

**Banyule Planning Scheme Amendment C172bany
Heidelberg Structure Plan**

Panel Report

Planning and Environment Act 1987

16 September 2024

How will this report be used?

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

The planning authority must consider this report before deciding whether to adopt the Amendment.

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

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

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

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

Planning 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

Panel Report pursuant to section 25 of the PE Act

Banyule Planning Scheme Amendment C172bany

Heidelberg Structure Plan

16 September 2024



Sarah Raso, Chair



Annabel Paul, Member



Peter Elliott, Member

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Glossary and abbreviations

Activity Centre	Heidelberg Major Activity Centre
ACZ2	Activity Centre Zone Schedule 2
Amendment	Banyule Planning Scheme Amendment C172bany
Built Form Controls Report	<i>Heidelberg Structure Plan: Built Form Controls</i> , Ethos Urban, November 2021
Built Form Review	<i>Heidelberg Activity Centre Built Form Review, Recommendations Report</i> , Ethos Urban, April 2021
Corporation	Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation
Council	Banyule City Council
DDO5	Design and Development Overlay Schedule 5
DPO7	Development Plan Overlay Schedule 7
Draft Housing Targets	<i>Statewide Draft Housing Targets</i> , Department of Transport and Planning, June 2024
DTP	Department of Transport and Planning (Transport Division)
Economic Review	<i>Heidelberg Major Activity Centre Economic Review</i> , Charter, Keck, Cramer, 2020
ESO	Environmental Significance Overlay
ESO1	Environmental Significance Overlay Schedule 1
ESO4	Environmental Significance Overlay Schedule 1
Framework Plan	Heidelberg Major Activity Centre Framework Plan
GRZ	General Residential Zone
GRZ2	General Residential Zone Schedule 2
GRZ5	General Residential Zone Schedule 5
Heritage Study	Banyule Heritage Study, RBA Consultants, 2022
Housing Capacity Analysis	<i>Banyule Housing Strategy - Housing Capacity Analysis</i> , Charter Keck Cramer, May 2023
Key Directions Paper	<i>Heidelberg Activity Centre Key Directions</i> , City of Banyule, April 2021
La Trobe NEIC	La Trobe National Employment and Innovation Cluster (La Trobe NEIC)
Modelling Report	<i>Heidelberg 3D Model for Precincts 1, 3 and 4 (and 2 in part): Final Report</i> , Plan 2 Place and Design Urban, March 2023
PE Act	<i>Planning and Environment Act 1987</i>

Peer Review	<i>Heidelberg Activity Centre Structure Plan and Built Form Controls Peer Review</i> , Plan2Place and Design Urban, 2 August 2022
PPN56	Planning Practice Note 56: Activity Centre Zone
PPN58	Planning Practice Note 58: Structure Planning for Activity Centres
PPN59	Planning Practice Note 59: Mandatory Provisions in Planning Schemes
PPN60	Planning Practice Note 60 (Height and Setback Controls for Activity Centres)
PPRZ	Public Park and Recreation Zone
Rahlinda	Rahlinda Pty Ltd
RGZ	Residential Growth Zone
RGZ1	Residential Growth Zone Schedule 1
SRL	Suburban Rail Loop
Structure Plan	Heidelberg Structure Plan, Banyule City Council, April 2023
UDF	Postcode 3081 Urban Design Framework
Views Assessment	<i>Heidelberg Structure Plan Views Assessment: Final Report</i> , Ethos Urban, May 2021
VPO	Vegetation Protection Overlay
VPO5	Vegetation Protection Overlay Schedule 5

Overview

Amendment summary

The Amendment	Banyule Planning Scheme Amendment C172bany
Common name	Heidelberg Structure Plan
Brief description	<p>Implements the Heidelberg Structure Plan, April 2023 by:</p> <ul style="list-style-type: none"> - updating local planning polices - rezoning land within the Heidelberg Major Activity Centre to the Activity Centre Zone and applying a new Schedule 2 - applying a new General Residential Zone Schedule 5 to residential parts of the Heidelberg Major Activity Centre - modifying the existing Residential Growth Zone Schedule 1
Subject land	Land within the Heidelberg Major Activity Centre
Planning Authority	Banyule City Council
Authorisation	27 November 2023, with conditions
Exhibition	15 February to 18 March 2024
Submissions	Number of submissions: 92

Panel process

The Panel	Sarah Raso (Chair), Annabel Paul, Peter Elliott
Supported by	Georgia Brodrick, Project Officer, Planning Panels Victoria
Directions Hearing	In person and by video conference at Planning Panels Victoria, 1 Spring Street, Melbourne, Monday 17 June
Panel Hearing	In person and by video conference at Planning Panels Victoria, 1 Spring Street, Melbourne, 22, 23, 24, 29, and 30 July 2024
Site inspections	Unaccompanied, 18 July 2024

Panel process

Parties to the Hearing

Banyule City Council represented by Kristen Richardson of Maddocks, who called expert evidence on:

- urban planning from Paul Buxton of Place 2 Place Consulting
- urban design and architecture from Steve Thorn of Design Urban Pty Ltd

Rahlinda Pty Ltd represented by Tania Cincotta of Best Hooper Lawyers, who called expert evidence on:

- urban design from Mark Sheppard of Urbis

Development Victoria represented by Anna Kennedy of UpCo

Wendy Palliser

Alicia Curry

Michelle Giovas

Pippa Griffith

Anthony MacKay

Stephen Abbott

Elena Spanos

Kobi Leins

Citation

Banyule PSA 172bany [2024] PPV

Date of this report

16 September 2024

Executive summary

The Heidelberg Activity Centre plays an extremely important role in Banyule and has a number of attributes that contribute to its suitability for accommodating significant growth. This includes its:

- status as a major activity centre
- status as part of the La Trobe National Employment and Innovation Cluster
- public transport accessibility, particularly the Heidelberg Train Station, which will inevitably be improved by rail capacity increases resulting from duplication works on the Hurstbridge line, and significantly increased by the Suburban Rail Loop North.

Banyule Planning Scheme Amendment C172bany (the Amendment) has been pursued by Banyule City Council (Council) to implement the *Heidelberg Structure Plan, 2023* (Structure Plan). The Amendment proposes to introduce planning provisions that will guide land use and built form outcomes and strike a balance between attributes that make Heidelberg ripe for housing and growth while also maintaining its highly valued character setting.

The Amendment is the culmination of approximately four years of study and analysis and engagement with the community. Following formal exhibition of the Amendment in February and March 2024, the Panel was referred 92 submissions. Issues raised ranged from strategic issues, broad concerns about growth, design and development issues, and site specific concerns relating to the proposed provisions.

Strategic issues

The Amendment develops a framework that seeks to balance the need for housing growth, employment capacity, and neighbourhood character. On balance, subject to its recommendations, the Panel is satisfied the Amendment is well founded and strategically justified and should proceed. Decision makers, developers and the community will benefit from a clear planning framework that has anticipated the need for growth while also maintaining an appropriate level of neighbourhood character in the outer residential edges of the Activity Centre.

While the Panel found the Amendment to be strategically justified, it questioned whether the Amendment has gone far enough in terms of optimising the capacity of the Activity Centre to accommodate growth in accordance with State and local activity centre policy. In particular, whether the application of the General Residential Zone with a mandatory height limit of three storeys to such a large extent of the Activity Centre was appropriate and whether the preferred maximum heights and some of the other proposed built form controls (including mandatory provisions) proposed under the Activity Centre Zone Schedule 2 were unduly restrictive in the context of an area earmarked for significant change and growth.

Council and the community need to recognise that the current strategic work will not be the last say on housing intensification in Heidelberg. The work will need to be reviewed in the future and in all likelihood that review will identify further areas for intensification, and potentially taller development in existing areas identified for intensification, as Melbourne continues to grow and change.

Precinct wide issues

The Panel had reservations about the approach to the application of the Activity Centre Zone and its application to some but not all land within the Activity Centre boundary, including the use of

both the Activity Centre Zone and residential zones. However, the Panel has ultimately supported the approach in this instance, particularly given the size of the Activity Centre and the difficulties that might come with including the residential zone requirements in the Activity Centre Zone schedule.

Many submitters opposed the introduction of the General Residential Zone Schedule 5 because of the perceived impact that increased density might have on the existing neighbourhood character. However most of this land is already subject to the General Residential Zone which allows for three-storey development, and three-storey apartment development has an important role to play in meeting Melbourne's housing needs. While Schedule 5 seeks to remove the garden area requirements and modify site coverage from the existing standards, the Panel considers that these are relatively minor changes to facilitate growth in the context of a major activity centre.

In relation to the proposed use of mandatory built form requirements, including in relation to overshadowing, the Panel considers the strategic work undertaken by Council is not robust or appropriately comprehensive to justify the mandatory provisions. Council provided only a general assessment against the relevant criteria (Planning Practice Note 59) in its Part B submission and did not justify each proposed mandatory control in the background amendment material. Council was not able to demonstrate:

- any exceptional circumstances to justify the mandatory provisions
- that a discretionary control would lead to unacceptable outcomes.

In many cases the Panel considers the mandatory provisions will unnecessarily stifle development, contrary to State planning policies for major activity centres. The only mandatory provision which the Panel considers should remain is a mandatory height control for Precinct 3E. This control was to ensure the retention and protection of the identified key view 'Hawdon Street and Darebin Street' as identified in the *Heidelberg Structure Plan Views Assessment: Final Report*, Ethos Urban, May 2021.

Built form provisions

Building heights

The modest increase in building heights proposed throughout the six precincts of the Activity Centre Zone Schedule 2 is not commensurate with the planning policy context for substantial growth and change within the Activity Centre.

Sub-precinct 3B should have a preferred discretionary height of 28 metres (eight storeys) and sub-precinct 6B (that part which is adjacent to sub-precinct 3B) should have a preferred discretionary height of 20 metres (six storeys).

In relation to the Warringal Private Hospital land at 81 and 83 Darebin Street and 214 and 216 Burgundy Street, the Panel was not presented with any analysis to demonstrate what an acceptable height limit might be, and in such circumstances, considers the exhibited height limits to be acceptable. However, the Panel considers the exhibited sub-precinct 4B land which is generally bounded by Burgundy Street, Martin Street, Stradbroke Avenue and Darebin Street should be redesignated to sub-precinct 4C. The transitional role of sub-precinct 4B as it applies to this part of Precinct 4 has limited value and is not necessary.

Building setbacks

The Panel supports a street wall height of 10 metres on the basis that it is discretionary rather than mandatory. A discretionary 10-metre street wall for Precincts 1, 2, 3, 4 and 5 will still:

- avoid overshadowing of footpaths
- achieve a ‘human scale’
- create an appropriate built form having regard to existing and historic built form.

An additional, discretionary setback provision in sub-precinct 3B should be included, requiring an additional setback of six metres from interfaces adjacent to and opposite Precinct 6 above a height of 21 metres (six storeys). This will ensure that development presents to the public realm and neighbouring properties as the equivalent of a six-storey building.

The Panel supports the proposed setback requirements for sub-precinct 4A of the Activity Centre Zone Schedule 2, including as they relate to the property at 91 Darebin Street, Heidelberg. The metrics that have been included within the precinct requirements are based on sound research and have been well considered by Council. Any proposed development and its amenity impacts can be appropriately assessed and managed through performance-based provisions at the permit application stage.

Building separation

In terms of building separation, the principle of a 4.5-metre setback from a boundary for each site, to ensure a minimum nine-metre separation between upper levels, is widely accepted as a fair and appropriate measure for building separation. However, the metric should be discretionary rather than mandatory in line with the Panel’s overarching conclusions concerning mandatory provisions and to accommodate site specific circumstances.

Other issues

421 Upper Heidelberg Road, Ivanhoe should not be rezoned to the Activity Centre Zone. The land has been through extensive site specific planning and now has an approved development plan in place. The Panel accepts that including the land within the Activity Centre Zone Schedule 2 would unduly complicate the planning provisions for the site.

The Amendment has appropriately considered matters relating heritage, landscaping and traffic and infrastructure.

In terms of tangible cultural heritage, the Panel supports the approach agreed to between the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and Council and that the Structure Plan should be updated to include suitable wording around the requirement for the Cultural Heritage Management Plan or a Cultural Heritage Permit. Council is encouraged to pursue the agreed amendments to the Structure Plan.

Drafting matters

Clause 4.4 of the Activity Centre Zone Schedule 2

The ground floor height requirement of 4.5 metres should be revised to ensure the measurement is taken “*from finished floor level to the finished floor level of the floor above*”.

The Clause 4.4 overshadowing provisions should be discretionary.

It is appropriate to delete the solar access provision applying to the southern footpath of Yarra Street.

The provisions in Clauses 4.4 and 5.3-4 that prescribe a two-storey height difference between adjacent precincts are unnecessary and should be deleted.

Banksia Street, Darebin Street, Upper Heidelberg Road and Yarra Street should be deleted from the view corridors provision in Clause 4.4. Neither the Framework Plan in Clause 1.0 of the Activity Centre Zone Schedule 2, the Structure Plan, nor the Views Assessment identify any Key or Notable views along these corridors.

Clause 4.4 of the Activity Centre Zone Schedule 2 requires development to avoid additional overshadowing of laneways. This provision should be amended to target laneways with a key pedestrian function.

The Activity Centre Zone Schedule 2 would benefit from drafting changes shown in Appendix D which seek to ensure the Clause 4.4 provisions do not duplicate provisions contained elsewhere in the Schedule.

Other drafting matters

It is appropriate to limit non-health uses in Precinct 4 to maximise opportunities for the longer term expansion of hospitals and associated health land uses.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Banyule Planning Scheme Amendment C172bany be adopted as exhibited subject to the following:

1. **Amend the Framework Plan in Clause 1.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:**
 - a) **Show the distribution of public open space in accordance with the Powlett Street Reserve Masterplan, Banyule City Council, 2018.**
 - b) **Show 421 Upper Heidelberg Road, Ivanhoe as excluded from the Activity Centre Zone.**
 - c) **Delete the view corridor notation.**
 - d) **Amend the Legend to replace “Proposed boundary” with “Activity Centre Boundary”.**
 - e) **Include an Activity Centre Zone boundary.**
 - f) **Reference major health and land uses/key landmarks.**
 - g) **Improve clarity to clearly identify precinct boundaries.**
 - h) **Delete the north-western area of land which is no longer included within the Activity Centre Boundary.**
2. **Amend Clause 3.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:**
 - a) **Include a condition which prohibits new accommodation uses at ground, first and second floor levels and restricts new accommodation uses to no more than 35 per cent of the gross floor area for sub-precincts 4B and 4C where sites front Burgundy Street, Martin Street or Stradbroke Avenue.**
 - b) **Delete the condition “Must meet requirements of Clause 62.01” from the Section 2 - Permit Required table.**
3. **Amend Clause 4.4 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:**
 - a) **Remove any reference to mandatory maximum street wall heights, mandatory minimum building setbacks and mandatory minimum building separation requirements.**

- b) Include a provision to clarify that the preferred maximum building heights are to be measured from the level of the footpath at the centre of the site's frontage.
 - c) Make all overshadowing requirements discretionary rather than mandatory.
 - d) Delete the solar access provision applying to the southern footpath of Yarra Street.
 - e) Re-word the provision relating to shadow on surrounding residential properties to clarify its intent.
 - f) Delete the provision relating to the protection of view corridors.
 - g) Delete the provisions that prescribe a two-storey height difference between adjacent precincts.
 - h) Delete the provision relating to the need to avoid additional overshadowing of laneways.
 - i) Delete any duplicate requirements.
4. Amend Clause 5.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:
 - a) Convert all mandatory provisions to discretionary, except for the mandatory height limit for Precinct 3E.
 - b) Specify the street wall height provisions in metres without referring to storeys.
 - c) Introduce a discretionary provision in sub-precinct 3B requiring an additional six-metre setback from interfaces adjacent to Precinct 6 above a height of 21 metres (six storeys).
 - d) Change the preferred maximum height for sub-precinct 3B to 28 metres (eight storeys).
 - e) Change the preferred maximum height for the part of sub-precinct 6B which is adjacent to sub-precinct 3B to 20 metres (six storeys) (shown as new sub-precinct 6D).
 - f) Amend the Precinct map in Clause 5.4-1 to:
 - Redesignate the exhibited sub-precinct 4B land which is generally bounded by Burgundy Street, Martin Street, Stradbroke Avenue and Darebin Street to sub-precinct 4C.
 - Redesignate 16 Powlett Street from sub-precinct 4A to sub-precinct 4B.
 - g) Amend the Precinct map in Clause 5.5-1 to clarify the precinct boundaries in Thames Street between Precincts 5 and 6.
 - h) Amend the Precinct map in Clause 5.6-1 to:
 - Clarify the precinct boundaries in Thames Street between Precincts 5 and 6.
 - Remove sub-precinct 6A and show this land (421 Upper Heidelberg Road, Ivanhoe) as excluded from the Activity Centre Zone.
 - Include new sub-precinct 6D.
 5. Amend the Activity Centre Zone Schedule 2 as shown in Appendix D to include updates which address the impacts of inundation and flood risk.
 6. Delete the rezoning of 421 Upper Heidelberg Road, Ivanhoe from the Amendment.

1 Introduction

1.1 The Panel

The Panel was appointed under delegation from the Minister for Planning on 27 May 2024 under the provisions of Section 153 and 155 of the Planning and Environment Act 187 (PE Act). The Panel is to consider the Amendment and to hear submissions and evidence in relation to it.

The members of the Panel are:

- Sarah Raso, Chair
- Annabel Paul, Member
- Peter Elliott, Member.

The Panel was assisted by Georgia Brodrick, Project Officer of Planning Panels Victoria.

1.2 The Amendment

The Amendment seeks to implement the *Heidelberg Structure Plan*, Banyule City Council, April 2023 (Structure Plan) by updating local planning policies and rezoning land within the Heidelberg Major Activity Centre (Activity Centre) as shown in Figure 1 (area within blue line). The Amendment applies the Activity Centre Zone Schedule 2 (ACZ2) and the General Residential Zone Schedule 5 (GRZ5) and modifying the existing Residential Growth Zone Schedule 1 (RGZ1). Figure 2 shows the proposed zoning map.

Specifically, the Amendment proposes to:

- revise the Planning Policy Framework at Clauses:
 - 02.03-1 (Settlement)
 - 02.04 (Strategic Framework Plan)
 - 11.03-1L-02 (Heidelberg Major Activity Centre)
- rezone areas of commercial, mixed use and residential land that sit on, or are suitably close to Bell and Burgundy Streets to the ACZ2
- rezone a large portion of the Activity Centre's residential area to the GRZ5
- replace RGZ1 with new RGZ1 provisions
- correct zoning errors to:
 - part of the land at 93 and 95 Hawdon Street, Heidelberg to replace the redundant application of Transport Zone 1 – State transport infrastructure with the Activity Centre Zone – Schedule 2
 - rezone a small section of existing arterial road located on the south-east corner of Burgundy Street and Upper Heidelberg Road, Heidelberg to the Transport Zone 2 - Principal Road Network
 - rezone part land at 10 Banksia Street, Heidelberg to Public Conservation and Resource Zone
- delete the Design and Development Overlay Schedule 5
- amend the Schedule to Clause 72.03 (What does this planning scheme consist of?) to remove Planning Scheme Map No. 15DDO
- reference the Structure Plan as a background document to the Clause 72.08 Schedule
- amend the Schedule to Clause 74.01 (Application of Zones, Overlays and Provisions) to update the application of zones, overlays and provisions relating to the Activity Centre

1.3 Background

Table 1 Chronology of events

Date	Event
April 2023	Council adopted the Structure Plan
27 Nov 2023	Minister authorised the preparation of the Amendment subject to conditions
15 Feb to 18 March 2024	Amendment exhibited
20 May 2024	Council resolved to appoint a Planning Panel
17 June 2024	Directions Hearing
22, 23, 24, and 29 July 2024	Panel Hearing

1.4 Expert evidence

The Panel had the benefit of expert evidence from three experts as shown in Table 2.

Table 2 Summary of experts

Party	Expert	Field	Firm
Council	Paul Buxton	Urban Planning	Plan 2 Place Consulting
	Steve Thorne	Urban Design and Architecture	Design Urban Pty Ltd
Rahlinda Pty Ltd	Mark Sheppard	Urban Design	Urbis

1.5 The Panel's approach

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

The Panel considered all written submissions made in response to the exhibited Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Strategic issues
- Precinct wide issues
- Built Form Provisions
- Other issues
- Drafting matters.

The Precincts referred to in the report are shown in Figure 3, the Heidelberg Major Activity Centre Framework Plan (Framework Plan) which sits within Clause 1 of the exhibited AC22.

Figure 3 Heidelberg Major Activity Centre Framework Plan



Source: D14

1.6 Final Form of the ACZ2

The Panel has considered the parties’ responses to various versions of the ACZ2 produced throughout the Hearing. Given there were several versions provided, the Panel has used the exhibited ACZ2 as a base for its final recommendations.

A tracked-change version of the ACZ2 is included Appendix D.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix C highlights key imperatives of relevant provisions and policies.

Table 3 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Municipal Planning Strategy	- Clause 2
Planning Policy Framework	- Clauses 11.01-1S (Settlement), 11.01-1R (Settlement – Metropolitan Area), 11.02-1S (Supply of urban land), 11.02-2S (Structure Planning), 11.03-1S (Activity centres) - Clauses 15.01-S (Urban Design), 15.01-R (Urban Design – Metropolitan Melbourne), 15.01-1L-01 (Urban Design), 15.01-1L-02 (Safer Design)
Other planning strategies and policies	- Plan Melbourne Direction 1.1, 1.2, 2.1 2.2, 2.5, 4.3, 4.4, 5.1, 6.1, and 6.4 - Heidelberg Structure Plan, 2023 - Victorian Housing Statement ¹
Planning scheme provisions	- Residential Growth Zone - General Residential Zone - Activity Centre Zone - Design and Development Overlay
Ministerial directions	- 9 (Metropolitan Planning Strategy) - 11 (Strategic Assessment of Amendments) - 15 (The Planning Scheme Amendment Process) - 19 (The Preparation and content of amendments that may significantly impact the environment, amenity and human health)
Planning practice notes	- 56: Activity Centre Zone (PPN56) - 58: Structure Planning for Activity Centres (PPN58) - 59: Mandatory Provisions in Planning Schemes (PPN59) - 60: Height and Setback Controls for Activity Centres (PPN60) - 90: Planning for Housing - 91: Using Residential Zones
Other guidance	- A Practitioner’s Guide to Victorian Planning Schemes Version 1.5, April 2022

¹ The Victorian Housing Statement was released on 23 September 2023 and did not inform the preparation of the Amendment .

2.2 Structure Plan

(i) Approach to the Structure Plan

The Structure Plan states that it is informed by:

- *Heidelberg Major Activity Centre Economic Review*, Charter Keck Cramer, 2020 (Economic Review)
- *Heidelberg Activity Centre Built Form Review: Recommendations Report*, Ethos Urban, April 2021 (Built Form Review)
- *Heidelberg Activity Centre: Movement and Place Options Plan*, Movement and Place Consulting, April 2021
- *Heidelberg Structure Plan Views Assessment: Final Report*, Ethos Urban, May 2021 (Views Assessment)
- *Heidelberg Structure Plan: Built Form Controls*, Ethos Urban, November 2021 (Built Form Controls Report)
- *Heidelberg Activity Centre Key Directions*, Banyule City Council, April 2021
- *Peer Review of Structure Plan and the Heidelberg Activity Centre Structure Plan and Built Form Controls Peer Review*, Plan2Place and Design Urban, 2 August 2022 (Peer Review).

Further details about these documents are provided in Appendix C.

The 2023 Structure Plan updates the original 2010 Structure Plan. Table 4 outlines work commenced in 2019 which led to the 2023 Structure Plan.

Table 4 Approach to the Structure Plan

Date	What was prepared for the Structure Plan
June 2020	<i>Heidelberg Activity Centre Liveability Study</i> , Banyule City Council, 2020 which: <ul style="list-style-type: none"> - was based on the analysis of public consultation held between February and March 2022 - identified what the community valued and ranked the importance of those community issues
October 2020	Economic Review which: <ul style="list-style-type: none"> - outlined the rationale for viewing the Activity Centre as two distinct economies: retail and medical - informed the <i>Heidelberg Activity Centre Key Directions</i>, City of Banyule, April 2021 (Key Directions Paper), and the Structure Plan
April 2021	Built Form Review which: <ul style="list-style-type: none"> - analysed existing conditions and considerations for potential development - recommended key considerations in developing height limits - informed the Key Directions Paper, the Built Form Controls Report and the Structure Plan
April 2021	<i>Heidelberg Activity Centre: Movement and Place Options Plan</i> , Movement and Place Consulting, April 2021 which: <ul style="list-style-type: none"> - assessed the road network and focused on improving sustainable transport options - informed Key Directions Paper and the Structure Plan

Date	What was prepared for the Structure Plan
April 2021	Key Directions Paper which: <ul style="list-style-type: none"> - collated the information from the earlier studies and identified five key directions: <ul style="list-style-type: none"> - Good Design - Enhanced Connectivity - Strong, Prosperous Community - Vibrant and Active Spaces - Environmentally Sustainable and Resilient - was used to consult with community and stakeholders, including the hospitals, traders and schools - informed the Structure Plan
May 2021	Views Assessment which: <ul style="list-style-type: none"> - identified key and notable public views to and within the Activity Centre and made recommendations as to their protection - informed the Structure Plan
September 2021	Consultation on the draft Structure Plan
November 2021	Built Form Controls Report which: <ul style="list-style-type: none"> - proposed a series of built form provisions for the Activity Centre - informed the Structure Plan
6 December 2021	draft Structure Plan approved by Council
August 2022	Peer Review which: <ul style="list-style-type: none"> - peer reviewed the draft Structure Plan and its proposed built form settings - supported the strategic planning and urban design work prepared - recommended some revisions to the Structure Plan to simplify and improve the clarity of the strategic direction and initiatives - informed the 2023 Structure Plan - recommended a boundary assessment
March 2023	<i>Heidelberg 3D Model for Precincts 1, 3 and 4 (and 2 in part): Final Report, Plan 2 Place and Design Urban, March 2023 (Modelling Report)</i> which tested and informed the preparation of built form provisions to enable sunlight to reach footpaths at key locations within the Activity Centre
2022 to 2023	draft Structure Plan was revised to incorporate recommendations from the: <ul style="list-style-type: none"> - Peer Review - Modelling Report - Boundary assessment
17 April 2023	2023 Structure Plan adopted

The Structure Plan:

- identifies four key themes:
 - land use and activity
 - built form and character

- access and movement
- public realm and open space
- includes strategies and objectives for each of these themes
- includes an outline for:
 - an implementation program
 - future strategic work
 - advocacy
 - monitoring and review.

(ii) Approach to built form

As noted in Table 4, the Structure Plan is informed by a series of background reports, principally the Built Form Report and the Built Form Controls Report. The Structure Plan explains its approach to built form in the Built Form and Character section:

Best Practice, Locally Appropriate Built Form Outcomes

- new buildings within the Activity Centre will feature greater levels of building separation, particularly at the upper levels of new buildings
- ensure new development does not dominate the streetscape and enable the penetration of sunlight to the street
- facilitate new buildings that are locally appropriate and contribute positively to the public realm.

Protecting Heritage

- future development within the Activity Centre will ensure that careful consideration is given to the response to sensitive interfaces with heritage buildings or precincts
- provision of increased setbacks at both ground and upper levels to reduce the visual impact of new development on heritage buildings or precincts.

Enhancing Character and Identity

- new development to respond and contribute to the identified character of the Activity Centre and its precincts
- bespoke design guidelines will ensure that streetscapes, gardens and building materials are respected as the centre grows.

