

**Glen Eira Planning Scheme Amendment C237glen
Carnegie Structure Plan**

Panel Report

Planning and Environment Act 1987

28 March 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

Glen Eira Planning Scheme Amendment C237glen

Carnegie Structure Plan

28 March 2024



Con Tsotsoros, Chair



Alison McFarlane, Member

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Glossary and abbreviations

the Activity Centre	Carnegie Activity Centre shown in the purple outline in Figure 2
the Amendment	Glen Eira Planning Scheme Amendment C237glen
Council	Glen Eira City Council
DDO9	Design and Development Overlay Schedule 9
DTP	Department of Transport and Planning
Employment Assessment	<i>Employment Land Needs Assessment for the Bentleigh, Carnegie, and Elsternwick Major Activity Centres</i> , March 2022, SGS Australia
Equinox	22 September each year
GEHS	Glen Eira Historical Society
Housing Strategy	Glen Eira Housing Strategy
PE Act	<i>Planning and Environment Act 1987</i>
Public Realm Review	<i>Carnegie Public Realm Review, Structure Plan Revision 2022</i> , Glen Eira Council
RBA Heritage Advice	Heritage advice from GJM Heritage consultants and RBA Architects and Conservation Consultants, May 2022
Structure Plan	<i>Carnegie Structure Plan 2022</i> , Glen Eira City Council
Transport Study	<i>Glen Eira City Council Carnegie Activity Centre Transport Study</i> , July 2022, ARUP
VCAT	Victorian Civil and Administrative Tribunal
Winter solstice	21 June each year

Overview

Amendment summary

The Amendment	Glen Eira Planning Scheme Amendment C237glen
Common name	Carnegie Structure Plan
Brief description	Implements the Carnegie Structure Plan 2022 by: <ul style="list-style-type: none"> - updating local planning policies - rezoning land to the Mixed Use Zone - applying a new Design and Development Overlay Schedule 9 to part of the Carnegie Major Activity Centre
Subject land	Structure Plan area of the Carnegie Activity Centre shown in Figure 2
Planning Authority	Glen Eira City Council
Authorisation	23 June 2023 subject to conditions
Exhibition	14 August to 29 September 2023
Submissions	Number of Submissions: 51

Panel process

The Panel	Con Tsotsoros (Chair), Alison McFarlane
Supported by	Gabrielle Trowse
Directions Hearing	Caulfield Town Hall, 18 December 2023, with online video access
Panel Hearing	Caulfield Town Hall, Planning Panels Victoria and by video on 12, 13, 14, 15, 19 and 22 February 2024
Site inspections	Unaccompanied, 18 December 2023
Parties to the Hearing	<p>Glen Eira City Council represented by Terry Montebello of Maddocks, who called expert evidence on:</p> <ul style="list-style-type: none"> - urban design from Amanda Roberts of Lat37 - heritage from Jim Gardner of GJM Heritage - traffic from Leigh Furness of Traffix - economics from Julian Szafraniec of SGS Economics and Planning <p>Benon Pty Ltd represented by Amanda Johns of Planning & Property Partners, who called expert evidence on planning from Sophie Jordan of Contour Consultants</p> <p>Burke Co Pty Ltd (as trustee for Burke Co Trust) represented by Sarah Thomas of UPco</p> <p>Carla Emms</p> <p>Chelsie Dickson</p> <p>Dandenong Road Management Pty Ltd and 1030 Dandenong Road Pty Ltd represented by Tania Cincotta of Best Hooper Lawyers</p> <p>Favre-Cranage Property Trust represented by Remy Favre</p>

Sullivan Property Pty Ltd represented by Joe Fisher of Human Habitats
Susan McKenna
Zuccubarr Pty Ltd represented by Robbie McKenzie of Ratio

Citation Glen Eira PSA 237glen [2024] PPV

Date of this report 28 March 2024

Executive summary

The Carnegie Major Activity Centre (Activity Centre) is about 11 kilometres southeast of Melbourne's Central City and has a train station on a railway line which serves residents, workers and visitors travelling to the City and south-western corridor. It is also served by buses travelling between St Kilda beach and Glen Waverley Activity Centre.

Carnegie has attracted considerable housing investment and growth since the Residential Growth Zone was introduced to the Carnegie Major Activity Centre (Activity Centre). This has provided further economic support to the centre's retail core. Glen Eira City Council (Council) began the process to review part of the Activity Centre's strategic future in 2017, which included early community consultation.

Council prepared and adopted the Carnegie Structure Plan 2022 which is supported by a comprehensive suite of technical and supporting documents which relate to matters such as transport, open space, built form and heritage. The Structure Plan seeks to:

- protect heritage streetscapes and sunlight to key open spaces
- direct most of the centre's growth outside the heritage areas, particularly the urban renewal precincts north of the skyrail.

Council is commended for investing significant resources into comprehensive strategic work which informed the Activity Centre's strategic future and Glen Eira Planning Scheme Amendment C237glen (the Amendment). The Amendment seeks to implement the Carnegie Structure Plan 2022 by updating local planning policies, rezoning land to the Mixed Use Zone, and applying a new Design and Development Overlay Schedule 9 to part of the Activity Centre.

Council exhibited the Amendment from 14 August to 29 September 2023 and received 51 submissions. Key issues raised in submissions included whether the Amendment was strategically justified, the Activity Centre boundary, built form and overshadowing provisions, whether provisions should be mandatory, railway land, open space, traffic and parking.

Strategic issues

The Amendment should proceed subject to addressing the more specific issues discussed in this report because it:

- plans for enough housing and employment capacity in the Activity Centre to contribute towards future municipal demand, as sought by the Planning Policy Framework
- 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.

The Structure Plan and Activity Centre boundaries are appropriate. Chestnut Street properties should not be included in the Activity Centre through the Amendment and therefore the existing zone and overlays should continue to apply to them.

Council should consider reviewing through a separate process whether maintaining the neighbourhood character of Chestnut Street properties outweighs policy seeking more housing and economic development close to a major activity centre and train station.

It is appropriate and justified to rezone 12-22 and 19-21 Arawatta Street to the Mixed Use Zone.

Overshadowing requirements

Approach to overshadowing

The approach to overshadowing which enables the street wall to overshadow public open space and to prohibit overshadowing beyond that cast by the street wall and existing built form and structures strikes a reasonable balance between protecting streetscape character and solar access while enabling sufficient development capacity.

The approach would have benefited from an accurate analysis of existing conditions and from factoring the existing conditions into the overshadowing assessment.

The Built Form Framework model and associated overshadowing of existing built form and street wall provisions inaccurately reflects actual conditions in certain locations.

The proposed overshadowing timeframe of 10am to 2pm:

- is appropriate for managing solar access to most public open spaces
- does not align with the transient use of the skyrail open space.

The overshadowing requirement should be applied only to open space which has existing solar access to most of it between 10am to 2pm during its respective solar access measure. Applying a mandatory overshadowing requirement to open space that is mostly overshadowed during the respective measure would achieve little amenity benefit and will unreasonably impact development capacity.

Kokaribb Road future reserve, Open space north of the library, and Neerim Road open space

It is appropriate and justified to apply:

- a mandatory winter solstice overshadowing requirement to the Kokaribb Road future reserve.
- the exhibited mandatory equinox overshadowing requirement to the following open spaces because they are mostly overshadowed during the winter solstice and there should be no further overshadowing during the equinox:
 - Open space north of the library
 - Neerim Road open space.

Woorayl Street Reserve

A discretionary equinox overshadowing requirement should be applied to Woorayl Street Reserve rather than a winter solstice provision. This is because the space is already significantly overshadowed during the winter solstice and there is insufficient justification to support a mandatory provision.

Library Forecourt – Jersey Parade Reserve

A mandatory equinox overshadowing requirement should be applied to the Library Forecourt – Jersey Parade Reserve because it is mostly overshadowed during the winter solstice and there should be no further overshadowing during the equinox.

Skyrail open space including active recreation space

Overshadowing requirements should not be applied to the skyrail open space west of Egan Street because there is no evident reason to protect this significantly overshadowed regional transient space. A discretionary equinox overshadowing requirement should be applied to the active recreation space below the skyrail immediately west of Koornang Road.

Koornang Road footpaths

There is no need to apply overshadowing requirements for Koornang Road east and west footpaths because:

- mandatory built form provisions in Retail Precinct 1 proposed in Design and Development Overlay Schedule 9 will ensure buildings do not overshadow the footpaths at the identified times
- properties outside Retail Precinct 1 with discretionary maximum street wall heights form part of a relatively small and peripheral part of Koornang Road and any permit application can be assessed on its merits.

Rosstown Hotel (HO157)

The Heritage Overlay and related planning policies and provisions will ensure that a future permit application proposing new development on or around the existing Rosstown Hotel heritage building sensitively responds to the heritage fabric. It is not appropriate or justified to apply mandatory building height requirements and mandatory street wall height and upper level setback requirements through Design and Development Overlay Schedule 9. The Heritage Overlay can adequately manage those issues and there is limited information to support the proposed height and setback measures.

Excluding the proposed mandatory requirements does not preclude the ability to achieve good heritage outcomes.

The Heritage Overlay (HO157) for the original Rosstown Hotel building does not align with its intended curtilage and any correction should occur through a separate planning scheme amendment.

Building height requirements

Based on the Carnegie Built Form Framework and associated documents, there is generally a sound logic to how building heights are proposed to be applied in the Activity Centre. The building height approach weakens for Precinct 3 north of the skyrail and Urban Renewal Precinct 1 on the western tip of the Activity Centre.

It is appropriate and justified to apply:

- the mandatory maximum building height of 20 metres to Retail Precinct 1 (heritage)
- the discretionary maximum building height of 24 metres to properties in Retail Precinct 3 around the Neerim Road and Koornang Road intersection because it provides an appropriate transition in building height from 31 metres in Precinct 4 to 13.5 metres in the Residential Growth Zone
- the maximum building height of 31 metres to Retail Precinct 4
- the discretionary maximum building height of 31 metres to all properties in Urban Renewal Precinct 1 except for those west of Urban Renewal Precinct 2 west of Koornang Road
- the discretionary maximum building height of 46 metres to Urban Renewal Precinct 2.

The maximum building height of 24 metres proposed for Retail Precinct 3 should not apply to properties along the west side of Koornang Road north of the skyrail because it is unjustified and inappropriate in a varied and robust streetscape which can accommodate more development. The properties along the west side of Koornang Road north of the skyrail should be recategorised

as Urban Renewal Precinct 1 with a discretionary maximum height of 31 metres to reflect their context and role.

Urban Renewal Precinct 2 west of Koornang Road should be extended east to include all properties exhibited as Urban Renewal Precinct 1 because it has the same attributes as properties to its east and there is no strategic reason to reduce development capacity.

Interface types

Approach

It is appropriate and practical to apply interface types to property boundaries from a suite of interface types. The interface types applied in Design and Development Overlay Schedule 9 Map 2 are generally appropriate except for some on the edge of the Activity Centre. An interface type should respond to development envisaged in a Major Activity Centre rather than existing low scale residential development.

Neerim Road blocks

The interface types proposed for the Neerim Road blocks do not respond to the emerging character of the area and are too restrictive for a Major Activity Centre adjoining land in the Residential Growth Zone.

Koornang Road heritage blocks

It is appropriate and justified to create a separate Interface Type 1A for land in the Heritage Overlay which sets a primary setback from the street wall at 6 metres. The secondary setback for new Interface Type 1A should be 2 metres (total 8 metres from the front property boundary) because there is no justification to increase this measure.

Koornang Road blocks north of the skyrail

Interface Type 1B is not appropriate for Precinct 3 properties north of the skyrail because it seeks a lower scale response which would never achieve a consistent streetscape at this location because of existing and relatively recent larger scale and inconsistent built form.

Interface Type 4 is appropriate for Precinct 3 properties north of the skyrail because they:

- recognise the emerging character of this location
- will continue to achieve Structure Plan objectives
- will enable a transitional and complementary street wall between existing larger built form and the small group of heritage buildings on the east side
- will not negatively impact the small group of heritage building on the east side.

Other Design and Development Overlay Schedule 9 objectives and requirements

The design objectives should be simplified into five objectives which express outcomes sought for the Activity Centre and frame the schedule's requirements.

Built form and design requirements

The first requirement seeking ground floor frontages that enable outdoor dining is appropriate and justified, and Council should consider identifying which laneways are considered safe and appropriate.

The second, third and fourth requirements proposed in Design and Development Overlay Schedule 9 (Final version) should be expressed consistent with other requirements in the schedule.

The fifth and six requirements should be deleted because:

- the fifth requirement regarding direct access to the Djerring Trail is unclear and not supported by accurate information or strategic work
- the sixth requirement regarding laneways does not relate to built form and design and is address by other requirements.

Laneway, transport and car park design requirements

As a precautionary measure, Design and Development Overlay Schedule 9 Map 2 should identify and differentiate between retaining existing laneways for vehicle access and potential future laneways to be investigated for the same role. The laneway, transport and car park design requirements proposed since exhibition are generally appropriate but should be merged, simplified and revised in line with other Panel conclusions.

Application requirements

The application requirements are generally appropriate but should be revised to delete the requirement for a heritage report which duplicates requirements in the Heritage Overlay Schedule and includes land not relevant to heritage. Council's proposed application requirements since exhibiting the Amendment and regarding environmental regulations and standards should be translated into buildings and works requirements.

Other Design and Development Overlay Schedule 9 requirements

The floor to floor height requirements are justified and appropriate to ensure buildings are adaptable for commercial and retail uses that activate the public realm, but should be redrafted to a simplified form.

