not cause a deterioration in comfort arising from increased wind speeds to:

- shared public and private communal areas
- the footpaths of primary retail and interconnecting side streets
- new development must achieve the following amenity standard minimums for:
 - sitting conditions along all new retail, hospital, university, and community services street interfaces
 - sitting conditions along all new shared public and private spaces within and adjoining new development
 - standing conditions for primary building entries to all new developments within the draft Amendment area
 - walking in all remaining areas.

Ms Rigo noted the BFO parent clause and schedules provide significantly improved wind provisions compared with the original DDO schedules.

Council submitted it:

... agrees with Mr McGauran to the extent that the impact of wind on public and private spaces is an important public realm issue but submits that the State-wide provisions in the BFO are appropriate and should be applied to the draft BFOs.⁵⁹

Discussion

The BFO schedule wind provisions focus on impacts on the public realm. The decision guideline relating to wind does not specify the public realm. It should be redrafted to be consistent with outcomes and standards as follows:

Whether the proposed built form mitigates negative wind impacts [to the public realm](#) created by the development.

Subject to this change, the Committee is satisfied the provisions relating to wind impacts to the public realm are acceptable.

Prof McGauran's has made some important observations and recommendations relating to wind provisions. There are significant opportunities to strengthen provisions particularly for strategic redevelopment sites.

⁵⁸ Document 88, Prof McGauran expert statement

⁵⁹ Document 107, Council Part B submission

The Committee understands that Council will be working with DTP to identify and review the planning controls on strategic redevelopment sites. This is an important opportunity to consider more appropriate wind planning provisions that ensure:

- no deterioration in wind comfort from new development
- protection to shared communal areas (public/private) and key footpaths/streets
- use comfort-based standards (sitting/standing/walking) rather than only 'safe for walking'
- ensure wind criteria are explicit and mandatory (not discretionary).

(vi) Transition to sensitive interfaces including heritage areas

Evidence and submissions

Prof McGauran commented on issues raised by several submitters regarding sensitive interfaces issues as follows:

I am satisfied that the combined recommendations I have put forward regarding amenity protection and the maximum heights put forward by the Amendment are when read together providing an appropriate balance between development intensification and amenity protection

Council submitted that the proposed BFO schedules are appropriate and justified having regard to the transition to sensitive interfaces. All BFO schedules that abut land in the GRZ or NRZ include the requirement development above a wall on a rear boundary to be setback from the rear boundary and be contained within a 45 degree setback envelope, except for green infrastructure to support landscaping. All BFO schedules require that development should respond to existing secluded open space by setting back upper levels and that development should not dominate adjoining residential sites, including where separated by a laneway.

Discussion

The Committee agrees that the combination of the proposed mandatory and discretionary built form controls, together with the related development objectives and design guidance, combine to ensure there is adequate content to inform and guide decision making around the provision of appropriate transitions to sensitive interfaces, and in particular heritage areas and places. The BFO schedules include provisions relating to interfaces with heritage properties, including 'Requirements for heritage buildings and land adjoining heritage buildings'. Requirements relate to matching front setbacks and street wall heights where there is an adjoining heritage building.

(vii) Findings and recommendation

The Committee finds, subject to its recommendations, the proposed building envelopes are appropriate and justified with respect to:

- cumulative impacts on development potential
- any potential conflict with approved planning permits
- impacts from overshadowing to the public realm and open spaces
- impacts from wind effects to the public realm
- transition to sensitive interfaces including heritage areas.

The Committee recommends:

Amend all Built Form Overlay schedules, as shown in Volume 2 of this Report to:
b) specify the decision guideline relating to wind, focus on impacts to the public realm.

5.18 Committee conclusions on building height (envelope)

The Committee concludes, subject to its recommendations relating to specific sites and planning provisions, the proposed building heights, setback and separation, overshadowing, street wall height and upper level setbacks are appropriate and justified.

With respect to specific referred matters for consideration:

- the draft Amendment will not have an unreasonable cumulative impact on development potential for individual sites, either for the draft Amendment area or for the City of Yarra as a whole
- any potential conflict with approved planning permits can be appropriately managed through appropriate transitional provisions
- impacts from overshadowing to the public realm and open spaces are acceptable based on the Committee's recommended provisions.
- impacts from wind effects to the public realm can be acceptably managed, however, future work should be undertaken to strengthen wind provisions particularly for strategic redevelopment sites.
- the provisions are appropriate for managing transition to sensitive interfaces including heritage areas.

6 Floor-to-floor heights

6.1 Specific matter for referral

The specific matter for referral is:

Whether the proposed provisions for floor to ceiling heights are appropriate to provide flexibility for both retail and commercial uses.

The draft Amendment material refers to 'floor-to-floor' height rather than 'floor-to-ceiling' height, and the Committee has also taken this approach.

6.2 What is proposed?

Standard BF07 of the draft BFO schedules (Clause 6.2.6 Building layout and adaptability) includes a discretionary standard as follows:

Lower levels of development should be designed to incorporate a commercial floor to floor height of approximately 4 metres.

The maximum building heights in the BFO schedules have been calculated assuming 4 metres at ground level and the first floor level, and 3.2 metres for upper levels.

Table 24 shows the calculated maximum building heights.

Table 24 Maximum building height calculations

Storeys	Floor to floor (in metres)	Total (in metres)
3 storeys	4 + 4 + 3.2	11.2
4 storeys	4 + 4 + 2(3.2)	14.4
5 storeys	4 + 4 + 3(3.2)	17.6
6 storeys	4 + 4 + 4(3.2)	20.8
7 storeys	4 + 4 + 5(3.2)	24
8 storeys	4 + 4 + 6(3.2)	27.2
9 storeys	4 + 4 + 7(3.2)	30.4
10 storeys	4 + 4 + 8(3.2)	33.6

Source (Document 107: Council's Part A submission)

6.3 The issue

The issue is whether the exhibited floor-to-floor heights are appropriate.

6.4 Evidence and submissions

Prof McGauran endorsed the proposed 4.0 metre / 3.2 metre floor height structure as an appropriate basis for modelling and assessing built form outcomes. He supported Council's view that flexibility at the lower levels is essential to sustaining active, adaptable activity centres.

Prof McGauran recommended rounding up overall building heights to:

- accommodate increased ground-floor levels where flooding or design transitions require it
- improve consistency across Yarra's built form provisions.

He recommended maximum building heights as follows:

- Area 2- 4 storeys – 15 metres instead of 14.4 metres
- Area 3- 5 storeys – 18 metres instead of 17.6 metres
- Area 4- 6 storeys – 21 metres instead of 20.8 metres
- Area 5- 8 storeys – 28 metres instead of 27.2 metres
- Area 6- 9 storeys – 31 metres instead of 30.4 metres
- Area 7- 10 storeys – 34 metres instead of 33.6 metres.

Ms Rigo considered the 4 metre floor-to-floor height for lower levels was appropriate and flexible for retail and commercial uses. She recommended clearer wording around what constitutes 'lower levels' stating:

The wording of Standard BF07 in each of the proposed BFO Schedules should provide clearer guidance on what is meant by the 'lower levels of development' given the reference to 'ground level heights' in the Outcomes.

Mr Gard'ner did not object to the proposed floor-to-floor heights and confirmed that:

- the assumed heights align with many historic heritage commercial buildings
- minor upward tolerances to overall height (for flood or construction reasons) would not, in themselves, undermine heritage outcomes.

Council did not agree with Ms Rigo that the wording of BF07 needed to be changed, preferring a flexible approach. It retained the term 'lower levels' rather than narrowly defining the ground floor, to allow design flexibility across varying site and use circumstances.

Council accepted the modest 'rounding up' of overall building heights recommended by Prof McGauran to account for:

- practical construction realities
- minimum floor level requirements
- consistency with existing Yarra activity centre controls.

6.5 Discussion

Prof McGauran's recommended floor-to-floor heights are appropriate. The approach:

- supports commercial viability and long-term adaptability
- aligns with heritage building proportions
- underpins a consistent and transparent method for calculating maximum heights
- avoids unnecessary prescription that could undermine site-responsive design.

The Committee agrees with Council that the drafting clarification sought by Ms Rigo is not required. While the BFO parent provision outcomes refer to floor to floor heights that *"have ground floor heights that allow both retail and commercial uses"*, this does not contradict the proposed BF07 which seeks for lower levels of development to incorporate the approximate 4 metre floor to floor heights. The provision is discretionary and the flexibility is appropriate.

6.6 Finding

The Committee finds the proposed floor-to-floor heights are appropriate, including the rounding up of building heights as recommended by Prof McGauran and accepted by Council (as shown in Volume 2 of this Report).

6.7 Committee conclusion on floor-to-floor heights

The Committee concludes that, subject to its recommendations, the proposed floor-to-floor (floor-to-ceiling) heights are appropriate.

7 Flood design requirements

7.1 Specific matter for referral

The specific matter for referral is:

Whether the proposed provisions are appropriate to support good design responses in areas affected by the Special Building Overlay.

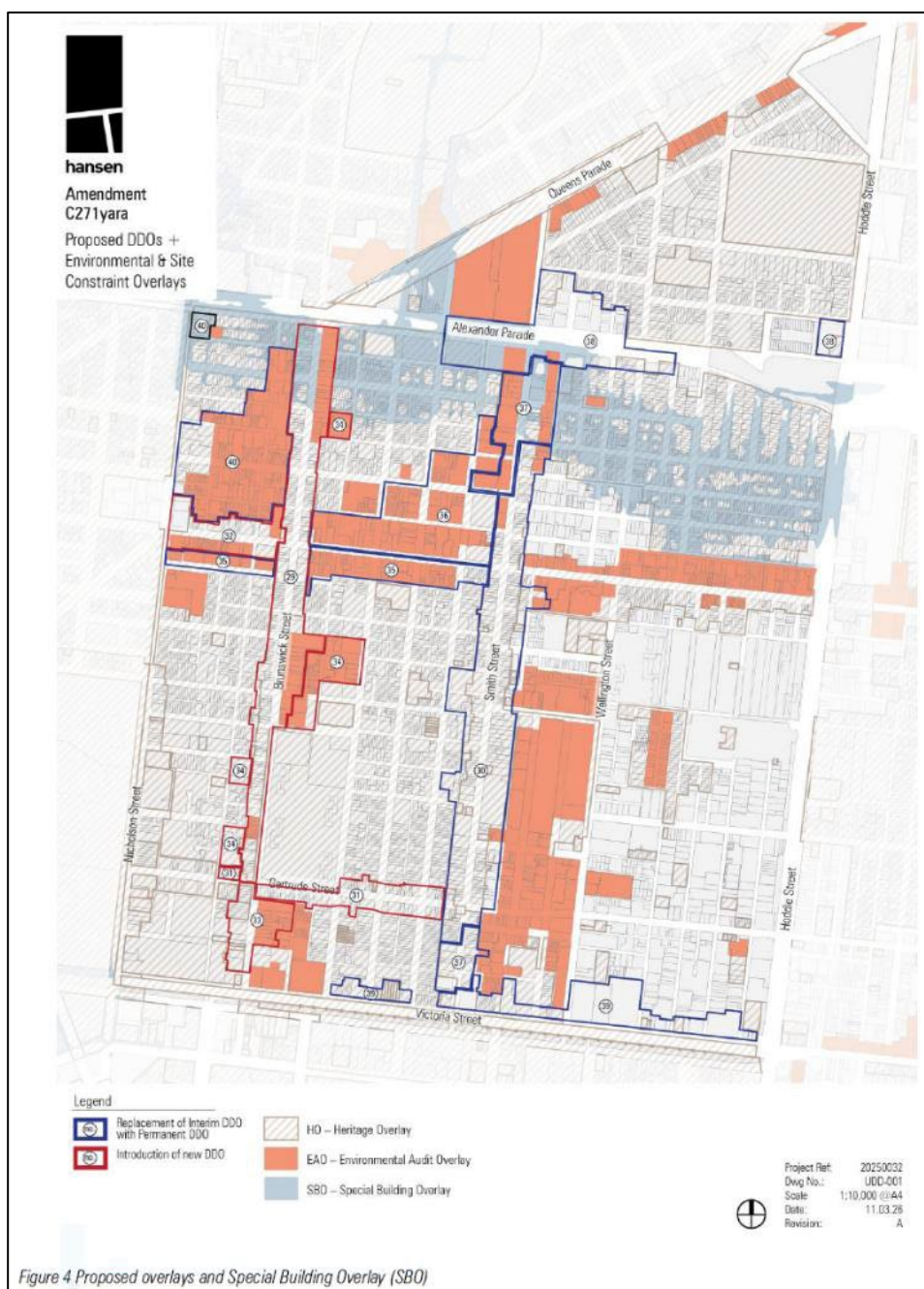
7.2 The issue

The issue is whether the proposed provisions support good design responses in areas affected by the Special Building Overlay (SBO).

7.3 Evidence and submissions

Ms Rigo explained the SBO applies to land in BFO12, BFO13, BFO19, BFO20, BFO21 and BFO23 (see Figure 77).

Figure 77 Proposed Special Building Overlay



Source: Document 89, Ms Rigo expert statement

Ms Rigo was satisfied that good built form outcomes in areas affected by the SBO can be achieved through the proposed provision at Standard BF02 which states:

For land in a Special Building Overlay, the maximum building height specified in Standard BF02 is the vertical distance from the minimum floor level determined by the relevant drainage authority or floodplain management authority to the roof or parapet at any point.