Built Form Attributes

- a ten-metre street wall height and 4.5-metre upper level setbacks above the street wall height are recommended for development in most commercial and mixed use precincts
- higher street wall height (for example three storeys) creates an unacceptable loss of human scale and excessive overshadowing
- maximum building height limits attempt to balance growth while also protecting key views and a preferred character for residential areas
- under-development is to be avoided that is not consistent with the vision, or the preferred or mandatory maximum heights
- provide appropriate opportunities and requirements for landscaping to support a preferred character for the Activity Centre.

This approach is then translated into the 'Clause 5.0 Precinct provisions' proposed for the six precincts within the ACZ2.

2.3 Housing demand

(i) The issue

The issue is whether the Amendment is planning for enough housing capacity in the Activity Centre to meet future demand.

(ii) Background

Clause 11.02-1S of the Planning Scheme seeks to “ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses”.

Two relevant strategies include:

Ensure that sufficient land is available to meet forecast demand.

Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur. Residential land supply will be considered on a municipal basis, rather than a town-by-town basis.

(iii) Evidence and submissions

Housing demand

Council submitted:

The Heidelberg Major Activity Centre Economic Review 2020 (Charter, Keck, Cramer) provided what was then a 15 year period population forecast by stating there is a feasible potential for the centre’s population to grow to 8,300 by 2036.

Consistent with Clause 11.02 – 1S (Supply of urban land), the Heidelberg Structure Plan (April 2023) proposes to meet that demand. As detailed above in Section 14.1, the structure plan is considered to have sufficient residential land, even with removal of “Area A” to meet projected residential growth with the proposed development settings.

Following the Economic Review, Council commissioned the *Banyule Housing Strategy - Housing Capacity Analysis*, Charter Keck Cramer, May 2023 (Housing Capacity Analysis). This work found:

- Banyule’s population is projected to grow by up to 143,735 residents by 2036, an increase of 16,365 between 2021 and 2036. Households in Banyule are projected to grow by 7,030 during the same time period
- the potential housing capacity under Council’s current land use planning framework (in February 2023) is 53,250 net additional dwellings.

Council submitted “*the analysis identified that, even under the current settings, the municipality’s major activity centres are well placed to provide a significant and sufficient contribution to housing supply.*”

Rahlinda Pty Ltd (Rahlinda), the owner of land at 70 Yarra Street, Heidelberg, submitted the Amendment did not go far enough in providing for growth in the Activity Centre. Rahlinda submitted that the appropriateness of the proposed ACZ2 provisions should be scrutinised in the context of:

- the Activity Centre status as a major activity centre and its inclusion in the La Trobe National Employment and Innovation Cluster (La Trobe NEIC)
- its accessibility to public transport, the Heidelberg train station, which will only be improved and increased as a result of the proposed Suburban Rail Loop (SRL)
- Council’s concessions in its Part A submission that the market is indicating a clear appetite for built form and height “*well beyond what was deemed preferred for the*

activity centre during the preparation of the Structure Plan in 2010” and “there is market support for heights well above what is outlined in DDO5”

- the policy already in the Planning Scheme which seeks to *“develop the Suburban Rail Loop through Melbourne’s middle suburbs to facilitate substantial growth and change in major employment, health and education precincts and activity centres beyond the central city at an appropriate scale to address the needs of Melbourne’s rapidly growing population”* (Clause 11.01-1R) and *“accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur”* (Clause 11.02-1S).

More specifically, Rahlinda submitted:

- the Housing Capacity Analysis represents a theoretical maximum capacity and does not represent a likely outcome
- Victoria’s Housing Statement envisages the delivery of 800,000 new homes in the next decade to curb our worsening housing crisis
- the Amendment fails to recognise the state government’s draft housing targets which seek 47,000 new homes in Banyule by 2051, where 9,400 dwellings, or 20 per cent of the target 47,000 dwellings, would be located in the Activity Centre
- roughly half of the Activity Centre is to be zoned GRZ5 which places a greater emphasis on the ACZ2 parts of the Activity Centre to carry the load on accommodating substantial growth.

Rahlinda submitted:

Not only does it lack strategic justification, but it is at odds with the drivers at a state level for intensification and housing growth in activity centres such as HMAc, but it directly offends one of the proposed built environment objectives in clause 2.0 of ACZ2 To avoid the under-development of land.

(iv) Discussion

The Planning Policy Framework (PPF) requires planning to ensure sufficient land is available to meet forecast demand, based on projected population growth for a municipality over at least a 15-year period.

The Panel is satisfied that the Housing Capacity Analysis has demonstrated that there is sufficient capacity more broadly in the City of Banyule to facilitate expected residential growth over the next 15 years, consistent with Clause 11.02-1S.

The Housing Capacity Analysis appears to have been competently undertaken and based on appropriate assumptions. However, this work has not been fully interrogated and tested. More critically, while the Housing Capacity Analysis provides a useful indication of theoretical total build out, there will always be limitations to achieving these estimates, given heritage considerations, covenants, environmental constraints, economic conditions etc. Furthermore, the Housing Capacity Analysis was undertaken for the City as a whole, and not just for the Activity Centre.

The planning policy settings for settlement and housing, in addition to ensuring ‘adequate’ housing supply across a municipality, actively encourage higher density housing in locations well serviced by jobs, services and public transport. It was agreed among the parties that there is strong planning policy support for increased housing within the structure plan area given the area’s status as a major activity centre, part of the La Trobe NEIC, on a train line that is also designated to be part of the Suburban Rail Loop, as well as access to jobs and other services.

Therefore while the Housing Capacity Analysis provides broad comfort that there is enough capacity within the municipality as a whole to cater for population growth, the Panel agrees with Rahlinda that these targets should not be used to constrain growth or justify only a 'modest' increase in preferred building heights in a location of substantial change.

The Economic Review highlighted the strong growth of the Activity Centre in recent years in accommodating housing growth and diversity, with both developments constructed and significant numbers of approved developments in the pipeline. The Activity Centre has catered for a significant portion of the City's growth and should continue to do within appropriate parameters. At a time where housing supply is within a 'crisis' the Panel considers that the Activity Centre should be seeking to optimise the provision and diversity of housing, being one of the most significant areas of growth within the municipality, rather than just meeting adequate supply.

(v) Conclusion

The Amendment plans for adequate housing capacity in the Activity Centre to contribute towards future municipal demand, as sought by the PPF.

2.4 Strategic justification

(i) The issue

The issue is whether the Amendment is strategically justified.

(ii) Evidence and submissions

The Amendment Explanatory Report states:

Amendment C172bany implements the land use and development directions of the 'Heidelberg Structure Plan, Final (Banyule City Council, April 2023)', approved by Banyule City Council (Council) in April 2023. The amendment will provide the Heidelberg Major Activity Centre (MAC) with a contemporary land use and development framework that realises the vision and strategic intent set out in the Banyule Community Vision 2021. This builds on the original structure plan for Heidelberg adopted by Council in 2010.

Heidelberg is identified as a MAC in Plan Melbourne 2017-2050: Metropolitan Planning Strategy. The previous structure plan for the Heidelberg MAC was implemented via Banyule Planning Scheme Amendment C060 in November 2010.

This proposed amendment seeks to implement the recommendations of the Heidelberg Structure Plan (April 2023)' to meet the future needs of the community for the next decade and further.

Council submitted the Amendment is strategically justified because it:

- addresses the objectives of planning in Victoria by providing clear guidance on the development outcomes sought in the Activity Centre
- supports the local planning policy framework objectives for major activity centres in Banyule
- is consistent with Planning Policy Framework objectives for settlement, urban design, housing, business and transport
- is consistent with Plan Melbourne, particularly objectives for encouraging housing close to public transport and jobs
- makes proper use of the Victoria Planning Provisions and relevant Planning Practice Notes and guides.

Council submitted the Amendment provides a much-needed planning and policy framework to guide future land use, development, urban design and vehicle and pedestrian movement within the Activity Centre.

It is clear from Chapter 2.3 that Rahlinda took issue with the Amendment's strategic justification, submitting the proposed provisions do not go far enough in terms of planning for future residential capacity and unnecessarily restrict economic and housing growth. However, on a more general level Rahlinda:

...welcomes the introduction of a new Activity Centre Zone control to guide and facilitate future development within the Heidelberg Major Activity Centre (HMAC) and generally supports the broad policy thrust of the Amendment.

(iii) Discussion

The Panel finds there is support under the PE Act, the Planning Scheme and other strategic reports and documents that justifies the strategic basis for the Amendment, namely a review of the 2010 Structure Plan and provision of updated controls for the Heidelberg Activity Centre.

While not unique, the locational advantages of the Activity Centre on a train line cannot be understated. Furthermore, the accessibility of the Activity Centre will be increased with the soon to be completed North East Link as well as the delivery of an SRL station sometime in the 2050s. These new pieces of infrastructure will contribute to make the Activity Centre one of the most accessible locations in metropolitan Melbourne.

The health precinct is relatively unique in the context of metropolitan Melbourne. It will continue to be a major use as demand increases from a population that is both growing and aging. The health precinct will be a key destination by public transport and road from across the northern suburbs and further afield and a major source of employment.

The Amendment meets State and local planning policy by providing a framework for more housing and employment floorspace in the Activity Centre.

Much of the Panel Hearing was focused on whether the extent of growth enabled by the Amendment is appropriate. Council has clearly tried to find an appropriate balance in facilitating growth while also responding to community concerns about protection of neighbourhood character. While recognising the challenge, the Panel considers the Amendment has not gone far enough in facilitating growth and change in this major activity centre under the exhibited controls.

The Panel commends Council on the range and matters covered by the background reports underpinning the Amendment. However, it considers the Built Form Review and the Built Form Controls Report should have undertaken built form testing to model additional growth scenarios in the context of the PPF, rather than simply adopting a minimal or modest change in preferred building heights. The Panel questions the appropriateness of the 'modest' preferred maximum height uplift (including only a one-metre height increase as is proposed in many precincts) in the context of these policies.

This marginal increase in height, coupled with other prescriptive mandatory provisions proposed throughout the Activity Centre, including the widespread use of the GRZ, is at odds with the drivers at a state level for intensification and housing growth in activity centres.

As explained in Chapter 3.3, the Panel has also found the Amendment is not founded on comprehensive strategic work which underpins the proposed mandatory provisions. The Panel has made specific recommendations about this aspect of the Amendment in Chapter 3.3.

Overall, the Panel is satisfied that there is strategic support for the Amendment, and the proposed controls are appropriate for guiding future permit applications subject to changes recommended in this report.

(iv) Conclusions and recommendation

For the reasons set out in this report, the Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- will deliver a net community benefit and sustainable development as required by Clause 71.02-3
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

The Panel recommends:

Adopt Banyule Planning Scheme Amendment C172bany as exhibited subject to specific recommendations in this report.

3 Precinct wide issues

3.1 Activity Centre boundary

(i) Background

PPN58 provides guidance on setting a boundary for an activity centre and sets out relevant criteria to be considered. This includes an assessment of the physical and strategic attributes of a centre, constraints such as heritage, environment or flooding, transport infrastructure and walkability, and consistency with State and local planning policy.

PPN58 requires the boundary of an activity centre to include sufficient land for commercial (retail, office, entertainment etc.) needs over a 15- to 20-year timeframe and then into the 30-year timeframe. It includes residential areas that have a strong functional inter-relationship with the Activity Centre even where there are no or limited redevelopment opportunities. It directs that residential land encumbered by significant constraints, such as a heritage overlay, should be excluded.

PPN56 under the sub-heading 'Setting a Boundary' states:

To apply the ACZ an activity centre boundary must be identified. This boundary should match the adopted structure plan boundary for the centre.

The Minister for Planning approved criteria for establishing activity centre boundaries. This criteria is to be used in determining a boundary for an activity centre.

Application of the ACZ should be considered for the entire centre defined by the boundary, except for some areas of public land.

(ii) Proposed Activity Centre Boundary

The current boundaries of the Activity Centre are set by the 2010 Structure Plan and in accordance with Clause 11.03-1L-02 of the Planning Scheme. The Structure Plan describes the Activity Centre as follows:

The MAC is a large rectangular shape on an east-west axis. It is bordered by Waterdale Road to the west, the Yarra River to the east and a few different east-west roads to the north and south, but principally Brown Street to the north and Banksia Street to the south. The size of the existing MAC is approximately 215 hectares.

In preparing the 2023 Structure Plan, a boundary re-assessment² was undertaken. Council found:

- the Activity Centre has a relatively self-contained retail catchment performing a mostly local role
- the Activity Centre's allied health and hospital precinct is a major economic and employment asset
- the Activity Centre has significant commercial areas along parts of Burgundy Street, Upper Bell Street and Upper Heidelberg Road that are sufficient in the short to longer term to cater for the Activity Centre's needs
- there is an unusually large amount of residential land within the Activity Centre (approximately 107.28 hectares) where some areas are conventionally residential in nature and others have a mixed urban character.

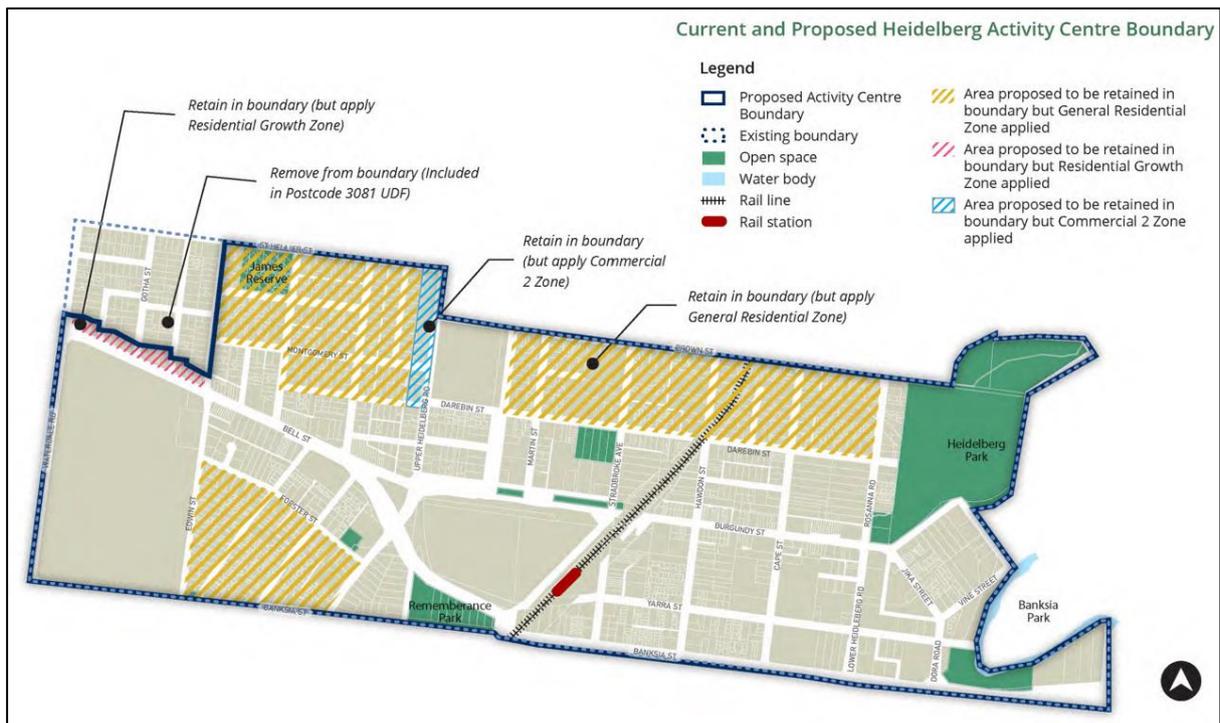
More broadly Council found:

²

- there was a duplication of planning frameworks applied to the GRZ land north of Bell Street between Waterdale Road and Edwin Street given the application of the Postcode 3081 Urban Design Framework (UDF) and the Activity Centre settings
- there was sufficient land within 400 to 800 metres of the Heidelberg Railway Station to contribute to the Activity Centre’s projected housing capacity over the next 15 to 20 years
- the Activity Centre’s topography presents significant constraints to movement and connectivity
- land along the Yarra River has environmental, landscape and cultural significance
- there are significant views from prominent ridge lines to the Dandenong Ranges, Great Dividing Range and Macedon Ranges
- there are significant public open space areas within the Activity Centre.

Council concluded the proposed Activity Centre boundary was generally acceptable, however recommended the removal of land north of Bell Street between Waterdale Road and Edwin Street given the duplication of planning provisions (as shown in Figure 4). The Structure Plan was amended accordingly.

Figure 4 Proposed Activity Centre Boundary



Source: D4

(iii) The issues

The issues are whether:

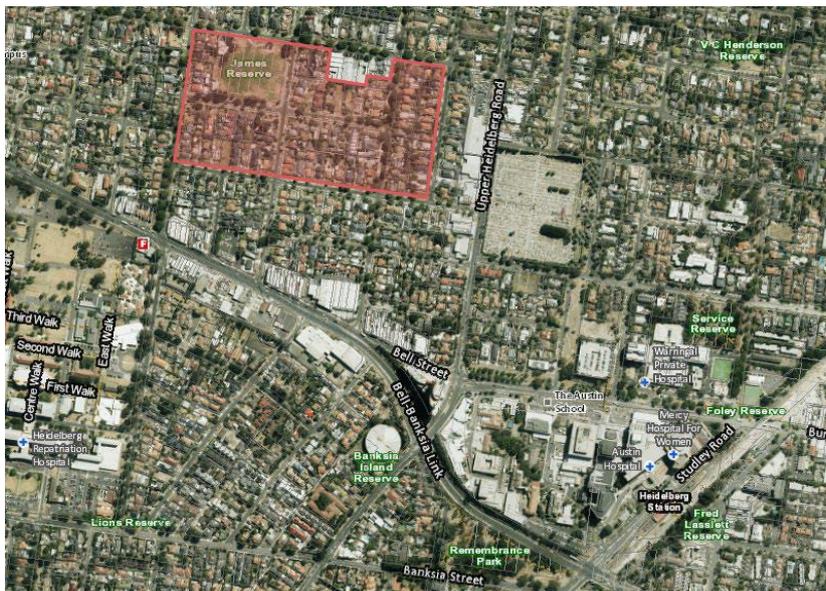
- the boundary for the Activity Centre is appropriate and whether additional areas should be removed
- the combination of the Activity Centre zoning and residential zoning within the Activity Centre is appropriate.

(iv) Evidence and Submissions

Mr Buxton gave planning evidence for Council. Mr Buxton was satisfied with the setting of the Activity Centre boundary, and it was through his peer review work that the residential area covered by the UDF was removed.

Submitter 4 (including a petition) sought the removal of an area known as the 'Heidelberg Heights Hill Top', from Frederick Street to Edwin Street (shown in red in Figure 5) from the Activity Centre. These submitters considered that the unique neighbourhood character and significant biodiversity of the area, and in particular James Reserve, made it inappropriate for inclusion in the Activity Centre.

Figure 5 Heidelberg Heights Hill Top area



Source: D51

Submitter 5 requested that land on the eastern edge of the Activity Centre, bound by Jika Street, Burgundy Street and Vine Street, be excluded from the Activity Centre and that the existing residential zonings remain on the basis of heritage and environmental significance.

Council submitted the Activity Centre boundary should remain as proposed. It considered the proposed rezoning of the area from Frederick to Edwin Street to the GRZ5 will not negatively impact the existing neighbourhood character or biodiversity matters. Council noted this area was not subject to duplicated planning provisions, like the adjoining area that was taken out of the Activity Centre. In relation to the land on the eastern edge of the Activity Centre, Council submitted the proposed sub-precinct provisions, with a preferred maximum height of 11 metres and a requirement for a 5-metre front setback, are appropriate and reflect the land's proximity to heritage places, Heidelberg Park and the Greater Yarra Urban Parklands.

Submitter 87 questioned whether the Activity Centre boundary was consistent with the PPN58 criteria and considered the ACZ2 should apply to the entire Activity Centre area. The Amendment proposed to apply to the ACZ2 to the areas of commercial, mixed use and residential use in and around Bell and Burgundy Streets and to apply the GRZ and RGZ to the remaining residential areas within the Activity Centre.

The Panel took Mr Buxton to this issue and queried why the ACZ was not being applied to the entire Activity Centre particularly given PPN56 states that the boundary of the ACZ should match

the adopted structure plan, except for areas of public land. Mr Buxton said the Activity Centre was a very large and included unusually large areas of residential land that made it somewhat unique. He considered:

- it would be cumbersome to include the other requirements of the GRZ in the ACZ
- the GRZ remained the best fit for the residential parts of the Activity Centre.

(v) Discussion

The Panel does not support the exclusion of the 'Heidelberg Heights Hill Tops' area from the Activity Centre. This area is an existing part of the Activity Centre as outlined in the 2010 Structure Plan and at Clause 11.03-1L-02 of the Planning Scheme.

Some submitters clearly value their existing neighbourhood character and don't want to see change, however State and local policy make it clear that growth opportunities for additional and varied forms of housing should be accommodated in areas that have good accessibility to high-capacity transport routes as well as employment, retail and other activities. While the topography of this area does provide some constraints to connection to the eastern parts of the Activity Centre, this land has a functional relationship with key health uses and mixed use areas along Bell Street and Upper Heidelberg Road. There are no heritage, environmental or other constraints to exclude this land from the Activity Centre. The Panel also notes this land is to remain in the GRZ with the same mandatory three-storey height control, albeit with the new Schedule 5.

The land on the eastern edge of the Activity Centre is also an existing part of the centre. This area is subject to greater constraints, including heritage and flooding, however also forms a close and functional relationship with other parts of the Activity Centre. The Panel agrees with Council that this land should remain within the Activity Centre boundary. Not all parts of an Activity Centre will have the same opportunities for growth, and this is reflected in the sub-precincts and associated built form provisions.

The Panel has reservations about the approach to the application of the ACZ2 on some but not all land within the Activity Centre boundary, and whether this is an appropriate response to PPN58. For example, it questions if the ACZ2 should apply to all of the Activity Centre land, or if the Activity Centre boundary should move to include only the ACZ2 land.

The approach adopted, using both the ACZ and the residential zones, is not the usual approach taken to activity centre zoning and in this case results in a set of potentially confusing provisions. This is particularly so in the Precinct 6 areas, with parts of this precinct to be included in the ACZ2 and other parts to remain zoned GRZ, albeit with a new schedule. However this was not a key issue raised in submissions or addressed by the parties, and the only planning evidence before the Panel supported the approach adopted. On this basis it would be beyond the scope of the Amendment to re-consider the alignment of the ACZ2 and the corresponding provisions that would apply, without giving the community appropriate notice and the opportunity for their views to be considered.

(vi) Conclusions

The Panel concludes the boundary of the Activity Centre is appropriate.

3.2 Application of the General Residential Zone

(i) Background

The GRZ is currently applied to much of the Activity Centre outside the commercial and health precincts. This includes:

- General Residential Zone Schedule 1 – Accessible Areas and Ivanhoe Residential Diversity Areas
- General Residential Zone Schedule 2 – Incremental Areas (GRZ2).

In implementing the Structure Plan, the Amendment seeks to apply the GRZ with a new Schedule 5 (GRZ5), replacing the existing General Residential Zone Schedule 1 and Schedule 2 areas. See Figure 2.

The GRZ5 seeks to:

- provide new objectives to support the role of the residential land in improving housing diversity
- encourage development that provides a transition between the Activity Centre and low scale residential areas outside the Activity Centre
- require a preferred character to manage amenity impacts on adjoining land
- apply the GRZ's default mandatory maximum building height limit of 11 metres and three storeys
- exempt the minimum garden area requirement
- require a six-metre tree within the front and rear setback
- provide side and rear setback requirements including three metre side setbacks from one side boundary, one metre from the opposite boundary, and five metres from the rear boundary
- retain the GRZ's default maximum site coverage of 60 per cent, which is greater than the 40 per cent standard currently set by the General Residential Zone Schedule 2.

(ii) The issue

The issue is whether the application of the GRZ is appropriate.

(iii) Evidence and submissions

Council submitted the Activity Centre has an unusually large amount of residential land, and that this area has a distinct residential character that is outside the high-growth areas of the Activity Centre. It considered it was important that the 11 metre (three storey) height limit be retained to protect the character of the area.

Council concluded:

In short, the proposed application of the 11 metres (3 storey) height limit by the GRZ5 provides a carefully tailored approach to best protect and enhance distinct and important elements of residential character in much of the outer residential areas of the MAC, whilst sensitively facilitating additional growth in these areas.

Mr Buxton supported use of the GRZ5 and said it would provide an appropriate buffer at the interface of the Activity Centre core and lower change residential areas beyond. He said:

Following the activity centre boundary analysis, it is not appropriate to include residential areas that function as 3 storey residential areas into a zone that allows and facilitates a range of land uses and greater intensity of development. The GRZ5 is the appropriate

planning control between the core commercial, hospital and mixed-use precincts and residential areas outside of the centre.

Some submitters questioned whether the application and content of the GRZ5 was appropriate and whether there had been regard to the physical land features including the steepness and ridgelines within the area. Others considered that the Amendment would have negative impacts on neighbourhood character, and some submitters questioned the appropriateness of the GRZ5 being on one side of the road and the ACZ2 on the other (for example Darebin Street).

Submitter 66 said:

Halving the front set back from 9 to 5m in GRZ5 does not respect the dominant residential nature of Precinct 6C. Nor does removal of the “minimum garden area” requirement for GRZ5 maintain the general residential nature of precinct 6C.

The proposed 3 story height limit in GRZ5 will provide sufficient increase in density without the need to reduce the set backs to 5m or remove the minimum garden area requirement.

Submitter 87 considered that the continued application of the GRZ within the Activity Centre does not sufficiently support growth in housing supply and diversity.

(iv) Discussion

The Panel expressed some reservations about the application of the GRZ5 to large parts of the Activity Centre in Chapter 3.1 above, having regard to PPN56 that states:

Application of the ACZ should be considered for the entire centre defined by the boundary, except for some areas of public land.

It is somewhat unusual for such a large proportion of an Activity Centre to be contained within the GRZ given it is a zone typically applied to land outside activity centres and more distant from major transport, retail and commercial uses.

However given that submissions from the community generally sought to limit height and maintain provisions on neighbourhood character and no party requested that their land be included in the ACZ2, the Panel does not recommend changes to the application of the GRZ5.

The objectives in the GRZ5 appropriately encourage housing diversity and an increase in the number of dwellings that have good access to public transport, shops and services. While the variations to the Clause 54 and 55 provisions seek to increase standard setbacks to side and rear boundaries, this seems at odds with seeking increased apartments in the area. Again, this was not raised in submissions, so the Panel makes no specific findings on this matter.

The Panel supports the encouragement of planted trees in front and rear setbacks, with tree canopies clearly being part of the valued character of the area, and landscaping playing an important role in integrating new development into the neighbourhood.

(v) Conclusion

The Panel concludes:

- The application of the GRZ5 is appropriate.

3.3 Mandatory and discretionary provisions

(i) The issue

The issue is whether the mandatory provisions for specified building heights, street wall heights and setbacks, front setbacks and building separation in the proposed ACZ2 are appropriate and justified.

(ii) What does the Amendment propose?

A combination of mandatory and discretionary provisions are proposed to be applied across the Activity Centre.