The Design and Development Overlay Schedule 9 Clause 2.6 requirement seeking a landscape interface to residential areas should be deleted because it is inconsistent with the interface types.

Consistent with Council's proposed changes for Design and Development Schedule 9, it is appropriate to delete:

- the roof top features requirement in Clause 2.1 because it may affect the ability to achieve other outcomes sought for the Activity Centre
- Clause 2.7 and most of Clause 2.11 because they duplicate other Planning Scheme provisions.

Other issues

The Amendment has appropriately considered traffic and parking issues and the potential impact of development on existing solar panels. It is appropriate and justified for Design and Development Schedule 9 to identify the existing Kokaribb Road car park as future public open space because the Transport Study has found that this will not negatively impact the Activity Centre, subject to recommended mitigating actions.

The future zoning of two sections of railway land which did not form part of the exhibited Amendment should be considered through a separate planning scheme amendment process.

Design and Development Overlay Schedule 9 would benefit from drafting changes shown in Appendix D which:

- delete provisions which duplicate other Glen Eira Planning Scheme provisions
- specifies building heights in metres without referring to storeys

- improve its clarity and operation.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Glen Eira Planning Scheme Amendment C237glen be adopted as exhibited subject to the following:

1. **Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to:**
 - a) **apply a discretionary rather than mandatory overshadowing requirement to the Wooryal Street Reserve measured at the equinox rather than the winter solstice**
 - b) **apply a mandatory overshadowing requirement to the Library Forecourt – Jersey Parade Reserve measured at the equinox rather than the winter solstice**
 - c) **delete overshadowing requirements for any skyrail open space west of Egan Street**
 - d) **identify the dimensions of the skyrail active open space**
 - e) **apply a discretionary rather than mandatory overshadowing requirement to the skyrail active open space measured at the equinox**
 - f) **delete overshadowing requirements for Koornang Road east and west footpaths**
 - g) **delete Clause 2.2 Building height requirements for the land in HO157 (Rosstown Hotel) including Table 2 and Map 1**
 - h) **delete requirements related to the Rosstown Hotel from Clause 2.3 (Street wall and building setback requirements) including Table 3**
 - i) **recategorise properties north of the skyrail in Map 2 (now Map 1) from ‘Retail Precinct 3’ to ‘Urban Renewal Precinct 1’ with a discretionary maximum building height of 31 metres**
 - j) **recategorise properties west of Urban Renewal Precinct 2 west of Koornang Road in Map 2 from ‘Urban Renewal Precinct 1’ to ‘Urban Renewal Precinct 2’ with a discretionary maximum building height of 46 metres**
 - k) **apply on Map 2, Interface Type 4 to boundaries of the following blocks:**
 - **south of Neerim Road and east of Koornang Road except for land in the Heritage Overlay**
 - **south of Neerim Road and west of Koornang Road**
 - **land bound by Neerim Road, Koornang Road, Kokaribb Road and rear laneway, except for land in the Heritage Overlay**
 - l) **on Map 2, replace Interface Type 1 with Interface Type 1A for land in the Heritage Overlay (HO158) and Heritage Overlay (HO159)**
 - m) **in Table 2 (Building setbacks and street wall heights) and associated diagrams replace Interface Type 1 with Interface Type 1A and:**
 - **increase the setback for second and third building levels from 5 metres to 6 metres**
 - **increase the setback for fourth and above building levels from 7 metres to 8 metres**
 - n) **on Map 2 (now Map 1), apply Interface Type 4 to all boundaries of Precinct 3 properties on the west side of Koornang Road and north of the skyrail except for land subject to the Heritage Overlay (HO157)**
 - o) **replace the design objectives in Clause 1.0 with:**
 - ***To graduate building scale which maintains heritage places as the dominant streetscape feature and directs taller development to other locations.***

- *To ensure buildings are adaptable for different uses and activate public realm.*
 - *To protect solar access to key public spaces.*
 - *To prioritise pedestrian movement and redirect vehicle traffic to laneways and lower order roads.*
- p) revise the requirement and add three new built form and design requirements as:
Buildings should:
- *Provide ground floor frontages to laneways and pedestrian links identified in Map 2 that enable outdoor dining opportunities.*
 - *Encourage building design that supports employment generating uses at first floor.*
 - *Avoid projections such as balconies and building services intruding into a setback specified in Tables 2 and 3 to this schedule.*
 - *Minimise the number of steps in any setback.*
- q) replace Clause 2.5 with *“Buildings with no identified heritage should:*
- *Provide a minimum 4.0 metres floor to floor height at ground floor.*
 - *Provide a minimum 3.8 metres floor to floor height at first floor.”*
- r) delete in Clause 2.6 *“step buildings down and provide a landscaped interface to residential areas”*
- s) revise Clause 2.9 laneway requirements (now Clause 2.6) to specify existing laneways and to identify locations where vehicle access is sought to be retained
- t) move transport and parking design requirements into laneway requirements into a new revised Clause 2.9 (now Clause 2.6)
- u) revise the Clause 5.0 application requirement seeking a traffic, transport and car parking report to clarify it is only needed if vehicle access is through a laneway and to include a traffic capacity analysis
- v) identify laneways in Map 2 (now Map 1) as ‘preferred vehicle access through existing vehicle laneway’ as a solid line and ‘potential future vehicle laneway’ as a hatched line
- w) revise Clause 5.0 (Application requirements) to:
- delete the requirement for a heritage report
 - translate the relevant environmental regulations and standards into building and works requirements in Clause 2.0
- x) delete in Clause 2.1 *“The combined floor areas of these features should not exceed 10 per cent of the gross floor area of the top storey of the building”*
- y) delete Clause 2.7 (Interface and transition requirements)
- z) delete the decision guidelines in Clause 6.0 related to heritage
- aa) make drafting related changes which:
- delete provisions which duplicate other Glen Eira Planning Scheme provisions
 - specify building heights in metres without referring to storeys
 - improve its clarity and operation.

1 Introduction

1.1 The Amendment

The purpose of the Amendment is to implement the Carnegie Structure Plan 2022 (Structure Plan) by updating local planning policies, rezoning land to the Mixed Use Zone, and applying a new Design and Development Overlay Schedule 9 (DDO9) to part of the Carnegie Major Activity Centre (Activity Centre).

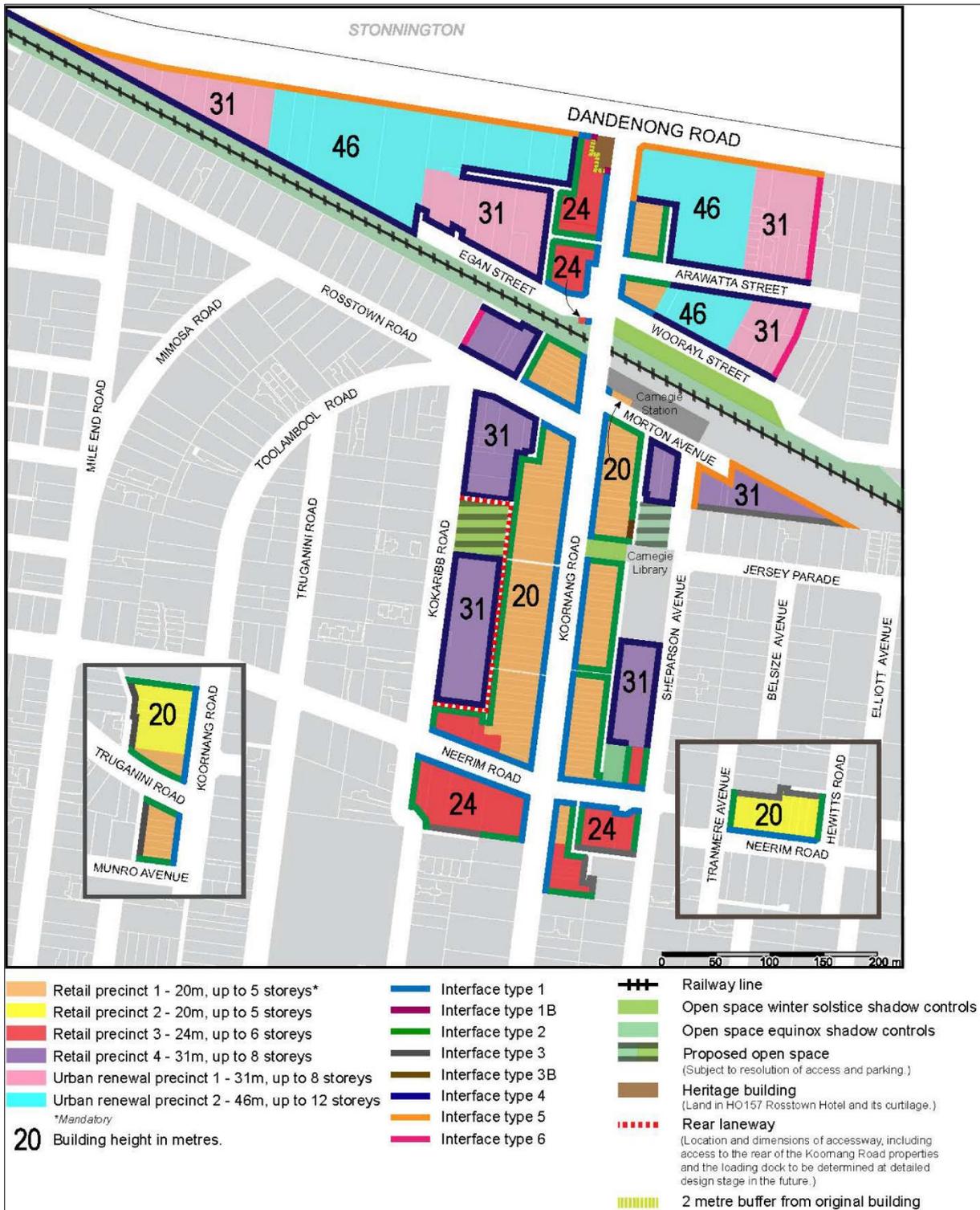
Specifically, the Amendment proposes to:

- revise the Planning Policy Framework at Clauses:
 - 02.03-1 (Settlement and activity centres)
 - 02.04-1 (Strategic Framework Plan)
 - 11.03-1L (Activity centres)
 - 15.01-2L-01 (Building design)
 - 16.01-1L-01 (Housing supply)
 - 18.02-3L (Public transport)
 - 18.02-4L-02 (Car parking)
- rezone the following land to a Mixed Use Zone:
 - 19-21 (odd numbers) and 12-22 (even numbers) Arawatta Street
 - 1100-1106 Dandenong Road (even numbers)
 - 26-28 Woorayl Street (even numbers)
- replace DDO9 with new DDO9 provisions
- reference the Structure Plan as a background document to the Clause 72.08 Schedule.

The Amendment applies to part of the land in the Activity Centre identified in DDO9 and shown in Figure 1.

A delegate of the Minister for Planning authorised the Amendment on 22 June 2023 subject to conditions.

Figure 1 Exhibited DDO9 Map 2 – Subject land, building heights and interfaces



1.2 Background

Before 2021	
Jan 2013	Neighbourhood Character Overlay and Design and Development Overlay were applied to areas throughout Glen Eira including Chestnut Street
23 Aug 2013	Residential Growth Zone Schedule 1 introduced in the Activity Centre
Aug 2016	Council requested the Minister for Planning approve interim provisions for the Carnegie Activity Centre
4 Apr 2017	Interim DDO9 introduced into the Planning Scheme [Amendment C147]
2021	
25 Feb	Interim DDO9 extended to 30 Sep 2021 [Amendment C222glen]
16 Mar	Council abandoned Amendment C184glen that sought to implement the 2018 Structure Plan after it considered submissions following exhibition
30 Sep	Interim DDO9 extended by three months to 30 Dec 2021 [Amendment C236glen]
24 Dec	Interim DDO9 extended by three months to 30 Mar 2022 [Amendment C236glen]
2022	
18 Mar	Heritage Overlay applied to the Rosstown Hotel [Amendment C190glen]
31 Mar	Interim DDO9 extended to 30 Jun 2023 [Amendment C228glen]
20 May	RBA Architects provided heritage advice to Council regarding the Rosstown Hotel
6 Jun	Corrections made to DDO9 [Amendment C241glen]
8 Aug	GJM Heritage provided further heritage advice which builds on a previous memorandum
9 Aug	Council adopted the Structure Plan
2023	
8 Jun	Interim DDO9 extended to 31 Dec 2024 [Amendment C253glen]
17 Aug to 29 Sep	Council exhibited the Amendment for six weeks and received 51 submissions
13 Oct	GJM Heritage provided further heritage advice through a memorandum
28 Nov	Council considered submissions and resolved to request a Panel
21 Dec	GJM Heritage amended its 13 Oct 2023 memorandum

1.3 Procedural matters

DRK Assets, Glen Eira Historical Society (GEHS) and Submission 39 requested to be heard at the Hearing. Each confirmed they sought to withdraw as a party on 5 and 29 January and 14 February 2024 respectively.

1.4 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
- Overshadowing requirements
- Rosstown Hotel (HO157)
- Building height requirements
- Interface types
- Other DDO9 design objectives and requirements
- Other issues.

This report refers to the following versions of DDO9:

- Exhibited – the version which original submissions responded to
- Post-exhibition – endorsed by Council at its 28 November 2023 meeting (Document 3a)
- Version 1 – provided with Council's Part A Submission (Document 17b)
- Version 2 – provided by Council on 20 February 2024 to assist the without prejudice drafting process (Document 35)
- Final – provided by Council on 28 February 2024 (Document 51).

