

**Glen Eira Planning Scheme Amendment C243glen
Caulfield Park Neighbourhood Activity Centre**

Panel Report

Planning and Environment Act 1987

11 January 2023

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 or not 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

Glen Eira Planning Scheme Amendment C243glen

Caulfield Park Neighbourhood Activity Centre

11 January 2023



Sarah Raso, Chair

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Glossary and abbreviations

City Plan	<i>Glen Eira City Plan: Activity Centre, Housing and Local Economy Strategy, 2020</i>
Council	Glen Eira City Council
DDO	Design and Development Overlay
DDO12	Schedule 12, Design and Development Overlay
Framework Plan	<i>Caulfield Park Neighbourhood Activity Centre Built Form Framework, March 2022</i>
Housing Strategy	<i>Glen Eira Housing Strategy, August 2022</i>
NAC	Caulfield Park Neighbourhood Activity Centre
PE Act	<i>Planning and Environment Act 1987</i>

Overview

Amendment summary

The Amendment	Glen Eira Planning Scheme Amendment C243glen
Common name	Caulfield Park Neighbourhood Activity Centre
Brief description	The Amendment proposes to implement the built form objectives and requirements of the Caulfield Park Neighbourhood Activity Centre Built Form Framework, March 2022
Subject land	189-231 Balaclava Road (odd numbers), 198-238 Balaclava Road (even numbers), 53-137 Hawthorn Road (odd numbers), 96-166 Hawthorn Road (even numbers), 1A and 1 Cromwell Street and 2 Stanley Parade, Caulfield
Planning Authority	Glen Eira Planning Scheme
Authorisation	21 June 2022
Exhibition	11 August 2022 to 12 September 2022
Submissions	Number of Submissions: 13. Refer to Appendix A

Panel process

The Panel	Sarah Raso (Chair)
Directions Hearing	17 November 2022
Panel Hearing	12 December 2022
Site inspections	Unaccompanied, 2 December 2022
Parties to the Hearing	Glen Eira City Council represented by Ms Adeline Lane of Jackson Lane Legal who called evidence on: <ul style="list-style-type: none"> - Town planning from John Glossop of Glossop Planning - Traffic and access from Leigh Furness of the Traffix Group Yorklet Pty Ltd and Ancestral Homes Pty Ltd represented by Mr James Burton of Human Habitats Ms Bridget Cramphorn
Citation	Glen Eira Planning Scheme Amendment C243 [2022] PPV
Date of this report	11 January 2023

Executive summary

Caulfield North is experiencing continuous development pressure with a significant amount of development activity and approvals along Hawthorn Road and Balaclava Road. Glen Eira Planning Scheme Amendment C243glen (the Amendment) seeks to introduce a new Schedule 12 to the Design and Development Overlay (DDO12) which includes built form objectives and requirements to guide new development in the centre. DDO12 is underpinned by the Caulfield Park Neighbourhood Activity Centre Built Form Framework, March 2022 (Framework Plan). The Amendment introduces it into the Glen Eira Planning Scheme as a Background Document at Clause 72.08.

DDO12 divides the centre into two precincts and provides centre wide and precinct specific height, setback and built form controls.

Key issues raised in submissions included:

- building form and visual bulk
- neighbourhood character, heritage and amenity impacts
- road and laneway use and congestion
- tree canopy and vegetation protection
- clarity of documentation.

The Panel finds the Amendment is strategically justified and appropriately translates the Framework Plan into planning controls proposed through well-structured DDO schedule provisions.

The Panel concludes:

- Amendment C243glen to the Glen Eira Planning Scheme is strategically justified.
- Mandatory and preferred maximum building heights as proposed are appropriate.
- Direct vehicle access to Hawthorn Road and Balaclava Road should be avoided where possible.
- The surrounding street network has the capacity to absorb additional vehicles without an unacceptable impact on surrounding amenity.
- The laneway network however has limited capacity to absorb increased traffic accessing new development and some improvements will be required over time, including building setbacks and corner splays.
- Design and Development Overlay Schedule 12 is appropriately drafted subject to minor changes.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Glen Eira Planning Scheme Amendment C243glen be adopted as exhibited subject to the following:

- 1. Amend Design and Development Overlay Schedule 12 as follows:**
 - a) Add the words “minimising vehicle disruption” after the words “ground floor” in the third paragraph under Clause 1.0.**
 - b) Add the words “whichever is the lesser” at the end of the entry for ‘Precinct 1 – 154-156 Hawthorn Road’ in the Street wall height table in Clause 2.0.**

- c) Delete the sentence beginning “Building height excludes roof top services ...” in the second paragraph under the heading of “Building height” in Clause 2.0.
- d) Replace the sentence beginning “Avoid repetitive stepped building forms...” under the heading of “Building form and design” in Clause 2.0 with the sentence “Provide consistent setbacks above the street wall for at least two thirds of the upper levels.”
- e) Add the words “where possible” to the end of the sentence beginning “Provide loading...” under the heading “Access and services” in Clause 2.0.
- f) Add the following under the heading of Access and Services in Clause 2.0:

“New vehicle crossovers to Hawthorn Road and Balaclava Road should be avoided.

Development on a laneway should include a rear/side setback or a corner splay at ground floor, to facilitate the ongoing functionality of the laneway and allow for building services and car park access.

Permanent obstructions within a rear/side setback or splay to a laneway should be avoided.

Properties that abut RO027 (from Balaclava Road to the dead end) should incorporate a 3m setback from the laneway at ground level with a clearance height of 3.5m.”

- g) Add the following as a new dot point 2 under the heading of “Application requirements” in Clause 5.0:
 - “A Traffic and Parking Assessment Report which includes an assessment of the cumulative impacts of traffic and parking in the Precinct including an assessment of ongoing functionality of laneway/s and relevant local streets.”
- h) Amend Diagram 4 to show all building heights and setbacks in metres, consistent with the relevant table in Clause 2.0.