The mandatory provisions have been applied under the ACZ2 as follows:

- street wall heights in Precincts 2, 3, 4 and 5
- minimum front setbacks in Precincts 1, 2, 4, 5 and 6 and sub-precinct 3E
- minimum building separation in Precincts 3, 4 and 5
- maximum building heights in sub-precincts 3E and 6A
- mandatory provisions which seek to restrict additional overshadowing between 11am and 2pm on 22 September to:
 - no greater than 50 per cent of the secluded private open space in surrounding residential properties
 - the southern footpath along Banksia Street, Bell Street, Burgundy Street and Yarra Street
 - the southern public realm outstands along Banksia Street, Bell Street, Burgundy Street and Yarra Street (except between Lower Heidelberg Road and Dora Street)
 - all open space in Precinct 4
 - Powlett Street Reserve.

In addition, parts of the Activity Centre to be rezoned to the GRZ5 are to have a mandatory maximum building height of 11 metres and three storeys.

An outline of the application of mandatory provisions under the various sub-precincts of the ACZ2 is set out in Table 5.

Table 5 Outline of proposed mandatory provisions

Sub-precinct	Building height	Street wall	Front setback	Building separation
1A, 1B, 1C				Ground floor walls must be setback a minimum of 5 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 9.5 metres from the front street.
2A, 2B, 2C, 2D		10 metres (2 storeys)		Ground floor walls must be setback a minimum of 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.

Sub-precinct	Building height	Street wall	Front setback	Building separation
2D		10 metres (2 storeys)	<p>Ground floor walls must be setback a minimum of 0 metres from the front street and side street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.</p> <p>For development on the north side of Yarra Street, walls of buildings above 26 metres must be setback a minimum of 8.5 metres from the front street.</p>	
3A, 3B, 3C, 3D, 3F		10 metres (2 storeys)		<p>Above 10 metres in height:</p> <ul style="list-style-type: none"> • Include a side or rear setback of 4.5 metres, or • Locate a side or rear wall on the boundary on one side only
3E		10 metres (2 storeys)	<p>Ground floor walls must be setback a minimum of 0 metres from the front street and side street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.</p> <p>For development on the north side of Burgundy Street between the railway line and Rosanna Road, walls of buildings above 23 metres must be setback:</p> <ul style="list-style-type: none"> • A minimum of 8.5 metres from the front street. • A minimum of 4.5 metres from the side street. 	<p>Above 10 metres in height:</p> <ul style="list-style-type: none"> • Include a side or rear setback of 4.5 metres, or • Locate a side or rear wall on the boundary on one side only
4A, 4B		10 metres (2 storeys)	<p>Ground floor walls must be setback a minimum of 0m from the front street and side street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.</p>	

Sub-precinct	Building height	Street wall	Front setback	Building separation
4C		10 metres (2 storeys)	<p>Ground floor walls must be setback a minimum of 0m from the front street and side street.</p> <p>Walls of buildings above 10 metres to 20 metres must be setback a minimum of 4.5 metres from the front street and side street.</p> <p>Walls above 20 metres must be setback:</p> <ul style="list-style-type: none"> • A minimum of 9.5 metres from the front street. • A minimum of 4.5 metres from the side street. 	
5A		10 metres (2 storeys)	<p>Ground floor walls must be setback a minimum of 2m from the front street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 6.5 metres from the front street.</p>	<p>Above 10 metres in height:</p> <ul style="list-style-type: none"> • Include a side or rear setback of 4.5 metres, or • Locate a side or rear wall on the boundary on one side only
5B, 5D, 5F		10 metres (2 storeys)	<p>Ground floor walls must be setback a minimum of 2m from the front street and side street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 6.5 metres from the front street.</p>	<p>Above 10 metres in height:</p> <ul style="list-style-type: none"> • Include a side or rear setback of 4.5 metres, or • Locate a side or rear wall on the boundary on one side only
5C		10 metres (2 storeys)	<p>Ground floor walls must be setback a minimum of 0m from the front street and side street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street.</p>	<p>Above 10 metres in height:</p> <ul style="list-style-type: none"> • Include a side or rear setback of 4.5 metres, or • Locate a side or rear wall on the boundary on one side only
6A	40 metres (12 storeys)			
6B	13.5 metres (4 storeys)		<p>Ground floor walls must be setback 5 metres from the front street and side street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 9.5 metres from the front street.</p>	<p>Above 10 metres in height:</p> <ul style="list-style-type: none"> • Include a side or rear setback of 4.5 metres, or • Locate a side or rear wall on the boundary on one side only

Sub-precinct	Building height	Street wall	Front setback	Building separation
6C	11 metres (3 storeys)		<p>Ground floor walls must be setback 5 metres from the front street and side street.</p> <p>Walls of buildings above 10 metres must be setback a minimum of 9.5 metres from the front street.</p>	<p>Above 10 metres in height:</p> <ul style="list-style-type: none"> • Include a side or rear setback of 4.5 metres, or • Locate a side or rear wall on the boundary on one side only

(iii) Background

Planning Practice Note 59

PPN59 applies to all locations, including activity centres. It notes that:

- Victorian planning schemes are predominately performance based
- a performance based provision provides for flexibility in the approach or variation in the measure to achieve the required outcome
- performance based provisions can facilitate variation and innovation in how a use or development is planned and they can also accommodate unforeseen circumstances peculiar to a particular application.
- mandatory provisions are the exception
- a mandatory provision must be met and provides for no opportunity to vary the requirement
- there will be circumstances where mandatory requirements will provide certainty and ensure preferable and efficient outcomes (these cannot be common practice)
- some examples where mandatory provisions may be appropriate include areas of high heritage value, and areas of consistent character themes
- the DDO is the most appropriate tool for expressing mandatory built form requirements.

PPN59 specifically refers to built form provisions such as building heights and setbacks, and sets out the following criteria to assist in determining whether mandatory provisions are justified:

Is the mandatory provision strategically supported?

Is the mandatory provision an appropriate substitute for a performance-based provision??

Does the mandatory provision provide for the preferred outcome?

Planning Practice Note 60

PPN60 provides guidance about built form provisions in activity centres. It notes that:

- height and setback provisions can be appropriate so long as they are not aimed at restricting the built form, but at facilitating good design outcomes
- proposed height and setback provisions must be soundly based on the outcomes of strategic research and background analysis that demonstrate consistency with state and regional policy and include a comprehensive built form analysis
- a Council will need to demonstrate that any proposed height and setback provisions allow for an appropriate level of change over time
- height provisions must not encumber a centre's ability to accommodate community requirements for retail, commercial, housing, community, health, educational and other essential requirements.

PPN60 confirms that the application of discretionary provisions, combined with clear design objectives and decision guidelines is the preferred form of height and setback provisions. It states that built form provisions can be discretionary or mandatory or a combination of both.

The relevant criteria include:

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.

Where mandatory provisions are proposed, they should be assessed against all of the following:

- consistency with state and regional policy
- currency of work – any supporting structure plan or comprehensive built form analysis should be no more than five years old
- capacity to accommodate growth in the Activity Centre – over at least a 15-year timeframe.

Where mandatory provisions are proposed over most or all of the Activity Centre, rigorous strategic justification should include a housing strategy and an activity centre/economic strategy which examines the role of the centre as part of a network of centres.

PPN60 also discusses what is meant by ‘exceptional circumstances’:

Exceptional circumstances may be identified for individual locations or specific and confined precincts, and might include: ...

- significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values
- significant physical features, such as views to or from the activity centre or topography, where it can be demonstrated that discretionary controls would be inadequate to deliver the desired built form objectives or outcomes for the activity centre
- sites of recognised State significance where building heights can be shown to add to the significance of the place, for example views to the Shrine of Remembrance and major waterways.

Where exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives or outcomes identified from the comprehensive built form analysis. Where mandatory controls are proposed, it will need to be demonstrated that discretionary controls could result in an unacceptable built form outcome.

(iv) Evidence and submissions

Council submitted:

- the mix of mandatory and discretionary provisions is appropriate for the Activity Centre having regard to PPN59 and PPN60
- the mandatory provisions would ensure development protects key views, maintains a human scale in streetscapes and prevents overshadowing of footpaths.

Mr Buxton said:

These mandatory requirements have not been applied to all precincts or to all aspects that impact on the resultant building envelope. They have been focused on specific aspects that result in built form that will maintain identified key views and minimise overshadowing to the

public realm and adjoining more sensitive land uses (such as existing residential development). This is appropriate in terms of the drafting of the ACZ2.

Mr Thorne said:

My evidence is that the mandatory height limits and setbacks have been determined to ensure a good contextual relationship to existing buildings, good height to width ratio of street wall buildings, and preferred discretionary building heights which prevent potential overshadowing of key landscape and pedestrian environments.

A general assessment of the mandatory provisions against the criteria in PPN59 was outlined in Council's Part B submission, however it did not appear that this assessment had previously been undertaken.

Rahlinda, the owner of land at 70 Yarra Street, submitted:

- there was no strategic justification to apply mandatory provisions in Precinct 3 (in relation to overshadowing of footpaths and street wall height) and to Precinct 6B (in relation to overall building height)
- the Built Form Controls Report, being one of the key background reports to the Amendment, did not recommend these mandatory provisions
- the mandatory provisions only came about as a recommendation of the Peer Review
- there were no identified 'exceptional circumstances' to justify the mandatory nature of the provisions
- at no point was a proper assessment of each of the proposed mandatory provision against the Practice Notes undertaken.

Rahlinda considered the provisions would inevitably and unnecessarily impact the future development potential of the land, that was in stark contrast to statewide imperatives to direct increased housing to major activity centres such as Heidelberg.

Mr Sheppard, who gave urban design evidence for Rahlinda, considered the mandatory nature of a number of the proposed provisions in the ACZ2 to be unjustified.

In relation to street wall height (discussed further in Chapter 4.3), Mr Sheppard found that none of the reasons given for the proposed mandatory control, namely to avoid overshadowing of the southern footpath, to achieve a human scale, and to create an appropriate relationship with existing built form, justified the mandatory nature of the control.

He said:

No explanation is provided as to why the maximum street wall height should be mandatory. Planning Practice Note 59 makes it clear that mandatory provisions should be the exception and are only warranted where there is a particular sensitivity such as high heritage value, consistent character or a sensitive environment. Yarra Street does not have any of these sensitivities. I have not seen any analysis that demonstrates that a discretionary maximum street wall height would be insufficient to achieve the desired outcomes.

A number of individual submitters stated that the Amendment should make greater use of mandatory provisions, particularly for maximum building heights and for building setbacks.

(v) Discussion

The Panel considers most of the mandatory provisions to be unjustified having regard to PPN59 and PPN60. When considering the guidance offered in those Practice Notes, the use of mandatory overshadowing, street wall and setback provisions has not been appropriately justified.

The Amendment is not founded on comprehensive strategic work which underpins the proposed mandatory provisions. Notably, the mandatory requirements do not have any foundation in the Built Form Controls Report which did not propose or recommend the broad suite of mandatory provisions proposed. Equally, there is no discussion or assessment in the Peer Review in relation to each of the mandatory provisions against the Practice Note considerations.

Council provided only a general assessment against the relevant criteria in its Part B submission with no other analysis identified as part of the background amendment material. Council and its experts were not able to point to any clear basis for the mandatory nature of the provisions and Council was not able to demonstrate:

- any exceptional circumstances to justify the mandatory provisions
- that a discretionary control would lead to unacceptable outcomes.

In many cases the Panel considers the mandatory provisions will unnecessarily stifle development, contrary to State planning policies for major activity centres.

The Built Form Controls Report recommended only one mandatory height control, being for a section of land on Mount and Burgundy Streets in Precinct 3E (of 26 metres). This control was to ensure the retention and protection of the identified key view 'Hawdon Street and Darebin Street' as identified in the Views Assessment. The Views Assessment identifies this as a view of high quality and high significance, rare within its context, and having a high sensitivity to change. It found that further development of mid-rise residential dwellings along Burgundy Street would significantly impact both the view to the ridgeline and the long-range views in the backdrop. Further that development along Hawdon Street could potentially block the majority of the existing view.

For this reason, the Panel supports a mandatory height control for Precinct 3E.

Submitters that supported mandatory provisions had concerns about amenity impacts, changes to existing character or other poor urban design outcomes. The Panel accepts that mandatory provisions provide greater certainty, however in a performance-based planning system, exceedance of a 'preferred' height control or setback should only be approved where it can be demonstrated that there is no unreasonable amenity impact or that it leads to a better design outcome. In the context of a major activity centre, planning provisions should not be limiting and it is the role of the authority assessing the development to ensure that reasonable amenity standards are maintained while also achieving objectives for increased housing and growth in locations of high accessibility to transport and other infrastructure.

Discussion regarding the specific metrics for various provisions is provided in later sections of this report.

(vi) Conclusions and recommendations

The Panel concludes:

- The strategic work undertaken by Council is not robust or appropriately comprehensive to justify any mandatory provisions.
- There is no basis to support mandatory provisions in the ACZ2, other than the mandatory height limit for Precinct 3E.

The Panel recommends:

Amend Clause 4.4 of the Activity Centre Zone Schedule 2 as shown in Appendix D to remove any reference to mandatory maximum street wall heights, mandatory minimum building setbacks and mandatory minimum building separation requirements.

Amend Clause 5.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to convert all mandatory provisions to discretionary, except for the mandatory height limit for Precinct 3E.

4 Built Form Provisions

4.1 Approach to built form provisions

Chapter 2.2(i) provides an overview of the Structure Plan's approach to built form and its translation into Clause 5.0 of the ACZ2.

4.2 Building heights

(i) Background

The Built Form Review found:

- existing maximum building heights for the Activity Centre are dated and not satisfactorily managing the demand for change and growth in the centre
- development was frequently exceeding the preferred maximum heights under the current provisions (namely the DDO5).

Councils submitted:

In light of these findings, the Views Assessment, the Built Form Controls Report, the Peer Review and 3D Modelling Report were prepared to establish a nuanced set of planning controls, including building heights (coupled with appropriate setbacks), which more appropriately accommodate the intended growth in the HMAC, and which also take into account:

- the emerging and preferred streetscape character of identified precincts;
- sensitive interfaces including residential, heritage, public spaces, open spaces; and
- view lines from the public realm.

The Built Form Review did not provide metrics for updated height provisions as built form testing was not within the project scope, and instead recommended key considerations for future built form testing having regard to matters including views, setbacks and internal amenity.

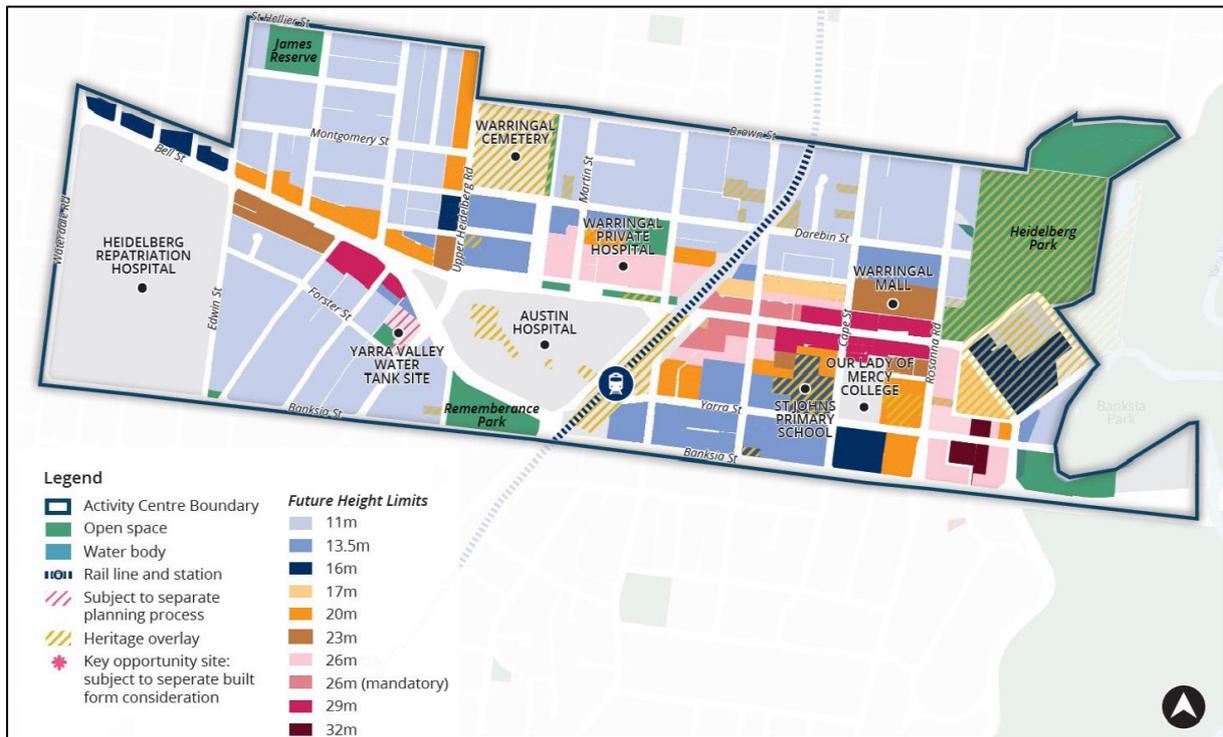
'Preferred height limits' are then outlined in the Built Form Controls Report for each Precinct and form the basis of the ACZ2.

A range of maximum heights are proposed from three storeys to approximately 10 storeys. The tallest (nine- to ten-storey) buildings are focused in three areas:

- immediately west of Austin Hospital
- along the eastern one-and-a-half blocks of Burgundy Street
- towards the eastern end of Yarra Street.

Seven-to eight-storey buildings are then proposed to surround these areas. The Burgundy Street corridor east of the railway line then steps down further to five to six-storey buildings within the mixed-use Heidelberg Central precinct, and to three- to four-storey buildings in the Residential precincts. This is illustrated in Figure 6. The Structure Plan and background documents do not explain the basis for the proposed pattern of building heights.

Figure 6 Structure Plan Future Building Heights Plan



Source: D4

(ii) The issue

The issue is whether the building heights proposed in the ACZ2 are appropriate.

(iii) Evidence and submissions

Council set out its approach to building heights in its Part A Submission:

Maximum building height limits will be carefully managed to allow sufficient growth, but also to protect key views, protect a preferred character for residential areas, provide a transition in built form between the core commercial/mixed use area and provide an appropriate interface with other sensitive areas, such as the Yarra Valley Parkland.

Examples of measures to achieve this include:

- To generally allow modest growth in building height limits in the key commercial and mixed use corridor, and adjacent land, along Bell and Burgundy Streets.
- To make a notable exception to the previous point, which is to apply mandatory height limit to the ACZ2's Sub-precinct 3F which is located at the corner of Mount and Burgundy Streets, to suitably protect a key public view.
- To retain a mandatory building height limit of 3 storeys (11 metres) in land currently with the General Residential Zone, but to apply this with a new zone, the GRZ5, which will better articulate the need for GRZ land in the centre to provide housing supply and diversity for the MAC and allow some additional development across a site to support this. For example, by exempting the garden area requirements.
- Providing a transition in the scale of height limits between the commercial/mixed use core of the centre along Bell Street (west to Edwin Street) and Burgundy Street and surrounding more sensitive residential land within and outside the centre.
- To retain relatively low building heights, relative to the rest of the Burgundy Street area, to much of the land adjacent to the Yarra River parkland.

Mr Buxton and Mr Thorne were comfortable with the exhibited height provisions across the Activity Centre, and considered they sought a balance between allowing for growth and also managing public realm impacts.

Mr Thorne said:

Building heights have been carefully judged to enable growth while also preserving the quality of the Public Realm. In my opinion this has been successfully achieved through careful 3D modelling. Growth is a strategic objective identified by Council, however growth at the expense of amenity in the Public Realm has been avoided by that careful modelling of solar access to footpath in streets and other public places used specifically by pedestrians.

70 Yarra Street, Heidelberg – Precinct 3B

Rahlinda, the owner of land at 70 Yarra Street, submitted the proposed heights:

- would not allow for sufficient growth
- would unnecessarily constrain and restrict growth
- lacked strategic justification
- were in many cases only one metre higher than the existing 17-year-old³ height limits.

Rahlinda submitted:

Currently parts of the Proposed ACZ2 are at odds with state wide objectives to increase housing in and around major activity centres objectives, particularly in light of the state government's recent Housing Statement, draft housing targets and the proposed Suburban Rail Loop North, a station which is planned for at the Activity Centre.

In relation to the one-metre increase proposed for its land, Rahlinda submitted:

- the very modest increase was at odds with the emerging character and planning policy context seeking to accommodate 'significant change'
- the proposed height sat approximately two storeys below the approved height for the development approved by Council for its land
- the constructed development at 87-89 Mount Street which sits in the neighbouring residential precinct is also over two storeys above what is proposed.

Rahlinda submitted that given approximately half the Activity Centre is to remain in the GRZ with a default three storey and eleven metre mandatory maximum height, there is a greater need for other precincts *"to carry the load on accommodating substantial growth"*.

Mr Sheppard pointed to the strong strategic support to facilitate substantial growth and change in major activity centres and said the Activity Centre is the prime location for growth in Banyule. He said the proposed maximum height provisions fail to optimise the capacity of Rahlinda's land and is at odds with the built environment objective of the ACZ2, being:

To avoid the under-development of land.

In reviewing the appropriateness of the preferred maximum building height Mr Sheppard said:

The only reasons given for the proposed 6-storey maximum building height in sub-precinct 3B that I have been able to find in the background reports are in the following statement at page 11 in the Heidelberg Structure Plan Built Form Controls (November 2021): *"Retain identified values and attributes, including the vegetated ridgeline as identified for key view 'Hawdon Street and Darebin Street' in the Heidelberg Structure Plan Views Assessment."* This sub-precinct does not have any identified values or attributes that might warrant the proposed relatively low height for land in a major activity centre less than 200m from a train station.

³ The existing Structure Plan was prepared 17 years ago

Mr Sheppard went on to say:

I note that sub-precinct 3D, immediately north of sub-precinct 3B, has a proposed maximum height of 26 metres (8 storeys). Sub-precinct 3B has very similar attributes as sub-precinct 3D, including adjacency to low-rise residential development in Precinct 6. However, sub-precinct 3B is closer to the station.

In relation to sub-precinct 3B, Mr Sheppard considered the preferred maximum height should be 28 metres (and eight storeys). He considered 28 metres to be appropriate (rather than 26 metres as referenced elsewhere) as this would allow for an eight-storey building with a commercial ground floor and seven Clause 58-compliant residential upper levels with a roof parapet.

In relation to sub-precinct 6B (that part which is adjacent to sub-precinct 3B) Mr Sheppard considered:

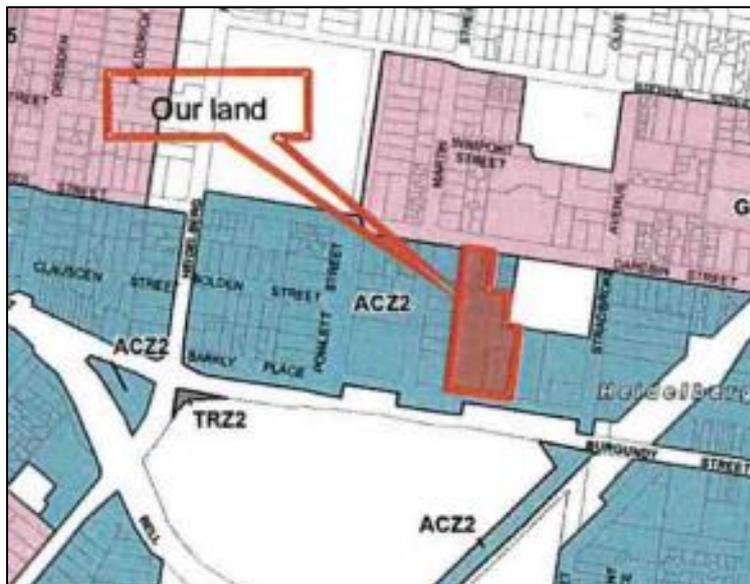
- the preferred maximum height of four storeys was too low for land within a major activity centre and within a few hundred metres from the Heidelberg train station and with frontage to a wide street
- 20 metres (and six storeys) was a more appropriate height for land with these attributes.

Warringal Private Hospital

Ramsay Health Care, on behalf of the owner of Warringal Private Hospital, supported the strategic intent of the Amendment but submitted the whole of the hospital land at 81 and 83 Darebin Street and 214 and 216 Burgundy Street, Heidelberg (see Figure 7) should be in sub-precinct 4C (and not sub-precinct 4B). Sub-precinct 4B nominates a 'transitional' building height of 20 metres with sub-precinct 4C nominating 26 metres (see Figure 8). It submitted:

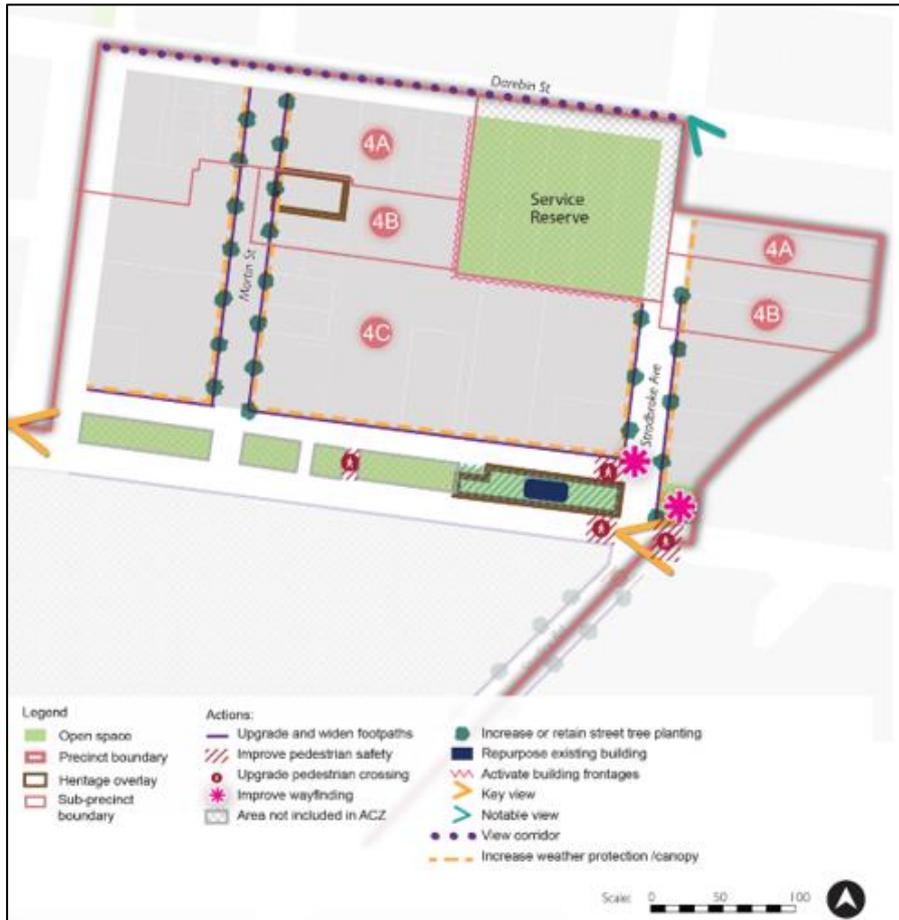
- the proposed height limit serves no purpose in the context of an existing planning permit that approves two towers up to a maximum height of 38 metres
- sub-precinct 4B should be revised to sub-precinct 4C (as it applies to the land generally bounded by Burgundy Street, Martin Street, Stradbroke Avenue and Darebin Street) with the maximum building height amended to reflect the existing approval of 38 metres.

Figure 7 Warringal Private Hospital land



Source: Submission 82

Figure 8 Precinct 4 map



Source: D14

Council considered the preferred building height provisions would capably allow for the consideration of greater building heights on a case-by-case basis. Mr Buxton also considered this approach to be appropriate.