1.5 Issues not addressed further in this report

Having reviewed all submissions, the Panel considers that issues which are beyond the scope of the Amendment or beyond the power of the PE Act include:

- extending the Route 67 tram service to the Carnegie Activity Centre
- road speed limit and traffic control devices
- footpath widths and associated accessibility
- street furniture, amenities, street lighting, paving and overhead cables
- emissions associated with the railway line
- building codes.

These issues are not discussed further in this report.

Property value

A submission considered the Amendment would devalue their property. The Panel was not provided with new information to explain why it should depart from previous Panel findings which have found that private financial impact such as property value is not relevant when considering the Amendment. This issue is not discussed further in this report.

1.6 Limitations

After the Hearing closed, Planning Practice Note 59 (The role of mandatory provisions in planning schemes) was retired and its content was included in the Practitioner's Guide to Victoria's Planning Schemes, March 2024. All references to Planning Practice Note 59 in this report refers to the September 2018 version.

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 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Municipal Planning Strategy	- Clauses 02.03-1 (Settlement and activity centres), 02.04-1 (Strategic Framework Plan)
Planning Policy Framework	- Clauses 11.03-1S (Activity Centres), 11.03-1L (Activity Centres) - Clauses 15.01-1S (Urban Design), 15.01-1L (Landscaping), 15.01-2S (Building Design), 15.01-2L-01 (Building Design), 15.01-5S (Neighbourhood Character), 15.03-1S (Heritage Conservation), 15.03-1L (Heritage) - Clauses 16.01-1S (Housing Supply), 16.01-2S (Housing affordability), 16.01-L-01 (Housing Supply)
Other planning strategies and policies	- Carnegie Structure Plan 2018-2031 (2018) referenced in DDO9 - Glen Eira Social and Affordable Housing Strategy 2019-2023 (Glen Eira City Council, 2019) referenced in Clause 16.01-2L - <i>Plan Melbourne 2017-2050</i> Directions 1.3, 2.1, 2.2, 2.5, 4.1, 4.3, 4.4, 4.6, 5.1, and 6.4
Planning scheme provisions	- Mixed Use Zone - Commercial 1 Zone - Public Use Zone - Public Park and Recreation Zone - Residential Growth Zone - Design and Development Overlay Schedule 9
Ministerial directions	- Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning practice notes	- 22: Using the car parking provisions - 46: Strategic assessment guidelines for preparing and evaluating planning scheme amendments - 58: Structure planning for activity centres - 59: The role of mandatory provisions in planning schemes - 60: Height and setback controls for activity centres - 90: Planning for housing
Other guidance	- A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022

2.2 Structure Plan

(i) Approach to the Structure Plan

Table 2 outlines work commenced in 2017 which led to the 2018 Structure Plan. Council sought to implement the 2018 Structure Plan recommendations through Amendment C184glen. After considering submissions following its exhibition, Council resolved to abandon that amendment for reasons including the need for further strategic justification.

Table 2 Approach to the Structure Plan

Date	What Council prepared
2017	Carnegie Urban Design Analysis
2018	Carnegie Urban Form Analysis (Version 1) which: <ul style="list-style-type: none"> - consolidated and documented all background research, analysis and recommendations - outlines the rationale for proposed building heights, setbacks, open space protection controls and preferred built form character - informed and supported the 2018 Carnegie Structure Plan and 2020 Addendum
2018	2018 Structure Plan
Feb 2020	Addendum to the 2018 Structure Plan
June 2020	Carnegie Urban Form Analysis (Version 2)
Dec 2021	Built Form Framework Background Report which: <ul style="list-style-type: none"> - is informed by the Carnegie Urban Form Analysis and the Urban Design Analysis - establishes the context, describes the character and provides a summary of key strategic documents and recent studies of the Activity Centre - informs the Built Form Framework
June 2022	Built Form Framework which: <ul style="list-style-type: none"> - is informed by the Built Form Background Report - sets out the preferred built form outcomes for the Activity Centre - informed the 2022 Structure Plan

Council then prepared another Structure Plan in 2022 which:

- notes Glen Eira's population is expected to increase by about 30,000 people by 2036, which will increase demand for retail and commercial floorspace in the Activity Centre
- outlines a 15-year plan for growing and improving the Activity Centre
- includes a vision:

Carnegie to be a safe, connected and welcoming centre that embraces its authentic urban character and cultural identity. The centre will be a destination for entertainment, shopping and employment, and support a range of businesses and interconnected community spaces that meet the needs of the local community, providing a socially, environmentally and economically sustainable future.

The Structure Plan:

- identifies the Activity Centre's strengths and weaknesses
- identifies sustainability, heritage, place-making, development, economy and transport as key themes

- includes objectives and recommendations for each of these themes.

The Structure Plan states that it is informed by:

- *Carnegie Built Form Framework*, June 2022, Lat 37
- *Carnegie Built Form Framework*, Background Report, December 2021, Lat 37
- *Glen Eira City Council Carnegie Activity Centre Transport Study*, July 2022, ARUP (Transport Study)
- *Carnegie Public Realm Review, Structure Plan Revision 2022*, Glen Eira Council
- *Employment Land Needs Assessment for the Bentleigh, Carnegie, and Elsternwick Major Activity Centres*, March 2022, SGS Australia (Employment Assessment)
- Heritage advice from GJM Heritage consultants and RBA Architects and Conservation Consultants, May 2022 (RBA Heritage Advice)
- *Glen Eira Economic Analysis and Forecasting Study*, 2018, Blair Warman Economics Consultants
- *Assessment of the Economic Impacts of Transformation Concepts on Activity Centres: Bentleigh, Carnegie and Elsternwick*, 2017, Blair Warman Economics Consultants
- *Peer Review of Glen Eira's Draft Quality Design Guidelines and Strategic and Urban Renewal Development Plans Analysis*, 2017, AECOM
- *Glen Eira Activity Centres Urban Context Report 2017*, Co Design Studio
- *Glen Eira Activity Centres Urban Design Guidelines 2017*, Planisphere
- *Glen Eira Urban Design Analysis Report 2017*, Planisphere
- *Glen Eira Community Benefits Discussion Paper 2017*, Planisphere
- *Glen Eira Activity Centres Community Engagement Summary Final Report 2017*, Co Design Studio
- *Glen Eira Transformational Concepts Draft Report 2017*, Planisphere
- *Glen Eira Transformative Concepts Review 2017*, One Mile Grid Traffic Engineering
- *Glen Eira Transport Analysis and Forecasting Discussion Paper 2017*, MRCagney

Many of the documents prepared for the 2018 Structure Plan informed the 2022 Structure Plan. Further details about these documents are provided in Appendix C.

(ii) Approach to built form

As outlined in Table 2, the 2022 Structure Plan is informed by the Built Form Framework. The Built Form Framework is supported by the Built Form Framework Background Report which states the background research and analysis is contained in:

- Carnegie Urban Form Analysis (Urban Form Analysis) Appendix A
- Glen Eira Urban Design Analysis Chapter 2.

The Structure Plan explains its approach to built form in the Built Form section:

Building heights

- adopts building heights and interfaces recommended in the Built Form Framework
- Main retail precinct:
 - new development to protect and enhance the heritage and character by setting back upper levels above the one to two storey street wall
 - strategic sites to have taller built form
- Urban renewal precinct:

- has larger properties which enable the tallest built form in the Activity Centre
- seeks a contemporary urban character with an improved public realm

Building envelopes

- transition higher density urban renewal areas and strategies to existing low-density residential areas
- limit amenity impacts on the streetscape and surrounding properties by:
 - reducing visual bulk of new development when viewed from the street and neighbouring properties
 - ensuring adequate distance between habitable rooms to prevent overlooking
 - reducing opportunities for overshadowing
 - allowing natural light and air circulation
 - providing opportunities for a significant landscape buffer
 - apply floor-to-floor heights for new developments to accommodate commercial and residential uses

Rosstown Hotel (HO157)

- applies specific built form provisions for land subject to the Heritage Overlay (HO157)

Building separation

- applies the same building heights and different setbacks from the common property:
 - where no outlook is proposed (built form to the boundary)
 - from a secondary outlook (*refers to non-habitable rooms including, bedroom windows, bathroom, non-living and commercial*) to the boundary
 - from the primary outlook (*refers to habitable windows including, windows of living and dining rooms. It also refers to the balcony, measured from the main balcony edge*) to the boundary
 - from a secondary or primary outlook to no outlook (blank wall)
 - between secondary outlooks or between primary outlooks
 - from a primary outlook to a secondary outlook

Active frontages, vehicle access, overhangs, safety

- identifies locations for active frontages, vehicle access and overhangs/awnings,
- to provide opportunities for passive surveillance:
 - main retail streets – active frontages at the ground level, balconies and windows at the upper levels
 - open spaces and pedestrian lanes of less than 1.5 metres – active frontages at the ground level and balconies and windows at the upper levels
 - pedestrian only lanes – balconies and windows at the upper levels
 - shared lanes – active frontages and vehicle access, and windows and balconies at the upper levels
 - service lanes – vehicle access and windows and balconies at the upper levels

Solar access to open spaces

- apply the winter solstice 10am to 2pm provisions to identified “*very high sunlight access priority*” open spaces, except where existing built form already overshadows the space

- apply the equinox 10am to 2pm provisions to all other open spaces to balance open space with built form outcomes.

2.3 Housing and employment demand and capacity

(i) The issue

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

(ii) Background

The Amendment was authorised with the following condition:

Amend the Structure Plan and explanatory report to include information about how the Carnegie Major Activity Centre can meet the Victoria in Future projections for population growth within the municipality.

(iii) Evidence and submissions

Housing supply

Regarding housing supply, submissions considered:

- there is a gap in housing supply analysis for the Activity Centre because the Structure Plan focusses on housing demand and supply on land outside the main retail and urban renewal precincts
- Glen Eira's population forecast overestimates growth.

Regarding employment floorspace, submissions considered:

- there is no plan or zone commitment to encourage increased office space in the Activity Centre
- the Structure Plan states "*only 18% of working residents are employed within the municipality, making Glen Eira the fifth-lowest council across Melbourne for local employment*" and this needs to be factored into future plans
- the Structure Plan states there is demand for an additional 4,600 square metres of commercial (office) space by 2036.

Council called Julian Szafranec of SGS Economics & Planning as an economics expert. He found the Amendment:

- provides enough housing capacity to meet housing demand over 15 years in the Activity Centre and municipality
- provides enough employment floorspace to meet future employment demand over 15 years in the Activity Centre.

Housing demand

Mr Szafranec referred to projections and forecasts which are replicated in Table 3.

Table 3 Municipal population and dwelling projects, 2021 to 2036

Document	Additional population	Dwellings
Glen Eira Housing Strategy	29,332*	12,230
Victoria in Future 2023	24,250	12,854
Forecast.id	25,705	11,165

* Based on Victoria in Future 2019

Mr Szafraniec explained Glen Eira's population growth has rebounded since the Covid-19 pandemic and it would be reasonable for Council to plan for:

- between 1,600 and 2,000 additional people each year in the municipality over the next 15 years
- between 11,163 and 13,157 additional dwellings between 2021 to 2036.

He stated that Victoria in Future demand estimates are not shown by suburb but forecast.id estimates that Carnegie will need an additional 1,880 dwellings between 2021 to 2036 to accommodate an additional 4,028 residents.

Mr Szafraniec explained the area included in the Amendment comprises 49 per cent of total housing capacity for Carnegie and 47 per cent of the likely housing take-up. He considered it reasonable to assume that about half of Carnegie's future housing development would be in the Activity Centre. This equates to between 679 and 932 dwellings in the Activity Centre over 15 years.

He outlined the SGS housing capacity model was based on available land, potential yield and net housing capacity and made the following assumptions:

- An average site coverage of 65% in the Residential Growth Zone and 85% in centres (for the podium levels)
- A building efficiency factor of 80%
- An average of 75 sqm of gross floor area per dwelling
- In centres a podium of 2 storeys if the property is under a heritage overlay (corresponding to the general height of heritage shop facades), or three storeys otherwise.
- A floorplate above the podium level 70% as large as the podium.

Employment demand

Council explained the estimate was modelled on:

- Demand Scenario D1: business as usual commercial demand trends
- Demand Scenario D2: increased working from home demand trends
- Capacity Scenario C1: employment uses on ground floor and half of the first floor
- Capacity Scenario C2: employment uses on ground floor and the entire first floor.

Council explained the Employment Assessment capacity modelling made the following built form assumptions:

- **Site coverage** – how much of the land a building would likely cover, is assumed to be 85 per cent.
- **Building efficiency** – how much of the building footprint is useable (i.e. accounting for services, lift areas, stairs, etc), is assumed to be 80 per cent of the total floorspace.
- **Usable floorspace for employment uses**
 - On the Ground Floor it is assumed an average of 70 per cent of the usable floorspace could be occupied by retail or commercial in mixed use developments.
 - On the first floor it is assumed an average of 50 per cent of the usable floorspace could be occupied by retail or commercial in mixed use developments.

These average precinct assumptions could vary on a lot by lot basis and represent an average across all new development within a given precinct.

Council submitted the Employment Assessment:

- identifies 72,900 square metres of existing employment floorspace in the Activity Centre
- estimates demand for employment floorspace in the Activity Centre is between 16,600 square metres (based on Scenario D2) and 18,900 square metres (Scenario D1) from 2021 to 2036.