Ms Rigo explained that by linking maximum building height to the minimum floor level set by the relevant drainage authority, the floor level can be adjusted as updated flood data becomes available. She said this an appropriate response given that Melbourne Water had not yet resolved its requirements relating to flooding.

Prof McGauran recommended (in his recommendation 16):

In the context of Standard B05, consider the potential for the need for a transition from street level to freeboard level on the ground floor of retail and residential developments necessitating a more generous ground-to-first-floor height assumption.

To support high-quality urban outcomes as sought in the referral, DTP with Melbourne Water to develop a set of guidelines as part of its activity centre program that consider how best to ensure the resilience of established and important activity centres and main streets that are the subject of rising 1:100 flood levels.

As discussed in Chapter 6, Prof McGauran recommended 'rounding up' the proposed building heights to provide flexibility to accommodate minimum floor levels arising from the SBO.

Mr Gard'ner stated:

- a substantial area of land affected by the SBO is also subject to the Heritage Overlay
- additional building height of up to 1 metre may be required to accommodate the minimum floor level
- this is a modest amount that would not require increasing the number of storeys and would still achieve an acceptable heritage outcome without needing to increase the minimum upper level setback.

Mr Gard'ner agreed with Prof McGauran's recommendation and said the design guidelines should include specific advice on responding to flood design and climate change adaptation for heritage buildings and streetscapes.

Mr Twite recommended that Standard BFO2 be redrafted to apply to both mandatory and discretionary building height controls.

Council submitted that *"the referred matter before this Committee is limited and asks only whether the proposed provisions are appropriate to support good design in areas affected by the SBO"*.⁶⁰ Council proposed the wording in Standard BFO2 in response to the submission from Melbourne Water on the draft Amendment. It said that while BFO2 would allow for additional height for buildings in the SBO, it was only relevant to select properties close to Alexandra Parade. Council's Day 2 BFO schedules included a new requirement in Standard BF05 relating to maximum street wall height (based on the text in BFO2).

Council submitted the provisions allow for reasonable development in the SBO while considering the requirements of Melbourne Water. Further, similar provisions are in the Mixed Use Zone, General Residential Zone and Neighbourhood Residential Zone of the Planning Scheme.

Council explained:

In its adopted submission to Melbourne Water from 16 December 2025, Council raised the importance of clear guidance and integration around the matters of housing growth (and targets), activity centres and stormwater flooding in established areas, plus the need for Statewide guidelines to ensure good design outcomes.⁶¹

⁶⁰ Document 107, Council Part B submission

⁶¹ Document 107, Council Part B submission

Council considered the issue of design guidelines could be progressed separately of the draft Amendment as it has potential application across other parts of Melbourne where flooding is anticipated.

Melbourne Water did not object to the draft Amendment and submitted it was undertaking flood modelling that would inform a future planning scheme amendment. Melbourne Water did not participate in the Hearing.

Some submitters raised concerns that mandatory building heights do not take into account potentially changing minimum floor level requirements.

7.4 Discussion

The Committee is generally satisfied the provisions will support and enable good design outcomes in areas affected by the SBO. The Day 2 BFO schedule provisions will allow for building and street wall height adjustments required to respond to updated flood data, regardless of whether the building height requirements are mandatory or discretionary. The approach is appropriate and practical.

The Committee supports Prof McGauran's recommendation to round up building heights (see Chapter 6) which will provide some flexibility in building design. The Committee accepts the evidence of Mr Gard'ner that the modest increase in building height will have an acceptable heritage outcome.

It is not clear why the provisions are proposed to be included in all BFO schedules (when only 6 are affected by the SBO). If the SBO does not apply to a BFO schedule area there is no need to include the provision. The opportunity to remove the provisions from BFO schedules where not required should be explored with Melbourne Water (in the context of the updated flood modelling and separate planning scheme amendment that it is progressing).

The Committee agrees with Council and experts that design guidelines would be beneficial. These should be progressed with DTP and Melbourne Water separate to this draft Amendment process. The guidelines should explore issues relating to good building design, noting a raised ground floor can affect:

- pedestrian interface and accessibility
- design of retail and commercial entries
- visual connection between new development and heritage fabric
- design of active frontages
- legibility of transitions between street level and occupied floor levels.

7.5 Findings and recommendation

The Committee finds:

- the proposed provisions support good design responses in areas affected by the SBO
- the SBO provisions should be deleted from BFO schedules where not relevant
- design guidelines would be beneficial and should be progressed by DTP, Melbourne Water and relevant local government authorities separate to this draft Amendment process.

The Committee recommends:

In all Built Form Overlay schedules:

- c) in consultation with Melbourne Water, confirm the areas where the Special Building Overlay will apply and delete the Special Building Overlay provisions from any Built Form Overlay schedules where the Special Building Overlay will not apply.**

7.6 Committee conclusions on flood design requirements

The Committee concludes the proposed provisions support good design responses in areas affected by the Special Building Overlay.

8 Draft Built Form Overlay schedules

8.1 Specific matter for referral

The specific matter for referral is:

Whether the proposed schedules to the Built Form Overlays are appropriate, including with respect to, but not limited to the following matters:

- Supporting high-quality design outcomes
- Deemed to comply provisions
- Third party review rights
- Transitional provisions.

8.2 The Committee's approach

The Committee has addressed the specific referred matter in the following sub-chapters:

- supporting high-quality design outcomes (see Chapter 8.3)
- deemed to comply provisions (see Chapter 8.4)
- third party review rights (see Chapter 8.5)
- transitional provisions (see Chapter 8.6)
- drafting issues (see Chapter 8.7).

8.3 Supporting high-quality design outcomes

(i) The issue

The issue is whether the BFO schedules are appropriate with respect to supporting high-quality design outcomes.

(ii) Evidence and submissions

Prof McGauran was satisfied, subject to his recommended minor improvements, the proposed BFO schedules will ensure the *"important difference remain and important contributions derived from its rich history and heritage fabric remain"*.⁶²

Mr Gard'ner explained the BFO parent provision requires high quality exterior design outcomes and development that responds appropriately to heritage. This is consistent with Clause 15.03-1L (Heritage) that includes strategies to achieve high quality and respectful design responses. He said the BFO schedules are generally consistent with local heritage policy, while acknowledging *"there is a tension between achieving this outcome while enabling development consistent with that anticipated in an activity centre"*.⁶³

Mr Gard'ner advised the Heritage Overlay applies to most the activity centres, and permit applications would have to address heritage provisions as well as the BFO. The Heritage Overlay requires consideration of high quality design outcomes through decision guidelines. With reference to the Office of Victorian Government Architect

⁶² Document 88, Prof McGauran expert statement

⁶³ Document 86, Mr Gard'ner expert statement

guideline *Good Design + Heritage*, he concluded that high quality design must also respectful heritage.

Ms Rigo explained the very basis of the draft Amendment is managing change to ensure high-quality-design built form is achieved. She advised the BFO schedules contain development objectives aligned with the background strategic work, and associated built form controls. She noted the design related intent of the BFO schedules includes:

- Encouraging more development;
- Seeking development to respond to the heritage and streetscape character;
- Seeking development to maintain the prominence of the existing low-scale heritage street wall and fine-grain heritage character (where relevant);
- Seeking recessive upper levels and a façade composition and articulation that complements streetscape character;
- Encouraging development design that promotes pedestrian activity and contributes to a high-quality public realm; and
- Responding to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.⁶⁴

Mr Shepherd recommended adding a provision in Standard BF02 to BF022 stating:

- New development at a Key Junction as shown on Map 1 may exceed the maximum building height within 50m of the property's corner by up to 20% provided that it achieves design excellence.

He explained design excellence provisions are becoming more common in Victoria. He referred to recent examples at Arden and for the Suburban Rail Loop Precincts where design excellence is referred to in application requirements and decision guidelines.

Council submitted:

- the draft BFO schedules contain precinct specific objectives, standards and requirements (in particular for Standards BF05, BF06 and BF15), supported by precinct specific policy in Clause 11.03, all of which support high quality design outcomes.
- the provisions implement State and local planning policy through the protection of heritage streetscapes, high quality urban design outcomes and protection of private and public amenity
- regarding individual sites, the provisions will impact development potential on each site but that is not an unreasonable outcome given existing site constraints and the desired achievement of high-quality public and private realm outcomes.

(iii) Discussion and finding

The Committee agrees with Council and experts that the draft Amendment with the proposed changes will:

- ensure the preservation and legibility of the high quality unique and largely intact nineteenth century urban streetscapes
- balance the need to preserve the unique heritage and urban context while attracting investment to deliver more housing, employment and services

⁶⁴ Document 89, Ms Rigo expert statement

- ensure that future development within the precinct continues to achieve a high-quality urban design outcome.

While the recommendation of Mr Sheppard for BFO22 has merit, there would need to be further work undertaken to determine whether this approach is appropriate for the draft Amendment area and how it might be applied. This should be taken into consideration in the strategic redevelopment sites program that Council is working on with DTP.

The Committee finds the BFO schedules are appropriate with respect to supporting high-quality design outcomes.

8.4 Deemed to comply provisions

(i) The issue

The issue is whether the exclusion of deemed to comply provisions in the BFO schedules is appropriate.

(ii) Background

The BFO parent provision enables a BFO schedule to specify deemed to comply standards. None of the draft BFO schedules include deemed to comply provisions.

In referring the draft BFO schedules, DTP explained:

A key feature of the Built Form Overlay is the ability to identify a standard as 'deemed to comply'. This can be used to streamline the assessment process where the standard is met, incentivising an applicant to meet the metric in the schedule.

The draft Built Form Overlay schedules do not specify any deemed to comply standards. DTP will work with the council to identify opportunities to make use of deemed to comply for the committee's consideration.⁶⁵

(iii) Evidence and submissions

Ms Rigo stated it was premature to apply deemed to comply provisions and *"further strategic analysis (including modelling) should be undertaken to establish appropriate 'deemed to comply' provisions to achieve acceptable outcomes"*.⁶⁶

Ms Rigo explained that deemed to comply provisions establish a minimum baseline for compliant development. She said the BFO schedules have been drafted to establish maximum provisions, and it cannot be concluded that complying with a maximum will result in appropriate and acceptable outcomes in all instances.

Council submitted that the Committee cannot advise on the issue of deemed to comply provisions in the BFO schedules because:

- their inclusion in the draft Amendment has not been considered by Council or to the best of Council's knowledge, DTP
- they have not been the subject of public review
- strategic work to establish appropriate deemed to comply metrics has not been done, including site specific modelling.

⁶⁵ Document 10, DTP letter enclosing the BFO schedules

⁶⁶ Document 89, Ms Rigo expert statement

Council's position was that it was *"neither possible nor practical to convert the draft BFO schedules as part of the draft Amendment process"*.⁶⁷ It said a mandatory maximum is not interchangeable with a deemed to comply minimum and cannot be directly converted to one.

(iv) Discussion

The Committee agrees with Ms Rigo and Council that it is premature to introduce deemed to comply provisions. The draft Amendment (based on the DDO schedules) was not exhibited with deemed to comply provisions and there were no specific proposals before the Committee.

There is a distinction between mandatory maximum controls and deemed to comply minimum standards. Fundamentally, the provisions serve different functions. A mandatory maximum sets a 'ceiling' that cannot be exceeded in any circumstances whereas a deemed to comply standard sets a 'floor' that, if met, ensures the outcome is acceptable. Accordingly, determining an appropriate deemed to comply standard involves identifying the minimum standard that achieves an acceptable outcome in all cases. This work has not been done, and nor was it the intent of the draft Amendment.

Without appropriate analysis and foundational work, deemed to comply standards cannot be reliably set. The background work for this Amendment modelled desirable built form outcomes at a block level. A more nuanced, site specific assessment was not undertaken, including modelling of what the minimum acceptable standard would be in varying heritage and interface contexts. This is particularly relevant in the draft Amendment area, with large areas with significant and sensitive heritage values.

(v) Finding

The Committee finds it appropriate to exclude deemed to comply provisions from the BFO schedules, in the absence of supporting strategic work.

8.5 Third party notice and review rights

(i) The issue

The issue is whether the BFO schedules are appropriate with respect to third-party notice and review rights (notice requirements).

(ii) Evidence and submissions

Ms Rigo considered it appropriate to retain the notice requirements. She cautioned against removing them as part of this Amendment process as it would raise matters of procedural fairness. She stated that notice requirements facilitate community involvement in decision-making and further public notification of the Amendment would be required if their removal was contemplated.

Council supported retaining third party rights in the BFO provisions.

⁶⁷ Document 107, Council's Part B submission

No submitter sought to remove the notice requirements.

(iii) Discussion

The Committee supports retention of notice requirements in the BFO schedules, noting that nobody sought to remove them. It agrees with Ms Rigo regarding issues of procedural fairness if removal of notice requirements was contemplated.

(iv) Finding

The Committee finds the BFO schedules are appropriate with respect to third party notice and review rights.

8.6 Transitional provisions

(i) The issue

The issue is whether the BFO schedules are appropriate with respect to transitional provisions.

(ii) Background

The purpose of a transitional provision is generally to allow permit applications (already lodged with Council) to be assessed under the version of the Planning Scheme that existed when the application was made.

The DDO parent provision does not provide for transitional provisions, and accordingly the exhibited DDO schedules did not contain transitional provisions.