1 Introduction

1.1 The Amendment

(i) Amendment description

Amendment C243glen seeks to implement the built form objectives and requirements of the Framework Plan and provide permanent built form controls for land within the Caulfield Park Neighbourhood Activity Centre (NAC).

At the ordinance level, the exhibited Amendment proposes to:

- introduce a new schedule to Clause 43.02 Design and Development Overlay, being Schedule 12 – Caulfield Park Neighbourhood Activity Centre
- introduce the Framework Plan as a background document within Clause 72.08 Background Documents.

(ii) The subject land

The land affected by the Amendment is shown on the proposed DDO12 map in Figure 1, and includes:

- 189-231 Balaclava Road (odd numbers)
- 198-238 Balaclava Road (even numbers)
- 53-137 Hawthorn Road (odd numbers)
- 96-166 Hawthorn Road (even numbers)
- 1A and 1 Cromwell Street
- 2 Stanley Parade.

Figure 1 Subject land



1.2 Background

Glen Eira City Council (Council) provided a detailed background to the Amendment in its Part A submission, including a chronology of events which the Panel has summarised in Table 1.

Table 1 Amendment C243glen chronology of events

Date	Event
Background work	
23 February 2021	Commencement of the built form framework plans for Caulfield South, Caulfield Park and Bentleigh East
27 April 2021	Council resolved to release the draft built form framework plans for community consultation
3 May 2021	Consultation commences
14 June 2021	Consultation concludes
21 September 2021	Built form framework plans finalised
23 November 2021	<p>Council resolved to:</p> <ul style="list-style-type: none"> - adopt the built form framework plans - request that the Minister for Planning grant authorisation to prepare and exhibit amendment C231glen in accordance with Section 8A of the <i>Planning and Environment Act 21987</i> (PE Act) <p>The resolution also noted that requests for authorisation of amendments relating to the remaining two built form framework plans (Caulfield Park and Bentleigh East) would follow.</p>
Amendment process	
5 April 2022	Council resolved to request the Minister for Planning grant authorisation to prepare and exhibit the Amendment in accordance with Section 8A of the Act
21 June 2022	Minister for Planning authorised Council to prepare the Amendment in accordance with section 8A of the Act, and subject to conditions
11 August 2022 – 12 September 2022	Exhibition of the Amendment
29 August 2022	Information session held at the Glen Eira Town Hall, attended by approximately 10 community members
29 September 2022	Planning consultation conference held
2 November 2022	<p>Council resolved to:</p> <ul style="list-style-type: none"> - receive and note the submissions - note the Council officer's report considering the submissions - request the Minister for Planning appoint an independent planning Panel in accordance with Section 23 of the PE Act - refer all submissions to the Panel for its consideration
Panel process	
17 November 2022	Directions Hearing

Date	Event
12 December 2022	Panel Hearing

1.3 The Panel's approach

Key issues raised in submissions were:

- building form and visual bulk
- neighbourhood character, heritage and amenity impacts
- road and laneway use and congestion
- tree canopy and vegetation protection
- clarity of documentation.

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 exhibition of the Amendment, observations from its site visit, 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
- Built form controls
- Other issues.

1.4 Limitations

Some submissions made general comments about the need for tree protection, the introduction of tree protection measures, removal of existing car ramps, issues regarding car parks behind shopping strips, bike racks and car drop-off areas and the democratic process and the planning system. These are broad submissions not directly related to the Amendment and have not been considered further in this Report.

2 Strategic issues

2.1 Planning context

Council submitted the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below. Appendix C highlights key imperatives of the relevant provisions and policies.

Table 2 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Planning Policy Framework¹	- Clauses 11 (Settlement) - Clause 15 (Built Environment and Heritage) - Clause 16 (Housing) - Clause 17 (Economic Development) - Clause 18 (Transport) - Clause 21 (Municipal Strategic Statement) - Clause 22.01 (Heritage) - Clause 22.07 (Suburb Framework Plans)
Other planning strategies and policies	- Plan Melbourne Direction 4.1 and 5.1 - Integrated Transport Strategy 2018 - Glen Eira Social and Affordable Housing Strategy 2019-2023 - Open Space Strategy Refresh 2020 - Glen Eira City Plan 2020 - Climate Emergency Response Strategy 2021-2025 - Glen Eira Housing Strategy 2022
Planning scheme provisions	- Commercial 1 Zone - Parking Overlay Schedule 2 - Heritage Overlay Schedule 206
Ministerial directions	- Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning practice notes	- Planning Practice Note 46: Strategic Assessment Guidelines, August 2018 - Planning Practice Note 59: The role of mandatory provisions in planning schemes - Planning Practice Note 60: Height and setback controls in activity centres

¹ A Municipal Planning Strategy has been prepared and is the subject of Planning Scheme Amendment C220, which has been adopted by Council but not yet been approved by the Minister for Planning. As such it is not considered by the Panel in this report.

2.2 Strategic justification

(i) The issue

The issue is whether the Amendment is strategically justified.

(ii) Evidence and submissions

There was no dispute amongst the parties that the Amendment is strategically justified.

The Explanatory Report provides a clear strategic basis for the Amendment:

The proposed amendment has arisen as a result of a need to apply design and development controls and guidance to the Caulfield Park Neighbourhood Activity Centre.

Caulfield Park is experiencing development pressure with a significant amount of development activity and approvals. Permanent built form controls will manage the growth and guide the scale of future development to provide certainty about development outcomes.