16 Powlett Street, Heidelberg

Submitter 23 took issue with the discretionary height limit proposed for 16 Powlett Street which sits within sub-precinct 4A (see Figure 9). It submitted the discretionary 13.5-metre height limit is too low given it has already been exceeded by existing built form at 91 Darebin Street, Heidelberg (also within sub-precinct 4A). Council agreed the designation of 16 Powlett Street should be revised to sub-precinct 4B which would provide a 20-metre preferred height limit.

Figure 9 16 Powlett Street, Heidelberg

Source: D51

Other submitters

There were a range of community submitters that considered the proposed maximum heights were excessive. They raised concerns with overshadowing, impacts on neighbourhood character, particularly in one- to two-storey residential areas, loss of privacy, traffic congestion, visual impact and impacts on biodiversity.

There were also submitters that considered the Amendment would not allow sufficient growth because the proposed provisions were too restrictive, particularly in the context of Heidelberg being a major activity centre, having State significant health infrastructure, and being on the principal public transport network and the future SRL.

(iv) Discussion

The Panel agrees with the evidence of Mr Sheppard that the preferred maximum height provisions are very modest for a major activity centre and could lead to the under-development of land.

The planning policy context and strategic justification for increased densities, including height, is clear. Policy seeks to accommodate the majority of growth in areas that have excellent access to transport, jobs and services, and to build up activity centres for higher density housing. Heidelberg has a number of attributes that attribute to its suitability to accommodate significant growth, including:

- its designation as a Major Activity Centre
- its inclusion in the La Trobe NEIC with significant medical facilities
- its accessibility to public transport including a new future train station as part of the SRL.

On this basis, the Activity Centre should be a place to accommodate substantial rather than modest change.

While Council submitted that the basis for the preferred building heights was a balance between growth and protection of amenity and character, there was no clear testing of potential building heights in the background documents. Specifically:

- built form testing was not part of the scope of the Built Form Review

- the Views Assessment rated the various views and their sensitivity to change throughout the Activity Centre but did not nominate heights of buildings that would impede on views
- the Modelling Report was limited to Precincts 1, 2 (in part) 3 and 4 and ‘tested’ the proposed provisions in relation to overshadowing, rather than modelling a range of potential building heights and setbacks
- the Built Form Controls Report nominated preferred height limits without justification
- the Structure Plan does not explain the proposed pattern of building heights.

Given the accepted planning policy context for the Activity Centre, the approach should have been to maximise heights where possible, with associated built form controls to manage amenity impacts on the public and private realm rather than to proceed with ‘minimal’ or ‘moderate’ increases in height from the 2010 Structure Plan. The Modelling Report’s testing methodology could have extended to all precincts and tested a range of potential heights (and associated setbacks) to fully explore the opportunities of the Activity Centre.

70 Yarra Street, Heidelberg – Precinct 3B

The Panel therefore accepts Mr Sheppard’s recommendation to increase the height for:

- sub-precinct 3B to 28 metres (eight storeys)
- sub-precinct 6B (that part which is adjacent to sub-precinct 3B) to 20 metres (six storeys).

The provisions as proposed for both these areas fail to optimise the capacity of the land in accordance with State and local activity centre policy. They are both within a very short walk from the train station, have no heritage or character sensitivities and are not central to any key views nominated in the Structure Plan. While sub-precinct 3B sits adjacent to residential land, the residential land is across the relatively wide Yarra Street and is on higher ground. This horizontal and vertical separation will mitigate the potential impact of any development along Yarra Street on those residential properties. These factors led to the approval of the building at 70 Yarra Street and the constructed building at 87-89 Mount Street, both of which demonstrate the appropriateness of the increased heights in both precincts.

The Panel recognises that with taller buildings, there can be off-site impacts to the public realm and amenity impacts that need to be managed. However well-designed buildings can meet the dual aims of optimising growth while also managing impacts. The example of the approved 70 Yarra Street development demonstrates this. An eight-storey building has been approved that Mr Thorne agreed:

- would add to the ‘*architectural and development quality*’ of the Activity Centre
- the additional height and greater setbacks (well beyond the discretionary control) would lead to a more elegant and ‘*human scaled*’ building.

The Panel considers there are likely to be other areas where a greater preferred maximum building height would be appropriate compared to what is proposed. However, without expert evidence or more detailed modelling, the Panel is not in a position to determine what would be appropriate or to recommend any changes.

Warringal Private Hospital

The Panel has difficulty with the exhibited sub-precinct 4B and 4C height limits in circumstances where:

- a planning permit has been issued for a building which is almost double that, at 38 metres

- the existing height limits for the land are only one metre lower than those exhibited in the ACZ2 (for sub-precinct 4B and 4C).

While the building height provisions for Precinct 4 are preferred, this does not mean that a building of circa 38 metres would be approved with the exhibited ACZ2 in place. Poor translation and drafting with respect to appropriate built form metrics will inevitably give rise to planning disputes which are costly and time consuming and delay community benefits. However, the Panel was not presented with any analysis to demonstrate the proposed preferred maximum building heights were not acceptable, or more importantly what an acceptable height limit might be.

The Panel does nonetheless agree that the transitional role of sub-precinct 4B, as it applies to this part of Precinct 4 only, has limited value and is not necessary. The hospital land, which is included in the La Trobe NEIS, is acknowledged as a major contributor to the Victorian economy, has the potential to accommodate significant growth and should not be constrained by a transitional height limit in this location. The exhibited sub-precinct 4B land which is generally bounded by Burgundy Street, Martin Street, Stradbroke Avenue and Darebin Street should therefore be redesignated to sub-precinct 4C. The transitional role of sub-precinct 4B as it applies to this part of Precinct 4 has limited value and is not necessary. Sub-precinct 4A will provide an appropriate transition in height to land to the north within the GRZ.

16 Powlett Street, Heidelberg

The Panel agrees with submitter 23 and Council that the designation of 16 Powlett Street should be revised to sub-precinct 4B. This change is appropriate in light of the characteristics and location of this land which can appropriately carry development of a greater scale.

(v) Conclusions

The Panel concludes:

- The modest building heights within the Activity Centre are not commensurate with the planning policy context for substantial growth and change within the Activity Centre.
- Sub-precinct 3B should have a preferred discretionary height of 28 metres (eight storeys).
- Sub-precinct 6B (that part which is adjacent to sub-precinct 3B) should have a preferred discretionary height of 20 metres (six storeys).
- It was not presented with any analysis to demonstrate what an acceptable height limit might be for the Warringal Hospital land, and in such circumstances, the exhibited height limits are acceptable.
- Sub-precinct 4B should be revised to sub-precinct 4C (as it applies to the land generally bounded by Burgundy Street, Martin Street, Stradbroke Avenue and Darebin Street). The transitional role of sub-precinct 4B as it applies to this part of Precinct 4 has limited value and is not necessary.
- The designation of 16 Powlett Street should be revised to sub-precinct 4B.

4.3 Street wall

(i) Background

The Built Form Review considered street wall heights should:

- be of a scale that contributes positively to the precinct identity

- provide a positive pedestrian experience and contribute to a sense of human scale within public spaces
- limit overshadowing of footpaths and or public spaces during the middle of the day and avoid additional overshadowing of the southern footpath.

The Built Form Controls Report recommended a discretionary street wall height of three storeys (11 metres) for Precincts 1, 2, 3, 4 and 5. Precinct 6, being a residential precinct, did not contain a street wall height provision.

The Peer Review considered:

- the proposed three-storey street wall to be excessive and at odds with the Burgundy Street character
- an 11-metre street wall would cause overshadowing of the south side of Burgundy Street.

On this basis it recommended:

- a mandatory 10-metre street wall height for Precincts 2, 3, 4 and 5 to reduce potential overshadowing and to create an appropriate relationship to existing built form
- a limit of two storeys to allow floor to ceiling heights to accommodate change over time and for a 1 metre parapet for upper level balconies.

(ii) The issue

The issue is whether the two storey and 10 metre (two storey) mandatory street wall provision proposed in the ACZ2 is appropriate.

(iii) Evidence and submissions

Council submitted the proposed mandatory 10-metre street wall height, with a maximum of two storeys (being two commercial levels or a commercial ground level and upper residential level) in most commercial and mixed use precincts was required to:

- avoid overshadowing of the southern footpath in east-west streets
- achieve a 'human scale'
- create an appropriate built form having regard to existing and historic built form.

The Structure Plan states:

This street wall height allows for generous floor to ceiling heights, improved internal amenity, and better commercial viability / useability at ground floor.

Mr Sheppard's evidence for Rahlinda was:

- it is the upper form that will determine the maximum shadow of the street and not the street wall
- the overarching rationale provided for a maximum street wall height of 10 metres relates to Burgundy Street, where retail ground floor uses and commercial upper street wall uses are desired to create '*high diversity mixed-use*'
- there was no reason why the maximum street wall height should be mandatory
- there was no analysis to demonstrate a discretionary maximum street wall would not achieve the desired outcomes.

In relation to human scale, Mr Sheppard said:

... the Peer Review report suggests that buildings should be no higher than half the width of the street to deliver a human scale. This is despite one of its references (the Urban Design

Compendium) indicating that the minimum acceptable height to width ratio is 1:1.5, which translates to a height of 13.3 metres on a 20 metre wide street such as Yarra Street.

In referring to the approved 10.2-metre and three-storey development approved at 70 Yarra Street, he said:

Despite being only 200mm above the proposed mandatory maximum street wall height, this would be prohibited under the proposed control due to its height in both metres and storeys. I do not consider that this additional street wall height in metres or storeys would have a noticeable or material influence on the public realm or residential properties opposite. This illustrates the lack of justification for both the mandatory nature and the 2 storey height of the proposed maximum street wall height provision.

Mr Sheppard recommended the maximum street wall height for sub-precinct 3B should be 11 metres (three storeys) and discretionary.

(iv) Discussion

The basis for the mandatory 10-metre and two-storey street wall height has not been justified.

All background reports and experts supported a street wall that provides for 'human scale' and prevents unreasonable overshadowing of the public realm. It is clear that a discretionary provision allowing some variation to 10 metres and two storeys in certain cases could still deliver this outcome.

The Rahlinda approval for a 10.2-metre street wall with a commercial ground level and two residential floors above was supported by Council, including Mr Thorne. The street wall does not cast shadow on the southern footpath of Yarra Street and the overall height fits comfortably within the streetscape having regard to existing development as well as a comfortable height to street width ratio.

Overall the Panel supports a street wall height of 10 metres on the basis that it is discretionary rather than mandatory (noting the Panel has already recommended the provision should be discretionary in Chapter 3.3). A discretionary 10-metre street wall for Precincts 1, 2, 3, 4 and 5 will still:

- avoid overshadowing of footpaths
- achieve a 'human scale'
- create an appropriate built form having regard to existing and historic built form.

In this case, the Panel does not consider the secondary measure in storeys is required to be specified, with the type of development (residential, commercial, mixed) varying between precincts and individual circumstance. The Department of Transport and Planning advises through PPN60 the preferred expression of heights is in metres. It adds:

Where references to both metres and storeys are used, adequate allowance should be made for greater floor-to-floor heights needed to support employment uses where the zoning supports these uses.

In this situation, expressing the maximum street wall height in metres (and not storeys) will provide a certain measure which does not need to be supported by a secondary measure in storeys.

(v) Conclusions

The Panel concludes:

- A 10-metre discretionary street wall provision is appropriate for Precincts 1, 2, 3, 4 and 5.

- It is not necessary to give the street wall height reference height in storeys. Height need only be referenced in metres.

4.4 Building setbacks

(i) Background

The Built Form Review identified that appropriate setbacks are required to:

- ensure equitable development rights for adjoining sites
- allow reasonable access to privacy, sunlight, daylight and outlook for habitable rooms
- provide areas for landscaping including deep soil planting
- retain identified primary views where applicable
- limit visual bulk
- limit overshadowing of footpaths on the southern side of east-west streets.

Recommendations included:

- preparation of setback guidelines with laneway interfaces
- consideration of at least one upper level and/or rear setback to ensure visual recession and to reduce overshadowing
- visually recess building bulk by an upper level setback of five metres
- create a consistent streetscape.

The Built Form Controls Report provided for a range of recommended discretionary setback provisions with associated guidelines for each Precinct. Different setback standards were provided for different interfaces, with some precincts having two setback standards and others with up to seven different standards (Precinct 3) reflecting the various conditions.

The Peer Review found the setback provisions to be confusing and recommended consolidation and simplification to avoid duplication.

(ii) The issue

The issue is whether the building setbacks proposed in the ACZ2 are appropriate.

(iii) Evidence and submissions

Mr Thorne's evidence for Council pointed to many examples of buildings within the Activity Centre with overbearing and visually dominant structures and supported the proposed setbacks to avoid these outcomes.

In relation to sub-precinct 3B, Mr Sheppard supported the:

- proposed zero front setback
- preferred minimum 4.5-metre street setback above the street wall
- zero or minimum 4.5-metre side setbacks above the street wall
- preferred minimum setback from the precinct boundary of five metres.

Mr Sheppard however did not support the mandatory nature of the 4.5-metre side setback requirements above a height of 10 metres from sub-precinct 3B.

Linked with a recommendation that the preferred maximum height for sub-precinct 3B be increased to 28 metres, Mr Sheppard recommended that where properties in sub-precinct 3B are sited adjacent to or opposite Precinct 6, that a further six-metre setback should be provided above

21 metres (six storeys). This, he said, was to ensure that development presents to the public realm and neighbouring properties as the equivalent of a six-storey building.

A number of submitters did not support the proposed setbacks. These included concerns from residents of 91 Darebin Street about inadequate setbacks of future buildings on adjacent sites and the impact on their amenity, and that there was not enough setback provision to provide for private open space and canopy tree planting.

In relation to 91 Darebin Street, Council explained that appropriate setbacks would be considered as part of a future permit application, based on existing conditions and whether the proposal met the relevant planning objectives and precinct strategies. Council submitted a performance-based approach to planning rather than a prescriptive approach was appropriate here. Council also noted it supported appropriate building setbacks to accommodate canopy trees and appropriate understorey planting.

(iv) Discussion

Overall the setback provisions are linked with providing good public realm outcomes and the Panel accepts they are generally appropriate.

Zero ground floor setbacks are proposed in the core retail area and five-metre ground floor setbacks are provided in areas at the edge of the Activity Centre, where it is more residential in nature, to provide for deep soil planting and landscaping.

Side setbacks reflect the need to protect and ensure appropriate residential amenity, as well as allowing for gaps between building for views and solar penetration.

On the basis that the Panel has supported the additional preferred maximum height for sub-precinct 3B as recommended by Mr Sheppard, the further six-metre setback above six storeys is also supported.

Again, the Panel agrees with Mr Sheppard that the 4.5 metre side setback requirement above a height of 10 metres for sub-precinct 3B should be discretionary. There will be site circumstances where a different setback response will be warranted and without discretion, the provision is a very blunt instrument. Indeed the Panel considers all setback provisions should be discretionary in accordance with its conclusions in Chapter 3.3.

In relation to 91 Darebin Street the Panel supports the proposed setback requirements, including the decision not to nominate specific side setbacks within the precinct. The metrics that have been included within the precinct requirements are based on sound research and have been well considered by the Council in its balancing of a variety of competing issues to achieve a well-balanced outcome. Any proposed development and its amenity impacts can be appropriately assessed and managed through performance-based provisions at the permit application stage. Indeed, that is the purpose of performance-based planning provisions and discretionary built form metrics.

(v) Conclusions

The Panel concludes:

- The building setbacks are appropriate but should be discretionary and not mandatory.

- That an additional, discretionary setback provision in sub-precinct 3B should be included, requiring an additional setback of six metres from interfaces adjacent to and opposite Precinct 6 above a height of 21 metres (six storeys).

4.5 Building separation

(i) Background

The Built Form Review found there is a need to specify building separation provisions to ensure that new buildings and additions provide for equitable development rights for adjoining sites and allow for reasonable access to privacy, sunlight, daylight and outlook.

The ACZ2 proposes to include a combination of 'preferred minimum building separation' provisions and 'mandatory minimum building separation controls' as follows:

- Precincts 2 and 4: preferred minimum building separation. Above 10 metres in height include a side or rear setback of 4.5 metres or locate a side or rear wall on the boundary on one side only
- Precincts 3, 5 (except sub-precinct 5E) and 6 (except sub-precinct 6A): mandatory minimum building separation. Above 10 metres in height include a side or rear setback of 4.5 metres or locate a side or rear wall on the boundary on one side only.

(ii) The issue

The issue is whether the building separation provision as proposed in the ACZ2 are appropriate.

(iii) Evidence and submissions

Council submitted the building separation provisions identified in the Built Form Review are reflected in the Amendment and are predominately discretionary, except where the physical and strategic context warrants more certainty of outcomes, and in those areas they are mandatory.

Mr Thorne recommended deleting the second bullet point under 'mandatory minimum building separation' in sub-precincts 5F and 6C that states:

locate a side or rear wall on the boundary on one side only.

This is on the basis that these sub-precincts interface with sensitive residential areas where overshadowing of private open space could result from buildings built to boundaries.

Mr Sheppard supported the 4.5-metre side setback requirement above a height of 10 metres, however did not support the mandatory nature of the provision, given circumstances where this would not be required such as:

- where a side boundary is shared with a street, laneway or public open space
- where the neighbouring property is developed with a larger setback and is unlikely to be redeveloped
- where the site is materially narrower than its neighbour.

Therefore he recommended that the building separation requirements be discretionary.

(iv) Discussion

The principle of a 4.5-metre setback from a boundary for each site, to ensure a minimum nine-metre separation between upper levels, is widely accepted as a fair and appropriate measure for

building separation. The question is only whether it should be mandatory for precincts 3, 5 (except sub-precinct 5E) and 6 (except sub-precinct 6A) or discretionary.

While Precinct 6 is largely residential, Precinct 3 and Precinct 5 are more mixed-use in nature. There are some residential or more sensitive interfaces within these precincts, however there will also be circumstances where a different building separation response will be warranted given particular site circumstances.

As noted in Chapter 3.3, the Panel found that mandatory provisions should only be used in exceptional circumstances and there has been no detailed assessment against the criteria in the Practice Note to justify the exceptional circumstance in this case. The Panel also notes that there are other residential amenity provisions that will be considered such as Clauses 55 and 58 (where applicable) which consider building setbacks, overlooking, daylight for example to protect and ensure appropriate residential amenity.

On this basis the Panel considers the building separation provisions should be discretionary for all precincts. This will also address concerns raised by Mr Thorne in relation to sub-precincts 5F and 6C, allowing for discretion and ensuring that boundary walls are not provided where they will lead to unacceptable overshadowing, but also allowing for individual site context to be considered in designing a building.

(v) Conclusion

The Panel concludes:

- The building separation provisions are appropriate, however should be discretionary for all precincts.

4.6 Recommendations

The Panel recommends:

Amend Clause 5.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:

- a) Change the preferred maximum height for sub-precinct 3B to 28 metres (eight storeys).**
- b) Change the preferred maximum height for the part of sub-precinct 6B which is adjacent to sub-precinct 3B to 20 metres (six storeys) (shown as new sub-precinct 6D).**
- c) Amend the Precinct map in Clause 5.4-1 to:**
 - **Redesignate the exhibited sub-precinct 4B land which is generally bounded by Burgundy Street, Martin Street, Stradbroke Avenue and Darebin Street to sub-precinct 4C.**
 - **Redesignate 16 Powlett Street from sub-precinct 4A to sub-precinct 4B.**
- d) Introduce a discretionary provision in sub-precinct 3B requiring an additional six metre setback from interfaces adjacent to Precinct 6 above a height of 21 metres (six storeys).**
- e) Specify the street wall height provisions in metres without referring to storeys.**
- f) Amend the Precinct map in Clause 5.6-1 to include new sub-precinct 6D.**

5 Other issues

5.1 Development Victoria land

(i) Background

Development Victoria is the owner of 421 Upper Heidelberg Road, Ivanhoe (see Figure 10). The Amendment proposes to rezone the land to the ACZ2 from the RGZ.

This land is currently developed with a Yarra Valley Water tank that has not been operational for approximately 20 years. Development Victoria acquired the land from Yarra Valley Water with the intention of delivering a residential development alongside a new Council owned park. The land is currently subject to the RGZ and the Development Plan Overlay Schedule 7 (DPO7) which sets out development parameters for the future residential development. A development plan was approved by Council in July 2024.

Figure 10 Development Victoria land



Source: D55

(ii) The issue

The issue is whether the Development Victoria land at 421 Upper Heidelberg Road, Ivanhoe should be rezoned to ACZ2.

(iii) Evidence and submissions

Development Victoria did not support the inclusion of its land within the ACZ2. Should the land be retained within the ACZ2 then it submitted various amendments to the provisions are required to support the outcomes of the approved development plan.

Development Victoria submitted:

- the ACZ2 duplicates many of the requirements in the DPO7 which is intended to remain, and applies additional inappropriate provisions
- the land has already been subject to an extensive separate planning process to determine the appropriate provisions with the Government Land Standing Advisory

Committee concluding that the RGZ Schedule 4 and the Development Plan Overlay to *“provide Council and the community confidence that the site will be developed within the parameters previously presented to the Community”*.

Council submitted the Amendment will:

- not change the existing DPO7
- apply the ACZ2 with a 40-metre or 12-storey mandatory maximum height (Precinct 6A) which reflects the current mandatory maximum height under the existing RGZ.

(iv) Discussion

The Panel agrees with Development Victoria that 421 Upper Heidelberg Road, Ivanhoe should not be rezoned to the ACZ2. The land has been through extensive site specific planning and now has an approved development plan in place. The Panel accepts that including the land within the ACZ2 would unduly complicate the planning provisions for the site. The existing provisions have been rigorously tested and considered through a separate process and it makes no sense for this Amendment to interfere with that.

(v) Conclusion and recommendations

The Panel concludes:

- The Development Victoria land at 421 Upper Heidelberg Road, Ivanhoe should not be rezoned to ACZ2.

The Panel recommends:

Delete the rezoning of 421 Upper Heidelberg Road, Ivanhoe from the Amendment.

Amend the Precinct map in Clause 5.6-1 of the Activity Centre Zone Schedule 2 as shown in Appendix D to remove sub-precinct 6A and show this land (421 Upper Heidelberg Road, Ivanhoe) as excluded from the Activity Centre Zone.

5.2 Open space

(i) The issues

The issue is whether the Amendment has appropriately considered open space issues with particular reference to the Powlett Street Reserve and Burgundy Street pockets of open space.

(ii) Background

The Powlett Street Reserve and some parcels of open space in Burgundy Street are all within a road reserve.

The Powlett Street Reserve is subject to the GRZ2. The Burgundy Street parcels of open space are subject to the Public Park and Recreation Zone (PPRZ), Special Use Zone Schedule 3 and GRZ2. See Figure 11 below.

Figure 11 Location and zoning of open space areas



Source: D45

The Amendment proposes to rezone existing PPRZ land to ACZ2.

(iii) Evidence and submissions

Many resident submitters were concerned about retaining the open space areas as open space into the future, in particular the Powlett Street Reserve, noting the significant role it plays for the local community. It was submitted the Powlett Street Reserve should be rezoned to PPRZ because they considered:

- the ACZ2 might change the status of the reserve as public open space with some submitters concerned the site could be sold for residential purposes
- both the Powlett Street Reserve and the Burgundy Street parcels of open space are identified in the *Burgundy and Powlett Street Reserves Part 2: Masterplan Report*, Banyule City Council, 2018 which identified these areas to be rezoned PPRZ.

Council submitted:

The Amendment proposes that the zoning of Powlett Street Reserve and adjacent land to the west as GRZ2, will be replaced by the ACZ2. This continues the current practice of road reserves sharing the zoning of the abutting land.

Council proposes to update the Structure Plan and the ACZ2 to be consistent in illustrating the distribution of public open space in accordance with the Burgundy and Powlett Street Reserve Masterplan (2018) prepared by Hansen Partnership (Reserve Masterplan).

This is a minor change to provide consistency across maps in illustrating which land is used for public open space.

In relation to the Powlett Street Reserve Council said:

In line with its resolution of 20 May 2024, Council has determined to pursue a rezoning of the Powlett Street Reserve to PPRZ through a separate planning scheme amendment.

(iv) Discussion

As part of the Panel's unaccompanied site inspection, it visited the Powlett Street Reserve. The Panel notes it is a well-maintained piece of open space which can be used for unstructured

recreation, community gatherings and the like. The Panel also observed the reserve being used as pedestrian access for the residents of the apartments to the east of the reserve and noted the reserve is used as the only vehicle access to 16 Powlett Street with a driveway and signage.

Parks and recreational areas can be subject to various different zones, for example residential zones and industrial zones, amongst others. While it would be ideal for parks and recreational areas to be appropriately zoned, a zoning other than PPRZ does not necessarily lower the status of the area. The way the Powlett Street Reserve is maintained is an indication of the value the community and Council place on this piece of open space. The zoning of open space is not an indication that it can or might be used in the future for residential development. If indeed this was the case, Council would need to progress a separate process which would involve community consultation and input. The Panel does not consider this to be likely.

Council noted the Framework Plan in the ACZ2 should be updated to show the distribution of public open space in accordance with the Powlett Street Reserve Masterplan, Banyule City Council, 2018. The Panel supports this update.

(v) Conclusion and recommendation

The Panel concludes:

- The Amendment has appropriately considered open space issues.

The Panel recommends:

Amend the Framework Plan in Clause 1.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to show the distribution of public open space in accordance with the Powlett Street Reserve Masterplan, Banyule City Council, 2018.

5.3 Heritage

(i) Approach to heritage

The ACZ2 proposes the following provisions relating to heritage places:

Heritage places

- For sites that adjoin a heritage place identified in the heritage overlay, provide an appropriate response to the heritage significance of the heritage place with a built form interface that does not visually dominate, overlook or overshadow heritage sites, including:
 - A 5 metre ground level setback.
 - Reflecting the existing street wall height of the abutting heritage building.
 - A 4.5 metre upper level front setback above the street wall.
 - Building heights that are sympathetic to, and respect, adjacent heritage buildings or precincts.
 - Avoiding facadism and the mimicking or replication of heritage features and styles.
 - Materials, colours and architectural articulation that positively responds to heritage sites.
- For a heritage place identified in the heritage overlay, development should provide an appropriate response to the heritage significance of the heritage place by:
 - Being guided by the provisions of the Heritage Overlay and the Cultural Heritage Conservation Policy in the Banyule Planning Scheme.
 - Respecting the built heritage and sympathetically respond to the urban fabric, identity and character of the centre.
 - Including building form, facades and roofs that acknowledge and reflect the predominant vertical ordering which is a characteristic of heritage buildings.

- Avoiding facadism and retaining the primary building volume when developing existing buildings.
- Retaining the integrity and prominence of existing heritage buildings from views from the street(s).
- Being no higher than the preferred maximum height.

(ii) The issue

The issue is whether the Amendment has appropriately considered heritage issues.

(iii) Evidence and submissions

Many local submitters, including the Heidelberg Historical Society Incorporated, raised issues in relation the Amendment's approach to local heritage. Issues raised included:

- the impact of the proposed heights of new buildings on the character and value of adjoining lower scale heritage properties, in particular the proposed five-storey height limit to be applied to land adjacent to the Old Heidelberg Court House (Precinct 2)
- the extension of heritage provisions to:
 - the block bordered by Brown Street, Stradbroke Avenue and Hawdon Street
 - land bounded by Jika Street, Burgundy Street and Vine Street.