The BFO parent provision provides for schedules to include transitional provisions, and these were included in the DTP version of draft BFO schedules.

(iii) Evidence and submissions

Ms Rigo and Mr Twite supported the transitional provisions as drafted by DTP.

Ms Rigo considered:

- it was fair and reasonable to implement DTP's version of the transitional provisions as part of the draft Amendment and doing so would not raise issues of procedural fairness
- where a planning permit had been lawfully issued and remained valid, the permit holder had a legitimate legal right to enact the approved development – this extended to developments that might not align with new planning controls introduced since the date the permit was issued.

Council submitted that transitional provisions were not necessary because *"the majority of the draft BFO schedules are already covered by interim DDOs which contain similar provisions to the draft BFO schedules, wherever BFO schedules replace interim DDOs in the same terms..."*.⁶⁸ However, it supported limited transitional provisions in circumstances where a Notice of Decision has been issued, as follows:

⁶⁸ Document 107, Council Part B submission

The requirements of Clause 43.06 and this schedule do not apply to:

- An application ~~made before the approval date of Amendment CXXX to this planning scheme for which a Notice of Decision to Grant a Permit has been issued prior to the approval date of Amendment CXXX, provided the application is not amended to increase any non-compliance with the requirements of the Planning Scheme as amended by Amendment CXXX. For avoidance of doubt, this includes an amended application under section 50, 50A or 57A of the Act if the original application was made before the approval date of Amendment CXXX.~~
- An ~~amended permit~~ application to amend a permit under section 72 of the Act, if the original application in respect of which that permit was first granted (that is, before it was first amended) was either;
 - Made before the approval date of Amendment CXXX.
 - An amended application under section 50, 50A or 57A of the Act if the original application was made before the approval date of Amendment CXXX, provided the amendment does not increase any non-compliance with the requirements of the Planning Scheme as amended by Amendment CXXX.
- The ~~following~~ provisions, as in force in relation to relevant land immediately before the approval date of Amendment CXXX, continue to apply to applications which this transitional provision applies:
 - XXX.

Council submitted its changes were fair and reasonable as they do not affect accrued rights associated with a permit. It said:

...it is fair that a permit holder who seeks to exceed a permit envelope and mandatory controls should be subject to the same controls as all other applications in the draft Amendment area... Council disputes that it is fair that for a permit holder to enjoy the ongoing benefit of discretionary provisions on a permanent basis under an existing permit when all new permit applications must comply with mandatory provisions.⁶⁹

In relation to the exhibited draft Amendment, some submitters raised concerns that existing permits exceed the various mandatory controls in the DDO schedules.

Some submitters raised issues in relation to the transitional provisions in BFO schedules, including:

- GFM Group who supported the DTP version of transitional provisions subject to minor changes, stating:
 - the changes proposed by Council were unnecessarily complicated and ambiguous
 - making a fundamental change to planning provisions from discretionary to mandatory should as a matter of fairness include transitional provisions
 - the requirement to “not *increase any non-compliance*” is of concern as it would prevent a permit amendment that resulted in the building being slightly taller or with lesser setback, even if other parts of the development were reduced
 - it has identified only three permits in the BFO13 area would benefit from the DTP proposed transitional provisions, and enabling those permits to be amended under the pre-existing discretionary scheme would not in any way compromise the strategic objectives and intent of the draft Amendment

⁶⁹ Document 174, Council Part C submission

- recently approved activity centre BFO schedules introduced by the State government included the DTP version of transitional provisions.
- Foundry/Rose/Valli supported the DTP version of transitional provisions. It provided a review of BFO schedule transitional provisions from other planning schemes⁷⁰ and stated the provisions were appropriate and necessary to protect legitimate existing development rights.

(iv) Discussion

It is appropriate for transitional provisions to be included in the BFO schedules. The draft Amendment fundamentally changes nature of the controls for several sites, from discretionary to mandatory, and transitional provisions will protect accrued rights.

The Committee prefers DTP version of transitional provisions. The DTP provisions have been used consistently across several BFO schedules in other planning schemes.

These provisions apply to a permit application made before the approval date of the draft Amendment. This is appropriate. While landowners may have been aware of the proposed draft Amendment, consistent with regular practice they have reasonably proceeded with an application based on the current provisions. It is not reasonable to expect an applicant to respond to proposed controls that are not yet part of the Planning Scheme.

The Committee is mindful that the draft BFO schedules were not exhibited with the draft Amendment. While consultation on the draft Amendment is outside the scope of the Committee's referral, it is noted that the transitional provisions potentially affected permit holders may not have had an opportunity to provide comment.

Planning permits have time limits applied. Council will have the option to consider any extension of time requests against the relevant considerations (including the current Planning Scheme) if a request is made.

With regard to Council's proposed reference to "*not increase non-compliance*" this is confusing and potentially difficult to assess. For instance, it is not clear whether the non-compliance would relate to each BFO schedule standard, or the cumulative building envelope proposed.

The Committee has not undertaken a detailed review of permits and permit applications that may be affected by the provisions, however given the low number of affected sites, the Committee is satisfied the potential to compromise the objectives of the draft Amendment is low.

The Committee considers dot point two of the provision) should be revised as follows:

- An ~~amended permit~~ application [to amend a permit](#) under section 72 of the Act...

(v) Finding

The Committee finds:

- The DTP version of transitional provisions should be adopted in the BFO schedules, subject to its recommended minor drafting change.

⁷⁰ Document 151a

(vi) Recommendation

The Committee recommends:

In all Built Form Overlay schedules, as shown in Volume 2 of this Report:

a) amend the transitional provisions.

8.7 Drafting issues

(i) Building envelope provisions

The Committee has not reviewed all BFO schedules to ensure the building envelope changes adopted by Council during the Hearing process were made, including the changes endorsed by the Committee in this Report. Before finalising the draft Amendment, all BFO schedules should be reviewed and updated to ensure they reflect the changes:

- adopted by Council (unless otherwise recommended in this Report)
- recommended by the Committee.

(ii) Legibility of maps

Mr Gard'ner advised that the maps were difficult to read compared with the DDO schedules and recommended the following changes:

- Increase the contrast in colour and tonal difference between the different maximum building heights etc. The emphasis should be on legibility over aesthetics;
- Increase the scale of the larger maps and split these over two maps if this is required for site-by-site clarity;
- Making the individual cadastral boundaries more legible;
- Avoid multiple types of hatching that appear too similar; and
- Use thicker line widths for street wall height, heritage street wall and landscape setback etc. without overlaying one line on top of another.

In response to this evidence, Council made changes to the maps in the Day 2 BFO schedules which greatly improved legibility.

(iii) Street wall and front wall heights (Map 3)

Prof McGauran identified that Map 3 in BFO12 describes wall heights in 'preferred' maximum terms, while the associated table refers to 'mandatory' maximum heights. He recommended the legend be amended to state 'mandatory' (Recommendation 7).

Council's Day 2 BFO schedules made this correction to BFO schedules, where relevant (including BFO12).

The Committee has reviewed Council's Day 2 BFO schedules and finds this change has been made to Map 3 in each of the BFO schedules, where relevant. The relevant Map 3 and associated tables:

- refer to maximum street wall heights in the map legend
- specify whether the height is mandatory or discretionary in the associated table.

This change is clear and appropriate. The change is included in the Committee's recommended BFO schedules in Volume 2 of this Report.

(iv) Standard BF05

Street wall height exceedance

Mr Gard'ner recommended amending Standard BF05 for all BFO schedules so that a street wall height can be exceeded by no greater than 1 metre (rather than 3 metres as included in the parent BFO provision).

Council added a requirement to all the BFO schedules under Standard BF05 as follows:

Any maximum street wall or front wall height specified in a schedule to this overlay does not apply to non-habitable architectural features that exceed the specified maximum height by not more than 1 metre.

The parent provision (Clause 43.06 Built Form Overlay) allows a schedule to vary any standard in the overlay.

Given the significant heritage and character elements of the draft Amendment area, the change proposed by Council is appropriate and acceptable.

Requirements for heritage buildings and land adjoining heritage buildings

Mr Gard'ner recommended:

Redraft the street wall height requirement for development adjacent to heritage buildings within Standard BF05 as a preferred control and remove the mandatory street wall height that may conflict with those indicated in Map 3 of each schedule.⁷¹

Council amended the requirement to all the BFO schedules under Standard BF05 to make it discretionary and to remove the reference to mandatory street wall height as follows:

- Development should provide a street wall or front wall no higher than the street wall or front wall height of an adjoining heritage building for a minimum length of 6 metres along the front boundary.

These changes are appropriate, practical and acceptable and are included in the Committee's recommended BFO schedules in Volume 2 of this Report.

(v) Recommendations

The Committee recommends:

In all Built Form Overlay schedules:

- a) review and update building envelope provisions (including maps) to ensure they reflect the changes:**
 - **adopted by Council (unless otherwise recommended in this Report)**
 - **recommended by the Committee.**

8.8 Committee conclusions on draft Built Form Overlay schedules

The Committee concludes that, subject to its recommendations, the proposed BFO schedules are appropriate. As noted in Chapter 1.4(ii), the Committee has not

⁷¹ Document 86, Mr Gard'ner expert statement

undertaken a review of drafting and this should occur before the draft Amendment is finalised and approved.

With respect to specific referred matters for consideration, subject to its recommendations the Committee is satisfied:

- the draft provisions support high-quality design outcomes
- it is appropriate to not use deemed to comply provisions
- it is appropriate to retain third party review rights
- transitional provisions are appropriate.

9 Heritage

9.1 Specific matter for referral

The specific matter for referral is:

Whether the proposed application of the Heritage Overlay is justified, including with respect to Planning Practice Note 1: Applying the Heritage Overlay.

9.2 What is proposed?

The draft Amendment proposes to apply the Heritage Overlay to:

- Gasometer Hotel, 484 Smith Street, Collingwood (Gasometer Hotel) (HO506)
- Victoria Parade East Precinct, 205-219 Victoria Parade, Collingwood (Victoria Parade East Precinct) (HO507).

9.3 Planning Practice Note 1: Applying the Heritage Overlay

PPN1 states that the Heritage Overlay may be applied to a place if the heritage significance of the place is clearly justified with regard to the recognised heritage criteria. The criteria relevant to the draft Amendment include:

- Criterion A: Importance to the course or pattern of our cultural or natural history (historical significance).
- Criterion D: Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).⁷²

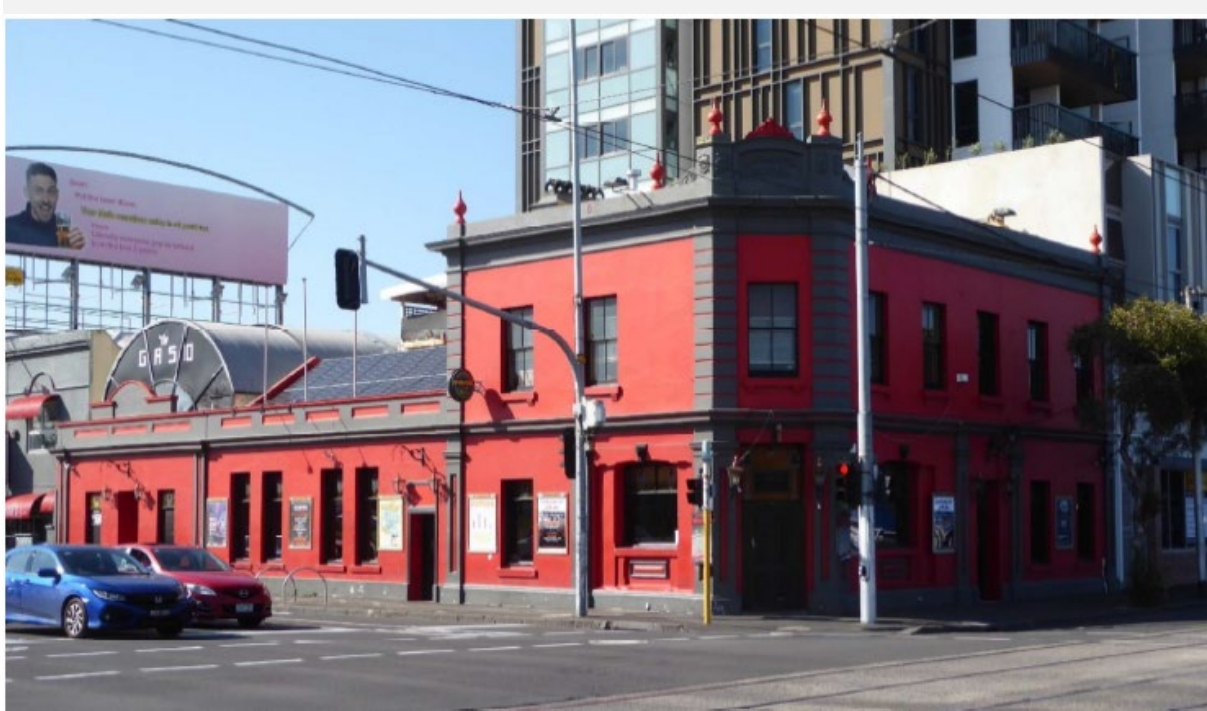
PPN1 explains that places of 'local significance' are important to a particular community or locality and that comparative assessment is required to substantiate the significance of each place.

DTP replaced PPN1 with the Victorian Local Heritage Guidelines on 29 May 2026. The Committee has considered the two candidate heritage places based on PPN01.