Permanent built form controls will be introduced into the Glen Eira Planning Scheme through a new Schedule 12 to the Design and Development Overlay (DDO12). DDO12 includes a mix of mandatory and preferred requirements addressing issues such as building heights, street wall heights, upper-level setbacks, front setbacks, and interfaces to residential properties.

This amendment is informed by the *Caulfield Park Neighbourhood Activity Centre Built Form Framework (March 2022)* prepared by Tract. The Built Form Framework sets out preferred development outcomes and provides guidance and requirements for building heights, setbacks and other design considerations. It is supported by rigorous analysis and guided by sound urban design principles appropriate to the context of the centre.

Council submitted the Amendment is strategically justified, is supported by, and implements, the relevant sections of the Planning Policy Framework.

Mr Glossop, who provided planning evidence for Council, said:

- the Amendment is required to address an identified gap within the Glen Eira Planning Scheme at a local level for built form guidance within the NAC
- while the Local Planning Policy Framework identifies the NAC as a location for change, beyond the general policy points of Clause 22.07-3.1, there is no specific statutory guidance as to how the NAC is intended to be developed
- Clause 21.04-2 identifies a need for this detailed guidance to be developed and this has been done through subsequent strategic planning work including Glen Eira City Plan: Activity Centre, Housing and Local Economy Strategy, 2020 (City Plan), the Glen Eira Housing Strategy August 2022 (Housing Strategy) and Amendment C220glen
- the Framework Plan has been developed to provide a detailed study of the NAC's development potential and identifies the need for specific built form controls to be introduced.

Mr Glossop identified that the City Plan generally provides guidance for built form in the Glen Eira's activity centres that is different to that provided in the Housing Strategy and the Framework Plan. However, he said there is no misalignment simply because the Framework Plan supports higher development in this centre than was contemplated in City Plan. This is because:

- the City Plan is a broad city-wide strategy, and the level of analysis is inadequate to be used to set height levels at a granular level
- the Framework Plan has undertaken a rigorous assessment of local conditions and provides the centre-specific justification for built form controls for this area

- small height differences are to be expected *“between a City-wide ‘high level strategy’ and a locally specific assessment of built form. In fact, the differences between the two documents are not strategically significant.”*

(iii) Discussion and conclusions

The Panel finds there is strong support under the PE Act, the Planning Scheme and other strategic reports and documents that justifies the strategic basis for the Amendment. There has been a clear progression in policy from a broader city-wide focus through to a more detailed activity centre specific built form framework.

The Framework Plan has been accurately translated into planning provisions through well-structured provisions in the proposed DDO12.

The Panel concludes the Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

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
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing some minor drafting issues as discussed in the following chapters.

3 Built form controls

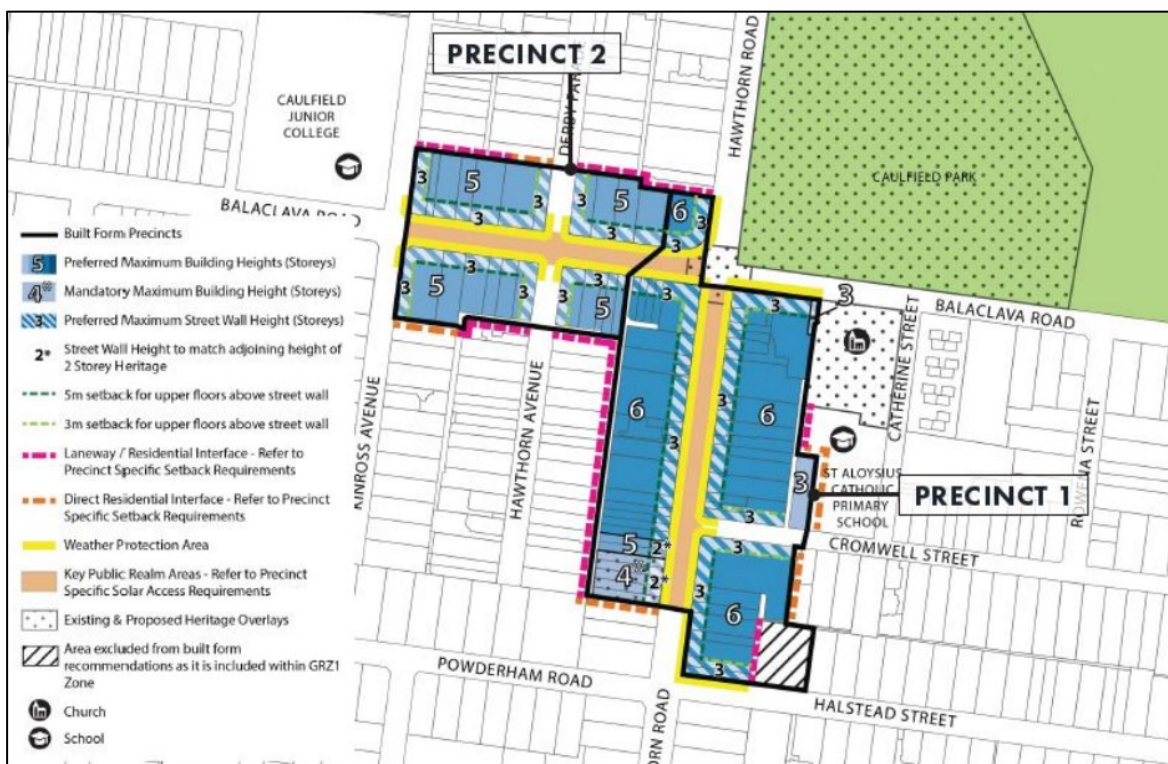
3.1 What is proposed

The Framework Plan breaks down the NAC into two different precincts:

- Precinct 1 – generally to the south of Balaclava Road
- Precinct 2 – generally to the west of Hawthorn Road.