Submitter 66 submitted:

If Council wishes to maintain heritage values and their associated value to the streetscape, it is better to maintain the existing GRZ1 zoning with greater front street setbacks. Maintaining GRZ1 requirements will better balance the competing demands for more housing, heritage values and transition from the MAC.

Alternatively, Council needs to add specific requirements regarding height and set backs for properties directly adjacent to heritage overlay properties.

In relation to the Old Heidelberg Court House, Council submitted:

- the Amendment does not propose any changes to the Heritage Overlay as it affects this site
- the Heritage Overlay (in conjunction with the proposed ACZ2) will appropriately guide any future development surrounding this land
- the Amendment seeks to introduce provisions that specifically require consideration of the effect development will have on heritage values which will ensure that development better complements heritage values within the Activity Centre, protecting them from effects of adjacent development.

In relation to the land bounded by Jika Street, Burgundy Street and Vine Street, Council submitted this land is currently within the Commercial 1 Zone and is subject to Heritage Overlay Schedule 6 which relates to the Warringal Village Precinct 'St John's - Heidelberg Park'. Council said the Amendment proposes to rezone these properties from the Commercial 1 Zone to the ACZ2 but does not propose any changes to the Heritage Overlay.

For land bounded by Brown Street, Stradbroke Avenue and Hawdon Street, Council highlighted it had recently commissioned a heritage study of the municipality guided by areas nominated by the public and by Council for assessment. This resulted in the Banyule Heritage Study, RBA Consultants, 2022 (Heritage Study) being published. The Heritage Study recommended the Heritage Overlay be applied to 21 sites within the municipality. Amendment C165bany was prepared by Council to implement the recommendations of the Banyule Heritage Study and was gazetted on 28 April 2023.

Council submitted the area has therefore already been appropriately assessed for heritage significance and no further action is required as part of this Amendment.

(iv) Discussion

Council's approach to heritage, which proposes additional requirements on land which adjoins a heritage place while still enabling development, is strategically justified. The ACZ2 provisions will appropriately require consideration of the effect development will have on heritage values while also ensuring development complements heritage values within the Activity Centre. Equally, the Panel considers the GRZ5 in conjunction with the Heritage Overlay will appropriately balance demands for new housing with existing heritage values.

(v) Conclusion

The Panel concludes:

- The Amendment has appropriately considered heritage issues.

5.4 Landscaping

(i) The issues

The issues are whether:

- the Amendment has appropriately considered landscaping issues
- it is appropriate to retain the Environmental Significance Overlay (ESO) and the Vegetation Protection Overlay (VPO).

(ii) Background

The Structure Plan's approach to landscaping is for sites to:

Provide sufficient area for the provision of deep soil planting and canopy trees within building setbacks that reflect and enhance the vegetated setting and the green character of the surrounding environment and to increase greening and biodiversity.

This objective is implemented through provisions in a number of ways.

The ACZ2 provides landscaping and environment objectives and Clause 4.4 Design and development requirements include:

Landscaping should:

- Be designed to complement the landscape treatments of adjoining public realm areas
- Provide canopy trees within the site frontage except where a zero setback applies
- Provide sufficient area for deep soil planting and canopy trees within building setbacks in Precincts 1 and 6
- Provide landscape buffers and physical and visual links with the Yarra River Valley and Heidelberg Gardens
- Incorporate native and indigenous species or other species that are not included in the Banyule Weed Management Strategy.

Precinct objectives and guidelines include landscaping considerations with sub-precinct 3A, adjacent to the boundaries of Precinct 5, and Precinct 6 of the ACZ2 including particular landscaping requirements. Sub-precincts 6B and 6C specify a mandatory minimum front setback of five metres and Clause 5.6-4 requires:

Development should include canopy trees and landscaping in front, side and rear setbacks to provide a good transition with adjoining lower scale buildings and streetscapes.

Where possible, retain existing mature trees in the rear setback and plant canopy trees to maintain and strengthen the garden setting of surrounding residential areas.

Sub-precinct 3A identifies a preferred minimum front setback of five metres and Clause 5.3-4 requires:

Provide landscaping and canopy trees in front setbacks of development in sub-precinct 3A to respond appropriately to residential area to the north across Cartmell Street.

The GRZ5 exempts development from the minimum garden area requirement and requires the provision of at least one tree in both the front and rear setbacks capable of reaching a mature height of six metres.

The Environmental Significance Overlay Schedule 1 (ESO1), Environmental Significance Overlay Schedule 4 (ESO4) and Vegetation Protection Overlay Schedule 5 (VPO5) apply as follows:

- ESO1 covers part of the Yarra River Parklands as it is the location of a significant waterway.
- ESO4 protects individual trees, groups of trees and areas of vegetation and is applied at specific locations across the Activity Centre.
- VPO5 is applied across much of the Activity Centre, particularly in the residential areas.

The Amendment does not propose to alter either the geographic extent or provisions of the ESO1, ESO4 or the VPO5.

(iii) Evidence and submissions

Savcon Property Pty Ltd sought to have the ESO and VPO removed from sites within the ACZ2 submitting:

These overlays are unreasonably prohibitive to achieving the development potential of the subject site and are inconsistent with the stated vision for higher density development within Precinct 5. It is submitted the removing these overlays will minimise policy conflicts within the Activity Centre and contribute to integrated decision making, in accordance with Clause 71.02 of the Banyule Planning Scheme.

Mr Buxton said:

While it is important that tree canopy cover be maximised in urban areas, including activity centres, there are sufficient objectives in the ACZ2 and design and development requirements that require innovative design solutions to retain and provide new canopy trees in developments, green roofs and ESD measures. I believe these are sufficient, with the retention of the existing ESO1 and ESO4 in the activity centre, to support removing the VPO5 from the activity centre where the ACZ2 is applied.

Resident submitters strongly opposed the removal of VPO5 particularly because it applies to some of the municipality's *"largest and most significant trees"*.

Some submitters also raised concerns in relation to the impact of the Amendment on specific species or types of wildlife.

(iv) Discussion

While the Panel considers removal of VPO5 from sites within the ACZ2 would enable sites to achieve greater development potential, this is not something the Panel can facilitate through this Amendment. This was not proposed as part of the exhibited material and is beyond the scope of the Amendment. Council could pursue this through a separate amendment process.

The Panel also recognises the highly vegetated nature of the area which contributes to its character and is valued by many residents. The Amendment includes numerous provisions

requiring consideration of landscaping, including deep soil planting within building setbacks, all which are appropriate.

The Panel agrees with Mr Buxton's position to maintain the application of the ESO1 and ESO4 to sites in the AC2Z to provide protection for significant vegetation and important environmental attributes by triggering permit requirements for the removal of trees with certain characteristics.

There is nothing to suggest the Amendment will have an adverse impact on specific types of wildlife.

(v) Conclusion

The Panel concludes:

- The Amendment has appropriately considered landscape issues.

5.5 Traffic and infrastructure

(i) The issue

The issue is whether the Amendment has appropriately considered traffic and infrastructure issues.

(ii) Background

The Heidelberg Activity Centre Movement and Place Options Plan, Movement and Place Consulting, April 2021 (Movement and Place Plan) was based on the then Department of Transport's Movement and Place Framework which was developed to integrate transport and land use outcomes. The Movement and Place Plan assessed the Activity Centre's street network, focusing on improving sustainable transport options in the centre, and concluded the network would benefit most from improvements leading to:

- low stress bicycle riding
- pedestrian permeability
- bus priority.

The Access and Connection Framework of the Structure Plan seeks:

- To ensure that:
 - Bus routes provide direct links to and from Heidelberg, and to key destinations in the NEIC such as La Trobe University.
 - Are accessible to residential areas and other key destinations.
 - Timetables meet a wide variety of user needs.
- To reduce the overall impacts of vehicle traffic within and to/from the Heidelberg MAC, by prioritising alternative modes of transport.
- To encourage greater levels of active transport across the Heidelberg MAC to establish walking and cycling as preferred modes of travel.
- To optimise access, environmental amenity and local economic outcomes, in the design of all carparking.

(iii) Evidence and submissions

Many submitters were concerned the scale of development proposed, and the increased population that would result, would unacceptably increase traffic in the Activity Centre, cause greater congestion and could result in increased safety issues.

Department of Transport and Planning (Transport Division) (DTP) suggested the Structure Plan could be improved by showing proposals to improve walking or rideability within 2km and 5km catchments. DTP also recommended further review and agreement with DTP on the matters raised in the Movement and Place Plan to confirm modal priorities along corridors.

Council acknowledged there will be an increased in density and that the car will remain the preferred mode to travel to and from the Activity Centre. However, Council said the Activity Centre provides other travel alternatives, including bicycle and pedestrian paths throughout the Centre, bus access and access to the Heidelberg train station and future SRL station. Council submitted the key improvements sought by the Movement and Place Plan and Access and Connection Framework of the Structure Plan would be achieved through the following objectives and strategies:

- improved bicycle and pedestrian path connections to other major employment anchors in the La Trobe NEIC, particularly LaTrobe University and Heidelberg West Business Park
- improved bus access and services on less frequent routes
- the completion of stage 3 of the Suburban Rail Loop (SRL) which will provide direct access to La Trobe and Deakin Universities, as well as other Major Activity Centres, such as Doncaster and Box Hill.

In relation to traffic impacts on State managed roads, Council said it would liaise with DTP about improving these higher level street networks, and more detailed work would be undertaken to address specific road links and areas of concern.

(iv) Discussion

The Panel considers the Amendment has appropriately considered traffic issues. While an increase in population will lead to an increase in traffic, the Panel recognises the work Council has undertaken to increase the use of active transport to help reduce car use.

The Amendment seeks to implement these transport, access and movement objectives into the ACZ2 which include:

To facilitate in all precincts the integration of land use and development with transport infrastructure that prioritises sustainable modes of transport, including active transport.

To improve pedestrian and cycling connections with a safe and legible active transport network between Heidelberg Railway Station and the main pedestrian and cycling corridors including the Yarra River Trail.

To optimise safe access and improved amenity in the design of carparking.

To improve the pedestrian environment along major walking routes through streets, laneways and other public spaces that provide safe and interesting opportunities for walking, sitting and other casual recreation supported by vibrant retail activity and development.

The Panel agrees with DTP's submission that consideration of the impact on the broader network is required when making local changes to the road network, particularly arterial roads and roads used for freight, and encourages Council to pursue more detailed work in this respect.

(v) Conclusion

The Panel concludes:

- The Amendment has appropriately considered traffic and infrastructure issues.

5.6 Climate change, flooding and stormwater

Melbourne Water:

- identified that the Structure Plan area includes land that is currently covered by the Land Subject to Inundation Overlay and Special Building Overlay
- said the boundaries of these overlays are likely to change in the future as it undertakes new flood modelling across metropolitan Melbourne
- said new flood maps will eventually be incorporated into the Planning Scheme
- submitted it discourages urban development that increases the number of people exposed to flood risk as a result to increased density.

The Amendment does not propose to amend the flooding provisions that currently apply in the Activity Centre. However, to address Melbourne Water’s submission, Council proposed various updates to the ACZ2 including:

- addition of a new objective in relation to the impacts of inundation
- addition of new precinct guidelines in Precinct 1 and 2
- addition of new decision guidelines relating to whether a proposed use or development is an acceptable outcome having regard to the risk of flooding
- amendment to Clause 4.1 as recommended by Mr Buxton which requires a permit for specific flood prone land.

Melbourne Water subsequently advised Council⁴ that it supported Council’s proposed changes to the ACZ2.

Mr Buxton’s proposed amendments to the ACZ2 specifically referenced the relevant property addresses, however he acknowledged this may raise procedural issues given the landowners were not given an opportunity to comment or address the Panel on his proposed amendment. As such, Council asked Melbourne Water whether it would be supportive of removing the specific reference to those properties and replacing it with a more general description, such as “*on land which is (potentially) affected by flooding*”.

Council advised⁵ it received the following response from Melbourne Water:

While the Council proposed revision wording is more accurate and provides greater certainty in the Activity Centre, I can confirm that we are also supportive of a general description (with preference for the former).

The Panel supports the proposed amendment to the ACZ2, including use of the words “*on land which is (potentially) affected by flooding*” rather than referencing specific property addressed.

The Panel recommends:

Amend the Activity Centre Zone Schedule 2 as shown in Appendix D to include updates which address the impacts of inundation and flood risk.

5.7 Tangible cultural heritage

The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (the Corporation) considered that a Cultural Values Assessment should have been undertaken to inform the Amendment and potential impacts to tangible cultural heritage. Submitter 69 queried whether a Cultural Values Assessment was undertaken in preparing the Amendment.

⁴ D65b

⁵ D66

The Corporation suggested that suitable wording around the requirement for the Cultural Heritage Management Plan or a Cultural Heritage Permit could potentially be added to section 2.1.1 (Activity and Land Use) of the Structure Plan. Council agreed to this approach and suggested wording as outlined in Table 6. The Panel supports this approach and encourages Council to pursue these amendments to the Structure Plan.

Table 6 Proposed changes to Structure Plan

Page or section of the Structure Plan	Agreed text
44	<p>At the end of the section called <i>“Connecting to the Yarra Birrarung River Corridor”</i> add the following text:</p> <p><i>“To achieve this, Banyule will:</i></p> <p><i>Communicate effectively with the Traditional Owners to best protect and respect areas and values of potential and known cultural sensitivity in and adjacent to the Activity Centre.</i></p> <p><i>Ensure it is well educated regarding how to best engage with Traditional Owners.”</i></p>
48	<p>Under the heading <i>“To protect and conserve the natural environment while promoting sustainability within the public realm”</i>, include the following strategy:</p> <p><i>“Develop and maintain effective collaboration, communications and relations with Traditional Owners, including for the purpose of best protecting and respecting areas and values of potential and known cultural sensitivity, such as those in proximity of the Yarra River.”</i></p>
Section 2.1.3 (Built Form and Character)	<p>Insert:</p> <p><i>Any future developments in legislated areas of cultural heritage sensitivity may require a Cultural Heritage Management Plan (CHMP) or a Cultural Heritage Permit (CHP). A CHMP is required for an activity if:</i></p> <p><i>(a) All or part of the activity area is an area of cultural heritage sensitivity; and</i></p> <p><i>(b) All or part of the activity is a high impact activity, as defined in the legislation.</i></p>

5.8 Adequacy of notification

Submitter 63 asserted that exhibition of the Amendment was not sufficient. It was submitted the exhibited period was too short and there should have been additional opportunities for meetings with Council officers and updates on the Amendment provided via mail to residents. Submitter 70 said plans showing proposed heights in comparison to existing heights should have been provided during the exhibition period.

Council Part B submission outlined the extensive and thorough community consultation process which informed the Amendment. Section 19 of the PE Act details the notice requirements for a Planning Authority must give for a Planning Scheme Amendment. These obligations were met. The Panel has no concerns with the public consultation process undertaken in the preparation and exhibition of the Amendment.

6 Drafting matters

6.1 Clause 4.4 of the ACZ2

6.1.1 Ground floor height requirement

The exhibited ACZ2 contains a requirement at Clause 4.4 that the ground floor of a building in Precincts 2 to 5 be at least 4.5 metres from finished floor level to the underside of the floor above.

Mr Sheppard said:

- while provisions such as this are common to ensure adaptability, they are usually measured to the floor level of the floor above, rather than its underside
- 4.5 metres from floor level to floor level is sufficient to accommodate the vast majority of retail and commercial uses, and simpler to assess at planning permit stage when the exact construction of the ceiling-to-floor ‘sandwich’ has not usually been finalised.

The Panel agrees with Mr Sheppard’s recommendation with respect to the floor-to-floor measurement. The 4.5 metre measurement from floor-to-floor level is appropriate and simpler to ascertain, noting this is also what is shown in Figure 9 of the Structure Plan.

The Panel concludes the ground floor height requirement of 4.5 metres should be revised to ensure the measurement is taken *“from finished floor level to the finished floor level of the floor above”*. This should be applied to all precincts and not just sub-precinct 3B.

6.1.2 Solar access

Clause 4.4 of the ACZ2 contains a mandatory requirement to avoid *“any additional overshadowing between 11.00am and 2.00pm on 22 September (to) No greater than 50 per cent of the secluded private open space in surrounding residential properties.”* Mr Sheppard queried the intent of this provision and whether:

- the 50 per cent was meant apply to the whole of the open space, or just that part which is not already shadowed
- it was intended to apply to properties that are used for residential purposes or those that are within a residential zone.

Council clarified the intent was that it was intended to apply to existing residential development in general residential zoned land.

In addition, Mr Sheppard said the solar access provision applying to the southern footpath of Yarra Street at Clause 4.4 of the exhibited ACZ2 should be deleted. Mr Sheppard said:

- it is unusual for a footpath in Yarra Street, which is fronted by residential properties, to be the subject of solar access provisions
- solar access provisions are typically applied on footpaths and open spaces where more intense and non-transient pedestrian activity is anticipated, such as shopping strips and plazas.

The Panel in Chapter 3.3 concluded that the strategic work undertaken by Council is not robust or appropriately comprehensive to justify any mandatory built form provisions. The Panel considers its analysis and findings equally apply to the solar access provisions contained in Clause 4.4 of the ACZ2.

The Panel agrees with Mr Sheppard that the provision relating to shadow on surrounding residential properties should be discretionary and not mandatory. The Built Form Controls Report recommended the overshadowing provisions with respect to secluded private open space be discretionary and no analysis was provided of the impact of this proposed change and how it has been balanced with provision for growth. The Panel has re-worded this provision to clarify its intent.

While the Panel acknowledges that solar access to footpaths will contribute to the success of the Activity Centre, Yarra Street is residential in nature and will be used primarily to walk to the station and the commercial parts of the Activity Centre. This is a transient use and differs from one where people will stop to sit or stand which demands a higher standard of solar access. Further:

- the Built Form Controls Report and Structure Plan do not identify the southern footpath of Yarra Street to warrant any specific protection as a key pedestrian area
- the Heidelberg Movement and Place Options Plan identifies specific pedestrian links as warranting a level of amenity and Yarra Street is not one of those identified.

It is appropriate to delete the solar access provision applying to the southern footpath of Yarra Street.

6.1.3 Two storey height difference

Clause 4.4 of the ACZ2 contains the following requirement:

In Precincts 3 and 5, step down built form adjacent to a building in precinct 6 to respect the height of adjacent buildings and dwellings with no more than a 2-storey height difference to buildings in Precinct 6.

A similar provision is found at Clause 5.3-4.

Mr Sheppard said:

Where there is a neighbouring building in Precinct 6 that is well below the preferred maximum height for that precinct, this would result in a significant underdevelopment. For example, 70 Yarra Street abuts land to its east containing 2-storey townhouses. Applied literally, this provision would require the development of 70 Yarra Street to be limited to 4 storeys.

While Mr Sheppard supported the principle of stepping down at an interface with a lower height area, he said:

- the preferred maximum building heights in each sub-precinct already ensure a graduated transition in heights across the Activity Centre
- the ACZ2 separately contains a five-metre setback from precinct boundaries (noting he also recommended an additional setback above 21 metres which the Panel accepts).

The Panel considers the provisions in Clauses 4.4 and 5.3-4 that prescribe a two-storey height difference between adjacent precincts is unnecessary and should be deleted.

6.1.4 Views

Clause 4.4 of the ACZ2 contains a requirement to “*protect the identified view corridors of Banksia Street, Bell Street, Darebin Street, Studley Road, Upper Heidelberg Road and Yarra Street*” under the sub heading ‘Built form and key views’. Mr Sheppard identified that neither the Framework Plan, the Structure Plan nor the Views Assessment identify any Key or Notable views along Yarra Street. Mr Sheppard suggested Yarra Street should be deleted from the view corridors provision in Clause 4.4 and the Panel agrees.

More broadly, it is unclear what the view corridors are seeking to protect and how development can 'enhance' identified notable views. Key and notable views are identified in the Views Assessment, but not view corridors. The Panel considers the reference to protecting view corridors should be deleted completely from Clause 4.4 and the Framework Plan.

6.1.5 Overshadowing of laneways

Clause 4.4 of the ACZ2 requires development to avoid additional overshadowing of laneways. Mr Sheppard said:

- given the narrowness of the laneways in the centre, this represents a considerable constraint on development
- some of the laneways in the Activity Centre are principally for rear access purposes and have little pedestrian purpose.

The Panel agrees and considers this provision should be deleted.

6.1.6 Duplication

The Panel agrees with Rahlinda and Mr Sheppard that there is some duplication between the Clause 4.4 provisions and other provisions in the ACZ2 (in particular with provisions in Clause 5.0). The duplicated provisions should be deleted. This approach is inconsistent with guidance in the Practitioner's Guide, which states:

Rule 3: A provision must not conflict with or duplicate other legislation, instruments or planning scheme provisions.

The Panel's preferred drafting of the ACZ2:

- Deletes Clause 4.4 provisions which are duplicated elsewhere in the ACZ2, for example the following provisions:

Include a street wall in Precincts 2, 3 (excluding sub-precinct 3B), 4 and sub-precincts 5C, 5D, 5E and 5F to a maximum height of 10 metres and maximum of 2 storeys.

Include upper level setbacks above the street wall a minimum of 4.5 metres from the frontage with additional upper level setbacks for buildings above 20 metres (by utilising the 52 degree angle of the sun at 12 pm on the equinox) to show that no additional overshadowing of land will occur from the development to the southern footpath along Banksia Street, Bell Street, Burgundy Street and Yarra Street and the landscape median on Burgundy Street.

The Panel concludes:

- The Clause 4.4 provisions of the ACZ2 should not duplicate provisions contained elsewhere in the ACZ2.

6.1.7 Conditions of authorisation

Mr Buxton opposed some of the changes made to the ACZ2 as a result of the Amendment's authorisation⁶. The letter of authorisation required the following amendments (amongst other matters):

Amend Clause 3.0 (Table of uses) to:

- Amend inconsistent use conditions, delete unnecessary listing of uses in the section 2 use table and delete unnecessary language of 'if the section 1 condition is not met' as per the *Practitioners Guide to Victoria's Planning Schemes* (April 2022).

⁶ See DTP letter dated 27 November 2023.

Mr Buxton said this resulted in the following changes to the Section 2 – Permit required table in Clause 3.0 of the ACZ2 which “*negatively affected the strategic intent*” of the Amendment:

- Retail premises (other than Food and drink premises and Shop) to include the condition: “*In Precinct 6 and Sub Precinct 5A or 5B, the site must adjoin, or have access to, a road in a Transport Zone 2 or Transport Zone 3.*” Mr Buxton did not consider that any retailing should be permitted in the residential areas of the Activity Centre, namely sub-precincts 5A, 5B or Precinct 6.
- Shop (other than Convenience shop) to include the condition: “*Must be located in Precinct 1 or 4 or sub-precinct 5C, 5D, 5F or 6A*”. Mr Buxton did not support shops in the residential area of the Activity Centre.
- At the bottom of the section 2 uses table, it stated: Any use not in section 1 or 3: “*Must meet requirements of Clause 62.01*”. Mr Buxton said this did not make sense and suggested the condition be deleted.

Council agreed to delete the condition in relation to Retail premises and also the reference to Precinct 6A in the condition associated with a Shop.

The Panel does not agree with Mr Buxton that a complete prohibition on retail or shop uses is warranted and has not proposed any changes in this respect.

The Panel does however support the deletion of the condition “*Must meet requirements of Clause 62.01*” as it relates to “*any use not listed in section 1 or 3*”. Clause 62.01 relates to uses not requiring a permit and should not be referred to in the table of section 2 uses.

6.2 Other drafting matters

Ramsay Health Care submitted that consideration should be given to limiting non-health uses in Precinct 4 to maximise opportunities for the longer term expansion of hospitals and associated health land uses. Considering this issue, Mr Buxton said:

- it would be appropriate to include additional provisions to restrict new accommodation uses at ground, first and second floor levels
- this could be achieved with a 35 per cent restriction on the gross floor area for sub-precincts 4B and 4C where sites front Burgundy Street, Martin Street or Stradbroke Avenue.

The Panel agrees that this is appropriate in order to maximise hospital and health related development opportunities.

La Trobe University sought minor updates to the Municipal Planning Strategy to better recognise the strategic relationship of the Heidelberg Activity Centre with the University as an education, employment and innovation anchor within the La Trobe NEIC. Council submitted that while the changes could be made they were unnecessary. The Panel agrees and considers if any amendments were to be made they should be to the Structure Plan, rather than the documents which form part of the Amendment. The relationship is sufficiently recognised in the Municipal Planning Strategy.

Submitter 42 identified a mapping error noting that the boundary line dividing the land in Precinct 6 that is proposed to be within the ACZ2 and the land in Precinct 6 proposed to be within the GRZ5 runs through the middle of some properties. Council agreed this was an error that required correction.

The Panel also had concerns about the legibility of the Framework Plan in Clause 1.0 of the ACZ2. It has therefore made a number of suggestions in the Panel preferred version of the ACZ2 in Appendix D to help improve its clarity, including:

- amend the Legend to replace “Proposed boundary” with “Activity Centre Boundary”
- include an Activity Centre Zone boundary that differs from the broader Activity Centre boundary
- reference major health and land uses/key landmarks
- improve clarity to clearly identify precinct boundaries
- delete the north-western area of land which is no longer included within the Activity Centre Boundary.

6.3 Recommendations

The Panel recommends:

Amend the Framework Plan in Clause 1.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:

- a) Delete the view corridor notations.
- b) Amend the Legend to replace “Proposed boundary” with “Activity Centre Boundary”.
- c) Include an Activity Centre Zone boundary.
- d) Reference major health and land uses/key landmarks.
- e) Improve clarity to clearly identify precinct boundaries.
- f) Delete the north-western area of land which is no longer included within the Activity Centre Boundary.

Amend Clause 4.4 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:

- a) Revise the ground floor height requirement so that the measurement is taken ‘from finished floor level to the finished floor level of the floor above’
- b) Include a provision to clarify that the preferred maximum building heights are to be measured from the level of the footpath at the centre of the site’s frontage.
- c) Make all overshadowing requirements discretionary rather than mandatory and clarify the intent of the first requirement.
- d) Delete the solar access provision applying to the southern footpath of Yarra Street.
- e) Re-word the provision relating to shadow on surrounding residential properties to clarify its intent.
- f) Delete the provision relating to the protection of view corridors.
- g) Delete the provisions that prescribe a two-storey height difference between adjacent precincts.
- h) Delete the provision relating to the need to avoid additional overshadowing of laneways.
- i) Delete any duplicate requirements.

Amend Clause 3.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:

- a) Include a condition which prohibits new accommodation uses at ground, first and second floor levels and restricts new accommodation uses to no more than 35 per cent restriction of the gross floor area for sub-precincts 4B and 4C where sites front Burgundy Street, Martin Street or Stradbroke Avenue.

- b) Delete the condition “*Must meet requirements of Clause 62.01*” from the section 2 - Permit Required table.

Amend Clause 5.0 of the Activity Centre Zone Schedule 2 as shown in Appendix D to:

- a) Amend the Precinct maps in Clause 5.5-1 and Clause 5.6-1 to clarify the precinct boundaries in Thames Street between Precincts 5 and 6.

Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Lynette Wallace	32	Nicole Breschkin
2	Suburban Rail Loop Authority	33	Victoria Chambers
3	Glenda Wyatt	34	Meredith Blakeney
4	Wendy Palliser and others	35	Amy-Louise Parsons
5	Wendy Palliser	36	Denise Tan
6	Andrew Jurkiw	37	Raymond and Denise Ansell
7	Susan McBrearty	38	George Voulgaris
8	Brock Hardcastle	39	Wayne and Liz Mace
9	Lyndal Pratt	40	Dean Dinale
10	Lauren Cockroft	41	Peter Hanning
11	Michelle Nicholls	42	Kobi Leins
12	Leigh Hunter	43	John Arizzoli
13	William Eliou	44	Alan and Therese Gillies
14	Erdogan Koken	45	Lisa Bowe and others
15	Kylie Adeniyi	46	Vic Balakas
16	Amy Ferguson	47	Jenefer Gordon
17	Karen Lamb	48	Douglas Irvine
18	Emma-Lee Ianno	49	Premier Hotel Groups
19	Peter Mansour	50	Tammy Rowe
20	Christopher Boagey	51	Dean Morgan
21	Archna Bhatt	52	Heidelberg Historical Society Inc.
22	Yuliya Yeskova	53	La Trobe University
23	Grant Davies	54	Sandra Reaburn
24	Michael Buchert	55	Kamilla Mary Zwolak
25	Catherine Mary Kemp	56	Bernard Zwolak
26	Anne Callahan	57	Xiaogang Qian
27	Peter Knight	58	Pippa Griffith
28	Roger Howard	59	Kerryn Tacey
29	Richard Speight	60	Mark Sortino
30	Friends of Powlett Street Resident Group	61	F Hood
31	Barbara Smith	62	Stephen Heath

No.	Submitter	No.	Submitter
63	Shirley Deviesseux	78	Elisabeth Rhodes
64	Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation	79	Rosemary Senior
65	Stephen Charles Walpole	80	Department of Energy, Environment and Climate Action
66	Anthony MackKay	81	Rosanna de Marco
67	Allan Savige	82	Warringal Hospital
68	Effi Blias	83	Rhalinda Pty Ltd
69	Michelle Giovas	84	Tiyisis Pty Ltd
70	Alicia Curry	85	Stephen Abbott
71	David Greenwood	86	VicTrack
72	Annabelle Carter	87	Elena Spanos
73	Laura Di Pietro	88	Cubo Group
74	Nicole Martin-Alcaide	89	Department of Transport and Planning (Transport Division)
75	Development Victoria	90	Savcon P/L
76	Samma Property Group, Edwin St Development Pty Ltd and Huntingfield Place Development Pty Ltd	91	Melbourne Water
77	Burgundy Developed Group	92	Withdrawn

Appendix B Document list

No	Date	Description	Presented by
1	23 May 2024	Authorisation	Banyule City Council (Council)
2	23 May 2024	Explanatory Report	Council
3	23 May 2024	Instruction sheet	Council
4	23 May 2024	Heidelberg Structure Plan	Council
5	23 May 2024	Proposed Clause 02.03 (Strategic Directions)	Council
6	23 May 2024	Existing Clause 02.03 (Strategic Directions)	Council
7	23 May 2024	Proposed Clause 02.04 (Strategic Framework Plan)	Council
8	23 May 2024	Existing Clause 02.04 (Strategic Framework Plan)	Council
9	23 May 2024	Proposed Clause 11.03 (Planning for Places)	Council
10	23 May 2024	Existing Clause 11.03 (Planning for Places)	Council
11	23 May 2024	Proposed Schedule 1 to Clause 32.07 (Residential Growth Zone)	Council
12	23 May 2024	Existing Schedule 1 to Clause 32.07 (Residential Growth Zone)	Council
13	23 May 2024	Proposed Schedule 5 to Clause 32.08 (General Residential Zone)	Council
14	23 May 2024	Proposed Schedule 2 to Clause 37.08 (Activity Centre Zone)	Council
15	23 May 2024	Proposed Schedule to Clause 72.03 (What does this Planning Scheme consist of)	Council
16	23 May 2024	Existing Clause 72.03 (What does this Planning Scheme consist of)	Council
17	23 May 2024	Proposed Schedule to Clause 72.08 (Background documents)	Council
18	23 May 2024	Existing Clause 72.08 (Background documents)	Council
19	23 May 2024	Proposed Schedule to Clause 74.01 (Application of Zones, Overlays and Provisions)	Council
20	23 May 2024	Existing Clause 74.01 (Application of Zones, Overlays and Provisions)	Council
21	23 May 2024	Proposed Schedule to Clause 74.02 (Further Strategic Work)	Council
22	23 May 2024	Existing Clause 74.02 (Further Strategic Work)	Council
23	23 May 2024	Proposed Zone Maps	Council
24	23 May 2024	Proposed DDO Maps	Council
25	23 May 2024	Council Meeting Agenda (17 April 2023)	Council

No	Date	Description	Presented by
26	23 May 2024	Council Minutes (17 April 2023)	Council
27	23 May 2024	Council Meeting Agenda (20 May 2024)	Council
28	23 May 2024	Council draft meeting minutes (20 May 2024)	Council
29	23 May 2024	Council Meeting Minutes (20 May 2024)	Council
30	23 May 2024	Council Meeting - Attachments (20 May 2024)	Council
31	23 May 2024	Council Meeting Attachments (Under Separate Cover 20 May 2024)	Council
32	27 May 2024	Directions Hearing letter	Planning Panels Victoria (PPV)
33	3 Jun 2024	Email from Panel - updated Directions Hearing Link	PPV
34	4 Jun 2024	<i>Heidelberg Activity Centre Movement and Place Options Plan, Movement and Place Consulting, 2021</i>	Council
35	4 Jun 2024	<i>Heidelberg Activity Centre Built Form Review - Final Recommendations Report, Ethos Urban, 2021</i>	Council
36	4 Jun 2024	<i>Heidelberg Activity Centre Key Directions, Banyule City Council, 2021</i>	Council
37	4 Jun 2024	<i>Heidelberg Activity Centre Liveability Study, Banyule City Council, 2020</i>	Council
38	4 Jun 2024	Heidelberg Major Activity Centre Economic Review 2020 - Charter Keck Cramer - Oct 2020	Council
39	4 Jun 2024	<i>Heidelberg Structure Plan Views Assessment, Ethos Urban, 2021</i>	Council
40	11 Jun 2024	Submitter location maps A & B (provided to Panel only, in line with direction)	Council
41	19 Jun 2024	Panel Directions and Timetable	PPV
42	24 Jun 2024	Letter to Panel – requested the Hearing be set aside	Submitter 4 & 5
43	27 Jun 2024	Council specified documents in accordance with Direction 8: a) Exhibited provisions/ordinance with changes tracked <ol style="list-style-type: none"> 1. Proposed Clause 02.03 Strategic Direction 2. Proposed Clause 02.04 Strategic Framework Plan 3. Proposed Clause 11.03 Planning for Places 4. Proposed Schedule 1 to Clause 32.07 Residential Growth Zone 5. Proposed Schedule 5 to Clause 32.08 General Residential Zone 	Council

No	Date	Description	Presented by
		6. Proposed Schedule 2 to Clause 37.08 Activity Centre Zone	
		7. Proposed Schedule to Clause 72.03 What does this Planning Scheme Consist of?	
		8. Proposed Schedule to Clause 72.08 Background Documents	
		9. Proposed Schedule to Clause 74.01 Application of Zones, Overlays and Provisions	
		10. Proposed Schedule to Clause 74.02 Further Strategic Work	
		b) <i>Burgundy and Powlett Street Reserves Masterplan Report, Banyule City Council, 6 August 2018)</i>	
		c) Heidelberg Activity Centre Structure Plan and Built Form Controls Peer Review, Plan2Place and Design Urban, 2 August 2022	
		d) <i>Heidelberg 3D Model for Precincts 1, 3 and 4 (and 2 in part): Final Report, Plan 2 Place and Design Urban, March 2023</i>	
		e) Planning Approvals Map	
44	2 Jul 2024	Supplementary submission	Premier Hotels Group
45	9 Jul 2024	Part A submission, enclosing: a) <i>Heidelberg Structure Plan: Built Form Controls, Ethos Urban, November 2021</i>	Council
46	10 Jul 2024	Expert report – Steve Thorne of Design Urban	Council
47	10 Jul 2024	Expert report – Paul Buxton of Plan2Place Consulting	Council
48	11 Jul 2024	Panel Distribution list and Timetable (version 2)	PPV
49	15 Jul 2024	Expert report – Mark Sheppard of Urbis	Rahlinda Pty Ltd
50	18 Jul 2024	Letter to Panel	Burgundy Developed Group Pty Ltd
51	18 Jul 2024	Part B submission, enclosing: a) Day 1 version – Activity Centre Zone 1	Council
52	19 Jul 2024	Hearing submission	Submitter 85
53	26 Jul 2024	Hearing submission (updated 26 July)	Submitter 66
54	19 Jul 2024	Panel Distribution list and Timetable (version 3)	PPV
55	22 Jul 2024	Hearing submission, enclosing: a) Hearing presentation	Development Victoria
56	23 Jul 2024	Hearing submission	Kobi Leins

No	Date	Description	Presented by
57	23 Jul 2024	Panel requested documents from Council: a) Banyule Housing and Neighbourhood Character b) <i>Banyule Housing Strategy - Housing Capacity Analysis</i> , Charter Keck Cramer, May 2023 c) Banyule draft Housing Strategy	Council
58	23 Jul 2024	Hearing submission, enclosing: a) Mark Sheppard - Hearing presentation b) Planning Permit P583/2022 c) Endorsed plans 70 Yarra Street, Heidelberg d) Day 1 version – ACZ2 (with Rahlinda track changes) e) Steve Thorne Memorandum regarding 70 Yarra St	Rahlinda Pty Ltd
59	24 Jul 2024	Documents referred to by Council: a) GS2 Heidelberg MAC b) GS3 Heidelberg MAC c) Heidelberg Structure Plan modelling d) Heidelberg Built Form Views Methodology	Council
60	29 Jul 2024	Hearing submission, enclosing (updated 29 Jul): a) Supporting document	Submitter 58
61	26 Jul 2024	Hearing submission	Submitter 87
62	26 Jul 2024	Hearing submission, enclosing: a) 21 and 25 James Street (image) b) A & B Heidelberg Heights (image) c) Burnt tree at James Reserve (image) d) Heidelberg aerial (image) e) C172 Banyule Planning Scheme Maps 14 DDO, 15DDO, and 16DDO f) Structure Plan g) Housing Strategy extract h) James reserve subdivision i) Correspondence with Council regarding exposed root on James reserve j) View from Main MAC to Austin Burgundy k) James Reserve Heidelberg Heights Landscape Master Plan l) Public Park and Recreation Zone m) Extract from Public Park and Recreation Zone n) Public question regarding sites o) Land affected by the Amendment p) Notice of exhibition of Amendment C172bany	Submitter 4 & 5

No	Date	Description	Presented by
		<ul style="list-style-type: none"> q) Rezoning Banyule r) Screenshot Neighbourhood character & Heritage significance s) Map of DTP managed roads t) General Residential Zone u) Image Zone 1 C 	
63	29 Jul 2024	Hearing submission	Submitter 70
64	29 Jul 2024	Images and documents referenced in Hearing submission: <ul style="list-style-type: none"> a) Image – cycling turning right to Studley b) Map c) Shade of trees Jame Reserve d) Image – laneway Edwin to Francis e) Image – laneway Alfred to Dresden f) Image – laneway Dresden Street to Alfred Street g) Image – Corner of Francis and Montgomery h) Image – Thames in the ACZ2 	Submitter 4 & 5
65	29 Jul 2024	Part C submission, including: <ul style="list-style-type: none"> a) Part C version of the ACZ2 b) Melbourne Water response to Council’s proposed changes to the Amendment c) Revised Approvals Map for Activity Centre 	Council
66	8 Aug 2024	Letter to Panel - Outcome of meeting and Melbourne Water’s response	Council

Appendix C Planning context

C:1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the PPF which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the PE Act by:

- providing for the fair, orderly, economic and sustainable use and development of land
- providing for the protection of natural and human-made resources
- securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- conserving and enhancing the buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- protecting public utilities and other assets
- facilitating the provision of affordable housing in Victoria
- balancing the present and future interests of all Victorians.

Clause 2 (Municipal Planning Strategy)

The Amendment supports:

- Clause 02.03-1 (Settlement and activity centres)
- Clause 02.04-1 (Strategic Framework Plan).

Clause 11 (Settlement)

Clause 11 (Settlement) provides context and implements the key principles of Plan Melbourne, which includes providing for housing choice and affordability by planning for expected housing needs and reduced ongoing living costs by increasing housing supply near public transport and services. The Amendment supports Clause 11 by providing a framework for the orderly planning of the Activity Centre in a manner consistent with the directions of Plan Melbourne.

Clause 15 (Built Environment)

Clause 15 (Built Environment) seeks to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity. This clause also sets out the importance of ensuring the conservation of places which have identified heritage significance. The Amendment supports this clause by providing appropriate built form guidance to ensure that development is site responsive and appropriate.

Clause 16 (Housing)

Clause 16 (Housing) emphasises the importance of providing enough quality and diverse housing that meets the growing diverse needs of Victorians in locations in or close to activity centres and sites that offer good access to jobs, services and transport. It requires Councils to identify areas that offer opportunities for more medium and high-density housing near employment and transport in Metropolitan Melbourne. The Amendment provides strategic guidance on the appropriate scale of development including housing within the Activity Centre.

Clause 17 (Economic Development)

Clause 17 (Economic Development) seeks to encourage development which meets the community's needs for retail, entertainment, office and other commercial services and provides a net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities. The Amendment supports this clause by facilitating opportunities for a mix of office, retail and residential uses throughout the Activity Centre.

C:2 Other relevant planning strategies and policies

i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The relevant Outcomes are supported by Directions and Policies (as shown in Table 4), which outline how the Outcomes will be achieved.

Table 7 Relevant parts of Plan Melbourne

Outcome	Directions	Policies
Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.3 Create development opportunities at urban renewal precincts across Melbourne	Plan for and facilitate the development of urban renewal precincts Plan for new development and investment opportunities on the existing and planned transport network
Melbourne provides housing choice in locations close to jobs and services	2.1 Manage the supply of new housing in the right locations to meet population growth and create a sustainable city 2.2 Deliver more housing closer to jobs and public transport 2.5 Provide greater choice and diversity of housing	Provide certainty about the scale of growth in the suburbs Direct new housing and mixed-use development to urban renewal precincts and sites across Melbourne Support new housing in activity centres and other places that offer good access to jobs, services and public transport Facilitate housing that offers choice and meets changing household needs
Melbourne is a distinctive and liveable city with quality design and amenity	4.1 Create more great public places across Melbourne	Support Melbourne's distinctiveness Integrate place-making practices into road-space management Strengthen Melbourne's network of boulevards
Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1 Create a city of 20-minute neighbourhoods	Create mixed use neighbourhoods at varying densities Support a network of vibrant neighbourhood activity centres

(i) Heidelberg Activity Centre Liveability Study, Banyule City Council, June 2020

This study provides benchmark data to identify how the Activity Centre is currently performing and ranks how important certain issues are based on community consultation.

(ii) Heidelberg Major Activity Centre Economic Review, Charter, Keck, Cramer, October 2020

This report examines the economic composition of the Activity Centre, the drivers and character of recent economic change and the condition of the economic sectors.

(iii) Heidelberg Activity Centre Built Form Review: Recommendations Report, Ethos Urban, April 2021

This report provides an analysis of the existing conditions and potential development considerations of the Activity Centre and includes an audit of recent developments and VCAT decisions.

(iv) Heidelberg Activity Centre: Movement and Place Options Plan, Movement and Place Consulting, April 2021

This report assesses Heidelberg's Street network and focuses on improving sustainable transport options to the Activity Centre.

(v) Heidelberg Structure Plan Views Assessment: Final Report, Ethos Urban, May 2021

This report identifies key and notable public views to and within the Activity Centre and makes recommendations as to their protection.

(vi) Heidelberg Structure Plan: Built Form Controls, Ethos Urban, November 2021

This report proposed a series of built form provisions for the Activity Centre.

(vii) Heidelberg Activity Centre Key Directions, April 2021

This paper summarises the technical background studies and links them to the themes from the 2020 community surveys. The Key Directions are structured around the themes of:

- Good Design
- Enhanced Connectivity
- Strong, Prosperous Economy
- Vibrant and Active Places
- Environmentally Sustainable and Resilient

(viii) Heidelberg Activity Centre Structure Plan and Built Form Controls Peer Review, Plan2Place and Design Urban, 2 August 2022

The Report reviews all the strategic reports that underpin the Amendment as well as the Structure Plan.

(ix) Heidelberg Structure Plan, Banyule City Council, April 2023

The Structure Plan sets out a strategic place-based vision to guide the growth of the Activity Centre. It provides guidance on the demand for floor space and housing, movement networks and urban design and seeks to update the existing the provisions for Activity Centre.

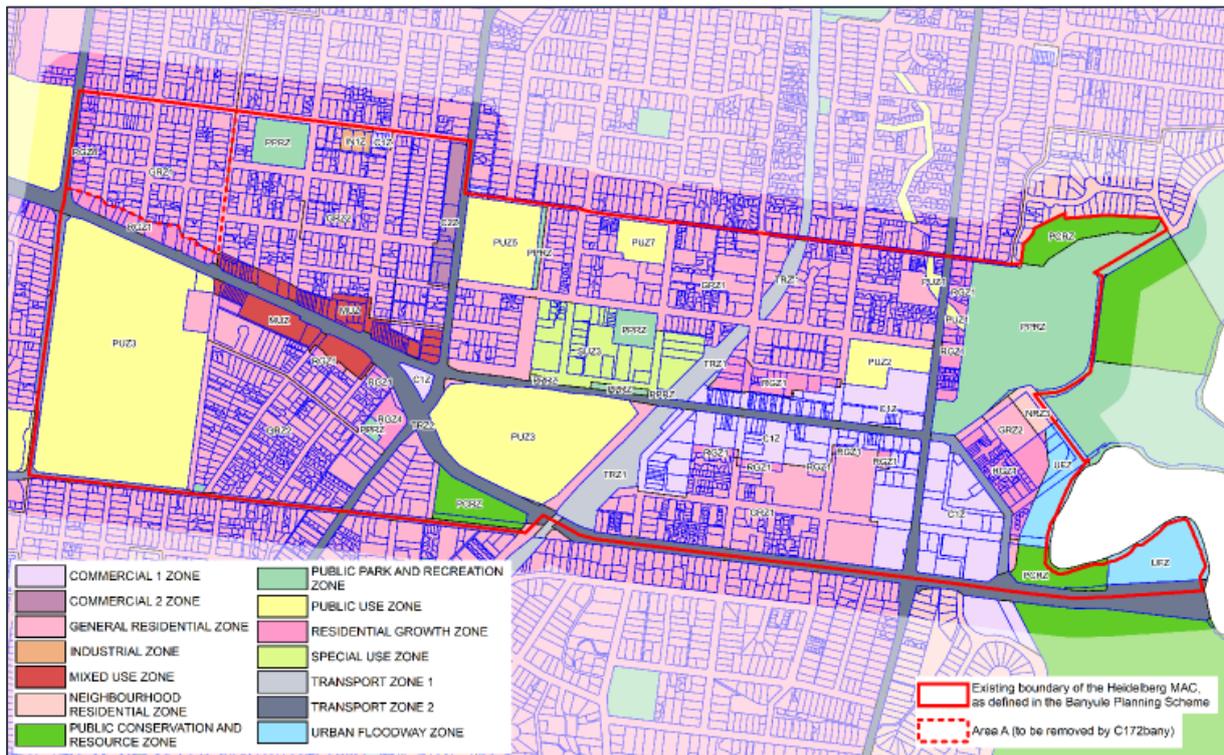
C:3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the PPF.

i) Zones

The Activity Centre is subject to 13 different zones as shown in Figure 12. This includes the Commercial 1 Zone, Commercial 2 Zone, Industrial 1 Zone, General Residential Zone Schedules 1 and 2, Neighbourhood Residential Zone Schedule 3, Residential Growth Zone Schedules 1, 4 and 8, Mixed Use Zone, Public Use Zone, Special Use Zone Schedule 3, Transport Zone, Public Park and Recreation Zone, Public Conservation and Resource Zone and Urban Floodway Zone.

Figure 12 Activity Centre Zoning Map



Source: D45

ii) Overlays

The Activity Centre is subject to 12 different overlays. This includes the ESO, Significant Landscape Overlay, VPO, Design and Development Overlay, Development Plan Overlay, Heritage Overlay, Land Subject to Inundation Overlay, Special Building Overlay, Development Contributions Plan Overlay, Parking Overlay, Environment Audit Overlay and Public Acquisition Overlay.

C:4 Ministerial Directions, Planning Practice Notes and guides

(x) Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

(xi) Planning Practice Notes

The following Planning Practice Notes are relevant:

- PPN59: The Role of Mandatory Provisions in Planning Schemes which sets out the circumstances under which mandatory provisions may be applied and criteria for making that judgment.
- PPN60: Height and Setback Controls for Activity Centres which states that provisions should be based on facilitating good design outcomes. Gives guidance on when it is appropriate to use mandatory and discretionary height and setback provisions.
- PPN90: Planning for housing which provides guidance about how to plan for housing growth and protect neighbourhood character to ensure a balanced approach to managing residential development in planning schemes.

(xii) Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the VPP in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

Appendix D Panel preferred version of the Activity Centre Zone Schedule 2

Tracked Added

~~Tracked Deleted~~

SCHEDULE 2 TO CLAUSE 37.08 ACTIVITY CENTRE ZONE

~~Proposed~~
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Shown on the planning scheme map as **ACZ2**.

HEIDELBERG MAJOR ACTIVITY CENTRE

1.0

~~Proposed~~
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Heidelberg Major Activity Centre Framework Plan

Update Framework Plan to:

- Show the distribution of public open space in accordance with the Burgundy and Powlett Street Reserve Masterplan, Banyule City Council, 2018
- Show 421 Upper Heidelberg Road, Ivanhoe as excluded from the Activity Centre Zone
- Delete the view corridor notation
- Amend the Legend to replace “Proposed boundary” with “Activity Centre Boundary”
- Include an Activity Centre Zone boundary
- Reference major health and land uses/key landmarks
- Improve clarity to clearly identify precinct boundaries
- Delete the north-western area of land which is no longer included within the Activity Centre Boundary



Legend

- | | |
|--|---------------------------------------|
| Proposed boundary | Precinct 1 - Yarra Valley Open Space |
| Precinct | Precinct 2 - Civic & Commercial |
| Areas to be excluded from Activity Centre Zone | Precinct 3 - Heidelberg Central |
| Open space | Precinct 4 - Health |
| Water body | Precinct 5 - Bell Street Gateway |
| Rail line | Precinct 6 - Residential Transitional |
| Rail station | |
| Key views | |
| Notable views | |
| View corridors | |

2.0

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Proposed
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Land use and development objectives to be achieved**Land use**

To encourage a diversity of uses, within designated areas, to create high levels of activity, including retail, entertainment, office, services, and residential land uses.

To retain and enhance existing medical, health and ancillary land uses.

To ensure that Precinct 4 and Precincts 2, 3 and 5 retain synergies but continue to develop as two distinct economies that operate independently of one other.

To encourage greater housing diversity through the residential precincts that each provide for a range of housing types and densities.

Built environment

To avoid the under-development of land.

To protect key views and notable views from the impacts of development.

To ensure well designed and locally responsive built form outcomes through appropriate building heights, tower separation and setbacks.

[To ensure that development anticipates the impacts of climate change and is resilient to the potential impacts of inundation.](#)

To retain the prominence of places of cultural heritage significance through conservation, compatible reuse and restoration.

To ensure that development provides a sympathetic design response that respects nearby heritage buildings and precincts.

To encourage development that incorporates contemporary architecture, positively contributes to the urban context, maximises connectivity through and between precincts, and maximises adequate solar access to roads, streets, footpaths and public open space.

To encourage the consolidation of lots by creating viable development sites that provide a positive interface to the public realm and good internal amenity within buildings.

To ensure development maintains a human scale in streetscapes through the utilisation of maximum street wall heights, appropriate and consistent awnings, quality materials and building façade treatments.

Landscaping and environment

To incorporate environmentally sustainable development principles in all development.

To maximise tree canopy cover and provide appropriate landscaping in development and streetscapes.

To provide safe, well designed, sustainable, accessible and well-maintained public open space to residents and visitors of all ages and abilities.

To protect and conserve the natural environment, particularly the Yarra River environs, with appropriate visual connections to the Yarra River parklands.

Transport, access and movement

To facilitate in all precincts the integration of land use and development with transport infrastructure that prioritises sustainable modes of transport, including active transport.

To improve pedestrian and cycling connections with a safe and legible active transport network between Heidelberg Railway Station and the main pedestrian and cycling corridors including the Yarra River Trail.

To optimise safe access and improved amenity in the design of carparking.

To improve the pedestrian environment along major walking routes through streets, laneways and other public spaces that provide safe and interesting opportunities for walking, sitting and other casual recreation supported by vibrant retail activity and development.

3.0

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Table of uses

Section 1 - Permit not required

Use	Condition
Accommodation	Must be located in Sub-precinct 1A, 1B or 1C, or Precinct 3, 5 or 6. Must not be located at ground floor level with a frontage of more than 2 metres other than in Sub-precinct 1A, 1B or 1C or Precinct 6. If it is a Rooming house, must meet the requirements of Clause 52.23-2.
Automated collection point	Must meet the requirements of Clause 52.13-3 and 52.13-5. The gross floor area of all buildings must not exceed 50 square metres.
Cinema	Must be located in Precinct 2, 3, 4 or Sub-precinct 5C, 5D, 5E or 5F.
Convenience shop	
Education centre	
Food and drink premises	Must be located in Precinct 2, 3, 4 or 5.
Hall	Must be located in Precinct 2, 3, 4 or 5.
Home based business	
Hospital	Must be located in Precinct 4.
Informal outdoor recreation	
Library	Must be located in Precinct 2, 3, 4 or 5.
Medical centre	In Precinct 6, the gross floor area of all buildings must not exceed 500 square metres.
Minor utility installation	
Office (other than Medical centre)	Must be located in Precinct 2, 3, 4 or 5.
Open sports ground	
Place of worship	The gross floor area of all buildings must not exceed 250 square metres. In Precinct 4, the site must not exceed 1200 square metres. In Precinct 4, the site must adjoin, or have access to, a road in a Transport Zone 2 or Transport Zone 3.
Railway station	
Retail premises (other than Shop)	Must be located in Precinct 1, 2, 3 or 4 or Sub-precinct 5C, 5D, 5E or 5F.
Service industry	Must be located in Precinct 1, 2, 3 or 4 or Sub-precinct 5C, 5D, 5E or 5F.
Shop (other than Convenience shop)	Must be located in Sub-precinct 5E or Precinct 2 or 3.
Tramway	
Any use listed in Clause 62.01	Must meet requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Accommodation	If located in Sub-precinct 4C with a frontage to Burgundy Street, Martin Street or Stradbroke Avenue, must not be located at ground, first or second floor level and cannot exceed 35 percent of the combined gross floor area of all buildings on the lot.
Cinema	Must be located in Precinct 1.
Domestic animal husbandry	Must be located in Precinct 1, 2, 3 or 4 or Sub-precinct 5C, 5D, 5E or 5F.
Leisure and recreation (other than Informal outdoor recreation, Motor racing track and Open sports ground)	
Place of assembly (other than Cinema, Hall, Library and Place of worship)	
Research and development centre	Must be located in Precinct 1, 2, 3 or 4 or Sub-precinct 5C, 5D, 5E or 5F.
Retail premises (other than Food and drink premises and Shop)	In Precinct 6 and Sub-precinct 5A or 5B, the site must adjoin, or have access to, a road in a Transport Zone 2 or Transport Zone 3.
Service industry	Must not be located in Sub-precinct 5A or 5B or Precinct 6.
Shop (other than Convenience shop)	Must be located in Precinct 1 or 4 or Sub-precinct 5C, 5D, 5E or 5F.
Any use not in Section 1 or 3	Must meet requirements of Clause 62.04

Section 3 – Prohibited

Use
Agriculture (other than Apiculture, Domestic animal husbandry, Aquaculture and Horticulture)
Corrective institution
Industry (other than Research and development centre and Service industry)
Motor racing track
Saleyard
Warehouse

4.0

~~Proposed~~
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Centre-wide provisions**4.1**

~~Proposed~~
C172bany

Use of land

A permit is not required to use land for the purpose of Local Government providing the use is carried out by, or on behalf of, the public land manager.