9.4 484 Smith Street, Collingwood (Gasometer Hotel) (HO506)

Exhibited Statement of Significance

⁷² Planning Practice Note 1



What is significant?

The Gasometer Hotel, 484 Smith Street, Collingwood, built c1859.

Elements that contribute to the significance of the place include (but are not limited to):

- The original external form, materials and detailing of the building
- The high level of integrity to its original design
- Façade parapet, with pitched roofs behind
- No front setbacks
- Rendered walls
- Rendered detailing and ornament including pilasters, quoining and ball finials
- Horizontal lines formed by parapet, cornice, string course and rows of windows
- Repetitive upper floor fenestration patterns
- Splayed corner with entrance, pilasters, quoining and pediment.

Later alterations and additions, including the barrel-vaulted roofed section to the east, are not significant.

How is it significant?

The Gasometer Hotel, 484 Smith Street, Collingwood is of local historical and architectural significance to the City of Yarra.

Why is it significant?

The Gasometer Hotel, 484 Smith Street, Collingwood is of significance as a suburban hotel constructed at a prominent corner location in Collingwood. The hotel has operated on this site since c1859 (**Criterion A**).

The Gasometer Hotel, 484 Smith Street, Collingwood is an intact and representative example of a Victorian-era hotel. It displays typical characteristics of the early Victorian period in Collingwood and across Melbourne more broadly, including a plain parapeted façade with repetitive upper floor fenestration, rendered facades and a prominent splayed corner entrance with pilasters, quoining and pediment (**Criterion D**).

(i) The issue

The issue is whether the application of the Heritage Overlay (HO506) to the Gasometer Hotel is justified.

(ii) Evidence and submissions

Council submitted the draft Amendment sought to apply the Heritage Overlay (HO506) to the Gasometer Hotel as it had been recognised as an individually significant building. It relied on the explanation of why it is significant in the Statement of Significance.

Mr Gard'ner gave evidence that the property was identified through the Draft Heritage Recommendations Report. He supported application of the Heritage Overlay to the Gasometer Hotel, stating it is of local historical and representative significance. He advised the Gasometer Hotel:

...is a substantially intact and early hotel dating from 1859 with later additions and alterations located in a prominent location at the intersection of Smith Street and Alexandra Parade. It remains highly legible as a hotel of this period and demonstrates many of the principal characteristics of this important place type. It is noted that later additions such as the barrel-vaulted roofed element are not significant.⁷³

No submissions raised issues relating to application of the Heritage Overlay to the Gasometer Hotel.

(iii) Discussion

The draft Amendment proposes to apply the Heritage Overlay (HO506) to the Gasometer Hotel based on Criteria A (historical significance) and D (representativeness).

The Committee is satisfied that application of the Heritage Overlay to the Gasometer Hotel as an individually significant heritage place is adequately justified. The property is a highly intact and representative example of an early Victorian hotel in the City of Yarra that is located on a highly prominent corner location. The Committee accepts the HO506 Statement of Significance that the site achieves Criteria A and D. There was no objecting submission or expert evidence to demonstrate otherwise.

The heritage importance of the place is documented in the citation⁷⁴ which provides details of the place history, its local historical significance and includes a comparative analysis with other locally significant early Victorian hotels with similar architectural characteristics.

Consistent with PPN1 the Statement of Significance:

- briefly and clearly describes what is (and is not) significant
- states in a sentence how it is significant
- justifies why it is locally important with reference to the relevant heritage criteria.

The Statement of Significance is appropriately drafted apart from the description of "How is it significant?" which should refer to the relevant criteria.

⁷³ Document 86, Mr Gard'ner Expert Statement

⁷⁴ Document 66, Gasometer Hotel – 484 Smith Street, Collingwood Heritage Citation

(iv) Finding and recommendation

The Committee finds that application of the Heritage Overlay (HO506) to Gasometer Hotel, 484 Smith Street, Collingwood is justified.

The Committee recommends:

Amend the Statement of Significance for 484 Smith Street, Collingwood (Gasometer Hotel) (HO506) to state under the heading 'How is it significant?':

- a) The Gasometer Hotel, 484 Smith Street, Collingwood is of local historical and representative (architectural) significance to the City of Yarra.**

9.5 205-219 Victoria Parade, Collingwood (Victoria Parade East Precinct) (HO507)

Exhibited Statement of Significance



What is significant?

The terraced row of late nineteenth century shop residences at 205-219 Victoria Parade, Collingwood.

Contributory Elements

Elements that contribute to the significance of the place include (but are not limited to):

- The terraced row form, materials and detailing from its Victorian era period of construction, including its Victoria Parade elevation, fenestration, decorative parapets, mouldings and other details.
- Original roof forms and chimneys.
- Cast iron elements of the verandah to nos. 211-213 Victoria Parade.

The later (twentieth century) additions including rear additions, later shopfront glazing and the steel structure above the cast iron verandah posts to nos. 211-213 Victoria Parade are not significant.

How is it significant?

The Victoria Parade East Precinct at 205-219 Victoria Street is of local historical and architectural (representative) significance to the City of Yarra.

Why is it significant?

The Victoria Parade East Precinct, comprising 205-219 Victoria Parade, Collingwood, is illustrative of the historical development that occurred along a major, early commercial thoroughfare in the City of Yarra, particularly in the 'boom' period of the 1880s (**Criterion A**).

The Victoria Parade East Precinct, comprising 205-219 Victoria Street, Collingwood is an intact, representative example of a row of Victorian commercial premises. The buildings clearly demonstrate the principal characteristics of nineteenth century development found along major thoroughfares within the City of Yarra and display typical features of the Victorian architectural style popular in Collingwood and across Melbourne more broadly, including parapeted facades with repetitive upper floor fenestration, rendered facades with decorative moulding and ground floor shopfronts (**Criterion D**).

(i) The issue

The issue is whether applying the Heritage Overlay (HO507) to the Victoria Parade East Precinct is justified.

(ii) Evidence and submissions

Council submitted the draft Amendment sought to apply the Heritage Overlay (HO507) to the Victoria Parade East Precinct and relied on the Statement of Significance and the evidence of Mr Gard'ner.

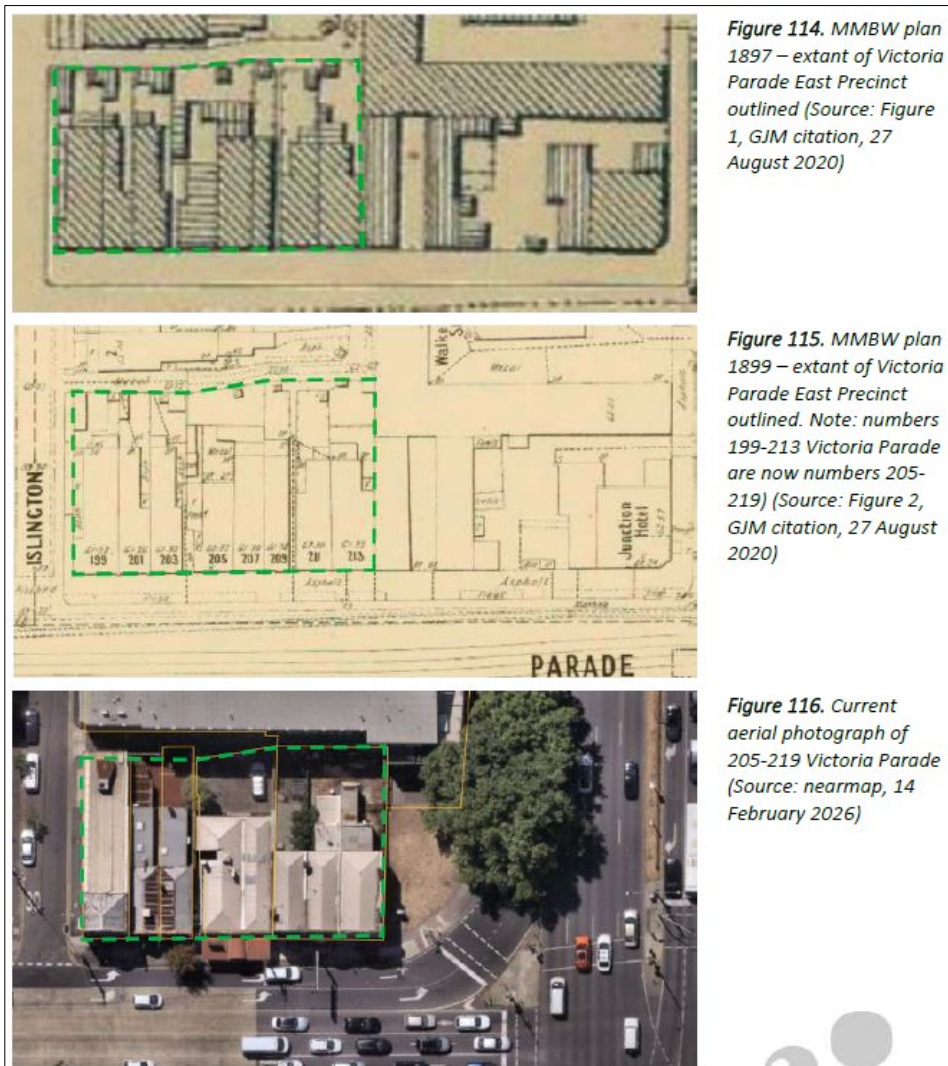
Mr Gard'ner advised:

...the parade of shop residences is largely intact to its turn-of-the-twentieth century form noting that the Junction Hotel and other buildings were demolished to enable the widening of Hoddle Street. While the widening of Hoddle Street alters the broader context of this small precinct, it remains highly legible as a later nineteenth century row of commercial buildings. The widening of Hoddle Street has not, in my opinion, reduced the significance of this group of commercial buildings such that it no longer warrants inclusion on the Heritage Overlay.⁷⁵

Figure 78 shows the location of existing and demolished buildings (including the Junction Hotel) to accommodate the Hoddle Street widening.

⁷⁵ Document 86, Mr Gard'ner Expert Statement

Figure 78 Historic and current context of proposed Victoria Parade East Precinct



Source: Document 86, Mr Gard'ner Expert Statement

Further, Mr Gard'ner said:

- the level of intactness is comparable with other significant local row shops in Yarra and alterations are largely reversible
- property condition is generally not relevant to the application of the Heritage Overlay
- development opportunity will be considered at the time of a permit application.

Dakoda Property objected to application of the Heritage Overlay (HO507) to the Victoria Parade East Precinct. The Dakota submitters stated the level of intactness had been overstated, and that while generally representative of a type, the buildings have been modified at ground level and do not form part of a cohesive streetscape character that reflects the former role and function of the precinct and boulevard.

Regarding the comparators, the Dakota submitters noted while *“the buildings themselves are intact and present as broadly similar to many other 1870s and 1880s shop/residences within the commercial streetscapes in Yarra, the comparisons provided*

in the Heritage Analysis are more substantial and demonstrate greater cohesion in terms of representing this type of retail/commercial development".⁷⁶

Submitters also:

- commented on the poor condition of the buildings and impact on development potential
- requested the built form controls be amended to remove the 6 metre upper level setback and heritage street wall requirements from BFO22.

(iii) Discussion

The draft Amendment proposes to apply the HO507 to the Victoria Parade East Precinct based on Criteria A (historical significance) and D (representativeness).

The Victoria Parade Heritage Analysis notes the precinct has been identified for application of the Heritage Overlay and states:

The row of shop/residences between Islington and Hoddle streets are largely intact, consistent in their age and architectural expression and have a high level of visual cohesion. In these three areas, with visual prominence of the consistent and cohesive heritage streetscapes should be retained and new development should remain recessive within the streetscape.⁷⁷

The HO507 citation states the precinct is:⁷⁸

- Criterion A – *"illustrative of the historical development that occurred along a major, early commercial thoroughfare in the City of Yarra, particularly in the 'boom' period of the 1880s"*
- Criterion D – *"an intact, representative example of a row of Victoria commercial premises" and "the buildings clearly demonstrate the principle characteristics of nineteenth century development found along major thoroughfares within the City of Yarra and display typical features of the Victorian architectural style popular in Collingwood and across Melbourne more broadly, including parapeted facades with repetitive upper floor fenestration, rendered facades with decorative moulding and ground floor shopfronts".*

The Committee accepts Mr Gard'ner's evidence that the site warrants recognition for local heritage significance based on Criteria A and D.

The Committee observes that while the change in context has impacted the visual cohesion and prominence of the heritage streetscape and buildings facades have been modified, the precinct continues to display the principal characteristics of nineteenth century development found along major thoroughfares within Yarra and displays typical features of Victorian architectural style.

The Committee accepts the threshold of local heritage significance is met, noting that Dakota Property did not present any information to support its claim that the proposed precinct does not achieve Criteria A and D.

⁷⁶ Document 167, Dakota Property Hearing Submission

⁷⁷ Document 69, *Built Form Review: Victoria Parade – Heritage Analysis and Recommendations* (November 2020)

⁷⁸ Document 68, Victoria Parade East Precinct – 205-219 Victoria Parade, Collingwood Heritage Citation

(iv) Finding

The Committee finds that application of Heritage Overlay (HO507) to the Victoria Parade East Precinct, 205-219 Victoria Parade, Collingwood is justified.

9.6 Committee conclusions on heritage

The Committee concludes that, with respect to PPN1, it is justified to apply the Heritage Overlay to the Gasometer Hotel (HO506) and the Victoria Parade East Precinct (HO507).