Both precincts include different built form requirements, with these requirements translated into the proposed DDO12 ordinance. These include differing building height, setback and street wall requirements.

Figure 2 Caulfield Park Built Form Framework Plan



3.2 Mandatory and discretionary provisions

(i) The issue

The issue is whether it is appropriate to apply mandatory maximum building heights to the entire NAC.

(ii) What does the Amendment propose?

The proposed DDO12 includes a mandatory maximum building height for heritage buildings located at 158-166 Hawthorn Road and a range of discretionary building heights elsewhere in the NAC.

(iii) Background

Planning Practice Note 59 (The Role of Mandatory Provisions in Planning Schemes) (PPN59) sets out the following criteria to assist in determining whether mandatory provisions are justified:

- Are the mandatory provisions strategically supported?
- Are the mandatory provisions appropriate to the majority of proposals?
- Do the mandatory provisions provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provisions be clearly unacceptable?
- Will the mandatory provisions reduce administrative costs?

Planning Practice Note 60 (Height and Setback Controls for Activity Centres) (PPN60) provides guidance introducing mandatory height provisions in activity centres:

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.

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.

(iv) Submissions

Some submitters, while broadly supporting the Amendment, submitted the proposed building heights should be more restrictive. Submitter 4 said four storeys should be the maximum permissible height in the NAC. It was submitted the preferred requirements could too easily be exceeded and all building heights should be mandatory as opposed to discretionary.

Council submitted there is little justification to seek mandatory building heights beyond the limited extent proposed for the land currently within HO206 when regard is given to the relevant practice note guidance².

(v) Discussion and conclusion

Victorian planning schemes are predominantly performance based which provides for flexibility in the approach or variation in the measure to achieve the required outcome. This performance-based system requires judgement and assessment to decide whether a proposal meets relevant planning objectives or strikes an appropriate balance between competing objectives.

Mandatory provisions are the exception. There will be circumstances where mandatory requirements will provide certainty and ensure preferable and efficient outcomes and some examples include areas of high heritage value, and strong and consistent character themes. The mandatory provisions proposed have been applied in circumstances which are necessary to protect and manage the important heritage qualities of the land currently within HO206. This was not disputed by any submitter. The issue was whether the mandatory provision should be applied more widely throughout the NAC.

² PPN59 The Role of Mandatory Provisions in the Planning Scheme and PPN60 Height and Setback Controls for Activity Centres.

The Panel considers the proposed combination of discretionary and mandatory built form provisions to manage the future growth of the NAC is appropriate. The Amendment is founded on detailed strategic work which underpins the proposed building height provisions. This includes the Framework Plan which provides sufficient justification for the proposed height provisions, and the City Plan more generally. The Panel agrees with the Council that it does not provide justification for mandatory maximum building height provisions elsewhere in the NAC.

The Panel concludes:

- It is not appropriate, and it is not strategically justified to apply mandatory maximum building heights to the entire NAC.

3.3 Building height and setback requirements

(i) The issues

The issues are whether the:

- proposed maximum building height of 21 metres is appropriate and justified for the land at 53-55 and 57 Hawthorn Road
- DDO12 should be amended to clearly define a “*corner site*”
- proposed building heights are too intense.

(ii) Submissions

Submitter 9 owns two properties at 53-55 and 57 Hawthorn Road. Both properties are on the south eastern corner of the Hawthorn Road and Balaclava Road intersection and are currently developed with single-storey commercial buildings.

The sites are within Precinct 1 in the Framework Plan and are subject to a preferred maximum building height of 21 metres (six storeys). The sites are further recognised as “*constrained lots due to lot size*”.³

Whilst Submitter 9 broadly supports the Amendment, it was submitted:

- the land at 53-55 and 57 Hawthorn Road should be expressly recognised for its “*strategic importance and potential to accommodate an appropriate designed building of scale*”
- the land should be subject to an increased building height.

Submitter 9 submitted the DDO should be amended to provide for seven storey buildings as a preferred maximum in line with recent approvals in the immediate area. It was submitted that while individual site circumstances can be considered using discretionary provisions, now is the opportunity to implement provisions which reflect the permitted built form context and the site’s role in the context of the NAC.

It was also submitted that corner sites should be clearly defined to include sites that are included as part of a singular permit application. This is because the sites which adjoin the land at 53-55 and 57 Hawthorn Road are subject to a preferred 3 metre setback for upper floors above the street wall given their corner location, while the adjoining land is subject to a 5 metre upper level setback. Submitter 9 submitted the land at 53-55 and 57 Hawthorn Road could one day be

³ Lots with an area of less than 300 square metres, page 31 of the Framework Plan.

consolidated with adjoining land parcels and it would assist if the definition of corner site could be clarified.

In response Council submitted:

With respect to both the requested changes relative to the specific sites and for corner sites more generally, Council submits that the application of specific buildings and works requirements to specific sites within the NAC would be contrary to the methodology employed by the Framework Plan. The Framework Plan takes a precinct wide approach to the application of buildings and works requirements, rather than on a site-by-site basis⁴.

Matters relevant to the individual context of each site, including its location as a corner site, can be considered on a case-by-case basis through the consideration of any future planning permit applications, as indeed is allowable through Council's proposed use of discretionary controls over mandatory controls.

Further, Council considers that there is no need to define 'corner sites', noting that specific provisions that apply to corner sites already exist within the Scheme under the VPPs without an accompanying definition. The absence of such definition has, in Council's experience, failed to hinder the effective operation of existing provisions that relate to 'corner sites'.

Other submitters submitted the proposed building heights are too intense and the preferred height requirements should be lowered.