[Despite the provisions in clause 3.0 of this schedule, a permit is required to use land for a new use on land which is \(potentially\) affected by flooding.](#)

4.2 Subdivision

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Proposed
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An application for subdivision of existing sites that are not associated with a development proposal that supports the objectives of this schedule are discouraged.

In Precincts 3 and 5, land should be consolidated to create viable development sites that meet all of the following:

- A minimum frontage of 18 metres.
- A minimum area of 700 square metres with adequate dimensions for the provision of setbacks as specified in the requirements of Clause 5.0 of this schedule.

4.3 Buildings and works

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- No permit is required to construct a building or construct or carry out works for the following:
 - The following in Precinct 2, 3 or 4 or Sub-precinct 5C, 5D, 5E or 5F:
 - The installation of an automatic teller machine.
 - An alteration to an existing building façade provided:
 - The alteration does not include the installation of an external roller shutter.
 - At least 80 per cent of the building façade at ground level is maintained as an entry or window with clear glazing.
 - An awning that projects over a road if it is authorised by the relevant public land manager.
 - Construct or extend the following within Sub-precinct 5A or 5B or Precinct 1 or 6:
 - A single dwelling on a site greater than 300 square metres.
 - Works normal to a dwelling.
 - An open-sided pergola or verandah with a finished floor level not more than 800 millimetres above natural ground level and a maximum height not more than 3 metres above natural ground level.
 - An outbuilding with a gross floor area not more than 10 metres and a maximum building height not more than 3 metres above natural ground level, but not including the construction or extension of a garage or carport.
 - A deck with a finished floor level not more than 800 millimetres above natural ground level.
 - A domestic swimming pool or spa and associated mechanical equipment and safety fencing.

In Sub-precinct 5A or 5B or Precinct 1 or 6, on a lot of less than 300 square metres, a development must meet the objectives and should meet the standards of Clause 54 if it proposes to:

- Construct or extend one dwelling; or
- Construct or extend a front fence within 3 metres of a street if the fence is associated with one dwelling.

In Sub-precinct 5A or 5B or Precinct 1 or 6, a development must meet the objectives and should meet the standards of Clause 55 if it proposes to:

- Construct a dwelling if there is at least one dwelling existing on the lot.
- Construct two or more dwellings on a lot.
- Extend a dwelling if there are two or more dwellings on a lot.
- Construct or extend a dwelling on common property.
- Construct or extend a residential building.
- Construct or extend a fence within 3 metres of a street if:
 - The fence is associated with 2 or more dwellings on a lot or a residential building, and

- The fence exceeds the maximum height specified in Clause 55.06-2.

This does not apply to a development of five or more storeys, excluding a basement.

4.4
Proposed
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Design and development

In the operation of this clause:

- A street wall is the wall height of a building along the frontage measured from ground level at the frontage of a site and includes a parapet or balustrade. A street wall should be included for development in Precinct 2, 3 or 4 or Sub-precinct 5C, 5D, 5E or 5F.
- In Precincts 2, 3, 4 and 5, the height of a storey at the ground floor level of a new building must be a minimum of 4.5 metres measured from finished floor level to the ~~underside~~ finished floor level of the floor above.
- The height of a storey at first floor level of a new building, including for a car park, must be a minimum of 3 metres measured from finished floor level to the underside of the floor above.
- For the preferred and mandatory maximum building heights specified in Clause 5.0, a building may exceed the maximum building height by up to 1 metre if the slope of the natural ground level, measured at any cross section of the site of the building wider than 8 metres, is greater than 2.5 degrees.
- The preferred maximum building height to be measured is from the level of the footpath at the centre of a site's frontage.
- A basement is not a storey for the purposes of calculating the number of storeys contained in a building.
- The requirements for maximum building height and maximum number of storeys in Clause 5.0 should be applied concurrently to an application.

Mandatory design and development permit requirements

A permit cannot be granted to:

- ~~Allow any additional overshadowing between 11.00am and 2.00pm on 22 September from the siting and design of development to the following land:~~
 - ~~No greater than 50 percent of the secluded private open space in surrounding residential properties.~~
 - ~~Southern footpath along Banksia Street, Bell Street, Burgundy Street and Yarra Street as measured from the development to the back edge of the kerb adjoining the footpath.~~
 - ~~Southern permanent public realm outstands along Banksia Street, Bell Street, Burgundy Street and Yarra Street (except between Lower Heidelberg Road and Dora Street) as measured from the development to the back edge of the kerb adjoining the footpath or outstand.~~
 - ~~All open space in Precinct 4 as identified at Clause 5.4 1 (Precinct Map), which includes landscaped median strips as measured from the development to the back edge of the kerb adjoining the footpath and Service Reserve.~~
 - ~~Powlett Street Reserve.~~
- Construct a building or construct or carry out works that is not in accordance with the mandatory maximum building height, ~~mandatory maximum street wall height, mandatory minimum building setback and mandatory minimum building separation requirements~~ specified in Clause 5.0 of this schedule. This does not include:
 - Building building architectural features and corner elements.
 - ~~Porches, pergolas or verandahs that are less than 3.6 metres high.~~
 - ~~Eaves that encroach not more than 2.5 metres into the front setback.~~

- ~~• Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services that encroach not more than 0.5 metres into the side or rear setback.~~
- ~~• Landings with an area of not more than 2 square metres and less than 1 metre high.~~
- ~~• Stairways, ramps, pergolas, shade sails and carports that encroach into the side and rear setbacks.~~
- ~~• Services normal to a dwelling that may encroach into the front, side or rear setback.~~

Discretionary design and development permit requirements

A permit can be granted to construct a building or construct or carry out works that is or is not in accordance with the preferred maximum building height, preferred maximum street wall height, preferred minimum building setback and preferred minimum building separation requirements specified in Clause 5.0 of this schedule.

Design and development requirements

The following design and development requirements apply to an application to construct a building or construct or carry out works:

Active frontages and building adaptability

In Precincts 2, 3, 4 and Sub-precincts 5C, 5D, 5E and 5F, development should be designed to:

- Provide a ground-level frontage with at least 70 percent and a maximum 90 percent of clear unobstructed glazing.
- Be capable of accommodating retail uses at ground level including food and drink premises, retail premises and shops with an entry or display at the frontage for pedestrian interest and interaction and a range of commercial uses at first floor level.
- Locate offices and other commercial uses with customer service and ancillary activities for pedestrian interest and interaction at ground floor level.
- Provide car parking areas with adequate floor to ceiling heights with minimised sloping floor plates that enable other types of future uses.
- Sleeve upper-level car parking areas with occupiable floor areas to maintain activation of street frontages at upper levels.

Built form, overshadowing and key views

Development should be designed to:

- Articulate buildings on sloping sites to reduce visual bulk and improve their appearance.
- Locate the ground floor entries of new buildings at the same level as the existing footpath and along streets in visually prominent positions.
- Respond to sloping topography and minimise the need for cut and fill.
- ~~▪ Include a street wall in Precincts 2, 3, 4 and Sub-precincts 5C, 5D, 5E and 5F to a maximum height of 10 metres and maximum of 2 storeys.~~
- ~~▪ Include upper level setbacks above the street wall a minimum of 4.5 metres from the frontage with additional upper level setbacks for buildings above 20 metres (by utilising the 52 degree angle of the sun at 12 pm on the equinox) to show that no additional overshadowing of land will occur from the development to the southern footpath along Banksia Street, Bell Street, Burgundy Street and Yarra Street and the landscape median on Burgundy Street.~~
- ~~▪ Avoid additional overshadowing of laneways, particularly Sheffield Lane.~~
- Avoid any additional overshadowing between 11.00am and 2.00pm on 22 September from the siting and design of development to the following land:

- Incorporate water sensitive urban design (WSUD) principles and environmentally sustainable development (ESD) measures that include but are not limited to improved vegetation and water provision in development through the greening of buildings, green roofs, green walls and planter boxes.
- [Encourage buildings in areas subject to inundation which are required to keep internal finished floor levels above the flood level to provide any transition to ground level setbacks internally to the building where practicable.](#)
- Except in Sub-precinct 5A and 5B and Precinct 6, incorporate continuous weather protection measures (verandahs, shade cloths or canopies) along Bell Street, Burgundy Street, Dora Street, Hawdon Street, Jika Street, Lower Heidelberg Road, Martin Street, Mount Street, Rosanna Road, Stradbroke Avenue, Upper Heidelberg Road and Yarra Street.
- ~~▪ In Precincts 3 and 5, step down built form adjacent to a building in Precinct 6 to respect the height of adjacent buildings and dwellings with no more than a 2-storey height difference to buildings in Precinct 6.~~
- Incorporate building materials, colours and finishes that complement the surrounding built form and reflect the urban character of the activity centre by including:
 - Natural building materials and finishes including stone, masonry and timber.
 - The use of complementary and contrasting materials together.
 - The use of low maintenance, naturally weathering materials and finishes.
 - The integrated use of green landscaping including green walls.
 - Avoiding the use of excessive reflective glazing over the building exterior and solid wall ground level facades.
- Not increase the level of wind impacts at ground level.
- Utilise adaptable building design that can easily accommodate alternate uses over time.
- Maximise floor plates for buildings in Precincts 2, 3 and 4 to provide commercial capability and viability.
- Avoid the under-development of land where mixed land uses and a greater intensity of development is promoted.
- Consolidate land to facilitate the creation of viable development sites with large ground floor areas that positively interact with the street and provide good internal amenity within buildings.

Heritage places

- For sites that adjoin a heritage place identified in the heritage overlay, provide an appropriate response to the heritage significance of the heritage place with a built form interface that does not visually dominate, overlook or overshadow heritage sites, including:
 - A 5 metre ground level setback.
 - Reflecting the existing street wall height of the abutting heritage building.
 - A 4.5 metre upper level front setback above the street wall.
 - Building heights that are sympathetic to, and respect, adjacent heritage buildings or precincts.
 - Avoiding facadism and the mimicking or replication of heritage features and styles.
 - Materials, colours and architectural articulation that positively responds to heritage sites.
- For a heritage place identified in the heritage overlay, development should provide an appropriate response to the heritage significance of the heritage place by:
 - Being guided by the provisions of the Heritage Overlay and the Cultural Heritage Conservation Policy in the Banyule Planning Scheme.

- Respecting the built heritage and sympathetically respond to the urban fabric, identity and character of the centre.
- Including building form, facades and roofs that acknowledge and reflect the predominant vertical ordering which is a characteristic of heritage buildings.
- Avoiding facadism and retaining the primary building volume when developing existing buildings.
- Retaining the integrity and prominence of existing heritage buildings from views from the street(s).
- Being no higher than the preferred maximum height.

Signs

Signs should:

- Be designed to be proportional to the size and form of the building and not detract from identified key views, notable views and view corridors and the urban character of the activity centre.
- Generally be contained within the shopfront and main structural elements of a building and designed to fit within the architectural style of the building.
- Include street numbers positioned on the building street alignment in highly visible locations.
- Not have more than 90 percent glazing in shopfronts, with frequent vertical masonry, timber and/or metal partitions between glazed sections.
- Not allow glazing to be obscured by advertising on windows and maintain clear visibility between the inside and outside of the premises.
- Not increase the level of wind impacts at ground or footpath levels.
- Not cover more than 20 percent of the window area on the building frontage.
- Promotion signs, electronic signs, animated signs, sky signs, bunting signs, A-board signs (except in association with footpath eating areas displaying menus), and special promotional signs on footpaths are discouraged.

Building identification signs should:

- Include one sign per wall per side.
- Be positioned at the focal point of the building façade.
- Not include general advertising of products, goods or services.

High Wall Signs should:

- Be incorporated where opportunity exists on a blank side or rear wall.
- Be less than 20 percent of the wall area.
- Include one sign per wall per side.
- Advertise only services that are sold within the building.

Below verandah signs (both illuminated or non-illuminated) should have:

- Maximum dimensions of 1.8 metres wide by 0.5 metres high.
- Be erected horizontally and at right angles to the building façade.
- With a minimum clearance of 2.65 metres above the footpath.

Signs located on the fascia of a building should:

- Be part of the verandah.
- Not project above or below the verandah fascia.
- Not include product identification.

Vehicle access and parking areas

Vehicle access and parking areas should:

- Minimise the number and width of vehicle crossovers and access points and provide them from laneways or secondary street frontages.
- Be well lit and clearly identified with signage, including for entry and exit points.
- Separate vehicle access points from pedestrian access points.
- Setback shared vehicle and pedestrian access ways or car parks at least 1.5 metres from habitable room windows in adjacent dwellings.
- Avoid parking between the front of the building and the street.
- Locate car parking areas to the rear of the site, in a basement or in upper levels.
- Surround parking areas by buildings to provide an active frontage and a mix of uses.
- Be shared between day and night time demand where a building contains a mix of uses.
- Not provide tandem spaces unless associated with a single occupancy.
- Naturally ventilate basement car parks wherever possible.
- Be sleeved by active uses which face the street in order to screen views of cars parked on upper levels from the public realm.

Loading and rubbish collection facilities

Loading and rubbish collection facilities should:

- Be designed to mitigate their negative visual impacts through screening and the integration of facilities within the design of buildings.
- Be located to the rear of properties and screened from view from public areas.
- Incorporate measures for universal design and access.

Landscaping

Landscaping should:

- Be designed to complement the landscape treatments of adjoining public realm areas.
- Provide canopy trees within the site frontage except where a zero setback applies.
- Provide sufficient area for deep soil planting and canopy trees within building setbacks, particularly in Precincts 1 and 6.
- Provide landscape buffers and physical and visual links with the Yarra River Valley and Heidelberg Gardens.
- Incorporate native and indigenous species or other species that are not included in the Banyule Weed Management Strategy.

5.0 Precinct provisions

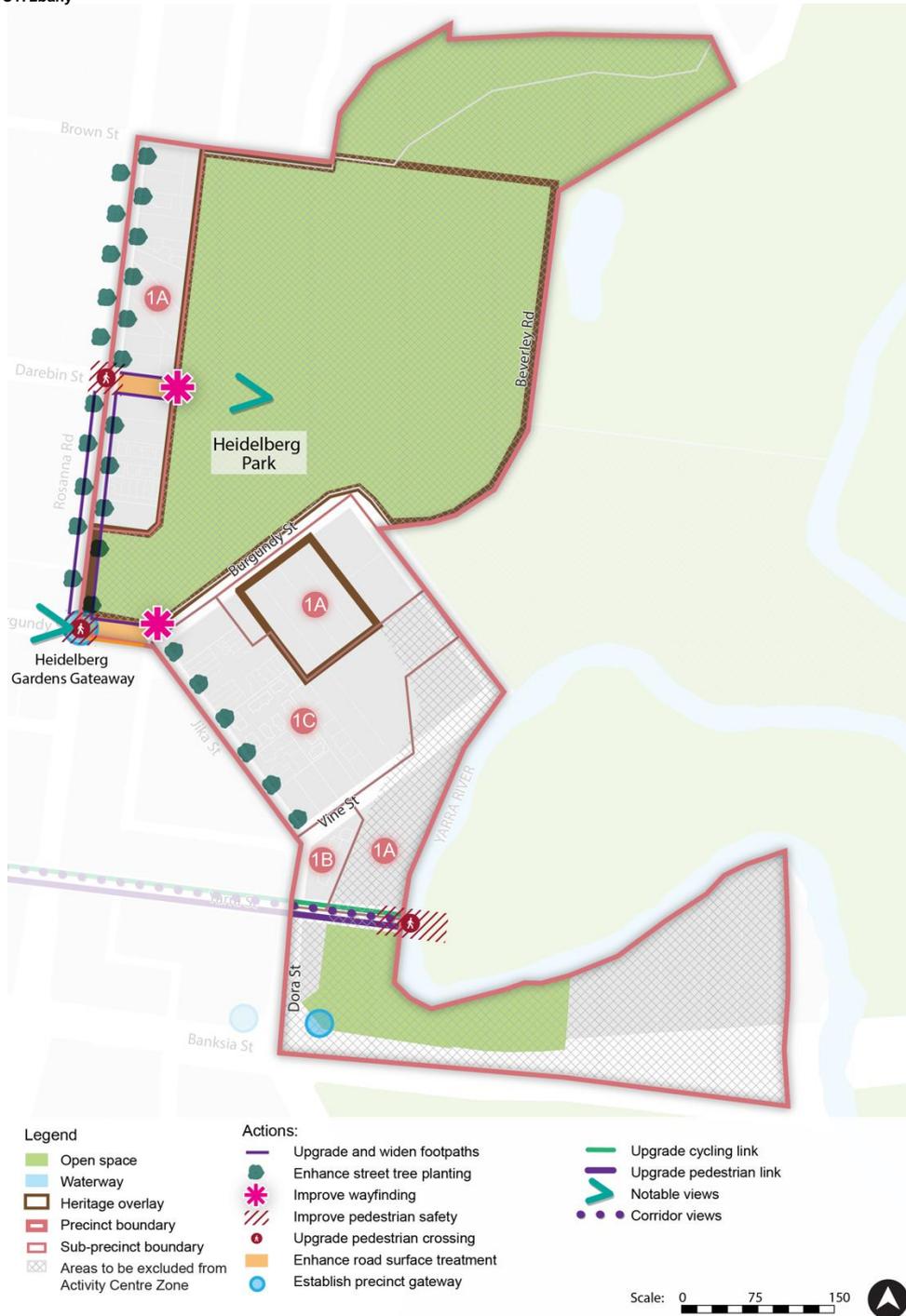
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5.1 Precinct 1 – Yarra Valley Open Space

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5.1-1 Precinct map

Proposed
C172bany



5.1-2 Precinct objectives

Proposed
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To encourage residential and recreation uses.

To provide a gateway to the Greater Yarra Urban Parklands and ecological landscapes of the Yarra River (Birrarung).

To encourage buildings of an appropriate height and scale that are well landscaped with treed streetscapes that positively contribute to adjoining open space areas such as Heidelberg Gardens and Heidelberg Park.

To ensure the sensitive integration of buildings and streetscapes with the Yarra River (Birrarung) corridor.

5.1-3

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Proposed
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Precinct requirements

Sub-precinct	Preferred maximum building height	Preferred Mandatory minimum front setback	Preferred minimum side setback
1A	11 metres (3 storeys)	Ground floor walls of buildings must be setback a minimum of 5 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 9.5 metres from the front street.	Walls of buildings should be setback a minimum of 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres
1B	13.5 metres (4 storeys)	Ground floor walls of buildings must be setback a minimum of 5 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 9.5 metres from the front street.	Walls of buildings should be setback a minimum of 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres
1C	16 metres (5 storeys)	Ground floor walls of buildings must be setback a minimum of 5 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 9.5 metres from the front street.	Walls of buildings should be setback a minimum of 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres

5.1-4

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Proposed
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Precinct guidelines

Where building height is increased, encourage increased activity and housing diversity with an appropriate response to the Heidelberg Gardens and Heidelberg Park interface.

Visual connections from development to Heidelberg Park should be enhanced.

Where possible, retain existing mature trees in the front and rear setbacks and plant canopy trees, to maintain and strengthen the garden setting of surrounding residential areas and Heidelberg Park.

Ensure balconies are located to enhance passive surveillance of the public realm, including Heidelberg Park, where appropriate.

Signs should be designed so that they do not detrimentally affect adjacent visually sensitive areas such as the heritage precinct and nearby parklands.

Design of development should support the strategic directions of the [Burndap Birrarung burndap umarkoo \(Yarra Strategic Plan\) 2022–32](#) and the [Birrarung-Bolin Framework Plan](#) ~~Yarra Strategic Plan and the Bulleen Land Use Framework Plan~~.

Design residential development based on the standards of Clauses 54, 55 or 58, as appropriate.

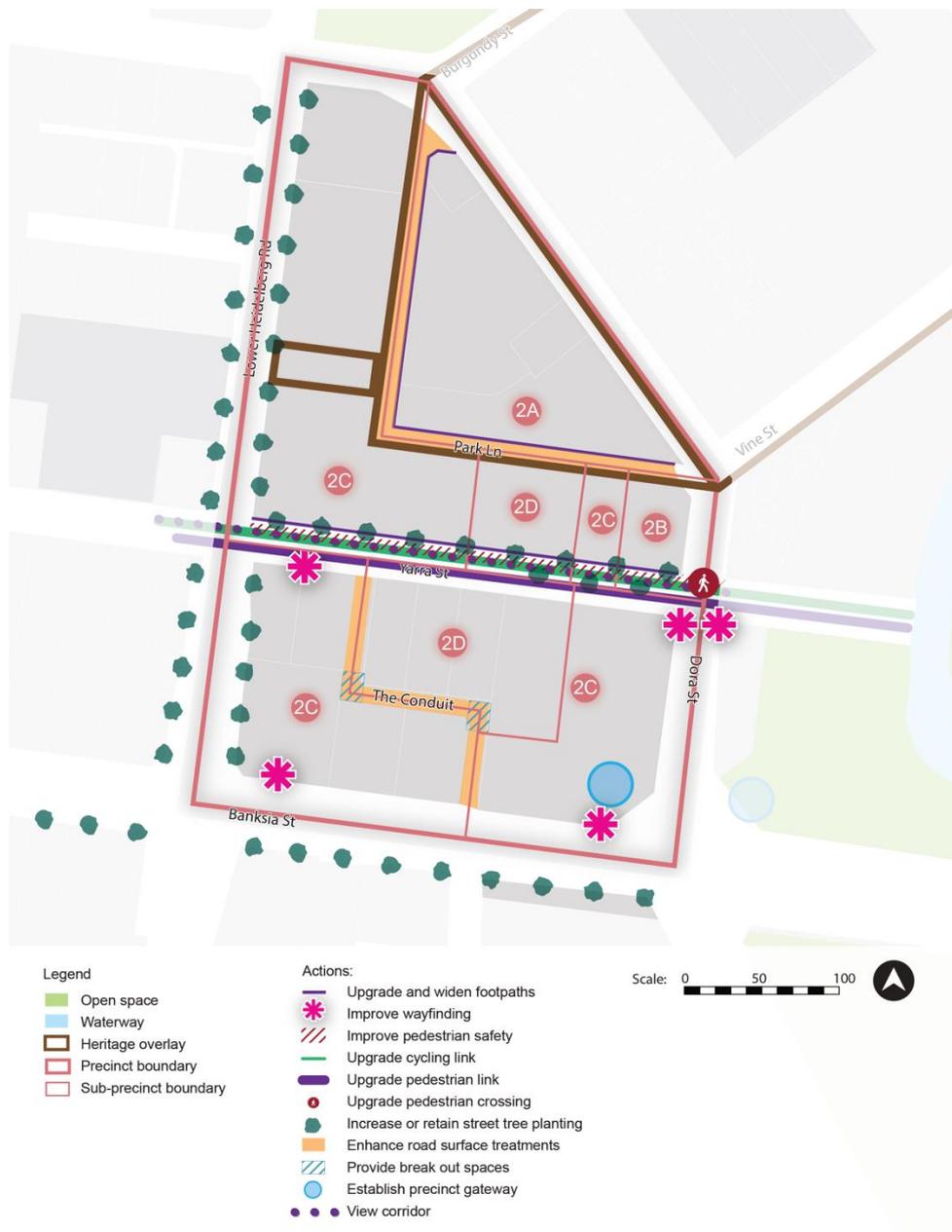
Ensure the internal area of buildings including any basements proposed on land which is (potentially) affected by flooding is designed to be protected from inundation from Salt Creek and the Yarra River in a 1% Annual Exceedance Probability flood event.

Development should ensure that safe access and egress is provided to that part of the land where there is no anticipated overland flow from floodwaters.

5.2 Precinct 2 – Civic and Commercial

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Proposed
C172bany
5.2-1
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Proposed
C172bany

Precinct map



5.2-2 Precinct objectives

Proposed C172bany

To support large format public sector, service and local, decentralised office-based enterprises for professional workers

To improve the economic and physical connections between the ~~precinct~~ [Precinct](#) and ~~precinct~~ [Precinct 3](#).

To encourage large commercial floorplates in development that supports trade supplies and automotive uses.

To enhance and activate the amenity of public areas with canopy trees on private land that act as a buffer to vehicular traffic on Lower Heidelberg Road and Banksia Street.

5.2-3 Precinct requirements

Proposed C172bany

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to an east-west laneway	Preferred minimum building separation
2A	17 metres (5 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only
2B	20 metres (6 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to an east-west laneway	Preferred minimum building separation
2C	26 metres (8 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only
2D	32 metres (10 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street. For development on the north side of Yarra Street, walls of buildings above 26 metres must be setback a minimum of 8.5 metres from the front street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only

5.2-4

Proposed C172bany

Precinct guidelines

Encourage increased activity and housing diversity in the centre of the precinct, that reduces in height and scale towards Heidelberg Park.

Development along the major east-west cycling and pedestrian link through to the Main Yarra Trail should provide a positive address to adjacent roads.

Design development with site specific built form and landscaping responses that are sensitive to the interface with the Yarra River Parklands.

Development on the corner of Lower Heidelberg Road and Burgundy Street should provide a positive contribution to the Heidelberg Gardens Gateway by establishing a precinct gateway through the installation of public artworks, wayfinding signage and improved landscaping.

In addition to glazing being incorporated into development, use lighter finishes to complement the predominant palette of materials in the area such as red, cream, grey and green colours.

Where possible, retain existing mature trees in the front setback of development fronting Jika Street and plant canopy trees to maintain and strengthen the preferred garden setting of the adjoining Precinct 1.

Ensure that the internal area of buildings including any basements proposed on land on land which is potentially affected by flooding designed to be protected from inundation in a 1% Annual Exceedance Probability flood event.

Development should ensure that safe access and egress is provided to that part of the land where there is no anticipated overland flow from floodwaters.