Mr Szafraniec found the Activity Centre’s capacity for an additional 28,761 to 53,863 square metres of employment floorspace exceeds the likely 15,800 to 17,900 square metres needed to meet demand in 15 years. He acknowledged that more capacity than demand is needed because not every identified site will be developed. He added:

As the Amendment increases certainty and in some cases allowable building heights in the Carnegie MAC, I believe it to be likely to increase take-up of development capacity, meaning that take-up of the theoretical floorspace capacity to meet demand is more likely.

(iv) Discussion

The Panel agrees with Mr Szafraniec’s findings regarding housing and employment demand and capacity. For reasons outlined in his report, there will be enough capacity in the Activity Centre for additional housing and employment floorspace to meet future demand by 2036. There was no submission to persuade the Panel otherwise.

There is no gap in the housing supply analysis. State policy at Clause 11.02-1S of the Planning Scheme seeks to ensure that Glen Eira plans to accommodate projected population growth over at least a 15 year period on a municipal basis. The Structure Plan has appropriately achieved this.

The existing Commercial 1 Zone and existing and proposed Mixed Use Zone areas in the Activity Centre will enable additional employment floorspace which well exceeds demand. As noted by Mr Szafraniec, this is required because not all such zoned land will be made available for employment floorspace by 2036.

(v) Conclusion

The Amendment plans for enough housing and employment capacity in the Activity Centre to contribute towards future municipal demand, as sought by the Planning Policy Framework.

2.4 Strategic justification

(i) The issue

The issue is whether the Amendment is strategically justified.

(ii) Submissions

Council submitted that the Amendment is strategically justified and:

- implements the Structure Plan which:
 - will guide future growth, provision of infrastructure, and public and private investment in the Activity Centre
 - seeks to make the Activity Centre a “*safe, connected and welcoming centre that embraces its authentic urban character and cultural identity*” and a “*destination*”

for entertainment, shopping and employment, and support a range of businesses and interconnected community spaces that meet the needs of the local community, providing a socially, environmentally and economically sustainable future”

- has got the balance right for encouraging housing and employment opportunities in areas of the Activity Centre that have real capacity while enabling more moderate development in sensitive areas
- has been prepared in accordance with Planning Practice Note 58 which seeks for structure planning to “*articulate the shared vision of the centre*” with expectations for a major activity centre in the Planning Policy Framework.

Council submitted the Structure Plan and DDO9 will implement attributes which influence how people feel and how an activity centre is experienced, including:

- the experience along the main street
- wayfinding, view lines, visual bulk, massing and access to the sky;
- the ability to sit in an urbanised or green space with access to sun and where
- required shade; and
- the ability to move to and from and to the place not necessarily with a car;
- the ability to easily move and navigate within the centre especially east west as well as north south.

In its submission, Burke Co Pty Ltd (Burke Co) acknowledged “*the significant amount of technical work undertaken by and on behalf of Council to underpin the amendment*”.

Sullivan Property Pty Ltd (Sullivan Property) was the only submitter requesting the Amendment be abandoned. It explained the Structure Plan and its background reporting:

- do not satisfy concerns raised during Amendment C184glen
- should be revisited to apply a rationale that assesses growth capacity in the Activity Centre and explains why it is reduced in certain areas
- are inadequate to assist decision making.

Sullivan Property considered the Amendment did not appropriately balance design objectives in the Structure Plan with other planning objectives which encourage development intensity in major activity centres.

At the Hearing, Sullivan Property no longer pursued its submission regarding the Amendment’s strategic justification or seek for it to be abandoned.

(iii) Discussion

The Panel has considered whether the Amendment is strategically justified based on its own merits. It has not relied on any previous Planning Scheme amendment for comparison purposes.

The Amendment meets State and local planning policy by providing a framework for more housing and employment floorspace in the Activity Centre. The extent of growth enabled by this framework directly responds to policy regarding development in activity centres and around train stations, housing supply, employment and economic development.

The Structure Plan which forms the basis for the Amendment has been informed by:

- Transport Study which identifies traffic and parking challenges, with responsive actions
- Built Form Framework with recommendations based on evidence-based modelling and heritage considerations
- heritage advice, though limited before the Amendment was exhibited
- Housing Capacity and Demand Analysis (2022)
- a comprehensive suite of research reports as outlined in its Appendix A.

The Panel has concluded earlier that the Amendment plans for enough housing and employment capacity in the Activity Centre to contribute towards future municipal demand, as sought by the Planning Policy Framework. This is evident on the Housing Capacity and Demand Analysis. The estimates underpinning this conclusion are dynamic because the 15-year horizon is constantly moving.

In its next review, Council should consider applying a 20-year strategic planning horizon so that by the time the Amendment implementing the Structure Plan is implemented, there is at least 15 years remaining in the supply and demand estimates. There is likely to be less than 11 years remaining of the year 2036 estimates in the Housing Capacity and Demand Analysis when the Amendment is introduced into the Planning Scheme.

The Amendment is appropriate for guiding future permit applications subject to changes recommended in this report.

(iv) Conclusions

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 the more specific issues raised in submissions as discussed in the following chapters.

2.5 Activity Centre boundary and Structure Plan area

(i) Background

To determine the Activity Centre boundary, the Structure Plan considered:

- the draft Housing Strategy
- the location of public transport, open space, strategic redevelopment sites and higher density residential areas
- environmental and heritage constraints
- opportunities to provide and improve walkability within 400 to 800 metres from the Activity Centre
- consistency with state, regional and local planning policy
- sufficient land availability for commercial activities for 15 to 20 years and looking ahead to 30 years
- excluding residential land that is encumbered by significant constraints such as the Heritage Overlay.

The Structure Plan states the boundary needs to include residential areas, key public land uses and public open spaces that have a strong relationship with the Activity Centre. Residential areas would need to be integrated into the centre.

The Amendment was authorised with the following condition:

Amend the explanatory report to indicate that the current amendment only seeks to apply to the commercial core of the Carnegie Major Activity Centre. The explanatory report should outline how the existing Carnegie Major Activity Centre boundary itself has been determined. This should include information about how the residential areas are being reviewed and may change subject to the recommendations of the housing strategy.

The Amendment’s Explanatory Report explained the Activity Centre alignment.

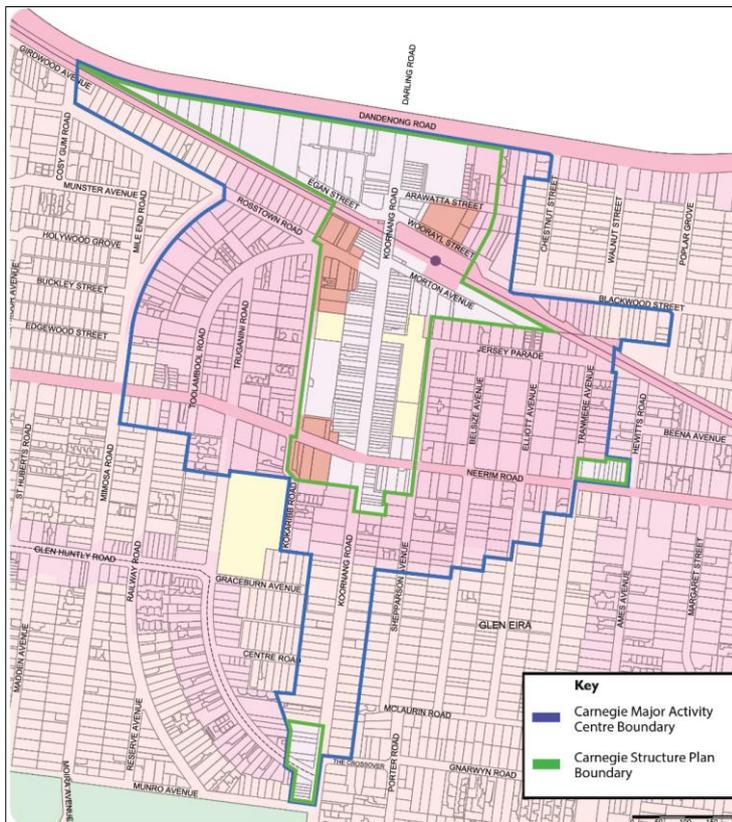
(ii) The issues

The issues are:

- whether the Structure Plan and Activity Centre boundaries are appropriate
- whether Chestnut Street properties should be included in the Activity Centre and the Neighbourhood Character Overlay be removed from those properties.

(iii) Background

Figure 2 Structure Plan and Activity Centre boundaries



Source: Carnegie Structure Plan 2022

(iv) Submissions

There were submissions which considered:

- it is unclear how the Structure Plan boundary was determined, particularly along the Carnegie Motor Inn site and part way through a city block
- the Structure Plan boundary should be realigned to include 36 and 38 Woorayl Street (both are in the Carnegie Major Activity Centre boundary) because this would:
 - increase residential and commercial space and populations
 - increase revenue to Council and the community
 - reduce conflict arising from owners seeking to rezone their properties in future.

Eight submissions requested that Chestnut Street properties be included in the Activity Centre and to remove the Neighbourhood Character Overlay from those properties.

Reasons included:

- the area is surrounded by high density and overshadowing with overlooking balconies
- the Neighbourhood Character Overlay is no longer justified because Chestnut Street has been negatively impacted by surrounding high density development.

Council did not support removing the Neighbourhood Character Overlay from Chestnut Street properties or to including these properties in the Activity Centre. It explained:

- Chestnut street has been identified by urban design experts as having neighbourhood character that should be respected
- Amendment C255glen (Housing Strategy), currently at the authorisation request stage, does not propose to remove the Neighbourhood Character Overlay from Chestnut Street because its consultants advised accordingly
- there was a separate planning scheme amendment and an independent Planning Panel that found the street warranted the Neighbourhood Character Overlay
- surrounding streets to the west:
 - are not in the Neighbourhood Character Overlay area
 - are in either a Residential Growth Zone, General Residential Zone, Mixed Use or Commercial 1 Zone, effectively creating a transition between higher and lower built forms
- this issue is beyond the scope of the Amendment which applies to a limited part of the Activity Centre.

(v) Discussion

The Activity Centre has experienced considerable change including relatively recent higher density housing around the retail core. Council is commended for planning for enough future growth opportunities to meet future housing and employment demand until 2036. There is no need for further land to meet this demand, however this does not mean that further growth opportunities should not be considered.

The Panel does not support realigning the Activity Centre boundary or revising planning provisions affecting Chestnut Street properties through the Amendment. Such changes are beyond the scope of the Amendment and should be proposed with appropriate notice and review.

The Amendment applies to areas identified as retail or urban renewal precincts and excludes the surrounding Residential Growth Zone areas. Chestnut Street is outside the Activity Centre boundary and well beyond the Structure Plan area. There may have been property owners and tenants who would have prepared a submission if properties in Chestnut Street were included in the Amendment before being publicly exhibited. It would be unfair to recommend including this land in the Amendment without giving these members of the community with appropriate notice and the opportunity to express their view.

Having said that, Chestnut Street offers many of the activity centre boundary criteria in Planning Practice Note 58. Chestnut Street properties:

- are strategically located less than 300 metres (a few minutes) walk to Carnegie Train Station
- can accommodate higher density
- can achieve planning policy objectives regarding walkability, infrastructure, employment, sustainability and housing through intensified development
- does not have heritage, environmental or flooding constraints.

The Panel does not question whether the Neighbourhood Character Overlay should apply to Chestnut Street properties because it is in the Planning Scheme and was found to be strategically justified when introduced in 2013. Since then, there have been notable policy changes including *Victoria's Housing Statement: The decade ahead 2024-2034*. Council should consider reviewing, through a separate process, whether local policy from 11 years ago seeking to preserve the neighbourhood character of a street strategically located less than 300 metres from a train station in a major activity centre outweighs state and local planning policy. Planning Scheme Clause 71.02-3 requires planning to balance policy objectives to make an integrated decision. A consultant's opinion falls short of what is sought by this clause.

(vi) Conclusions

The Panel concludes:

- The Structure Plan and Activity Centre boundaries are appropriate.
- Chestnut Street properties should not be included in the Activity Centre through the Amendment and therefore the existing zone and overlays should continue to apply.
- Council should consider reviewing through a separate process whether maintaining the neighbourhood character of Chestnut Street properties outweighs policy seeking more housing and economic development close to a major activity centre and train station.

2.6 Applying the Mixed Use Zone

(i) The issue

The issue is whether it is appropriate and justified to rezone 12-22 and 19-21 Arawatta Street to the Mixed Use Zone.

(ii) Background

The Amendment proposes to rezone the following properties from Residential Growth Zone Schedule 1 to Mixed Use Zone Schedule 1:

- 19-21 (odd numbers) and 12-22 (even numbers) Arawatta Street
- 1100-1106 Dandenong Road (even numbers)
- 26-30 Woorayl Street (even numbers).

(iii) Submissions

Council referred to the Structure Plan which recommended the Mixed Use Zone be applied to the identified properties due to their location in the Urban Renewal Precinct and the type of development envisaged in this precinct.

Two submissions objected to the Mixed Use Zone. One of these requested 12-22 and 19-21 Arawatta Street be zoned to “*match the neighbouring properties to their east in Arawatta Street*”. It explained:

- 12 and 14 Arawatta Street comprise multiple residential properties that were constructed around 10 years ago
- the character of 16-22 and 19-21 Arawatta Street aligns with the remaining streetscape to the east
- five separate properties at 19 Arawatta Street accommodate people with special needs, who have ground level access and are well serviced by shops and services.

The other submission considered the Mixed Use Zone would enable overdevelopment in residential areas.

The Carnegie Mainstreet Traders Association submitted that the area south of Arawatta Street has some potential for further high density development.