10 Zoning anomalies

10.1 Specific matter for referral

The specific matter for referral is:

Whether the proposed rezoning of sites is appropriate to correct identified errors or anomalies. [See Appendix B for list of sites]

10.2 What is proposed?

The draft Amendment proposes to correct zoning anomalies at a number of properties. These are identified in the Committee's summary of findings in Table 25. This includes three additional properties recommended by Council for zoning corrections post exhibition (2-12 Rokeby Street, 143-145 Victoria Parade, and 165-175 Victoria Parade, Collingwood). The Minister provided the Committee with an updated list of specific matters for referral on 9 March 2026 which included the three additional properties (see Appendix B).

One further property (179-201 Victoria Parade, Collingwood) was recommended by Council for inclusion after exhibition. Following the Hearing, the Committee noted this property does not appear in the updated list of specific matters for referral. The Committee has nonetheless considered the site in its findings for the Minister's consideration, noting it was not a contested matter in submissions or evidence.

10.3 Evidence and submissions

Ms Rigo considered the zoning corrections logical and sound.

Council agreed with Ms Rigo. By way of background, it explained:

Council reviewed the current zoning of land affected by the draft Amendment to ascertain whether there were any zoning anomalies.

Council identified a number of instances where land subject to the draft Amendment was partly within both the C1Z and the Neighbourhood Residential Zone Schedule 1 (NRZ1). The draft Amendment proposes to rezone these properties so that the C1Z applies across the whole site.

In addition, Council proposes the rezoning of land at 245 Gold Street, Clifton Hill from C1Z to NRZ1. The current C1Z that applies was recognised as a zoning anomaly in Amendment C231 (Queens Parade) however did not form part of that amendment at the time and so is intended to be addressed as part of the draft Amendment.⁷⁹

Council provided an overview of the proposed rezonings in Attachment B to its Part A submission.

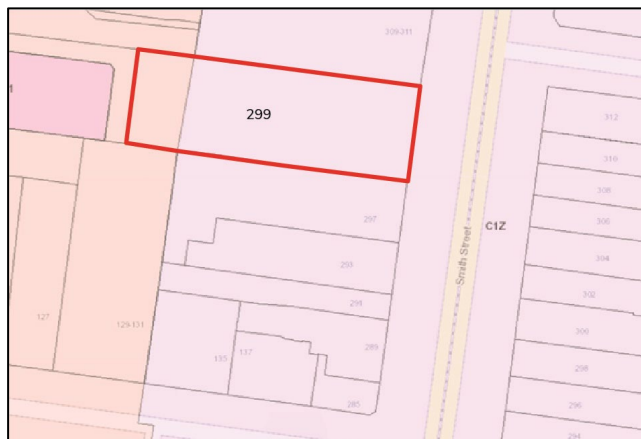
Some submissions supported the zoning corrections. One submission objected to rezoning land at 299 Smith Street and another sought corrections to 155 Victoria Parade.

⁷⁹ Document 84, Council Part A submission

299 Smith Street Fitzroy

Charles/Merkel objected to the proposed rezoning of the rear portion of 299 Smith Street, Fitzroy from NRZ1 to C1Z (see Figure 79), with concerns regarding interface and amenity impacts.

Figure 79 299 Smith Street, Fitzroy (existing zoning)



The submitter said the rear portion of the land should not be treated as a mapping anomaly because it is:

- unusually deep
- extends further west than other Smith Street properties
- has sensitive residential interfaces to Greeves and Gore Streets.

They submitted that the NRZ1 portion of the land reflected a deliberate and appropriate planning response to the site's unique circumstances. The site directly abuts secluded private open space in residential NRZ1 ownership on three sides. The NRZ1 designation provided both a use and an amenity buffer. Rezoning to C1Z would extend commercial zoning to land with a genuinely residential interface character and would itself create the anomaly it purported to correct.

Council responded stating the rezoning will align with the title boundary and the use of the site, and amenity would be managed through the BFO13 provisions.

The landowner of 299 Smith Street did not make a submission to the draft Amendment. In response to a question from the Committee, Council clarified it had initiated the rezoning (not the landowner) and it had not engaged directly with the landowner on the matter.

2 – 12 Rokeby Street and 155 Victoria Parade, Collingwood

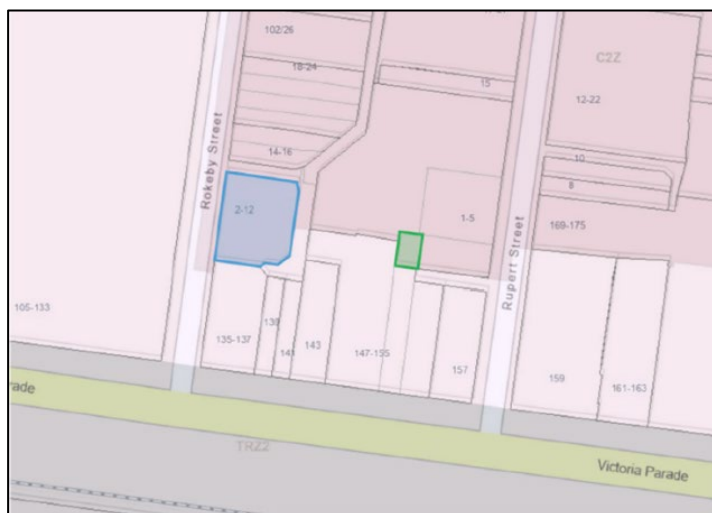
Collingwood Boulevard/BJJM requested the Committee recommend:

- 2-12 Rokeby Street
Update the relevant zoning map (Planning Scheme Map 6) to include the Rokeby Street Parcel in the C1Z. In other words, support Document 048p; and
If the intent is to avoid conflict between schedules, remove the Rokeby Street Parcel from DDO11.
- 155 Victoria Parade
Update the relevant zoning map (Planning Scheme Map 6) to include the Victoria Pde Parcel in the C1Z. In other words, update Document 048p; and

Update the map images within the Day 1 BFO22 to include the Victoria Pde Parcel (to the extent this is not already captured).

Figure 80 shows the relevant land parcels (2-12 Rokeby Street coloured blue, 155 Victoria Parade coloured green).

Figure 80 2-12 Rokeby Street and 155 Victoria Parade



Council supported the rezoning and map corrections proposed by Collingwood Boulevard/BJJM.

10.4 Discussion and findings

The Committee supports the proposed zoning corrections, apart from 299 Smith Street. The Committee generally agrees with Council's overview and reasons (provided as an attachment to its Part A submission). The rezonings are appropriate as they correct identified errors/anomalies, reflect the use/ownership of the land, and improve function of the Planning Scheme.

The Committee finds that the proposed rezoning of the NRZ1 rear portion of 299 Smith Street, Fitzroy to C1Z is not appropriate. The existing zoning configuration appropriately balances existing land use interface considerations and is an appropriately nuanced zoning regime to respond to the site's context.

The Committee supports the Planning Scheme map change proposed by Collingwood Boulevard/BJJM (and supported by Council) and makes recommendations accordingly. It is beyond the role of the Committee to recommend removal of DDO11 from 2 – 12 Rokeby Street.

The Committee has summarised its findings in Table 25.

Table 25 Summary of Committee findings regarding zoning anomalies

Site	Proposed correction	Committee finding
262-266 Nicholson Street, Fitzroy	Rezone MUZ portion to C2Z	Support. Corrects an employment/commercial zoning boundary anomaly

304 Nicholson Street, Fitzroy	Rezone MUZ portion to C2Z	Support. Corrects a split-zone condition and aligns with surrounding C2Z context
95-103 Johnston Street, Fitzroy	Rezone MUZ portion to C1Z	Support. Aligns zoning with existing land use
12 Hilton Street, Clifton Hill	Rezone C2Z portion to NRZ1	Support. Residential zone correction
427 Smith Street, Fitzroy	Rezone MUZ portion to C1Z	Support. Aligns zoning with existing land use
424 Gore Street, Fitzroy (also identified as 185 Rose Street)	Rezone MUZ portion to C1Z	Support. Aligns zoning with existing land use
421 Smith Street, Fitzroy (also identified as 411-415 and 417 Smith Street)	Rezone MUZ portion to C1Z	Support. Aligns zoning with existing land use
245 Gold Street, Clifton Hill	Rezone from C1Z to NRZ1	Support. Corrects a residential land use anomaly
299 Smith Street, Fitzroy	Rezone NRZ1 portion to C1Z	Do not support.
64-66 Hanover Street, Fitzroy	Rezone to C1Z	Support. Aligns zoning with existing use and adjacent commercial zoning
5-9 Brunswick Street, Fitzroy	Rezone NRZ1 portion to MUZ	Support. Mixed Use Zone alignment
169-175 Gertrude Street, Fitzroy	Rezone NRZ1 portion to C1Z	Support. Commercial zone alignment
158-164 Gertrude Street, Fitzroy	Rezone NRZ1 portion to C1Z	Support. Commercial zone alignment
32-34 Smith Street, Fitzroy	Rezone MUZ portion to C1Z	Support. Commercial zone alignment
181 Victoria Parade, Fitzroy	Rezone NRZ1 portion to C1Z	Support. Commercial zone alignment
151-159 Victoria Parade, Fitzroy and Lot 1 TP756679 George Street	Rezone NRZ1 portion to C1Z	Support. Aligns former consolidated commercial use and future redevelopment context
29-31 Victoria Parade, Collingwood	Rezone MUZ portion to C1Z	Support. Commercial zone alignment
2-12 Rokeby Street, Collingwood	Rezone to C1Z and include within BFO22 context	Support. Victoria Parade context is more appropriately aligned with C1Z than the employment precinct

Rear of 155 Victoria Parade, Collingwood (143-145 Victoria Parade)	Rezone relevant rear parcel to C1Z	Support. Rezone to C1Z to match the parcel boundary
165, 169 – 175 and 177 Victoria Parade, Collingwood (referred to as 165-175 in referral letter) ⁸⁰	Rezone C2Z portion to C1Z	Support. Aligns consolidated Victoria Parade site with BFO22/C1Z context
179-201 Victoria Parade, Collingwood	Rezone C2Z portion to C1Z	Support. Additional Council-identified anomaly; should be corrected consistently with other BFO22 sites

10.5 Recommendations

The Committee recommends:

Delete rezoning the rear part of 299 Smith Street, Fitzroy.

Amend Planning Scheme Map 6 to include 155 Victoria Parade, Collingwood in the Commercial 1 Zone.

In Built Form Overlay Schedule 22:

b) amend the maps (as required) to include the full extent of 155 Victoria Parade, Collingwood.

10.6 Committee conclusions on zoning anomalies

The Committee concludes that, subject to not rezoning part of 299 Smith Street through the draft Amendment, the proposed corrections to zoning anomalies are appropriate.

⁸⁰ See Document 134, Coll Property submission

Appendix A Terms of Reference

Terms of Reference

Yarra Activity Centres Standing Advisory Committee



Yarra Activity Centres Standing Advisory Committee

Standing Advisory Committee appointed under Part 7, section 151 of the *Planning and Environment Act 1987* (the PE Act) to advise the Minister for Planning (the Minister) and Yarra City Council (the Council) on referred planning matters and associated draft Yarra planning scheme provisions for areas of urban change.

Name

The Standing Advisory Committee is to be known as the 'Yarra Activity Centres Standing Advisory Committee' (the Committee).

1. The Committee is to have members with the following skills:
 - a. Strategic and statutory planning
 - b. Built form, heritage and urban design
 - c. Economic development and urban geography
 - d. Traffic and transport planning.
2. The Committee will include a Chair, a Deputy Chair and not less than two other appropriately qualified members.
3. The Committee may engage specialist advice as required.

Purpose

4. The purpose of the Committee is to provide consistent, timely, and transparent advice to the Minister and Council through a cost-efficient process on matters referred to it by the Minister relating to strategic and built form work undertaken in relation to areas of urban change, and any associated draft planning scheme amendments.

Background

5. Plan for Victoria designates the City of Yarra as a Train and Tram Zone Activity Centre to deliver housing growth and diversity close to services, jobs and transport. Plan for Victoria also sets a housing target for the City of Yarra of 44,000 dwellings by 2051.
6. New planning tools have been implemented into the Victoria Planning Provisions, including the Built Form Overlay, Precincts Zone and Housing Choice and Transport Zone, to support housing growth in and around activity centres, and provide certainty to communities, landowners and the development industry.
7. Areas along major train and tram corridors in the City of Yarra are experiencing development pressure with the addition of mid-rise commercial development and apartments. These areas will continue to accommodate most of the city's growth because of their proximity to transport infrastructure, shops and services, making them the most suitable locations for development.
8. The City of Yarra has capacity for employment growth. Council is committed to supporting this growth in its employment areas in preference to residential development in these areas. There is an identified need to manage pressure for residential conversion of employment land to protect opportunities for economic growth. These areas include the municipality's health and education precincts, Cremorne and the Gipps Street precinct in Collingwood.