Council submitted:

Council notes that the building heights proposed to be implemented through the DDO12 have been derived from the detailed built form analysis contained within the Framework Plan, which includes consideration of the existing character, balanced against the need to accommodate growth to housing and other commercial activities in line with the NAC's status as a neighbourhood activity centre. The Planning Policy Framework and Plan Melbourne encourage increased densities within recognised activity centres as a means of accommodating Melbourne's anticipated population growth.

(iii) Discussion and conclusions

The Panel finds the proposed discretionary building height for 53-55 and 57 Hawthorn Road is appropriate within its context and is not persuaded there is a need to increase the preferred metric on a site-specific basis. The Framework Plan adopts a precinct-based approach, and the analysis has appropriately considered relevant factors in establishing the mix of preferred maximum building height provisions for Precinct 1 and in particular for the land at 53-55 and 57 Hawthorn Road.

Recent development approvals granted for sites in Balaclava Road allow for maximum building heights which exceed the preferred height of 21 metres for Precinct 1. However, these applications were considered under existing planning provisions and not the design objectives and requirements of DDO12. The Panel does not consider they set a precedent for establishing a higher preferred maximum building height provision than what has been established by the Framework.

The Panel considers it is appropriate to determine specific metrics for individual sites as part of the planning permit process, where regard can be had to an urban design and shadow analysis for example, and the implications of additional height to the surrounding area. Given the provisions proposed are discretionary the Panel is not convinced there is a need to increase any site-specific building height provisions in the NAC.

⁴ With the exception of the section of Precinct 1 that falls within, or is adjacent to, HO206.

The Panel agrees with the Council that there is no need to define “*corner sites*” in the DDO12. The provisions are discretionary the specific metrics for upper level setbacks for any specific parcel of land can be determined as part of the planning permit process. Once the land parcel, or permit application land is known, the metric which is reasonable for that specific configuration can be determined.

The Panel also considers the proposed height provisions are appropriate. The building heights have been derived from a detailed urban design and built form analysis in the Framework. The Framework considers the existing form of the NAC and its surrounds, including its heritage assets and the relevant interfaces with the surrounding residential areas. This has been balanced against the role of the NAC to deliver commercial and residential growth within the municipality, in a manner that responds to its local context. The Framework has been developed to provide a detailed study of the NAC’s development potential and provides guidance on the degree of change and growth anticipated. The Panel considers the preferred built form outcomes appropriately identify how change will occur in the NAC while responding appropriately to its physical and policy context.

The Panel concludes:

- The Framework Plan provides strategic justification for the building height provisions proposed in DDO12.
- The proposed height provisions are appropriate and justified.
- The proposed maximum building height of 21 metres is appropriate and justified for the land at 53-55 and 57 Hawthorn Road.
- Including a definition of “*corner site*” in the DDO12 is not appropriate.
- The discretionary nature of the provisions provides the ability for variations through the planning permit application process if appropriate.

4 Other issues

4.1 Traffic and access

(i) The issues

The issues are whether:

- use of laneways for vehicle access to development is appropriate
- there will be an unacceptable increase in the level of traffic in surrounding residential streets.

(ii) Background

DDO12 seeks to direct the use of laneways for vehicle access to development sites, in preference to access from Balaclava Road, Hawthorn Road and other higher order roads.

(iii) Evidence and submissions

Two submitters were concerned with the ability of laneways to handle an increase in traffic. One submitter was particularly concerned with the laneway to the rear of commercial properties on the western side of Hawthorn Road, south of Balaclava Road, submitting it is narrow and has limited visibility when approaching Balaclava Road.

Other submitters submitted the increase in traffic flow and car parking from new development could be problematic and may result in congestion and increased traffic hazards.

Mr Furness gave evidence for the Council with respect to traffic engineering matters. Mr Furness supported the use of existing laneways for vehicle access to new developments because it will:

- maximise the efficiency and operation of arterial roads
- provide a continuous safe environment for pedestrians at-grade along Balaclava Road and Hawthorn Road by reducing breaks in the footpath
- reducing pedestrian-vehicle conflict points and increasing the amount of active street frontage.

However, Mr Furness said the benefits of providing vehicle access to laneways needs to be tempered against other competing demands. These include development intensity and laneway capacity and the physical characteristics of the laneway or land uses which generate a high volume of traffic and truck movements (such as supermarkets) where access to a higher order road might be preferable. Mr Furness said some of the laneways within the NAC are constrained geometrically and the key issues for these laneways include:

- narrow width - the laneways are largely three metres wide, providing a single lane for two-way traffic
- long length - in combination with the narrow width of the laneways means that the chance for vehicle conflict within a long laneway increases and the ability of drivers to manage conflicts becomes more challenging
- bends that obstruct sight distance
- inadequate splays at bends within the laneways that are incapable of accommodating the B99 design car from AS2890.1-2004.

Mr Furness said these factors do not mean the laneways are incapable of carrying some level of additional traffic but said their capacity will need to be monitored over time and some improvements may be required.

Mr Furness classified laneway RO027 (which runs off Balaclava Road along the rear of properties on the western side of Hawthorn Road) as highly constrained and recommended ensuring:

- developments of properties fronting Balaclava Road and Hawthorn Road be setback 3 metres at ground floor (to a height of 3.5 metres) to the laneway to gradually widen the laneway over time to 6 metres
- new developments provide adequate splays at the corners of laneways.

Mr Furness sought that the 3 metre setback be mandatory. The Panel sought clarification from Council on its position given the mandatory setback did not form part of the exhibited Amendment and affected land owners had not been notified of this proposed change. Council considered this procedural matter and accepted the recommendation but on a discretionary, rather than mandatory basis.

More generally, Mr Furness recommended:

- new vehicle crossovers to Hawthorn Road and Balaclava Road should be avoided
- any development on a laneway should include a rear/side setback or a corner splay at ground floor to facilitate the ongoing functionality of the laneway and allow for building services and car park access
- permanent obstructions within a rear/side setback or splay to a laneway should be avoided.