(iv) Discussion

The Structure Plan found that 12-22 and 19-21 Arawatta Street can accommodate growth up to 31 metres. This has been translated into the discretionary maximum building heights shown in DDO9 Map 2. Residential Growth Zone Schedule 1 which currently applies to these properties specifies a mandatory height for a ‘dwelling or a residential building’ of 13.5 metres. This represents an underdevelopment which would result in the Activity Centre not being able to fully achieve its policy objectives.

There is strong strategic justification to rezone 12-22 and 19-21 Arawatta Street to the Mixed Use Zone to align with aspirations set out in the Structure Plan. The Mixed Use Zone is a residential zone which enables commercial and other uses normally found in an activity centre. The selection of zone should be based on future strategic aspirations for these properties. In this instance, it should not be based on existing character with the streetscape to their east.

(v) Conclusion

The Panel concludes that it is appropriate and justified to rezone 12-22 and 19-21 Arawatta Street to the Mixed Use Zone.

3 Overshadowing requirements

3.1 Approach to overshadowing

(i) The issue

The issue is whether the approach to overshadowing is appropriate for informing DDO9 overshadowing requirements for each identified open space.

(ii) Background

The Amendment was authorised with the following condition:

It is strongly recommended that Council review the proposed overshadowing controls in DDO9 to ensure they are achievable given the desired heights proposed for certain precincts. DTP may require additional information demonstrating the appropriateness of the controls at a later stage in the amendment process.

The Open Space Strategy Refresh is a policy document in the Glen Eira Planning Scheme. It states:

In the Carnegie Activity Centre the increase in urban densities is a major factor in the need for additional open space. People are living in dwellings with little or no private open space and therefore rely more on public open space. Additionally, there is a need to provide unencumbered private open space with a sense of naturalness including green open spaces that contribute to mitigating urban heat and provide natural green spaces in close proximity to residents and workers in the centre. This forms an important part of the future in addition to laneways, streets and other ancillary public spaces that have and will be provided as part of the Carnegie Structure Plan.

The Open Space Strategy Refresh recommends the Activity Centre provide:

- a new small local open space on the west side of Koornang Road, north of Neerim Road (proposed Kokaribb Road carpark)
- a new local open space in the Urban Renewal Precinct west of Koornang Road and north of the railway (preferred location Rosstown Hotel Carpark)
- a new small local open space in the Urban Renewal Area east of Koornang Road and north of the railway if the Woorayl Street Reserve is not available
- a new local open space on part of the Shepparson Avenue carpark or similar.

(iii) Evidence and submissions

Council submitted:

- open space in Glen Eira is at a premium, particularly in the northern area of Carnegie
- it aims to make the most out of existing and proposed open space areas by protecting the sunlight access to those spaces at key times during the day.

Council added:

The importance of protecting the existing and proposed public open spaces in Glen Eira cannot be overstated.

Through this Amendment, Council has sought to implement overshadowing controls in the DDO9 that reflect the importance of the open spaces that do exist in the CMAC and secure the amenity for some key sites which have been identified as future open

space areas. Some spaces are ranged as meriting a control that is more strict than other spaces.¹

Council submitted the proposed overshadowing provisions reflect the importance of the open spaces that exist or are proposed in the Activity Centre. It identified the open spaces requiring protection then determined whether equinox or solstice requirements were needed having regard to:

- the purpose and function of the open space
- the impacts on the development opportunity of the adjoining properties
- the need to balance housing growth and open space objectives.

Council found there is a compelling need for mandatory overshadowing requirements because:

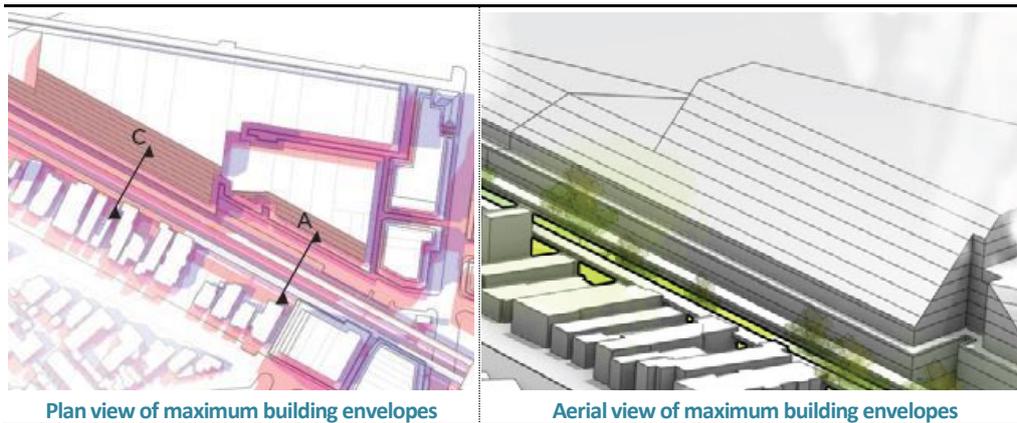
- public places with solar access are a finite and highly valued resource, not able to be replaced once they are lost
- the Koornang Road footpaths provide spaces for people to congregate and enjoy the outdoors outside adjoining commercial and hospitality uses
- comfortable pedestrian spaces will support increased walkability
- open spaces and the public realm are vulnerable to the cumulative impacts of overshadowing
- 10am-2pm reflects when most people will be outside each day.

Council called Amanda Roberts of Lat37 as an expert on urban design. Ms Roberts explained extensive testing was undertaken to show the impact of the overshadowing requirements. She noted:

- particular attention was given to the Jersey Parade Reserve (library forecourt) given its high use and importance
- while lesser testing was undertaken for the proposed Kokaribb Road open space, modelling shows an acceptable mass can be achieved by future development
- existing development may already exceed the mandatory overshadowing requirement proposed for the Woorayl Street Reserve, demonstrating the importance of protecting the space that is left.

Ms Roberts referred to images in the Built Form Framework (Figure 3) which show how built form needs to be managed to protect solar access to adjoining open spaces. She noted the final built form would be broken up by towers to achieve habitable and constructable floorplates.

¹ CMAC: Carnegie Major Activity Centre

Figure 3 Building envelopes to meet mandatory overshadowing requirements

Overall, Ms Roberts was satisfied the overshadowing requirements balanced development with public amenity. She explained, this would be achieved by:

- not totally restricting development on the impacted properties
- allowing new development to cast a shadow which does not exceed the shadow cast by existing built form or by the street wall height specified in DDO9.

Submissions were critical that the precise location of areas listed in exhibited DDO9 Clause 2.8 was unknown. Council accepted overshadowing requirements need to apply to clearly defined open spaces. DDO9 (Version 2) included dimensioned maps for each identified open space.

Submissions also criticised the overshadowing modelling in the Built Form Framework. Concerns remained after Council circulated additional static images from modelling that informed the Built Form Framework. Sullivan Property submitted:

Having reviewed these documents, we note several inaccuracies and omissions that severely limit the contribution that they are able to make to the assessment of the Amendment, especially with respect to determining value and impact of shadow controls.

Specifically, we note that:

- The Djerring Trail shadow studies do not depict 'existing conditions' as stated, as they show the proposed DDO9 massing and ignore existing built form west of Egan Street that exceed the DDO9 form;
- The Djerring Trail shadow studies do not appear to show the entirety of the Djerring Trail open space (as defined by Map 03 of the Day 3 DDO9), with the western section omitted;
- The open space boundary and shadow extents are obscured by the Skyrail on the Djerring Trail shadow studies (Skyrail should have been shown hatched so these elements could be seen beneath);
- Neither the Djerring Trail nor Woorayl Reserve shadow studies align with the boundaries of these open spaces as defined by Map 03 of the Day 3 DDO9 (e.g., the corner slay in the north-eastern corner of the Woorayl Reserve is erroneously included in the POS boundary); and
- Both the Djerring Trail and Woorayl Reserve shadow studies continue to fail to distinguish between the vastly different functions of different areas within the POS (e.g., they don't show the actual Djerring Trail as opposed to the adjacent drainage and inaccessible garden areas).

Benon called Sophie Jordan of Contour Consultants as a planning expert. Ms Jordan considered the preferred building heights for the Urban Renewal Precincts did not connect with what could be achieved by the overshadowing requirements. She stated:

In order for the built form outcomes envisioned for the Carnegie MAC to be possible, built form requirements regarding overshadowing must work together. It is necessary for scenario testing of building heights (including both the street wall and tower) to be comprehensively examined with shadow diagrams prepared to determine if these heights are acceptable.

Ms Jordan recommended a review of the overshadowing requirements to confirm:

- if mandatory provisions should be abandoned in favour of discretionary provisions with clear guidance on acceptable outcomes
- if winter shadows should be replaced with equinox shadows and the hours of impact should be amended
- why the shadow cast from a street wall is acceptable but not the overall building.

Several submissions sought lower building heights in the Urban Renewal Precinct 1 and 2 to avoid excessive shadowing of the skyrail open space.

In reply, Council highlighted the model demonstrates how the overshadowing requirements will influence future building envelopes. It considered these were acceptable given:

- the Activity Centre has ample capacity to accommodate forecast growth
- preferred building heights can still be achieved across street block, even if an individual site is constrained.

(iv) Discussion

The Open Space Strategy Refresh confirms the importance of existing open space and the need for more open space in the Activity Centre. No submission disputed this. Existing and future key open spaces should receive an appropriate form of sunlight to support their function.

Council's methodology and approach to overshadowing is broadly logical and appropriate. This includes:

- new development not overshadowing open space beyond a shadow made by existing built form or by a future street wall specified in DDO9 because it strikes a reasonable balance between protecting streetscape character and solar access while enabling sufficient development capacity
- digitally modelling different scenarios of this approach to understand the impact on potential building envelopes.

However, the methodology was challenged by unclear and missing information either in the Built Form Framework or the model itself. The Built Form Framework:

- does not show existing building conditions which is fundamental to the DDO9 overshadowing requirement seeking to restrict a shadow beyond "*the existing shadows from existing buildings and infrastructure*"
- does not show existing infrastructure such as the diagonally oriented skyrail which runs above the entire length of the skyrail open space
- shows overall shadows on page 35 at 9am and 3pm rather than 10am and 2pm specified in DDO9 overshadowing requirements

- excludes some of the open space areas on pages 29 and 30, though it shows shadows at 10am and 2pm at the equinox and winter solstice
- does not include a complete set of forecast shadows, for example, it omitted:
 - modelling for Koornang Road eastern footpath
 - the shadow on Neerim Road open space enabled by future buildings permitted by DDO9
- does not analyse alternative options such as the impact of winter solstice versus equinox provisions on built form and development potential
- does not clearly present the model and excludes labels and legends such as those shown on pages 82 to 85
- does not clearly explain the model assumptions.

Modelling existing building conditions would have confirmed whether:

- overshadowing requirements were proposed on land already shaded during the sought hours
- proposed built form provisions will restrict the ability to overshadow the identified open space.

Further modelling provided by Council in response to a Panel request confirmed the Koornang Road footpath overshadowing requirements were not needed because the mandatory Retail Precinct 1 built form provisions will not enable development that will reach the footpath on the opposite side of the road.

The Panel provided numerous opportunities for Council to provide a model based on existing conditions for the key open space areas in dispute, particularly the skyrail open space. For the reasons outlined by Sullivan Property, this did not eventuate.²

The information provided by Council after its closing submissions was unhelpful. In contrast, modelling presented by other parties for individual sites, while not the subject of expert evidence, was clear.

(v) Conclusions

The Panel concludes:

- The approach which enables the street wall to overshadow public open space and to prohibit overshadowing beyond that cast by the street wall and existing built form and structures strikes a reasonable balance between protecting streetscape character and solar access while enabling sufficient development capacity.
- The approach to overshadowing would have benefited from:
 - an accurate analysis of existing conditions
 - factoring the existing conditions into the overshadowing assessment.
- The Built Form Framework model and associated overshadowing of existing built form and street wall provisions inaccurately reflects actual circumstances in certain locations.
- The proposed overshadowing timeframe of 10am to 2pm:
 - is appropriate for managing solar access to most public open spaces.
 - does not align with how the transient skyrail open space is used.

² Document 55

- The overshadowing requirement should be applied only to open space which has existing solar access to most of it between 10am to 2pm during its respective solar access measure.
- Applying a mandatory overshadowing requirement to open space that is mostly overshadowed during the respective measure would achieve little amenity benefit and will unreasonably impact development capacity.
- Overshadowing requirements are not necessary where mandatory built form provisions ensure the identified open space will not be in shadow.

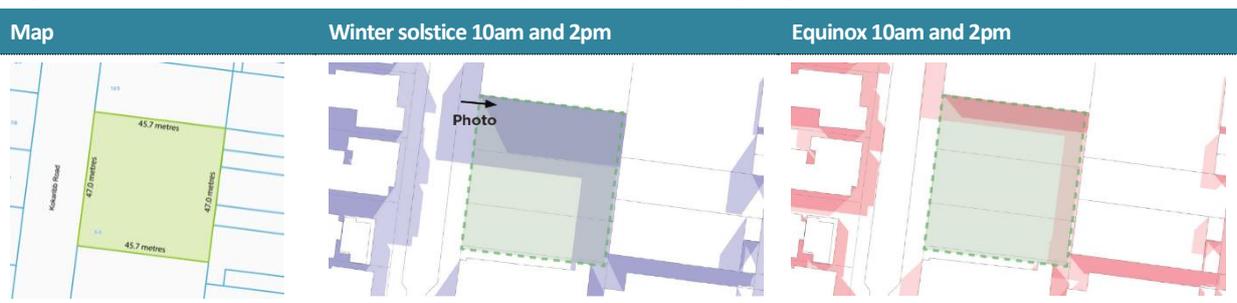
3.2 Kokaribb Road future reserve

(i) The issue

The issue is whether the proposed DDO9 overshadowing requirements are appropriate for the Kokaribb Road future reserve.