9. A key challenge in planning for this development pressure is the need to accommodate new development through built form that is sensitive to the context of the area which includes heritage significance, character and scale of the surrounding area. A balanced approach is required that enables opportunities for new built form in areas of urban change. Protecting heritage buildings and streetscapes while allowing appropriate development and increased housing is a key driver in the municipal area.
10. Council has set high-level strategic direction through the Yarra Housing Strategy and the Yarra Spatial, Economic and Employment Strategy, both of which were adopted in 2018. These strategies were implemented through Yarra Planning Scheme Amendment C269 which was gazetted on 21 December 2023.
11. While Council has carried out a significant amount of strategic work in recent years, including for the areas listed in **Appendix A**, there is a need to provide an appropriate planning framework for other areas to provide certainty to the community and proponents about appropriate height, built form and decision criteria to manage new development.
12. It is important that the Committee's process complements Council's commitment to community engagement and addresses the requirements of section 4(2)(h) of the PE Act which outlines the critical standard for any planning approval process, which is to meet the objective of establishing a clear procedure for amending planning schemes, with appropriate public participation in decision making.

Method

13. The Minister for Planning may refer one or more proposals to the Committee, including, but not limited to those areas specified in **Appendix A**.
14. The Committee must comprise a quorum of at least two members, one of whom must be a Chair or Deputy Chair, for any forums, hearings, meetings or workshops conducted by the Committee.
15. The Committee can undertake its proceedings in stages, including considering and reporting on any draft planning scheme amendments referred to it either separately or together.
16. The Committee may apply to the Minister to vary these Terms of Reference in any way it sees fit.
17. The Committee may conduct any briefing, forum, hearing, meeting or workshop by electronic means.
18. The Committee will be provided with background information, material and reports by the Department of Transport and Planning (DTP) and/or Council, including:
 - a. Relevant strategic work undertaken by Council;
 - b. Recent panel reports and VCAT decisions relating to land in the City of Yarra and other places relevant to the matters referred to the Committee; and
 - c. Other relevant strategic work undertaken by either Council or DTP.
19. The Committee may invite DTP, Council and any other party to identify or address any matters through forums, meetings, workshops or written comments.

Stage 1 – Notice and submissions

20. Council may seek the written consent of the Minister or the Minister's delegate to prepare and give notice of a draft planning scheme amendment.
21. As directed by the Minister, Council will prepare and give notice of a draft planning scheme amendment and receive submissions. Council will consider all submissions and where possible seek to resolve issues with submitters prior to requesting matters be referred to the Committee.
22. When preparing documentation for public notice, Council must liaise with the Committee to agree to:



- a. A directions hearing date
- b. The public hearing dates.

The agreed dates are to be included on all notices for public exhibition.

23. When preparing documentation for public notice, Council must liaise with DTP to agree to:
- a. The type of notice
 - b. The extent of notice
 - c. The public exhibition dates.
24. The Committee is not expected to carry out any additional public referral or notice but may do so if it considers it to be appropriate.

Stage 2 - Referral

25. Council will consider all submissions and form a position on the matters raised including whether any changes are required to the proposal.
26. Once all submissions are considered, Council will request the Minister refer the proposal to the Committee. The request must include:
- a. a copy of all submissions received in response to notice and
 - b. a detailed response to those submissions including a copy of Council's preferred draft amendment.
27. The Minister will consider requests to refer matters to the Committee and may seek advice on any other relevant strategic planning matters.
28. The Minister will provide a letter of referral to the Committee Chair, seeking its advice on particular matters. The letter of referral will be a public document.

Stage 3 – Hearings and consideration of planning scheme amendments

29. Following referral from the Minister, including receipt of submissions and Council's response, the Committee may undertake any of the following:
- a. a directions hearing
 - b. a public hearing to provide an opportunity for submitters to be heard
 - c. forums, meetings or workshops with one or more submitters or parties and any government agency
 - d. prepare its advice on the referred matters based on documents, subject to the requirements of sections 158F and 158G of the PE Act.
30. To facilitate targeted, timely and consistent advice, the Committee may:
- a. subject to the requirements of sections 158F and 158G of the PE Act, assess matters through a written process without oral hearings and invite any person or party to identify or address matters through further written comments or submissions
 - b. direct that parties meet to resolve or refine issues in dispute
 - c. require the use of expert conclaves
 - d. consider unresolved issues by grouping in themes or issues, and
 - e. set time limits for oral submissions, expert evidence and cross-examination



Stage 4 – Committee report and recommendations

31. For each matter referred to it, the Committee must produce a written report for the Minister. The report must include:
 - a. an assessment of the matters referred by the Minister including any submissions relevant to the matters contained in the referral letter.
 - b. recommendations and reasons for its recommendations on the draft planning scheme amendment
 - c. a preferred version of the draft planning scheme ordinance
 - d. a record of the date, location, attendees and purpose of any forum, meeting or workshop it held
 - e. a list of persons who made submissions and provided evidence to the Committee
 - f. a list of tabled documents
32. The Committee may address more than one draft amendment and/or relevant strategic planning matters and combine its assessment of the draft amendments in a report.
33. The Committee may inform itself in any way it sees fit, but must consider:
 - a. the matters contained in the referral letter from the Minister
 - b. the provisions of the PE Act, relevant Ministerial Directions, advisory and practice notes and Plan for Victoria
 - c. the provisions of the Yarra Planning Scheme, including any adopted plans, strategies or planning scheme amendments
 - d. all referred submissions and evidence received relevant to the matters contained in the referral letter
 - e. all relevant material provided to it by all participating parties.

Submissions and records of forums, meetings or workshops are public documents

34. The Committee must retain a library of any written submissions or other supporting documentation provided to it, or tabled in any forum, meeting or workshop, until a decision has been made on its report or five years has passed from the time of its appointment.
35. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential.

Timing

36. The Committee is required to commence its process by issuing written notice of a referral to all submitters, Council and DTP within 10 business days after the receipt of a letter of referral.
37. The Committee is required to submit each report to the Minister and provide a copy to the Council no later than 40 business days from the later of the final day of its consultation process or tabling of submissions or other material directed by the Committee. The Minister may vary this timing in the letter of referral, in which case the Committee must use its best endeavors to meet the revised timeframe.
38. Council must publish the report of the Committee on its website within 10 days of its receipt.

Fee

39. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the PE Act.



40. The costs of the Committee and any associated public consultation notification will be met by Council unless an alternative is specified in the letter of referral from the Minister to the Committee.

Hon Sonya Kilkenny MP

Minister for Planning

Date: 22/12/2025



Appendix A

Council built form work program areas

- Alexandra Parade
- Brunswick Street
- Cremorne
- Fitzroy West
- Gertrude Street
- Gipps Street
- Smith Street
- Victoria Parade

Note: The Committee has completed reports for the following built form work program areas:

- *Bridge Road*
- *Collingwood South*
- *Heidelberg Road*
- *Johnston Street*
- *Victoria Street*

Appendix B Letters of referral, amended list of referred matters



The Hon Sonya Kilkenny MP

Minister for Planning

GPO Box 4356
Melbourne, Victoria 3001 Australia

Ref: BMIN-1-25-5099

Mr Con Tsotsoros
Chair of the Yarra Activity Centres Standing Advisory Committee
Planning Panels Victoria
Level 5, 1 Spring Street
MELBOURNE VIC 3000

Dear Mr Tsotsoros

REFERRAL OF DRAFT AMENDMENT C271YARA (FITZROY AND COLLINGWOOD BUILT FORM CONTROLS) TO THE YARRA ACTIVITY CENTRES STANDING ADVISORY COMMITTEE

I refer to draft Yarra Planning Scheme Amendment C271yara which proposes to implement permanent built form controls to land along and surrounding major corridors in Fitzroy and Collingwood. I am referring draft amendment to the Yarra Activity Centres Standing Advisory Committee for consideration in response to a request from Yarra City Council.

Between 18 November 2024 and 24 February 2025, the council undertook public consultation on the draft amendment. The council received 94 submissions from residents and community members, development interest groups, community groups, and government and referral authorities. The council considered the submissions and endorsed changes to the draft amendment in response to submissions on 14 October 2025.

As you may be aware, the City of Yarra forms part of the Inner Melbourne Train and Tram Zone which was announced by the Victorian Government earlier this year as part of the expansion of the Train and Tram Zone Activity Centres Program. The program aims to enable the delivery of more homes close to services, jobs, and transport and support councils to implement their housing targets.

Referral of specific matters

To support the timely resolution of new planning controls for Fitzroy and Collingwood, I have decided to refer specific matters to the Yarra Activity Centres Standing Advisory Committee for consideration. The specific matters are consistent with the key issues identified by the council in its review of submissions. The committee only needs to consider submissions and



the council's response to the extent that they address referred matters. A copy of the referral is enclosed.

I am satisfied that advice from the advisory committee is not required on the following:

- Requests to rezone properties other than proposed by the draft amendment.
- Matters relating to car parking, public transport, and bicycle infrastructure.
- Amenity issues relating to views from within private property, noise and construction activity.
- Building construction standards including structural defects.
- Community consultation and the amendment process.
- Whether the Built Form Overlay is an appropriate Victoria Planning Provisions tool to guide built form outcomes.

Updated terms of reference

I have enclosed updated Terms of Reference to guide the Committee in its consideration of the draft amendment and future matters referred to the Committee. The updated Terms of Reference reflect the release of Plan for Victoria earlier this year which sets a housing target for the City of Yarra and designates it within the Inner Melbourne Train and Tram Zone.

Other administrative changes have been made including to ensure consistency with new and amended requirements for planning panels implemented by the *Consumer and Planning Legislation Amendment (Housing Statement Reform) Act 2025*.

Built Form Overlay

New planning tools were introduced into the Victoria Planning Provisions in 2025 to support growth and change in and around activity centres and other well-served locations.

I have directed the Department of Transport and Planning (DTP) to prepare draft Built Form Overlay (BFO) schedules for the advisory committee's consideration, having regard to the exhibited Design and Development Overlay schedules. The draft schedules will be circulated by DTP to submitters by no later than 30 January 2026.

Hearing dates

I note the following revised hearing dates have been set:

- Directions hearing: 16 February 2026
- Public hearing: Week commencing 30 March 2026

I note the terms of reference sets a standard timeframes for the committee to submit its report to me. I request the committee submit its report on this matter within 30 business days of the completion of its hearing or by no later than 29 May 2026.

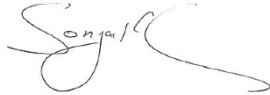
DTP will liaise with Planning Panels Victoria to advise submitters of the above direction and committee hearing dates.

Please find enclosed the amendment documents, a copy of the submissions and council's response to the submissions for your consideration.

I can confirm that DTP will meet the cost of the advisory committee.

If you would like more information about this matter, please email Stuart Menzies, Executive Director, State Planning Policy, DTP, at [REDACTED]

Yours sincerely



The Hon Sonya Kilkeny MP
Minister for Planning

Date: 22/12/2025

Encl.

- Yarra Activity Centres Standing Advisory Committee Terms of Reference
- Specific matters for referral
- Draft amendment documents
- Submissions
- Yarra City Council's response to submissions



The Hon Sonya Kilkenny MP

Minister for Planning

GPO Box 4356
Melbourne, Victoria 3001 Australia

Ref: BMIN-1-26-727

Con Tsotsoros
Lead Chair
Yarra Activity Centres Standing Advisory Committee
Planning Panels Victoria
Level 5, 1 Spring Street
MELBOURNE VIC 3000
[REDACTED]

Dear Mr Tsotsoros

Thank you for your letter dated 20 February 2026, regarding the likely timing of the Yarra Activity Centres Standing Advisory Committee (the Committee) report on draft Yarra Planning Scheme Amendment C271yara, and request to amend the specific referred matters list.

Committee report timing

I note that my referral letter requires the Committee to submit its report within 30 business days of completion of the hearing or by no later than 29 May 2026. I understand that following a directions hearing on 18 February 2026, the Committee has determined additional time is likely to be required to ensure adequate time to finalise its report.

After careful consideration, I have decided to allow additional time for the Committee to provide its report to me. I request the Committee submit its report within 30 days of the completion of hearings or by no later than 5 June 2026.

Specific referred matters

I understand three further properties were identified by Yarra City Council as zoning anomalies in response to submissions, including:

- 2-12 Rokeby Street, Collingwood
- 143 – 145 Victoria Parade, Collingwood
- 165 - 175 Victoria Parade, Collingwood

I support the inclusion of the above sites for your consideration under the category of 'zoning anomalies' as relates to specific referred matters. An amended specific matters for referral list is enclosed.