5.3

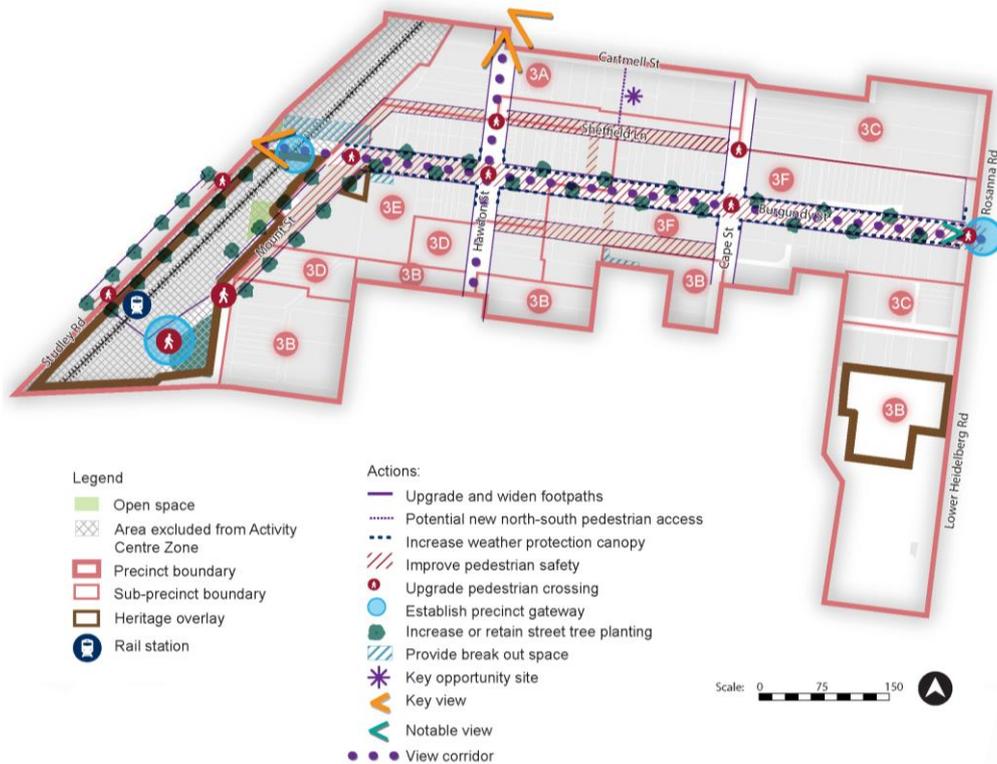
Proposed C172bany

5.3-1

Proposed C172bany

Precinct 3 – Heidelberg Central

Precinct map



5.3-2

Proposed C172bany

Precinct objectives

To support retail, office, commercial, residential, entertainment, food and drink, hospitality and lifestyle focused land uses.

To encourage commercial and mixed use developments that support the day and night time food and entertainment economy.

To support development that makes a positive contribution to the streetscape and heritage site interfaces and is sensitively integrated with surrounding lower-scale dwellings and schools.

To provide well-connected, safe and functional open spaces, laneways and streetscapes that contribute to a sense of human scale and place.

To provide a distinct urban character with a generous front setback for development that enables the provision of canopy trees and other landscaping in Sub-precinct 3A.

5.3-3

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Proposed
C172bany

Precinct requirements

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred minimum front setback	Preferred minimum south side setback to an east-west laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
3A	17 metres (5 storeys)	10 metres (2 storeys)	Ground floor walls of buildings should be setback 5 metres from the front street and side street. Walls of buildings above 10 metres should be setback: <ul style="list-style-type: none"> A minimum of 9.5 metres from the front street. A minimum of 4.5 metres from the side street. 	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either: <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres Locate a side or rear wall on the boundary on one side only 	5 metres
3B	20 28 metres (6-8 storeys)	10 metres (2 storeys)	Ground floor walls of buildings should be setback 0 metres from the front street and side street. Walls of buildings above 10 metres should be setback a minimum of 4.5 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback	Above 10 metres in height either: <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only. Above a height of 21	5 metres

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred minimum front setback	Preferred minimum south side setback to an east-west laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
			Above a height of 21 metres (6 storeys) walls of buildings should be setback an additional 6 metres if adjacent to land in Precinct 6.	4.5 metres from the south boundary of a laneway.	metres (6 storeys) walls of buildings should be setback an additional 6 metres if adjacent to land in Precinct 6.	
3C	23 metres (7 storeys)	10 metres (2 storeys)	Ground floor walls of buildings should be setback 0 metres from the front street and side street. Walls of buildings above 10 metres should be setback a minimum of 4.5 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either: <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or rear wall on the boundary on one side only 	5 metres
3D	26 metres (8 storeys)	10 metres (2 storeys)	Ground floor walls of buildings should be setback 0 metres from the front street and side street. Walls of buildings above 10 metres	North facing ground floor walls of buildings should be setback 3 metres from the south boundary	Above 10 metres in height either: <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or 	5 metres

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred minimum front setback	Preferred minimum south side setback to an east-west laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
			should be setback a minimum of 4.5 metres from the front street and side street.	of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	<ul style="list-style-type: none"> ▪ Locate a side or rear wall on the boundary on one side only 	
3F	29 metres (9 storeys)	10 metres (2 storeys)	<p>Ground floor walls of buildings should be setback 0 metres from the front street and side street. Walls of buildings above 10 metres should be setback a minimum of 4.5 metres from the front street and side street.</p> <p>For development on the north side of Burgundy Street between the railway line and Rosanna Road, walls of buildings above 23 metres should be setback:</p>	<p>North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.</p>	<p>Above 10 metres in height either:</p> <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or rear wall on the boundary on one side only 	5 metres

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred minimum front setback	Preferred minimum south side setback to an east-west laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
			A minimum of 8.5 metres from the front street. A minimum of 4.5 metres from the side street.			

Sub-precinct	Mandatory maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
3E	26 metres (8 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street. For development on the north side of Burgundy Street between the railway line and	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either: <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only 	5 metres

			<p>Rosanna Road, walls of buildings above 23 metres must be setback:</p> <p>A minimum of 8.5 metres from the front street.</p> <p>A minimum of 4.5 metres from the side street.</p>			
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5.3-4 Precinct guidelines

Proposed C172bany

In mixed use buildings encourage increased activity and housing diversity.

Development should positively not adversely impact identified key views, and notable views, and view corridors by:

- ~~▪ Being constructed to the preferred or mandatory maximum building height as relevant to the Sub-precinct.~~
- ~~▪ Incorporating adequate upper level setbacks above the street wall height.~~
- ~~▪ Creating separation between buildings above the street wall height and minimising continuous built form with gaps for views and solar penetration.~~

Development adjacent to the boundaries of Precinct 3 should provide:

- ~~▪ No more than a two storey difference to adjoining residential and education developments in Precinct 6.~~
- ~~▪ Minimal impacts from overlooking and overshadowing.~~

Narrow sites should be consolidated and incorporate:

- Improved ground and upper level interfaces to the street.
- Adequate areas for commercial floor space and building entries and foyers at the ground level.
- Adequate areas for access, circulation and car parking.
- The location of site services and utilities with minimal impact on the building’s frontage.

Weather protection treatments provided along Burgundy Street should wrap around corner sites.

Development abutting Sheffields Lane should increase passive surveillance and provide activation and integration with Sheffields Lane.

Provide vehicle access in Sheffields Lane for commercial and other uses that front Sheffields Lane and Burgundy Street.

Mixed use development on the Cartmell Street car park opportunity site is to be contemporary, in context and sensitively designed, contribute to the amenity of Sheffields Lane and supply additional off-street public car parking.

Provide a north-south pedestrian link through the Cartmell Street car park opportunity site with improved connectivity between Cartmell Street to Burgundy Street.

In addition to glazing being incorporated into development, use lighter finishes to complement the predominant palette of materials in the area such as red, cream, grey and green colours.

Provide landscaping and canopy trees in front setbacks of development in Sub-precinct 3A to respond appropriately to residential areas to the north across Cartmell Street.

Protect kerb outstands in roads and future break out space areas as identified on the precinct plan from the impacts of adjoining development, including from overshadowing.

Development should reinforce the existing fine grain built form of the Burgundy Street shopping strip.

Where possible, retain existing mature trees in the front setback of development fronting Darebin Street and plant canopy trees to maintain and strengthen the preferred garden setting of the adjoining residential area to the north.

5.4 Precinct 4 – Health

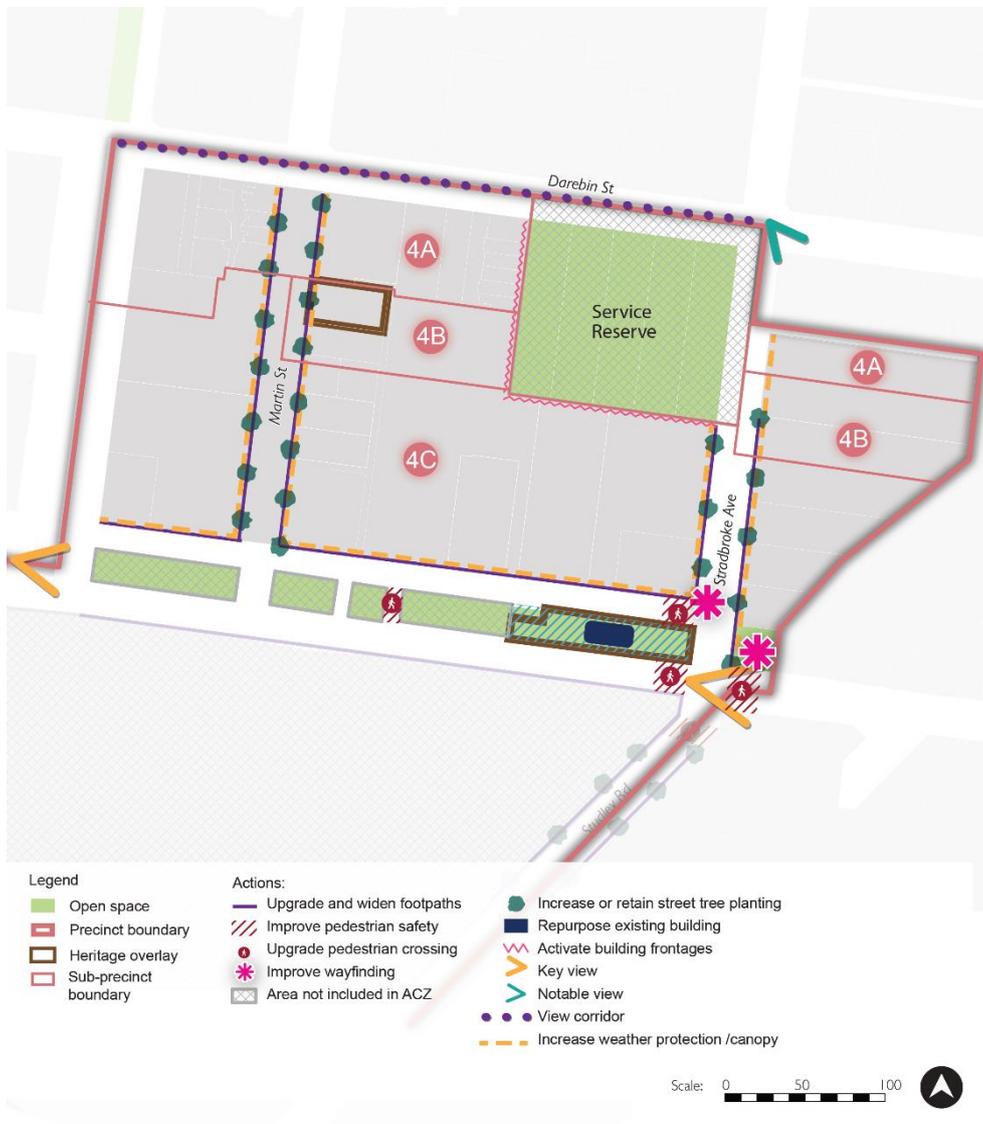
Proposed C172bany

5.4-1 Precinct map

Proposed C172bany

Update Precinct 4 Map to:

- include 16 Powlett Street in sub-precinct 4B
- show sub-precinct 4B (which sits within the land generally bounded by Burgundy Street, Martin Street, Stradbroke Avenue and Darebin Street only) as sitting within sub-precinct 4C



5.4-2 Precinct objectives

--/--/---
Proposed
C172bany

To support and facilitate the state and regionally significant roles of the Austin, Warringal, Mercy and Heidelberg Repatriation hospitals and surrounding health and ancillary services and their major employment and health roles in Melbourne’s north-east.

To encourage commercial and mixed use developments that directly support the primary medical role of the precinct through flexible professional suites and off-street car parking.

To improve pedestrian and cycling connections through a safe and legible active transport network that connects hospital campuses through a series of enclosed pedestrian bridges and better connects the hospitals and the Heidelberg Railway Station, bus interchange and proposed Suburban Rail Loop interchange station.

To support development that reflects the state significant role of the precinct and making a positive contribution to the streetscape and public realm with active frontages at podium level.

To enhance and activate the public realm with well-designed and legible footpaths and street canopy trees that link to quality, green open spaces.

5.4-3 Precinct requirements

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Proposed
C172bany

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to and east-west laneway	Preferred minimum building separation
4A	13.5 metres (4 storeys)	10 metres (2-storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or rear wall on the boundary on one side only
4B	20 metres (6 storeys)	10 metres (2-storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should	Above 10 metres in height either : <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or rear wall on the boundary

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to and east-west laneway	Preferred minimum building separation
				be setback 4.5 metres from the south boundary of a laneway.	on one side only
4C	26 metres (8 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres to 20 metres must be setback a minimum of 4.5 metres from the front street and side street. Walls of buildings above 20 metres must be setback: <ul style="list-style-type: none"> ▪ A minimum of 9.5 metres from the front street. ▪ A minimum of 4.5 metres from the side street. 	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or rear wall on the boundary on one side only

5.4-4

Proposed C172bany

Precinct guidelines

Support development that contributes to continued growth and development of health services.

Development should provide an appropriate built form transition to surrounding open spaces ensuring that the Service Reserve and the Powlett Street Reserve are not significantly overshadowed.

Design of development should provide increased pedestrian connectivity, permeability and passive surveillance and pedestrian weather protection to adjoining open space and the Heidelberg railway station.

Create an additional area of useable public open space at the heritage place along the existing median strip on Burgundy Street as a focal point for the precinct.

Repurpose and sensitively redevelop the heritage building known as the former Maternity and Child Health Centre in the existing median strip at 206 Burgundy Street for a new civic use that positively contributes to the area.

Development adjoining the Service Reserve should positively respond and engage with the Service Reserve interface by providing the following:

- Passive surveillance from windows and balconies to the open space.

- Edge treatments to buildings that define the edge of the open space with minimal additional overshadowing.
- Visual interest and benefit to users of the open space.

Vehicle access should be provided from rear laneways for sites fronting Burgundy Street.

5.5

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Proposed
C172bany

5.5-1

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Proposed
C172bany

Precinct 5 – Bell Street Gateway

Precinct map

Update Precinct 5 Map to clarify the precinct boundaries in Thames Street between Precincts 5 and 6.



5.5-2

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Proposed
C172bany

Precinct objectives

To facilitate higher density residential and commercial mixed-use development that supports the retail role of [precinct Precinct 3](#).

To facilitate an increase in the number of dwellings for a diverse range of households.

To support sustainable, liveable and quality development on large sized lots that incorporates contemporary architecture and responds well to its urban design context by making a positive contribution to the streetscape.

To support development with consistent, human scaled street interfaces and greening of buildings that contributes to a vibrant public realm with building design and landscaping that enhances residential amenity and the garden character of adjoining residential areas.

To provide a transition in building height and cluster buildings around Sub-precinct 5E, whilst still identifying each building as separate.

5.5-3

Proposed
C172bany

Precinct requirements

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
5A	11 metres (3 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 2 metres from the front street. Walls of buildings above 10 metres must be setback a minimum of 6.5 metres from the front street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or rear wall on the boundary on one side only 	5 metres
5B	16 metres (5 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 2 metres from the front street and side street. Walls of buildings above 10 metres	North facing ground floor walls of buildings should be setback 3 metres from the south boundary	Above 10 metres in height either : <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or 	5 metres

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
			must be setback a minimum of 6.5 metres from the front street.	of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	rear wall on the boundary on one side only	
5C	20 metres (6 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 0 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 4.5 metres from the front street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either: <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 metres or ▪ Locate a side or rear wall on the boundary on one side only 	5 metres
5D	29 metres (9 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 2 metres from the front street and side street.	North facing ground floor walls of buildings should be setback 3 metres	Above 10 metres in height either: <ul style="list-style-type: none"> ▪ Include a side or rear setback of 4.5 	5 metres

Sub-precinct	Preferred maximum building height	Preferred Mandatory maximum street wall height	Preferred Mandatory minimum front setback	Preferred minimum south side setback to laneway	Preferred Mandatory minimum building separation	Minimum side and rear setbacks adjacent to the boundaries of Precinct 3
			Walls of buildings above 10 metres must be setback a minimum of 6.5 metres from the front street.	from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	metres or <ul style="list-style-type: none"> Locate a side or rear wall on the boundary on one side only 	
5E	None specified	None specified	None specified	None specified	None specified	5 metres
5F	23 metres (7 storeys)	10 metres (2 storeys)	Ground floor walls of buildings must be setback 2 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 6.5 metres from the front street.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either: <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only 	5 metres

5.5-4

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Proposed
C172bany

Precinct guidelines

Mixed use development should provide an appropriate built form transition to sensitively manage the interface to adjoining lower scale residential areas.

Development should positively impact identified key views, notable views and view corridors by:

- Being constructed to the preferred maximum building height as relevant to the Sub-precinct.
- Incorporating adequate upper level setbacks above the street wall height.
- Creating separation between buildings above the street wall height and minimising continuous built form with gaps for views and solar penetration.

Development adjacent to the boundaries of Precinct 5 should allow for adequate landscaping, canopy trees and building separation and minimising impacts from overlooking and overshadowing to adjoining residential development in Precinct 6, including by employing the required side and rear setbacks and providing no more than a two level difference to adjoining residential development in Precinct 6.

Narrow sites should be consolidated and incorporate:

- Improved ground and upper level interfaces to the street including the provision of permanent weather protection for pedestrians.
- Adequate areas for commercial floor space and building entries and foyers at the ground level.
- Adequate areas for access, circulation and car parking.
- The location of site services and utilities with minimal impact on the building's frontage.

In addition to glazing being incorporated into development, use lighter finishes to complement the predominant palette of materials in the area such as red, cream and grey colours.

Signs should be designed so that they do not detrimentally affect the character or amenity of adjacent residential areas to the north and south of the precinct.

Avoid car parking and access points along Bell Street.

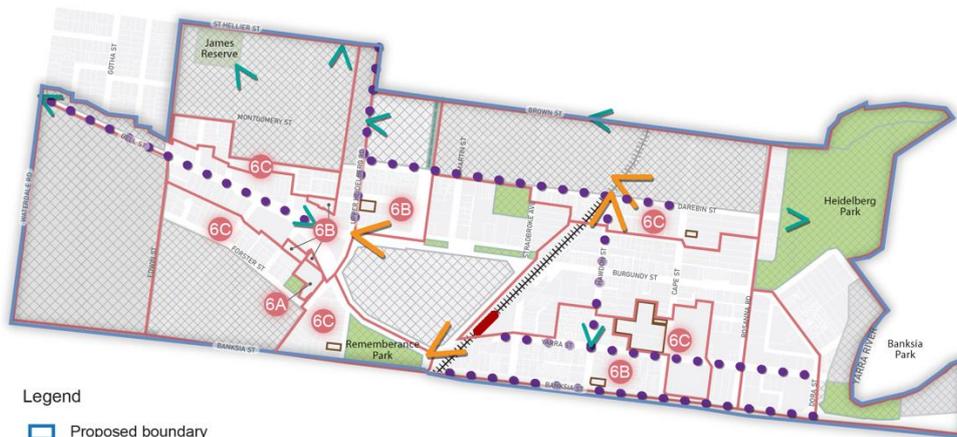
5.6 Precinct 6 – Residential

Proposed C172bany
5.6-1
 Proposed C172bany

Precinct map

Update Precinct 6 Map to:

- clarify the precinct boundaries in Thames Street between Precincts 5 and 6
- update the boundaries of sub-precinct
- Remove sub-precinct 6A and show this land (421 Upper Heidelberg Road, Ivanhoe) as excluded from the Activity Centre Zone
- note new sub-precinct 6D, as follows:



- Legend**
- Proposed boundary
 - Precinct boundary
 - Areas excluded from Activity Centre Zone
 - Heritage Overlay
 - Open space
 - Water body
 - Rail line
 - Rail station
 - Key view
 - Notable view
 - View corridor



5.6-2 Precinct objectives

Proposed C172bany

To provide housing choice and education uses in locations with good access to local services and facilities.

To facilitate an increase in the number and types of housing for a diverse population that is connected to expanded local employment opportunities.

To support development that makes a positive contribution to streetscapes by complementing existing building styles with contemporary design responses.

To support development of a high quality architectural standard and urban design quality that makes a positive contribution to the public realm.

To respect and enhance the preferred neighbourhood character and residential amenity and provide an appropriate transition to surrounding residential areas within and adjoining the activity centre boundary.

5.6-3

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Proposed
C172bany

Precinct requirements

Sub-precinct	Preferred Mandatory maximum building height	Preferred Mandatory minimum front setback	Preferred minimum side setback	Preferred minimum south side setback to an east-west laneway	Preferred Mandatory minimum building separation
6A	40 metres (12 storeys)	None specified	None specified	None specified	None specified
6B	13.5 metres (4 storeys)	Ground floor walls of buildings must be setback 5 metres from the front street and side street. Walls of buildings above 10 metres must be setback a minimum of 9.5 metres from the front street.	Walls of buildings should be setback a minimum of 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only
6C	11 metres (3 storeys)	Ground floor walls of buildings must be setback 5 metres from the front street and side street. Walls of buildings above 10 metres be setback a minimum of 9.5 metres from the front street.	Walls of buildings should be setback a minimum of 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.	North facing ground floor walls of buildings should be setback 3 metres from the south boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	Above 10 metres in height either : <ul style="list-style-type: none"> Include a side or rear setback of 4.5 metres or Locate a side or rear wall on the boundary on one side only
6D	<u>20 metres (6 storeys)</u>	<u>Ground floor walls of buildings must be setback 5 metres from the front street and side street.</u> <u>Walls of buildings above</u>	<u>Walls of buildings should be setback a minimum of 1 metre, plus 0.3 metres for every metre of</u>	<u>North facing ground floor walls of buildings should be setback 3 metres from the south</u>	<u>Above 10 metres in height:</u> <ul style="list-style-type: none"> <u>Include a side or rear setback of 4.5 metres or</u>

Sub-precinct	Preferred Mandatory maximum building height	Preferred Mandatory minimum front setback	Preferred minimum side setback	Preferred minimum south side setback to an east-west laneway	Preferred Mandatory minimum building separation
		10 metres must be setback a minimum of 9.5 metres from the front street.	height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.	boundary of a laneway. North facing walls of buildings above 10 metres should be setback 4.5 metres from the south boundary of a laneway.	<ul style="list-style-type: none"> ▪ Locate a side or rear wall on the boundary on one side only

5.6-4

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Proposed
C172bany

Precinct guidelines

Development should incorporate higher density housing that is well designed, sustainable, affordable and suitable to a range of household types and sizes.

Development should provide an appropriate transition to residential areas adjoining Precinct 6 with setbacks to minimise visual bulk, reduce the potential for overlooking and overshadowing, and allow for landscaping.

~~Development in Sub-precinct 6A should include high density development.~~

Sub-precinct 6B should include a mix of apartments, townhouses and semi-detached dwellings that are designed to positively transition to existing lower scale buildings.

Development should include canopy trees and landscaping in front, side and rear setbacks to provide a good transition with adjoining lower scale buildings and streetscapes.

Where possible, retain existing mature trees in the rear setback and plant canopy trees to maintain and strengthen the garden setting of surrounding residential areas.

Sub-precinct 6C should include a mix of detached and semi-attached dwellings with adequate building setbacks and landscaping.

New dwellings and additions should provide contemporary design responses that complement the character of adjoining residential areas.

Development should provide visual interest through the articulation of walls that are visible from the public realm.

Development adjacent to the boundary of Precinct 6 should provide side and rear setbacks for adequate landscaping and no more than a two level difference to adjoining development in the following areas:

- In general residential areas located within the activity centre boundary.
- In lower scale residential areas abutting the activity centre boundary.

Provide windows at ground level to maximise passive surveillance along Bell Street and side streets.

In addition to glazing being incorporated into development, use lighter finishes to complement the predominant palette of materials in the area such as red, cream and grey colours.

6.0

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Application requirements

The following application requirements apply to an application for a permit under Clause 37.08, in addition to those specified in Clause 37.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

Use

- Potential impacts of:
 - the proposed use on surrounding uses; and
 - that of surrounding uses on the proposed use.

Buildings and works

- An urban context report and design response identifying:
 - Built form and character of adjacent and nearby buildings.
 - Heritage character of adjacent and nearby heritage places.
- The design response in the streetscape context with development of a minimum of two lots shown either side of the site.
- For development above 10 metres, modelling which details the impacts of the proposal on identified key views across and from the activity centre and provided in a format that allows for future integration into the digital 3-dimensional model for the activity centre.
- A construction management plan.
- A wind impact assessment report.
- For development in Precinct 4, the adaptability of the proposed building's levels to accommodate future office, medical centre or hospital use and development.
- For development in Precinct 6, a landscape concept plan based on the Banyule Tree Planting Zone Guidelines which distinguishes landscaped garden areas from useable private open space, shows tree planting locations and the extent of the mature canopies.

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Notice and review

An application for the use of land is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act in accordance with Clause 37.08-8.

An application to construct a building or construct or carry out works that does not meet the preferred maximum building height requirements or the preferred maximum setback requirements included in Clause 5.0 of this schedule is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act in accordance with Clause 37.08-8.

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Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.08, in addition to those specified in Clause 37.08 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

Use

- Impacts of the proposed use on other uses in the area.
- Whether a mix and greater density of uses is proposed.
- [Whether the proposed use is an acceptable outcome having regard to the risk of flooding.](#)

Buildings and works

- The impacts of the proposal on key views, notable views and view corridors identified for the activity centre and the protection of these views.
- Whether the proposed development is appropriate in the context of adjacent development or to existing development at an adjoining heritage place.

- Whether the development respects the scale of surrounding development and the topography of surrounding land.
- Whether overshadowing is minimised from development and unlikely to cast additional shadows to identified public spaces at the equinox between 11 am and 2 pm.
- Whether the development is an under-development of the site and the potential impacts on unreasonably reducing development opportunities of the activity centre in the future.
- Whether the proposal in Precinct 3 or 5 derives from lot consolidation incorporating a frontage width of 18 metres and provides sufficient areas for pedestrian and vehicle access, services and circulation spaces, commercial or residential ground level floor space, passive surveillance and a positive contribution to the street.
- Whether the facades of development visible from nearby parklands provide treatments that are sympathetic with the parkland environment.
- Whether the development provides adequate opportunities for natural light to penetrate to lower levels of buildings.
- Whether the development makes a positive contribution to the identity and sense of place within the activity centre.
- Whether the development is of a high quality architectural standard and improves the urban design quality of the activity centre.
- Whether the proposed development incorporates vegetation at elevated levels within a building including rooftops, facades and balcony areas.
- Whether the development incorporates environmental sustainability principles.
- Whether the development uses stormwater to irrigate vegetation in landscaped areas.
- Whether the proposed landscaping includes weed species as identified in the Banyule Weed Management Strategy.
- Whether the construction management plan will appropriately manage site construction.
- In Precincts 2, 3, 4 and 5, whether floor to ceiling heights in a proposal is adaptable for a range of commercial, medical and hospital related uses and/or developments.
- In Precinct 6, whether a greater diversity and mix of dwelling types is proposed.
- In Precinct 6, whether the proposed site coverage is appropriate and enhances the character of the area, enabling large trees to be retained and new trees to be planted.
- [Whether the proposed use is an acceptable outcome having regard to the risk of flooding.](#)

Subdivision

- Whether subdivision will result in the inappropriate fragmentation of sites.
- Whether the subdivision of the land will consolidate vehicle access points.
- Whether the subdivision is based on development that derives from lot consolidation incorporating a frontage width of 18 metres.
- Whether the width of shared access is adequate to facilitate future development.
- Whether subdivision is likely to enable the safe and efficient movement of people and vehicles and the clear identification of communal areas and private areas.

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Signs

Sign requirements are at Clause 52.05. All land located within Precincts 2 and 3 is in Category 2. All other land is in Category 3.

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Other provisions of the scheme

None specified.

11.0

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Reference documents

Heidelberg Structure Plan, Final (Banyule City Council, April 2023)