(ii) Background

Figure 4 Kokaribb Road future reserve – map and overshadowing diagrams



Source: Map: DO9 (Version 2); Overshadowing diagrams: Built Form Framework

(iii) Submissions

Numerous submissions objected to the Kokaribb Road public car park becoming open space and requested it remain as a car park.

Council submitted the Open Space Strategy Refresh strategically identifies the car park as future open space. Council considered protecting future open space to be consistent with the findings of the Central Geelong Framework Plan Advisory Committee in Greater Geelong (Amendment C431ggee) (C431 Committee). That Committee stated:

The Committee broadly supports protecting future open space. The Committee agrees with DELWP that there is a high degree of certainty that a forecourt of some form will be delivered at the Station (see Chapter 11.3). While the delivery of open space on the Council carpark sites is less certain, the southern parts of Central Geelong are lacking in open space, and the Committee has found that it is important to identify future open space opportunities in these areas (see Chapter 11.3).

If the Framework Plan is to identify potential future open space, it makes sense to protect sunlight access to those spaces to preserve the opportunity for that potential future open space to be high quality and to deliver high amenity. The Committee supports DELWP's submissions in this regard.³

³ DELWP: Department of Environment Land Water and Planning

(iv) Discussion

The Kokaribb Road car park has been strategically identified as a future open space area in the Open Space Refresh and will fill a recognised gap in open space supply in the Activity Centre. Consistent with the findings of the C431 Committee, it is appropriate to protect the opportunity to develop this area as a high quality open space in the future.

The model prepared as part of the Built Form Framework confirms the space has good access to sunlight at the winter solstice currently, and if surrounding land is developed to the proposed street wall height in the future.

Mandatory winter solstice provisions are appropriate for this area because:

- it is well located within the Activity Centre
- it is suitably dimensioned to provide a meaningful open space opportunity to meet the needs of future residents
- has good access to winter sunlight under existing and proposed conditions
- the constraints on development on adjoining land do not outweigh the benefits of providing well located new open space with year-round solar access.

(v) Conclusion

The Panel concludes that it is appropriate and justified to apply a mandatory winter solstice overshadowing requirement to the Kokaribb Road future reserve.

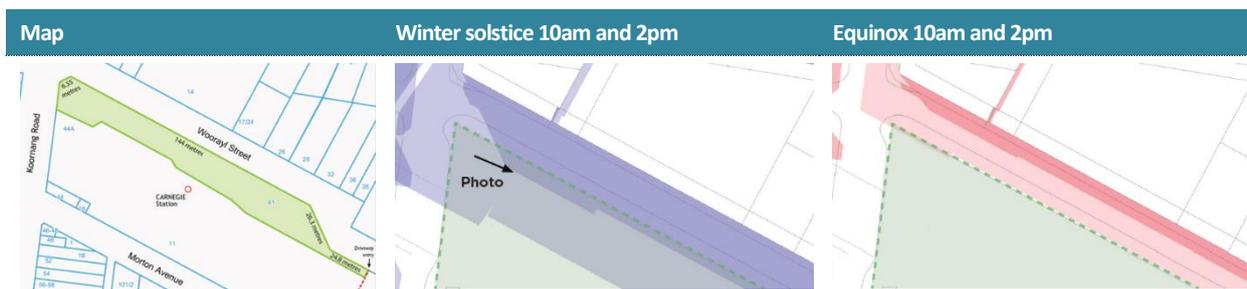
3.3 Woorayl Street Reserve

(i) The issue

The issue is whether the proposed DDO9 mandatory winter solstice overshadowing requirement is appropriate for the Woorayl Street Reserve.

(ii) Background

Figure 5 Woorayl Street Reserve – map and overshadowing diagrams



Source: Map from DDO9 (Version 2) and overshadowing diagrams from Built Form Framework

(iii) Submissions

Lite Footprint submitted the mandatory overshadowing requirement for the Woorayl Street Reserve was inappropriate and should be deleted because:

- the reserve is zoned Transport Zone, not Public Park and Recreation Zone or similar
- the model does not demonstrate the nexus between building height and the useability of the reserve

- the requirement is contrary to the Structure Plan objectives to direct the tallest development to the urban renewal precinct north of the train line.

Several submitters noted the overshadowing analysis in the Built Form Framework did not account for existing shadows cast by buildings on the north side of Woorayl Street.

Towards the end of the Hearing, Council provided static images from its parametric model which showed that the shadows cast by existing buildings and a street wall built to the height specified in DDO9. This shows that at the winter solstice the Woorayl Street Reserve:

- is almost completely in shadow at 10am
- is approximately two thirds in shadow at 12 noon
- is approximately one third in shadow at 2pm.

At the equinox, the Woorayl Street Reserve:

- is approximately one quarter in shadow at 10am
- has a small amount of shadow at 12 noon
- is not in shadow at 2pm.

(iv) Discussion

The Built Form Framework model and associated overshadowing of existing built form and street wall provisions inaccurately reflect actual circumstances for the Woorayl Street Reserve. This is because it should have included the shadow cast by the 12 storey building at 22 Woorayl Street.

Further information from Council shows shadows from existing buildings leave little solar access to the Woorayl Street Reserve at the winter solstice. Given this existing situation, Council should have at least assessed development capacity of adjoining land based on:

- preferred height and interface type
- solstice provisions
- equinox provisions.

This information would enable an informed judgement to be made on the benefits and disbenefits of different approaches relative to each other. Council seeks to apply strict requirements based on limited analysis. This does not satisfy the high bar for justifying the introduction of mandatory provisions.

The Panel agrees that the impact of new development on the solar access that remains at the Woorayl Street Reserve should be considered at the permit stage. For this reason, discretionary equinox provisions are supported.

(v) Conclusion and recommendation

The Panel concludes that a discretionary equinox overshadowing requirement should be applied to Woorayl Street Reserve rather than a mandatory winter solstice provision.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to apply a discretionary rather than mandatory overshadowing requirement to the Woorayl Street Reserve measured at the equinox rather than the winter solstice.

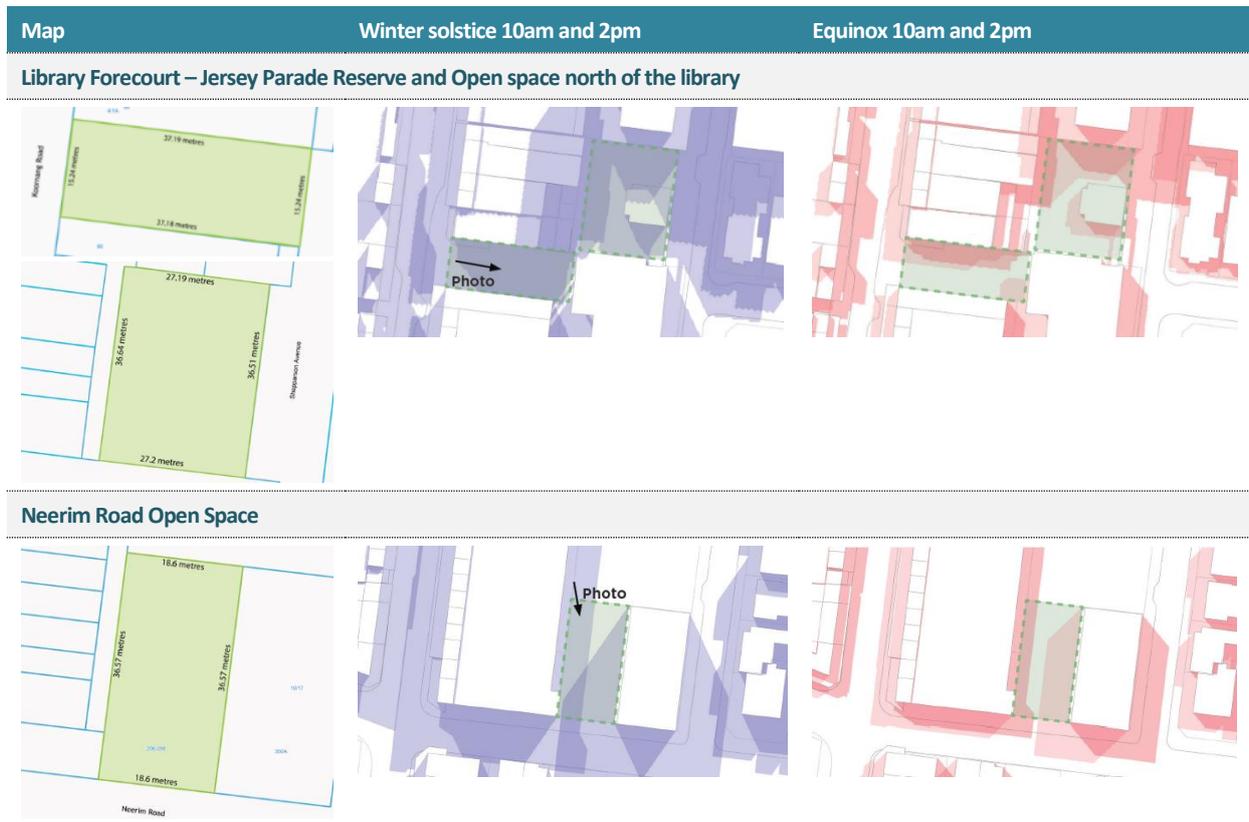
3.4 Library Forecourt - Jersey Parade Reserve, Open space north of the library and Neerim Road open space

(i) The issues

The issues are whether the proposed mandatory DDO9 overshadowing requirements are appropriate for the Library Forecourt - Jersey Parade Reserve (winter solstice), Open space north of the library (equinox) and Neerim Road open space (equinox).

(ii) Background

Figure 6 Library forecourt – Jersey Parade Reserve, Open space north of the library and Neerim Road Open Space – map and overshadowing diagrams



Source: Map: DDO9 (Version 2); overshadowing diagrams: Built Form Framework

(iii) Submissions

In response to the Panel’s questions, Council confirmed the shadow diagrams in the Built Form Framework omitted potential shadows cast by a building developed to the north of the Neerim Road open space.

(iv) Discussion

The Built Form Framework model and associated overshadowing of existing built form and street wall provisions inaccurately reflect actual circumstances for the Neerim Road open space because it should have included built form enabled to its north.

The Built Form Framework shows the Library Forecourt - Jersey Parade Reserve and Open space north of library will be mostly overshadowed during the winter solstice. This is likely

to be the case for the Neerim Road open space if abutting built form to its north was included in the model. The little remaining unshaded areas were not of a size, dimension or location to attract people. There is therefore little benefit in applying winter solstice overshadowing requirements.

However, these three open spaces have notably larger areas where there is no overshadowing during the equinox. The Panel considers it appropriate and justified for development to not further overshadow these three spaces from 10am to 2pm during the equinox beyond shadows cast by existing built form and future street walls.

(v) Conclusions and recommendation

The Panel concludes:

- It is appropriate and justified to apply the exhibited mandatory equinox overshadowing requirement to the following open spaces because they are mostly overshadowed during the winter solstice and there should be no further overshadowing during the equinox:
 - Open space north of the library
 - Neerim Road open space.
- A mandatory equinox overshadowing requirement should be applied to the Library Forecourt – Jersey Parade Reserve because it is mostly overshadowed during the winter solstice and there should be no further overshadowing during the equinox.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to apply a mandatory overshadowing requirement to the Library Forecourt – Jersey Parade Reserve measured at the equinox rather than the winter solstice.

3.5 Skyrail open space

(i) The issue

The issue is whether the proposed DDO9 mandatory equinox overshadowing requirement is appropriate for the skyrail open space.

(ii) Background

The exhibited DDO9 referred to two separate skyrail open space areas:

- active recreation space below skyrail immediately west of Koornang Road (skyrail active open space)
- skyrail open space west of Egan Street (skyrail open space).

In response to the Panel’s Directions, Council provided a map showing the location of the active recreation space (Figure 7). As both areas were proposed to be subject to mandatory equinox provisions, Council merged the space into a single reference in DDO9 Version 2.

Figure 7 Skyrail open space and active recreation space below skyrail – map and overshadowing diagrams



Source: Skyrail map: DDO9 (Version 2); Active space map: Document 3x; Overshadowing diagrams: Built Form Framework

(iii) Evidence and submissions

Ms Roberts stated:

The shadow impacts of a 3-storey street wall on the Skyrail linear park shows that any new development for the planned growth will inevitably overshadow the southern parks. By avoiding additional shadow cast by future development to the allowable shadows cast by existing buildings and the street wall, sunlight amenity and usability of public open spaces are protected. The same rationale applies to shadow controls on all other existing and planned parks.

Numerous submissions opposed the mandatory equinox overshadowing provisions proposed for the skyrail open space. In addition to concerns about the accuracy of model summarised in Chapter 3.1, they were critical of the sensitivity afforded to the skyrail open space. They noted this area:

- is already extensively overshadowed
- does not rely on direct sun to be attractive or functional
- is a transitional space consisting of a shared bicycle/pedestrian path with grassed drainage culverts and landscaping to the sides
- is underneath the skyrail which exhibits significant visual bulk and noise
- is on VicTrack owned land ancillary to the railway line, as acknowledged in the Open Space Strategy Refresh
- has been eroded by the recent development of angled parking along Egan Street.