Mr Furness also said the traffic impacts of the development facilitated by the DDO12 will be able to be accommodated by the surrounding transport network.

Council accepted the recommendations of Mr Furness and where relevant included his suggested wording changes in its final recommended version of DDO12 (Document 7).

(iv) Discussion and conclusions

The Panel broadly accepts the evidence and recommendation of Mr Furness. The Panel agrees the laneways have limited capacity to absorb increased traffic accessing new development, and some improvements will be required over time. The Panel endorses the wording suggested by Mr Furness with respect to specific rear and side setbacks for any new developments and the implementation of corner splays.

In relation to the setback along RO027, the Panel accepts this is appropriate on the basis it is discretionary rather than mandatory. The specific metrics for individual sites and changes to RO027 can be considered as part of the planning permit process.

The Panel further agrees with Mr Furness that direct vehicle access to Hawthorn and Balaclava Roads should be avoided where possible and endorses the wording Mr Furness suggested is added to DDO12.

The Panel understands residents' concerns about the increase in traffic in surrounding areas. The Panel acknowledges there will inevitably be an increase in traffic but accepts Mr Furness's assurance that the surrounding road and street network has the capacity to absorb the likely increase in traffic. The traffic impact assessments that will be required as part of any development application for larger developments provide for this to be actively monitored by Council.

The Panel concludes:

- Direct vehicle access to Hawthorn and Balaclava Roads should be avoided where possible.
- The surrounding street network has the capacity to absorb additional vehicles without an unacceptable impact on residential amenity.
- The laneways have limited capacity to absorb increased traffic accessing new development and some improvements will be required over time, including building setbacks and corner splays.
- The wording that Mr Furness suggested be added to DDO12 is supported by the Panel.

4.2 Drafting of DDO12

(i) The issue

The issue is whether the DDO12 is appropriately drafted.

(ii) Evidence and submissions

Mr Glossop made some comments and subsequent recommendations aimed at improving the drafting of the Schedule. Specifically, he recommended the following changes are made to DDO12:

- The fourth objective relating to the pedestrian experience be expanded to read:
To enhance the pedestrian experience through improved activation at ground floor, *minimising vehicle disruption* and maintaining sunlight to the Hawthorn Road and Balaclava Road footpaths.
- Clause 2.0 (Street wall height) in Precinct 1 (154-156 Hawthorn Road) be amended to clarify the meaning of the requirement which says '9 metres or match an existing adjoining building height is preferred'.
- Clause 2.0 (Building Height) be amended to:
 - delete the definition of building height given this is defined at Clause 73.01
 - update the mapping at Diagram 4 to show heights as metres and not storeys given practice guidance encourages building height shown in metres.
- The wording in the paragraph on repetitive stepped building forms under the Heading of "Building form and design" in Clause 2, be replaced by:
Provide consistent setbacks above the street wall for at least two-thirds of upper levels. This applies to both street and rear interfaces. Refer to Diagram 3 below.

Council accepted these recommendations and no other submitter commented on these recommended changes.

(iii) Discussion and conclusions

The Panel accepts the wording changes proposed by Mr Glossop and accepted by Council.

The Panel concludes:

- Include wording changes proposed by Mr Glossop and Mr Furness in DDO12.
- Subject to the changes to wording proposed by Mr Glossop and Mr Furness, the Panel considers DDO12 to be appropriately drafted.
- Diagram 4 in DDO12 should be amended to show heights in metres rather than storeys to make it consistent with the relevant tables in Clause 2.0

4.3 Recommendations

The Panel recommends:

1. Amend Design and Development Overlay Schedule 12 as follows:
 - a) Add the words “minimising vehicle disruption” after the words “ground floor” in the third paragraph under Clause 1.0.
 - b) Add the words “whichever is the lesser” at the end of the entry for ‘Precinct 1 – 154-156 Hawthorn Road’ in the Street wall height table in Clause 2.0.
 - c) Delete the sentence beginning “Building height excludes roof top services ...” in the second paragraph under the heading of “Building height” in Clause 2.0.
 - d) Replace the sentence beginning “Avoid repetitive stepped building forms...” under the heading of “Building form and design” in Clause 2.0 with the sentence “Provide consistent setbacks above the street wall for at least two thirds of the upper levels.”
 - e) Add the words “where possible” to the end of the sentence beginning “Provide loading...” under the heading “Access and services” in Clause 2.0.
 - f) Add the following under the heading of Access and Services in Clause 2.0:

“New vehicle crossovers to Hawthorn Road and Balaclava Road should be avoided.

Development on a laneway should include a rear/side setback or a corner splay at ground floor, to facilitate the ongoing functionality of the laneway and allow for building services and car park access.

Permanent obstructions within a rear/side setback or splay to a laneway should be avoided.

Properties that abut RO027 (from Balaclava Road to the dead end) should incorporate a 3m setback from the laneway at ground level with a clearance height of 3.5m.”
 - g) Add the following as a new dot point 2 under the heading of “Application requirements” in Clause 5.0:

“A Traffic and Parking Assessment Report which includes an assessment of the cumulative impacts of traffic and parking in the Precinct including an assessment of ongoing functionality of laneway/s and relevant local streets.”
 - h) Amend Diagram 4 to show all building heights and setbacks in metres, consistent with the relevant table in Clause 2.0.