If you would like more information, please contact Alison McFarlane, Acting Executive Director, State Planning Services and Heritage, Department of Transport and Planning, on email [REDACTED]

Yours sincerely



The Hon Sonya Kilkenny MP
Minister for Planning

Date: 9/3/2024

Encl. Amended specific matters for referral for the Committee

Specific matters for referral

Draft Amendment C271yara (Fitzroy Collingwood) Yarra
Activity Centres Standing Advisory Committee

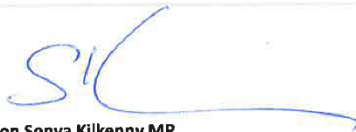


The following specific matters are referred to the Yarra Activity Centres Standing Advisory Committee for consideration and advice in relation to draft Amendment C271yara:

Topic	Key issue
Accommodating growth	Whether the draft amendment facilitates sufficient capacity to meet future employment and housing demands, including with respect to - The housing target set by <i>Plan for Victoria</i> for the City of Yarra to accommodate 44,000 dwellings by 2051. - Access to transport, opportunities and services.
Mandatory controls	Whether the proposed mandatory provisions are appropriate and justified, including with respect to <i>Planning Practice Note 59: The role of mandatory provisions in planning schemes</i> and impact on development potential. This includes mandatory building heights, setbacks and overshadowing provisions.
Building heights	Whether the proposed building heights, setback and separation, overshadowing, street wall height and upper level setbacks are appropriate and justified, including with respect to: - Cumulative impacts on development potential. - Any potential conflict with approved planning permits. - Impacts from overshadowing to the public realm and open spaces. - Impacts from wind effects to the public realm. - Transition to sensitive interfaces including heritage areas.
Floor to ceiling heights	Whether the proposed provisions for floor to ceiling heights are appropriate to provide flexibility for both retail and commercial uses
Flood design requirements	Whether the proposed provisions are appropriate to support good design responses in areas affected by the Special Building Overlay.
Draft Built Form Overlay schedules	Whether the proposed schedules to the Built Form Overlays are appropriate, including with respect to, but not limited to the following matters: - Supporting high-quality design outcomes - Deemed to comply provisions - Third party review rights - Transitional provisions
Heritage	Whether the proposed application of the Heritage Overlay is justified, including with respect to <i>Planning Practice Note 1: Applying the Heritage Overlay</i>
Zoning anomalies	Whether the proposed rezoning of the following sites is appropriate to correct identified errors or anomalies: - 262-266 Nicholson Street, Fitzroy - 304 Nicholson Street, Fitzroy - 95-103 Johnston Street, Fitzroy - 12 Hilton Street, Clifton Hill - 427 Smith Street, Fitzroy - 424 Gore Street, Fitzroy - 421 Smith Street, Fitzroy - 245 Gold Street, Clifton Hill - 299 Smith Street, Fitzroy - 64-66 Hanover Street, Fitzroy - 5-9 Brunswick Street, Fitzroy - 169-175 Gertrude Street, Fitzroy - 158-164 Gertrude Street, Fitzroy - 32-34 Smith Street, Fitzroy - 181 Victoria Parade, Fitzroy



Topic	Key Issue
	- 151-159 Victoria Parade, Fitzroy - 29-31 Victoria Parade, Collingwood - 2-12 Rokeby Street, Collingwood - 143 – 145 Victoria Parade, Collingwood - 165 – 175 Victoria Parade, Collingwood



Hon Sonya Kilkeny MP

Minister for Planning

Date: 9/3/2028

Appendix C Document list

No.	Date	Description	Provided by
Referred documents			
1	22 Dec 2025	Referral letter	Minister for Planning
2	22 Dec	List of specific matters for referral	Minister for Planning
3	22 Dec	Draft Planning Scheme Amendment C271yara documents (combined PDF): a) Explanatory Report b) Instruction Sheet c) Clause 11.03-1L Activity Centres d) Schedule to Clause 43.01 e) Design and Development Overlay Schedules 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 f) Schedule to Clause 72.04 g) Schedule to Clause 72.08	Minister for Planning
4	22 Dec	Submissions received by Council during exhibition (95)	Minister for Planning
5	22 Dec	Yarra City Council response to submissions	Minister for Planning
Tabled documents			
6	20 Jan 2026	Committee directions hearing notification letter	Planning Panels Victoria (PPV)
7	23 Jan	Letter – Hearing dates	Yarra City Council (Council)
8	28 Jan	Letter – Response to Council letter of 23 Jan 2026	PPV
9	30 Jan	Email – Timing of provision of draft Built Form Overlay schedules	PPV

No.	Date	Description	Provided by
10	4 Feb	Letter – Built Form Overlay schedules, enclosing: a) Victoria Planning Provisions – Clause 43.06 – Built Form Overlay b) Brunswick Street Shops - Annotated DDO SCHEDULE 29 c) Brunswick Street Shops - BFO Schedule 12 d) Smith Street Shops - Annotated DDO Schedule 30 e) Smith Street Shops - BFO Schedule 13 f) Gertrude Street Shops - Annotated DDO Schedule 31 g) Gertrude Street Shops - BFO Schedule 14 h) Johnston Street West - Annotated DDO Schedule 32 i) Johnston Street West - BFO Schedule 15 j) Brunswick Street Grand Residential - Annotated DDO Schedule 33 k) Brunswick Street Grand Residential - BFO Schedule 16 l) Fitzroy Town Hall and Back Blocks - Annotated DDO Schedule 34 m) Fitzroy Town Hall and Back Blocks - BFO Schedule 17 n) Johnston Street South and Victoria Street - Annotated DDO Schedule 35 o) Johnston Street South and Victoria Street - BFO Schedule 18 p) Fitzroy East and Johnston Street North - Annotated DDO Schedule 36 q) Fitzroy East and Johnston Street North - BFO Schedule 19 r) Smith Street North and South - Annotated DDO Schedule 37 s) Smith Street North and South - BFO Schedule 20 t) Alexandra Parade – Annotated DDO Schedule 38 u) Alexandra Parade – BFO Schedule 21 v) Victoria Parade – Annotated DDO Schedule 39 w) Victoria Parade – BFO Schedule 22 x) Fitzroy West – Annotated DDO Schedule 40 y) Fitzroy West – BFO Schedule 23	Department of Transport and Planning (DTP)
11	4 Feb	Letter – Concern regarding hearing dates and other issues	Council

No.	Date	Description	Provided by
12	10 Feb	Committee letter to DTP	PPV
13	11 Feb	Additional submission (provided to PPV on 29 Jan)	Collingwood Historical Society
14	11 Feb	Exhibition – General amendment information sheet	Sourced by Committee
15	11 Feb	Exhibition – Individual DDO information sheet	Sourced by Committee
16	11 Feb	Exhibition – Notice of the preparation of an amendment	Sourced by Committee
17	11 Feb	Exhibition – Explanatory report	Sourced by Committee
18	11 Feb	Exhibition – Instruction sheet	Sourced by Committee
19	11 Feb	Exhibition – DDO29 Brunswick Street shops	Sourced by Committee
20	11 Feb	Exhibition – DDO30 Smith Steet shops	Sourced by Committee
21	11 Feb	Exhibition – DDO31 Gertrude Street shops	Sourced by Committee
22	11 Feb	Exhibition – DDO32 Johnston Street West	Sourced by Committee
23	11 Feb	Exhibition – DDO33 Brunswick Street Grand Residential	Sourced by Committee
24	11 Feb	Exhibition – DDO34 Fitzroy Town Hall and back blocks	Sourced by Committee
25	11 Feb	Exhibition – DDO35 Johnston Street South and Victoria Street	Sourced by Committee
26	11 Feb	Exhibition – DDO36 Fitzroy East and Johnston Street North	Sourced by Committee
27	11 Feb	Exhibition – DDO37 Smith Street south and north	Sourced by Committee
28	11 Feb	Exhibition – DDO38 Alexandra Parade	Sourced by Committee
29	11 Feb	Exhibition – DDO39 Victoria Parade	Sourced by Committee
30	11 Feb	Exhibition – DDO40 Fitzroy West	Sourced by Committee
31	11 Feb	Exhibition – Tracked changes - DDO30 Smith Street shops	Sourced by Committee

No.	Date	Description	Provided by
32	11 Feb	Exhibition – Tracked changes - DDO35 Johnston Street South and Victoria Street	Sourced by Committee
33	11 Feb	Exhibition – Tracked changes - DDO36 Fitzroy East and Johnston Street North	Sourced by Committee
34	11 Feb	Exhibition – Tracked changes - DDO37 Smith Street south and north	Sourced by Committee
35	11 Feb	Exhibition – Tracked changes - DDO38 Alexandra Parade	Sourced by Committee
36	11 Feb	Exhibition – Tracked changes - DDO39 Victoria Parade	Sourced by Committee
37	11 Feb	Exhibition – Tracked changes - DDO40 Fitzroy West	Sourced by Committee
38	11 Feb	Exhibition – Clause 11.03-1L Activity Centres	Sourced by Committee
39	11 Feb	Exhibition – Schedule to Clause 43.01 Heritage Overlay	Sourced by Committee
40	11 Feb	Exhibition – Schedule to Clause 72.04 Incorporated Documents	Sourced by Committee
41	11 Feb	Exhibition – Schedule to Clause 72.08 Background Documents	Sourced by Committee
42	11 Feb	Exhibition – Tracked changes – Clause 11.03-1L Activity Centres	Sourced by Committee
43	11 Feb	Exhibition – Tracked changes – Schedule to Clause 43.01 Heritage Overlay	Sourced by Committee
44	11 Feb	Exhibition – Tracked changes – DDO10 Johnston Street Precinct – West of Smith Street	Sourced by Committee
45	11 Feb	Exhibition – Tracked changes – DDO13 Emma Street Precinct, Collingwood	Sourced by Committee
46	11 Feb	Exhibition – Tracked changes – Schedule to Clause 72.04 Incorporated Documents	Sourced by Committee
47	11 Feb	Exhibition – Tracked changes – Schedule to Clause 72.08 Background Documents	Sourced by Committee
48	11 Feb	Exhibition – Mapping changes (x15 maps)	Sourced by Committee
49	11 Feb	Exhibition – Database of Heritage Significant Areas (City of Yarra, November 2024) – Clean version (relevant pages only)	Sourced by Committee
50	11 Feb	Exhibition – Database of Heritage Significant Areas (City of Yarra, November 2024) – Track changes (relevant pages only)	Sourced by Committee

No.	Date	Description	Provided by
51	11 Feb	Exhibition – Gasometer Hotel - 484 Smith Street, Collingwood Statement of Significance (GJM Heritage, August 2019)	Sourced by Committee
52	11 Feb	Exhibition – Victoria Parade East Precinct - 205-219 Victoria Parade, Collingwood Statement of Significance (GJM Heritage, August 2020)	Sourced by Committee
53	11 Feb	Exhibition – Alexandra Parade Built Form Framework (Hansen Partnership, December 2020)	Sourced by Committee
54	11 Feb	Exhibition – Brunswick and Smith Street Built Form Review Background Analysis Report (Hansen Partnership, November 2019)	Sourced by Committee
55	11 Feb	Exhibition – Brunswick Street and Town Hall Built Form Framework (Hansen Partnership, November 2019)	Sourced by Committee
56	11 Feb	Exhibition – Fitzroy East Built Form Framework (Hansen Partnership, June 2019)	Sourced by Committee
57	11 Feb	Exhibition – Fitzroy West Built Form Framework (Hansen Partnership, December 2020)	Sourced by Committee
58	11 Feb	Exhibition – Gertrude Street Built Form Framework (Hansen Partnership, November 2019)	Sourced by Committee
59	11 Feb	Exhibition – Johnston Street Built Form Framework (Hansen Partnership, June 2019)	Sourced by Committee
60	11 Feb	Exhibition – Smith Street Built Form Framework (Hansen Partnership, November 2019)	Sourced by Committee
61	11 Feb	Exhibition – Victoria Parade Built Form Framework, Hansen Partnership (December 2020)	Sourced by Committee
62	11 Feb	Exhibition – Alexandra Parade Built Form Review Heritage Analysis and Recommendations (GJM Heritage, November 2020)	Sourced by Committee
63	11 Feb	Exhibition – Brunswick Street and Smith Street Built Form Review Heritage Analysis and Recommendations (GJM Heritage, November 2019)	Sourced by Committee
64	11 Feb	Exhibition – Draft Heritage Recommendations - Fitzroy and Collingwood Permanent DDO Controls (GJM Heritage, November 2022)	Sourced by Committee
65	11 Feb	Exhibition – Fitzroy West Mixed Use Precinct Heritage Analysis and Recommendations (GJM Heritage, November 2020)	Sourced by Committee
66	11 Feb	Exhibition – Gasometer Hotel - 484 Smith Street, Collingwood Heritage Citation (GJM Heritage, August 2019)	Sourced by Committee

No.	Date	Description	Provided by
67	11 Feb	Exhibition – Gertrude Street Built Form Framework Heritage Analysis and Recommendations (GJM Heritage, December 2019)	Sourced by Committee
68	11 Feb	Exhibition – Victoria Parade East Precinct - 205-219 Victoria Parade, Collingwood Heritage Citation (GJM Heritage, August 2020)	Sourced by Committee
69	11 Feb	Exhibition – Victoria Parade Heritage Analysis and Recommendations (GJM Heritage, November 2020) (PDF)	Sourced by Committee
70	11 Feb	Exhibition – Traffic Engineering Assessment Brunswick Street and Smith Street Activity Centres (Traffix, November 2019)	Sourced by Committee
71	11 Feb	Exhibition – Traffic Engineering Assessment Brunswick Street and Smith Street Activity Centres – Extended Area (Traffix, November 2020)	Sourced by Committee
72	11 Feb	Exhibition – Zoning anomalies	Sourced by Committee
73	11 Feb	Exhibition – Council meeting agenda and: a) Attachments 17 - 25 request consent to prepare and exhibit draft amendment (6 December 2022)	Sourced by Committee
74	11 Feb	Exhibition – Council Meeting minutes request consent to prepare and exhibit draft amendment (6 December 2022)	Sourced by Committee
75	12 Feb	Email – Procedural issues for discussion at Directions Hearing	Collingwood Boulevard Group Pty Ltd and BJJM Nominees Pty Ltd
76	17 Feb	Letter – Summary of requests to be heard	PPV
77	19 Feb	Committee directions	PPV
78	20 Feb	Letter – To Minister for Planning regarding timing of Committee Report and specific matters for referral	PPV
79	20 Feb	Letter – Clarification of property address following lot consolidation	Coll Property Pty Ltd
80	20 Feb	Consolidated title for 167 – 175 Victoria Parade, Collingwood	Coll Property Pty Ltd
81	4 Mar	Committee letter and hearing timetable version 1	PPV
82	17 Mar	Summary table of Design and Development Overlay translations	DTP