Submissions added:

- solar access to the network of identified public open spaces along the southern edge of the Urban Renewal Precinct will inevitably conflict with the development intensity envisaged for this precinct
- the Open Space Strategy Refresh encourages new open space near the Rosstown Hotel where there will be less conflict between sunlight access and development targets

- it would be an undesirable and poor planning outcome if a minor amount of additional overshadowing prohibited the proper development potential of land in the Urban Renewal Precinct
- the shadow requirement is of no use if a space does not currently receive sunlight
- Council is prioritising an ancillary open space which has minimal potential to be a high amenity area
- the supporting information and justification for applying the mandatory overshadowing requirement falls well short of the 'high bar' set for mandatory provisions in Planning Practice Note 59
- the overshadowing requirements' drafting is unworkable and would result in a cumbersome shadow analysis for applicants and decision makers.

Regarding the skyrail open space, submissions requested DDO9 be revised to:

- delete the overshadowing requirement
- apply the requirement as a discretionary provision rather than mandatory
- exempt approved buildings under construction from the requirement
- confine a performance-based shadow requirement to the concrete trail only, and not adjacent ancillary spaces.

Council disagreed with how the skyrail open space was described by some parties as an 'ancillary' open space. It explained the skyrail open space is:

- ancillary to the main purpose of the reserve which is the skyrail and not because it is less important
- well-used for walking, exercise, resting, playing and meeting friends, as is the case in many local parks.

Council considered the submissions over emphasised the importance of providing floor space on individual sites in the Activity Centre "*at the expense of the remaining sunlight amenity of the only public open space in the area*". It submitted:

Is it really possible to house and provide for an increased population (and the existing population) with a linear open space already subject to some shadow to be in virtually complete shadow for most of the year?

The static images from Council's parametric model produced at the end of the Hearing apply largely to the skyrail active open space. These images exclude the shadows from existing buildings but show shadows from a street wall built to the maximum height specified in DDO9. The images show the skyrail active open space at the equinox is overshadowed:

- almost completely at 10am
- on about three quarters of its total area at 12 noon
- on about one quarter of its total area at 2pm.

(iv) Discussion

Skyrail open space

The Built Form Framework model and associated overshadowing of existing built form and street wall provisions inaccurately reflect actual circumstances for the skyrail open space. This is because it should have included existing buildings and approved buildings under construction.

The skyrail open space was comprehensively discussed throughout the Hearing. The Panel has sought to understand the space and why a strict mandatory overshadowing requirement is proposed.

The area identified in exhibited DDO9 as skyrail open space is encumbered space under two solid concrete rail structures. Its current amenity (see Figure 8) is impacted by:

- rows of solid concrete pillars holding up the overhead structures
- significant existing overshadowing cast by the skyrail structure
- railway related noise
- significant existing built form along the northern boundary which is expected to increase in the future.

Figure 8 Skyrail open space existing northern boundary condition



The skyrail open space is part a regional transitional linear space so will be used:

- differently to other open spaces in the Activity Centre
- predominantly by pedestrians and cyclists over a broad range of hours.

The skyrail open space's function does not warrant any overshadowing requirements. The lack of open space in and around the Activity Centre is insufficient strategic justification to apply overshadowing requirements, especially as mandatory provisions, to notably overshadowed and encumbered space beneath railway structures.

This does not mean the space will not be available for locals to use or that it would cease to be used if it was overshadowed beyond the shadow of the skyrail structures. It will continue its primary open space function as a movement corridor into the Activity Centre.

The skyrail open space is not a substitute for the open space needed in the Urban Renewal Precinct to fill current gaps in supply. The Open Space Strategy Refresh explicitly calls for a new space in the order of 2,500 square metres that "*does not adjoin the railway or Dandenong Road*". Council appears to have lost sight of this important initiative through preparation of the Structure Plan.

Skyrail active open space

The skyrail active open space is functionally different from the remaining skyrail open space. It is a confined space with recreational equipment and sports courts which warrant year round solar access.

The static images from the parametric model show that direct sunlight to the space progressively increases in the afternoon at the equinox. However, they do not distinguish the precise location of the skyrail active open space or shadows from buildings and the skyrail structure.

Like the Woorayl Street Reserve, there is limited analysis to support strict requirements. This does not satisfy the high bar for justifying the introduction of mandatory provisions.

The impact of new development on the solar access that remains at the skyrail active open space should be considered at the permit stage. For this reason, a discretionary equinox requirement is supported.

(v) Conclusions and recommendation

The Panel concludes:

- Overshadowing requirements should not be applied to the skyrail open space west of Egan Street because there is no evident reason to protect this significantly overshadowed regional transient space.
- A discretionary equinox overshadowing requirement should be applied to the Active recreation space below the skyrail immediately west of Koornang Road.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to:

- a) **delete overshadowing requirements for any skyrail open space west of Egan Street**
- a) **identify the dimensions of the skyrail active open space**
- b) **apply a discretionary rather than mandatory overshadowing requirement to the skyrail active open space measured at the equinox.**

3.6 Koornang Road footpaths

(i) The issue

The issue is whether the proposed DDO9 mandatory equinox overshadowing requirement is appropriate for the Koornang Road footpaths.

(ii) Background

For the Koornang Road:

- western footpath, the Built Form Framework modelled shadows at 9am and DDO9 specified 10am overshadowing requirements
- eastern footpath, the Built Form Framework modelled shadows at 3pm and DDO9 specified 2pm overshadowing requirements.

DDO9 (Version 1) increased the exhibited primary setback above the Koornang Road street wall from 5 metres to 6 metres and secondary setback from 7 metres to 9 metres.

To compare the potential development impact resulting from the shadow times specified in DDO9 with the exhibited and revised upper level setback, on 1 February 2024, the Panel directed that Council provide plans and elevations which showed the extent of shadow cast on Koornang Road at 10am and 2pm at the equinox by:

- a building with the exhibited mandatory maximum building height and minimum primary and secondary setbacks above the street wall
- a building with the mandatory maximum building height in DDO9 (Version 1) and revised primary and secondary setbacks above the street wall
- a 9 metre street wall.

The plans supplied by Council did not show the shadow cast by the modelled built form at 10am and 2pm.⁴

(iii) Submissions

Sullivan Property requested the overshadowing requirements for Koornang Road be applied as discretionary provisions to allow for more detailed analysis during the planning permit application stage.

At the Hearing, the Panel explained to Council that it did not have the information to understand the potential shadows cast by built form. Council presented a live view of the three-dimensional model. It showed a shadow cast by the building envelope established by the proposed mandatory building height and upper level setbacks at 10am and 2pm did not reach the footpath on the other side of the Koornang Road.

The Panel asked Council whether mandatory overshadowing requirements were needed in DDO9 if the mandatory height and setback provisions achieved the intended outcome.

Council submitted that it reinterrogated the model and found:

- it correctly showed the shadows across Koornang Road from built form which had 5 and 6 metre upper level setbacks
- they matched the shadows shown in the Built Form Framework figure on page 35.

(iv) Discussion

The Built Form Framework model and associated overshadowing of existing built form and street wall provisions inaccurately reflect actual circumstances for Koornang Road footpaths. This is because it should have included shadows on the eastern footpath in the afternoon.

The Panel agrees with Council that the overshadowing provisions for the Koornang Road footpaths are not necessary for Retail Precinct 1 because the mandatory built form provisions proposed in DDO9 will not overshadow the footpaths at 10am or 2pm during the equinox.

The Panel supports Council's proposal to delete the overshadowing requirement for the western and eastern Koornang Road footpaths, as shown in DDO9 (Final version). Deleting this provision would remove the requirement from properties in and outside Retail Precinct 1. This includes Koornang Road properties outside Retail Precinct 1 and north of the skyrail and south of Neerim Road with discretionary maximum street wall heights.

This may enable permit applications which propose to overshadow some of a relatively small portion of Koornang Road footpath north of the skyrail and south of Neerim Road. This is a reasonable outcome because:

⁴ Documents 23a and 23b

- mandatory built form provisions will apply to buildings in Retail Precinct 1 on the east side of Koornang Road, north of the skyrail and south of Neerim Road, so they will not overshadow the western footpath
- each permit application would be assessed on its own merit.

(v) Conclusion and recommendation

The Panel concludes there is no need to apply overshadowing requirements for Koornang Road east and west footpaths because:

- mandatory built form provisions in Retail Precinct 1 proposed in Design and Development Overlay Schedule 9 will ensure buildings do not overshadow the footpaths at the identified times
- properties outside Retail Precinct 1 with discretionary maximum street wall heights form part of a relatively small and peripheral part of Koornang Road and any permit application can be assessed on its merits.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to delete overshadowing requirements for Koornang Road east and west footpaths.

4 Rosstown Hotel (HO157)

4.1 Background

(i) Heritage advice

Heritage advice which informed these provisions included:

- Heritage advice for Rosstown Hotel (RBA Architects, 20 May 2022)
- Memorandum of advice: Heritage advice, Carnegie Major Activity Centre built form framework (GJM Heritage, 8 August 2022)
- Memorandum of advice: Heritage advice, Carnegie Structure Plan 2022 – Amendment C237glen (GJM Heritage, 13 October 2023, amended 21 December 2023).

(ii) Amendment C190glen

The Glen Eira PSA C190glen [2020] PPV report recommended the Heritage Overlay (HO157) be applied to the original hotel building and 5 metres west and south from the terracotta roof, as proposed by Council and agreed by the owner. Amendment C190glen changes were introduced into the Planning Scheme on 18 March 2022.

4.2 Building height, street wall and upper level setback requirements

(i) The issues

The issues are whether for the Rosstown Hotel (HO157) it is appropriate and justified to apply through the exhibited DDO9:

- mandatory building height requirements in Clause 2.2 and Table 2
- mandatory street wall height and upper level setback requirements in Map 1, Clause 2.3 and Table 3.

(ii) What does DDO9 propose?

DDO9 includes the following building height requirements for the Rosstown Hotel site:

- no additions to, through or above the existing terracotta roof (mandatory)
- no additions higher than the west facing parapet wall or the eaves soffit of the original terracotta roof within 2 metres of the terracotta roof (mandatory)
- 24 metres, up to 6 storeys between 2-5 metres from the terracotta roof (discretionary)

Table 4 Mandatory street wall setback requirements

Applies to	Mandatory street wall setback	Interface Type	Preferred street wall setback
Development within 2 metres of the western and southern edge of the existing terracotta roof (shown in orange in Map 1 to this schedule)	1 metre from - the Dandenong Road frontage, and - the Koornang Road frontage for a length of 2 metres	Type 1B	None specified
Development beyond 2 metres of the western and southern edge of the existing terracotta roof (shown in blue on Map 1 to this schedule)	None specified	Type 1	Built to the boundary

(iii) Evidence and submissions

Benon submitted:

- it objected to the mandatory street wall setbacks for the Rosstown Hotel and area within 2 metres from the roof proposed in DDO9 Clause 2.3 and its Table 3
- it is questionable why the two setback areas are needed and why they were not specified as minimum setbacks
- the Heritage Overlay deals with street wall setbacks and the interface between the heritage building and any adjoining built form
- Map 2 would apply a complex matrix of setback provisions across three contiguous parcels of land in single ownership
- most other height transitions in the DDO9 area do not include multiple mid-block interface setback requirements.

Ms Jordan considered it inappropriate for DDO9 to specify further detailed design requirements for a building of individual heritage significance. She added:

It is the role of the Heritage Overlay to protect local heritage and the role of a Design and Development Overlay to guide built form. Whilst the two overlays may, and often do, work together, it is important that the primary purpose of each is not confused.

She referred to the Glen Eira PSA 190glen [2020] PPV report which considered the Rosstown Hotel site and states:

The Heritage Overlay is the appropriate planning mechanism to protect the heritage values of the precincts and individual properties as the Heritage Overlay requires a permit to be granted for building and works, including demolition, that could affect the significance of these precincts and individual properties.

Ms Jordan stated the DDO9 built form provisions for the Rosstown Hotel site are more prescriptive than the Heritage Overlay or Clause 15.03-1L (Heritage policy). She referred to Clause 15.03-1L which allows additions to commercial heritage places that:

- Ensure upper level additions respect the scale and form of the heritage building and the heritage streetscape.
- Maintain the prominence of the street wall by recessing upper levels.
- Encourage the retention, restoration or reconstruction of original shopfronts and verandahs.
- Encourage new development to maintain the prevailing street wall height in the precinct.

- Discourage the introduction of architectural features where these features were not originally present.
- Avoid obscuring names and dates that form architectural features of the building.

Ms Jordan explained that unlike Clause 15.03-1L which enables additions, DDO9 prohibits all development above the Rosstown Hotel terracotta roof. She considered this to be unreasonable because:

- it would preclude a new skylight or rooftop whether visible from the street or not
- the degree of restriction may be expected for a structure in the Victorian Heritage Register and of State significance.

Ms Jordan recommended that DDO9 be revised to:

- delete the site-specific heritage provisions
- include some design objectives
- translate the prescriptive requirements into performance based provisions which are guided by heritage policy and the Heritage Overlay.

Council considered the mandatory building height requirements proposed for the Rosstown Hotel to be justified, and submitted:

- it is an unusually intact building in an area where there is likely to be very strong development pressure
- they are informed by the RBA Heritage Advice
- its expert witness, Jim Gard'ner of GJM Heritage, considers them necessary.

The RBA Heritage Advice sought to “*retain the in-the-round views of the building, and the heritage significance of the place*” through recommended mandatory building height requirements for above and within 2 metres of terracotta roof, as included in exhibited DDO9 Table 2.