Appendix A Submitters to the Amendment

No	Submitter
1	John Tregaskis
2	Ian Strachen
3	Jim Walker
4	Bridget Cramphorn
5	Ric Benjamin
6	Allan Tiller
7	South East Water
8	Rudy Joosten
9	Yorklet Pty Ltd and Ancestral Homes Pty Ltd
10	Norma and Reg Binding
11	Barbara Hoad
12	Jillian McLean
13	Fay and Bruce Joske
14	Department of Transport

Appendix B Document list

No.	Date	Description	Provided by
1	17 Nov 22	Submitter map	Glen Eira City Council (Council)
2	18 Nov 22	Panel Directions and Timetable (version 1)	Planning Panels Victoria (PPV)
3	30 Nov 22	Council Part A submission	Council
4	2 Dec 22	Expert Witness Statement – Leigh Furness	Council
5	2 Dec 22	Expert Witness Statement – John Glossop	Council
6	7 Dec 22	Council Part B submission	Council
7	7 Dec 22	Council’s Revised Schedule 12 to the DDO	Council
8	7 Dec 22	Department of Transport submission	Council
9	9 Dec 22	Bridget Cramphorn submission	Bridget Cramphorn
10	9 Dec 22	Yorklet Pty Ltd and Ancestral Homes Pty Ltd submission	Yorklet Pty Ltd and Ancestral Homes Pty Ltd (Yorklet)
10	12 Dec 22	PowerPoint presentation	Yorklet

Appendix C Planning context

C:1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

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

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 Caulfield Park NAC in a manner consistent with the directions of Plan Melbourne.

Clause 15 (Built Environment and heritage)

Clause 15 (Built Environment and heritage) 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 in the context of heritage places.

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 Caulfield Park NAC.

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 Caulfield Park NAC.

Clause 18 (Transport)

Clause 18 (Transport) promotes the creation of a safe and sustainable transport system and promotes the use of sustainable personal transport. The Amendment implements the objectives of this clause by facilitating development in an activity centre that is well serviced by public transport.

Clause 21 (the Municipal Strategic Statement)

Council's Municipal Strategic Statement (at Clause 21.03-5) includes the following on Neighbourhood Centres:

The Framework Plan includes a number of neighbourhood centres such as Caulfield South, Bentleigh East, Ormond, Glen Huntly, Caulfield Park, McKinnon, Murrumbeena, Hughesdale and Moorabbin. These are distributed throughout the City, to serve as the focus for individual neighbourhoods and provide a mix of small-scale convenience retailing and service uses. Apartments and shop top housing is encouraged within the commercial areas of these centres. Single dwellings and multi-unit development are encouraged immediately adjoining the commercial areas of these centres.

Clause 21.06 (Business) further describes the vision for Glen Eira's neighbourhood centres:

Many of the smaller neighbourhood centres and strip shopping centres throughout the municipality have also evolved along train or tram routes. The encouragement of multi-unit development in the Phoenix Precinct and Bentleigh, Carnegie and Elsternwick urban villages as well as the neighbourhood centres will exploit these transport opportunities as well as increasing the catchment populations served by each centre. The pursuit of urban village principles in each of these centres will promote an increased use of these centres by more local and less car-oriented patronage.

Clause 21.04 (Housing and residential development) anticipates moderate population growth and the need for a wider range of housing types, and Clause 21.10 (Heritage) identifies the need for clear design guidelines for new development both within and adjacent to heritage precincts

Clause 22 (local planning policies)

Clause 22.01 (Heritage) provides for the protection and enhancement of Glen Eira's heritage and includes detailed policy on 'New Buildings, Alterations and Additions (Commercial Heritage Areas)'.

Clause 22.07 (Housing diversity policy) includes a number of Suburb Framework Plans which identify areas where housing diversity will be encouraged, including the Caulfield Park NAC. For neighbourhood centres, it is policy to:

- recognise neighbourhood centres as locations which provide significant opportunities for housing diversity, but at a lesser scale and density than developments in urban villages and the Phoenix Precinct
- recognise that different development outcomes are sought in the commercial and residential areas of neighbourhood centres.

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 Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Outcomes that are particularly relevant to the Amendment are set out in Table 3.

Table 3 Relevant parts of Plan Melbourne

Outcome	Directions	Policies
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 Protect and enhance the metropolitan water’s edge parklands
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

ii) Caulfield Park Neighbourhood Activity Centre Built Form Framework

The Caulfield Park NAC is located at the intersection of Balaclava and Hawthorn Roads in Caulfield North, to the south-west of Caulfield Park, the largest park within the municipality.

The vision for the Caulfield Park NAC is provided in the Glen Eira City Plan:

Caulfield Park will be a local hub, which embraces its strong culture and heritage. A transport junction anchored by green open space, the centre will maintain a strong sense of community and connected village feel.

The ‘project overview’ provides a succinct summary of the purpose of the Framework Plan:

This built form framework for the Caulfield Park Neighbourhood Activity Centre (NAC) is one of three built form frameworks being prepared to address an existing policy gap. The other centres forming part of the project are the Caulfield South Neighbourhood Activity Centre and the Bentleigh East Neighbourhood Activity Centre.

The Built Form Frameworks set out preferred development outcomes in each centre. This will ensure new development provides for the continual revitalisation of the shopping strips with high quality design whilst maintaining the valued character of each centre and protecting the amenity of adjoining residential areas.

The Frameworks provide guidance for building heights, setbacks and other design considerations. These frameworks are supported by rigorous analysis and guided by sound urban design principles appropriate to the context of each centre.

The Design Principles formulated for the Caulfield Park NAC are:

- A vibrant neighbourhood centre with a mid-rise character that values heritag
- An enjoyable and safe place to shop, work, gather, dine and exercise
- A centre that emerges sensitively from the surrounding neighbourhood and considers residential interfaces both within and outside the centre
- A well serviced and accessible centre.

The Framework Plan breaks down the NAC into two different precincts:

- Precinct 1 – generally to the south of Balaclava Road
- Precinct 2 – generally to the west of Hawthorn Road.