No.	Date	Description	Provided by
83	17 Mar	Site inspection and submitter location map [confidential – for Committee use only]	Council
84	17 Mar	Part A submission and attachments: a) Chronology of events b) Summary of zoning anomalies c) Summary of resolved issues d) Council meeting agenda and minutes of 14 October 2025 e) Council Meeting Agenda (including Attachments) and Minutes of 10 March 2026	Council
85	24 Mar	Heritage expert statement – Bryce Raworth	Ebenezer III Pty Ltd
86	24 Mar	Heritage expert statement – Jim Gard’ner	Council
87	24 Mar	Economics expert statement – Andrew Spencer	Council
88	24 Mar	Urban design expert statement – Rob McGauran	Council
89	24 Mar	Planning expert statement – Sandra Rigo	Council
90	24 Mar	Urban design expert statement – Matthew Furness	May 15 Pty Ltd
91	24 Mar	Planning expert statement – Kel Twite	May 15 Pty Ltd
92	24 Mar	Urban design expert statement – Mark Sheppard	Coll Property Pty Ltd
93	24 Mar	Landscape expert statement – John Patrick	Coll Property Pty Ltd
94	31 Mar	Reply Statement – Sandra Rigo	Council
95	31 Mar	Reply Statement – Jim Gard’ner	Council
96	31 Mar	Reply Statement – Rob McGauran	Council
97	31 Mar	Addendum to reply – Jim Gard’ner (D95)	Council
98	1 Apr	Letter regarding late request to be heard from Dakota Property	Council
99	1 Apr	Committee letter and hearing timetable version 2	PPV
100	2 Apr	Letter providing further information on late request to be heard	Dakoda Property
101	2 Apr	Committee email granting Dakota Property request (D100)	PPV
102	7 Apr	Background and context submission	DTP
103	7 Apr	D102 Attachment A – Consent to Yarra City Council – Draft Amendment C271yara – 2 July 2024	DTP
104	7 Apr	DTP – Background and context presentation – Yarra Activity Centres SAC	DTP

No.	Date	Description	Provided by
105	7 Apr	Opening submission	May 15 Pty Ltd
106	7 Apr	Opening submission, and attachments: a) Newtown Land – Massing Package b) Image – View 1 – Newtown Land c) Image – View 2 – Newtown Land d) AA Land massing and shadow analysis	Newtown Fitzroy Pty Ltd and Andrianopoulos Nominees Pty Ltd
107	7 Apr	Part B submission and attachments: a) Attachment A – Table of recommendations accepted by Council's officers b) Attachment B – Table setting out the application of mandatory controls c) Attachment C – Permit Development Pack d) Attachment D – Comparison Table BFF and Day 1 BFO e) Attachment E – Map of VHR, VHI and WHEA	Council
108	7 Apr	Presentation of Sandra Rigo	Council
109	7 Apr	Opening submission	Sietel Limited
110	7 Apr	Committee letter and hearing timetable version 3	PPV
111	8 Apr	Opening submission	Valli DM Pty Ltd, 76 Rose Street Developments Pty Ltd and Foundry Company Pty Ltd
112	8 Apr	Day 1 Built Form Overlay schedules: a) Built Form Overlay Schedule 12 b) Built Form Overlay Schedule 13 c) Built Form Overlay Schedule 14 d) Built Form Overlay Schedule 15 e) Built Form Overlay Schedule 16 f) Built Form Overlay Schedule 17 g) Built Form Overlay Schedule 18 h) Built Form Overlay Schedule 19 i) Built Form Overlay Schedule 20 j) Built Form Overlay Schedule 21 [corrected] k) Built Form Overlay Schedule 22 l) Built Form Overlay Schedule 23	Council
113	8 Apr	Email response to Committee request for information regarding operation of Mid-Rise Code	DTP

No.	Date	Description	Provided by
114	9 Apr	Opening submission	GFM Group Pty Ltd
115	9 Apr	Presentation of Jim Gard'ner	Council
116	9 Apr	3D modelling extracts	Council
117	10 Apr	Presentation of Rob McGauran	Council
118	10 Apr	Corrected pages 20, 34 and 39 of urban design expert statement of Rob McGauran	Council
119	10 Apr	Presentation of Matthew Furness [corrected]	May 15 Pty Ltd
120	10 Apr	DTP - Train and Tram Zone Activity Centre Program - Overview of background and summary reports	DTP
121	10 Apr	Department response to the Activity Centres Standing Advisory Committee recommendations	DTP
122	10 Apr	City of Centres Development of typology-based built form controls (May 2024)	DTP
123	10 Apr	Example - Local Variation Testing Report - Merri-bek Cluster (Architectus, January 2026)	DTP
124	10 Apr	Activity Centre Program Urban Design Background Summary Report (March 2025)	DTP
125	10 Apr	Train and Tram Zone Activity Centres Program - Program Explainer (March 2026)	DTP
126	10 Apr	Committee letter and hearing timetable version 4	PPV
127	14 Apr	Revised economics expert statement – Andrew Spencer	Council
128	14 Apr	Supplementary memorandum – Andrew Spencer	Council
129	15 Apr	Hearing submission	McLangridge Pty Ltd
130	15 Apr	Memorandum – Andrew Partos, Hansen Partnership	Council
131	15 Apr	Hearing submission	Collingwood Boulevard Group Pty Ltd and BJJM Nominees Pty Ltd
132	15 Apr	Letter regarding revised expert statement of Andrew Spencer	Council

No.	Date	Description	Provided by
133	15 Apr	Hearing submission, and documents referred to at the Hearing: a) VCAT Decision P1239 2024 b) GJM Heritage Referral Response to the GFM Planning Permit Application c) GFM Permit Application Approved Plan d) Rob McGauran Urban Design Appraisal	GFM Group Pty Ltd
134	15 Apr	Hearing submission	Coll Property Pty Ltd
135	15 Apr	Day 1 BFO22 with proposed amendments in tracked changes	Coll Property Pty Ltd
136	16 Apr	Yarra Open Space Strategy 2020	Council
137	16 Apr	BFO and Heritage Overlay Map	Council
138	16 Apr	BFO and Zone Map	Council
139	16 Apr	Clean copy of revised expert statement of Andrew Spencer	Council
140	16 Apr	Map and recommendations in relation to 161-175 Victoria Parade, Collingwood	Council
141	16 Apr	Marked-up map of recommendations for the north side of Victoria Parade	Council
142	16 Apr	BFO – Upper level setbacks (proposed and constructed) [uploaded 14 Apr]	Council
143	16 Apr	Fitzroy Gasworks Development Plan [uploaded 14 Apr]	Council
144	16 Apr	PA2503852 and PA2503853 - Fitzroy Gasworks Parcel B & C Officer Assessment Report [uploaded 14 Apr]	Council
145	16 Apr	Schedule 16 to Clause 43.04 Development Plan Overlay [uploaded 14 Apr]	Council
146	17 Apr	Hearing submission	Stockland
147	17 Apr	Hearing submission	Newtown Fitzroy Pty Ltd and Andrianopoulos Nominees Pty Ltd
148	17 Apr	Hearing submission	Sietel Limited
149	17 Apr	Proposed drafting updates to BFO13	GFM Group Pty Ltd

No.	Date	Description	Provided by
150	20 Apr	Hearing submission, and attachments: a) Planning Permit No. PLN20/80743 b) Built Form Overlay Schedule 13 with changes	Beth Zeally Charles & Ron Merkel
151	20 Apr	Hearing submission, and attachments: a) Review of BFO Schedule Transitional Provisions b) Mondib Group Pty Ltd v Coral Rise Pty Ltd - [2023] VSCA 237 c) Kantor v Murrindindi [1997] 18 AATR 285 d) Officer Report - 430-444 Brunswick Street, Fitzroy - 24 March 2026 e) Notice of Decision - 26 March 2026 f) Valli Site Section Diagram	Valli DM Pty Ltd, 76 Rose Street Developments Pty Ltd and Foundry Company Pty Ltd
152	20 Apr	Block shadow study for 95-103 Johnston Street and 307 Brunswick Street	Sietel Limited
153	20 Apr	Email regarding unexpected change to building height in Day 1 mapping for 165-167 Johnston Street	Newtown Fitzroy Pty Ltd and Andrianopoulos Nominees Pty Ltd
154	20 Apr	Built Form Overlay Schedule 19 with mark ups in yellow highlight	Newtown Fitzroy Pty Ltd and Andrianopoulos Nominees Pty Ltd
155	20 Apr	Hearing submission	The Liuzzi Group Pty Ltd, Micheal Bacash, Marco Cimino Riviera Distributors Pty Ltd and Alessandra Brand
156	20 Apr	Hearing submission	Daniel Antonello
157	21 Apr	Document showing sequence of mapping in Built Form Overlay Schedule 19	Council
158	21 Apr	Hearing submission	Silvano Merlatti
159	21 Apr	Hearing submission, and attachment: a) Built Form Overlay Schedule 17 with changes	Crude Pty Ltd

No.	Date	Description	Provided by
160	21 Apr	Hearing submission	Ebenezer III Pty Ltd
161	21 Apr	Hearing submission, and attachment: a) Built Form Overlay Schedule 21 with changes	May 15 Pty Ltd
162	21 Apr	Hearing submission	Koulloupas Holdings Pty Ltd
163	22 Apr	Hearing submission	Tanya Burdett
164	22 Apr	Letter with Committee questions for Council	PPV
165	22 Apr	Hearing submission [updated], and attachment: a) Built Form Overlay Schedule 21 with changes	Daniel Antonello
166	22 Apr	Hearing submission	Christine Hancock
167	22 Apr	Hearing submission, and attachments: a) Built Form Overlay Schedule 22 with changes b) Feasibility Study prepared by Clarke Hopkins Clarke	Dakoda Property
168	22 Apr	Hearing submission, and attachment: a) Site survey	Gerard Holwell
169	22 Apr	Built Form Overlay Schedule 12 - Updated preferred drafting, addressing error in Map 2	May 15 Pty Ltd
170	22 Apr	Supplementary memorandum to D92 – Mark Sheppard	Coll Property Pty Ltd
171	23 Apr	Email - response to Committee request regarding building setbacks	Silvano Merlatti
172	23 Apr	Hearing submission [updated]	Tanya Burdett
173	24 Apr	Email – Clarification regarding use of rooftop	Daniel Antonello
174	24 Apr	Part C closing submission	Council

No.	Date	Description	Provided by
175	24 Apr	Part C submission – Attachment 01 – Day 2 Built Form Overlay Schedules: a) Built Form Overlay Schedule 12 b) Built Form Overlay Schedule 13 c) Built Form Overlay Schedule 14 d) Built Form Overlay Schedule 15 e) Built Form Overlay Schedule 16 f) Built Form Overlay Schedule 17 g) Built Form Overlay Schedule 18 h) Built Form Overlay Schedule 19 i) Built Form Overlay Schedule 20 j) Built Form Overlay Schedule 21 k) Built Form Overlay Schedule 22 l) Built Form Overlay Schedule 23	Council
176	24 Apr	Part C submission - Attachment 02 - Sandra Rigo - Supplementary memo 23.04.2026	Council
177	24 Apr	Part C submission - Attachment 03 - Andrew Spencer - Supplementary memo - McGauran recommendations	Council
178	24 Apr	Part C submission - Attachment 04 - Corrected Part B Submission	Council
179	24 Apr	Part C submission - Attachment 05 - Updated table - mandatory and discretionary controls	Council
180	24 Apr	Part C submission - Attachment 06 - Extract from DDO15 Johnston Street East	Council
181	24 Apr	Part C submission - Attachment 07 - Corrected_ Attachment B – Table of mandatory controls	Council
182	24 Apr	Part C submission - Attachment 08 - Comparison BFF v BFO heights	Council
183	24 Apr	Part C submission - Attachment 09 - Land areas along Victoria Parade	Council
184	24 Apr	Part C submission - Attachment 10 - BFO Extracts on Solar Protection	Council
185	24 Apr	Part C submission - Attachment 11 - Map 2 Built Form Overlay Schedule 15 (updated)	Council
186	24 Apr	Part C submission - Attachment 12 - Summary of Party Changes to BFO and Council Response	Council
187	24 Apr	Part C submission - Attachment 13 - Table-of-changes-Resolved-issues-submissions-evidence	Council
188	24 Apr	Part C submission - Attachment 14 - Submitter reference booklet (agreed changes)	Council

No.	Date	Description	Provided by
189	24 Apr	Part C submission - Attachment 15 - Jezmac Pty Ltd v Glen Eira CC _2018_ VCAT 2053	Council
190	24 Apr	Part C submission - Attachment 16 - Owen v Boroondara CC (Red Dot) _2021_ VCAT 175	Council
191	24 Apr	Part C submission - Attachment 17 - Gasometer Hotel Statement of Significance (GJM Heritage, August 2019)	Council
192	24 Apr	Part C submission - Attachment 18 - Victoria Parade East Precinct Statement of Significance (GJM Heritage, August 2020)	Council
193	24 Apr	HO188 Statement of Significance	Council
194	14 May	Notes from Council closing oral presentation on 24 April 2026	Council