Both precincts include different built form requirements, with these requirements translated into the proposed DDO12 ordinance. These include differing building height, setback and street wall requirements.

The Framework was informed by or prepared in conjunction with the following Council documents:

- Integrated Transport Strategy 2018
- Glen Eira Social and Affordable Housing Strategy 2019-2023
- Open Space Strategy Refresh 2020
- Glen Eira City Plan 2020
- Climate Emergency Response Strategy 2021-2025
- Glen Eira Housing Strategy 2022.

iii) **Integrated Transport Strategy**

The Integrated Transport Strategy sets out Council's priorities for transport.

It identifies a 'walkable activity centre' place type, the key objectives of which are to:

- ensure appropriate parking is provided in suitable locations to support the economic vitality of the shopping strip
- provide a safe and comfortable walking environment during the day and night and create attractive places that people want to visit and linger longer.

The Integrated Transport Strategy includes the following two 'Places' policies of relevance:

- Policy 1.1 - Support and promote increased dwelling density at key transport hubs; and
- Policy 1.2 - Focus employment and office development within major activity centres and strategic sites.

iv) **Open Space Strategy Refresh**

The Open Space Strategy Refresh guides the future planning, provision, design and management of public open space within the municipality. A key issue identified in the strategy is the impact of the forecast increase in urban densities and population growth on liveability and access to open space.

Section 4.4 Future Growth Planning identifies what overall changes to the open space network are required to meet the anticipated population increase in the areas that experience growth and change, including NACs

v) **City Plan**

The City Plan seeks to establish a revised strategic plan to manages change over the next two decades to benefit the whole community.

The City Plan reflects the 20-minute neighbourhood concept outlined in Plan Melbourne and identifies all of Glen Eira's activity centres as areas of substantial change:

These are locations with good access to shops, services, jobs and public transport, with high levels of existing infrastructure suitable to support growth. Approximately 75 per cent of all new housing from 2016 to 2036 is expected to be located within activity centres.

Three relevant actions include:

2. Undertake structure plans (or similar precinct planning approach) for Glen Eira's activity centres.
13. Carry out detailed consultation with the community about building design and development guidelines.
14. Undertake a precinct by precinct review of development controls for each neighbourhood.

vi) Climate Emergency Response Strategy

The Climate Emergency Response Strategy identifies ‘densification and apartment living’ as a key challenge for the municipality with associated pros and cons. Notwithstanding this, the strategy acknowledges that Glen Eira is densifying to make space for a growing population.

vii) Glen Eira Housing Strategy

The Glen Eira Housing Strategy was adopted by Council in November 2022.

The strategy provides its purpose as:

This Housing Strategy provides Glen Eira City Council’s framework for managing population and housing growth over the next 15 years, with provision for continued growth beyond this timeframe. It will guide appropriate future residential development to the right locations.

It will identify projected population and housing growth and will ensure sufficient land is available for housing to accommodate projected growth over the next 15 years. A glossary of words and acronyms is provided at the end of the document.

The Strategy provides a link between the Glen Eira Council Plan 2021–2025, Plan Melbourne, and state planning policy as they relate to housing.

The strategy identifies the need to plan for the predicted population growth of approximately 30,000 additional people within the municipality between 2021 and 2036 and a subsequent need for an additional 12,000 to 13,000 dwellings to accommodate this growth.

It seeks to manage the additional dwelling requirements by splitting the residential areas within the municipality into 6 ‘change areas’, distributed in a manner that contributes to:

- Housing diversity — Identifying locations where genuine medium-density development can occur.
- Sustainable land use — Directing the highest forms towards activity centres and transport connections to provide access to existing amenities.
- A framework to achieve quality character, built form and landscape outcomes in each area — being a predominantly Garden Suburban municipality, the majority of the municipality will continue to be identified as either Minimal Change Area or Incremental Change Area (1), which both align with the Neighbourhood Residential Zone (max. two storeys). Additional change is identified for some locations where the locational advantages and present character and policy suggest it would be appropriate.

Each area includes further future character and built form precincts. The land affected by the Amendment is identified as being with ‘Substantial Change Area 3’.

The strategy does not include any specific requirements for Substantial Change Area 3, deferring these to structure plans, design and development overlays, built form framework plans, comprehensive development plan overlays or individual application assessments.

C:3 Planning scheme provisions

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

i) Zones

The land is primarily in the Commercial 1 Zone⁵. The purposes of the Zone are:

⁵ The NAC overlaps with a very small portion of land zoned General Residential 1 in its south-eastern corner.

- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

The Public Park and Recreation Zone has been applied to Caulfield Park, situated to the northeast of the NAC. Both Hawthorn and Balaclava Roads, which bisect the NAC, are within the Transport Zone and form part of the Principal Road and Public Transport Network.

ii) Overlays

The NAC is partially affected by three overlays as follows:

- the Special Building Overlay, which has been applied to several properties to the north of the NAC study area, predominantly to the north of Balaclava Road.
- the Parking Overlay, which is widely applied to all land (including surrounding residential land) within the NAC.
- the Heritage Overlay (HO206), which is applied to the properties at 158-166 Hawthorn Road, situated to the southern extremity of the activity centre

Although not within the confines of the NAC, a Heritage Overlay (HO77) abuts the eastern boundary of Precinct 1. HO77 has been applied to the St Aloysius Church at 233 Balaclava Road.

C:4 Ministerial Directions, Planning Practice Notes and guides

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.

Planning Practice Notes

The following Planning Practice Notes are relevant:

- PPN59: The Role of Mandatory Provisions in Planning Schemes: 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: States that controls should be based on facilitating good design outcomes. Gives guidance on when it is appropriate to use mandatory and discretionary height and setback controls.

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 Victorian Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.