Mr Gard'ner stated:

- the proposed mandatory provisions are appropriate for the Rosstown Hotel as an individual heritage place
- it is appropriate to avoid development through or projecting over the terracotta roof to retain the visual prominence of the building and allowing its historic form to remain legible when viewed from the public realm
- applying the mandatory requirement is appropriate and is consistent with Planning Practice Note 59
- the hotel is also a local landmark with distinctive architectural form on a prominent street corner
- the 5-metre curtilage south and west of the roof eaves and the associated heritage and built form provisions should provide a transitional zone where new built form can step up from the eaves' height of the historic hotel to the taller built.

Mr Gard'ner recommended that DDO9 be revised to:

- translate the first 2 metres of curtilage for the south and west of the hotel into a mandatory provision
- simplify the Map 1 mapping of controls affecting the Rosstown Hotel.

In response to questions at the Hearing, Mr Gard'ner conceded it may be acceptable to alter the roof in a certain circumstance without negatively impacting the Rosstown Hotel's heritage significance.

(iv) Discussion

The Amendment seeks to introduce a framework for assessing future planning permit applications seeking to develop part of the Rosstown Hotel subject to the Heritage Overlay (HO157). The Panel made directions to better understand why the heritage-related DPO9 requirements were needed. One direction referred to the Practitioner’s Guide which has rules for introducing new provisions into the Planning Scheme including:

RULE 2: A provision must implement the objectives of planning and be supported by a sound strategic planning and policy basis

A provision must:

- Clearly set out its purpose and the intended planning outcome.
- Seek to implement the objectives of planning.
- Show an evidence based justification for the planning intervention.

...

- Be relevant to an exercise of a discretion in the planning scheme.

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

RULE 4: The application of a provision must be necessary and proportional to the intended planning outcome.

The Heritage Overlay which applies to the Rosstown Hotel seeks to:

- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.

The Heritage Overlay also triggers local heritage-related planning policy at Planning Scheme Clause 15.03-1L which provides detailed provisions for proposing and assessing future permit applications.

Planning Practice Note 46 advises that proposed new planning provisions need to be justified, and the level of justification should be proportional to the impact the change will have. Planning Practice Note 59 advises that mandatory provisions are the exception and *“will only be considered in circumstances where it can be clearly demonstrated that discretionary provisions are insufficient to achieve desired outcomes.”*

The Panel has considered the proposed building height, alteration and setback requirements within this context and referred to HO157 Statement of Significance (Rosstown Hotel). The Statement identifies significant elements including the *“parapets, tile clad roofs, the wide eaves and coved soffits of the bellcast roof...”*.

Mr Gard’ner provided helpful insight into why he considered the proposed approach to building heights, alterations and setbacks appropriately respond to the heritage fabric. However, simply because a certain height or setback may be an appropriate design response, does not mean it is appropriate as a Planning Scheme provision. A more robust planning assessment is sought to consider whether these requirements are appropriate and justified to be introduced and whether they should be applied as mandatory requirements.

The Panel then turned to the RBA Heritage Advice to find information to support these requirements. It states the mandatory height requirements are needed to retain ‘in-the-round’ views of the building and the heritage significance of the place.

The RBA Heritage Advice does not explain:

- the exceptional circumstances to justify applying specific mandatory requirements for development around the roof or eaves rather
- its methodology, assessment or any information which informed its recommendations
- why the Heritage Overlay and associated policies and provisions are deficient in assessing such design responses through a permit application process
- why an addition above terracotta roof but west and south of its ridgeline would remove the ‘in-the-round’ view of the building or negatively impact its heritage significance
- why an addition not visible or in diminished from the public realm would be inappropriate
- why such a precise setback measure is needed to be specified in the Planning Scheme and applied as a mandatory provision.

Regarding the building height requirements, there are thousands of local heritage places in Victoria with roofs identified as significant elements. However, nobody at the Hearing including Mr Gard’ner could refer to an example with specific mandatory provisions of the nature proposed for the Rosstown Hotel. Mr Gard’ner persuaded the Panel an addition to the terracotta roof may be possible without negatively impacting the existing heritage fabric or the ability to appreciate the building’s historic form when viewed from the public realm.

Regarding the setback requirement, a 2 square-metre relief between the original heritage building and new built form is one way to expose some of the building’s depth for a short distance to better appreciate its original three dimensional form and to distinguish it from new development. But this does not explain why it should be included as a mandatory provision in the Planning Scheme.

The Panel generally agrees with Ms Jordan that future built form within the HO157 curtilage should be managed through the Heritage Overlay provisions. The Heritage Overlay and related planning policies and provisions which ensure that a future permit application proposing new development on or around the existing heritage building sensitively responds to the heritage fabric. Excluding the proposed requirements does not preclude the ability to achieve a similar design response to what they sought or to achieve good heritage outcomes.

The Panel would have been prepared to consider more specific heritage related provisions through DDO9 if there was evidence-based information to justify their need. This would have complemented rather than duplicate the Heritage Overlay and related provisions.

Heritage will continue to be considered at the Rosstown Hotel site if the DDO9 heritage related requirements are deleted. The Heritage Overlay includes relevant permit triggers and requirements to assess a future permit application seeking to alter or extend the original heritage building. This is when Council and its heritage adviser will:

- review detailed design plans forming part of the planning permit application
- assess the proposal’s potential impact on the Rosstown Hotel.

Should Council resolve to adopt these requirements, it should consider several drafting issues which may affect the implementation of these requirements.

The first issues relate to building height requirements which:

- include alterations to the roof which goes beyond the scope of building height
- reference “*No additions to, through or above*” rather than specify a building height measure which makes it unclear whether building height exemptions apply – this should be resolved rather than introducing a new definition in DDO9.

The next issue relates to the street wall and building requirement seeking a setback of 1 metre for a length of 2 metres. Without referring to “*minimum*”, this means that new development would have to be setback exactly at these measures, removing the opportunity for a larger setback. This should be resolved if it was not drafted as intended.

(v) Conclusions and recommendation

The Panel concludes:

- For the Rosstown Hotel (HO157), it is not appropriate or justified to apply through Design and Development Overlay Schedule 9, the mandatory building height requirements in Clause 2.2 and Table 2 and the mandatory street wall height and upper level setback requirements in Map 1, Clause 2.3 and Table 3.
- The Heritage Overlay and related planning policies and provisions will ensure that a future permit application proposing new development on or around the existing heritage building sensitively responds to the heritage fabric.
- Excluding the proposed mandatory requirements does not preclude the ability to achieve a similar design response to that sought by Council or to achieve good heritage outcomes.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to:

- a) **delete Clause 2.2 Building height requirements for the land in HO157 (Rosstown Hotel) including Table 2 and Map 1**
- b) **delete requirements related to the Rosstown Hotel from Clause 2.3 (Street wall and building setback requirements) including Table 3.**

4.3 Heritage Overlay curtilage

(i) The issue

The issue is whether the Heritage Overlay (HO157) curtilage for the original Rosstown Hotel building should be extended through the Amendment.

(ii) Evidence and submissions

Mr Gard’ner recommended the existing Heritage Overlay (HO157) be extended to include the full 5-metre curtilage from the southern and western eaves of the terracotta roof, as recommended by the Panel considering Amendment C190glen.

(iii) Discussion

Council and Benon acknowledged that Amendment C190glen intended to apply the Heritage Overlay to the original Rosstown Hotel building with a curtilage of 5 metres from the terracotta roof eave. Amendment C190glen introduced a smaller curtilage.

The purpose of Amendment is to implement the Structure Plan through built form provisions and associated changes to the Planning Scheme. This does not include correcting Heritage Overlay mapping that was not exhibited with the Amendment. Council can initiate a correction through a separate planning scheme amendment.

(iv) Conclusion

The Panel concludes that the Heritage Overlay (HO157) for the original Rosstown Hotel building does not align with its intended curtilage and any correction should occur through a separate planning scheme amendment.

5 Building height requirements

5.1 Approach to building heights

Chapter 2.2(ii) provides an overview of the Structure Plan's approach to built form.

DDO9 specifies four maximum building heights in six precincts, as shown in Table 5.

Table 5 DDO9 maximum building heights by precinct

Precincts	Heights			
	20 metres	24 metres	31 metres	46 metres
Retail Precinct 1	Mandatory			
Retail Precinct 2	Discretionary			
Retail Precinct 3		Discretionary		
Retail Precinct 4			Discretionary	
Urban Renewal Precinct 1			Discretionary	
Urban Renewal Precinct 2				Discretionary

The rationale for this building height approach can be found in the Urban Form Analysis and Built Form Framework.

Retail Precinct 1

- Properties form part of an identified heritage retail streetscape.
- Urban Form Analysis (Version 1) recommends a building height ratio of 1:1 with the 20-metre street width.
- Urban Form Analysis (Version 2) recommends a mandatory building height of 15 metres (4 storeys).
- Built Form Framework recommends mandatory heights to protect the streetscape and architectural form.

Retail Precinct 2

- Properties form part of a retail streetscape without identified heritage.

Retail Precinct 3

- Properties are generally along the western side of Koornang Road (north of the skyrail) and the southern part of the core Activity Centre area (along Neerim and Koornang Roads).
- Urban Form Analysis recommends buildings of up to 19 metres (5 storeys) and states:
 - the Koornang and Neerim Roads intersection serves as a gateway to the retail core, buildings have a mixed character and will sit comfortably at this height
 - the 6 storey building at the southern end-cap of the precinct appears visually dominant and unreasonably disrupts the local character.

Retail Precinct 4

- Properties are generally areas east and west of Precinct 1 along Koornang Road (south of the skyrail and north of Neerim Road).

- Urban Form Analysis recommends buildings of up to 30 metres (8 storeys) to *“balance the need for growth without overwhelming the low-scale main street character or residential surrounds”*.

Urban Renewal Precincts 1 and 2

- Both precincts are north of the skyrail and south of Dandenong Road where most building height can be accommodated.
- Urban Form Analysis recommends buildings of up to 30 metres (8 storeys) and 44 metres (12 storeys) respectively and states:
 - 6-8 storey precincts are limit in height to protect important abutments – building heights and shadow controls minimise overshadowing towards residential areas, public open spaces and key public spaces in the recently upgraded railway corridor
 - 8-12 storey precincts are the tallest forms in the Activity Centre fronting Dandenong Road and recessed behind the main street.
- Built Form Framework explains these precincts are where new character is being developed.

The ability to achieve the maximum building height on all or part of a property will depend on other DDO9 overshadowing, building separation and setback provisions.

(i) The issue

The issue is whether the approach to building heights is appropriate to inform the building heights specified in DDO9.

(ii) Submissions

Council submitted that its approach to building heights is appropriate. It referred to Planning Practice Note 60 (Height and setback controls for activity centres) which advises:

- building heights are to be based on a comprehensive built form analysis
- discretionary height provisions are preferred
- mandatory provisions should only be applied in exceptional circumstances supported by robust and comprehensive strategic work.

(iii) Discussion

The approach to building heights in the Activity Centre is to direct:

- the most restrictive maximum building height (20 metres) in Precinct 1 to respect the existing heritage streetscape, enable more sunlight and sense of openness
- a discretionary 24-metre maximum height to land near, but not subject to, the Heritage Overlay
- the tallest built form north of the skyrail and land abutting the eastern and western sides of Precinct 1
- four storey apartment buildings in the Residential Growth Zone areas in the Activity Centre to buffer taller built form from lower scale residential areas outside the centre.

The building height approach weakens in two areas – Precinct 3 north of the railway line and Urban Renewal Precinct 1 at the western tip of the Activity Centre.

It is unclear why a discretionary maximum building height is being applied to land outside, but near, the Heritage Overlay in Precinct 3 north of the railway line. Land on the western tip of the Activity Centre designated as Urban Renewal Precinct 1 (31 metres) has the same attributes of land to its east designated as Urban Renewal Precinct 2 (46 metres).

These two areas are discussed further in Chapters 5.3 and 5.5.

The Panel has factored in the building height approach in each precinct when considering height-related issues raised in submissions in the following chapters.

(iv) Conclusion

The Panel concludes:

- Based on the Carnegie Built Form Framework and associated documents, there is generally a sound logic to how building heights are proposed to be applied in the Activity Centre.
- The building height approach weakens for Precinct 3 north of the skyrail and Urban Renewal Precinct 1 on the western tip of the Activity Centre.

5.2 Retail Precinct 1 (heritage)

(i) The issue

The issue is whether the maximum building height of 20 metres (5 storeys) proposed for Retail Precinct 1 (heritage) is justified and appropriate.

(ii) Evidence and submissions

Mr Gard'ner and Ms Roberts each explained the mandatory maximum height of 20 metres (5 storeys) was established following modelling of five scenarios testing different heights. It found:

- 4 storeys produced the best heritage outcome
- 6 storeys would visually dominate the streetscape
- 5 storeys balanced heritage with growth anticipated in a major activity centre.

Mr Gard'ner considered mandatory provisions were justified because the model found that built form above 5 storeys would negatively impact the heritage streetscape.

Several submissions objected to the height requirements proposed for Retail Precinct 1 because they would impact the Activity Centre's heritage significance and on heritage houses in surrounding areas such as Chestnut Street.

GEHS was concerned about the Koornang Road retail strip including:

- Neerim Road, Tranmere Avenue and Hewitts Road
- Koornang Road and Truganini Road
- Neerim Road and Kokaribb Road
- Koornang Road and Egan Street and the area bordering the Rosstown Hotel.

GEHS submitted the heights would result in development with excessive visual bulk, would dominate the street view and create a tunnel effect, particularly along the retail strip south of the Carnegie Railway Station. It added that this impact would erode heritage protection and preservation objectives. GEHS requested that building heights in the retail precincts be

reduced from 20 and 24 metres (5 and 6 storeys) to better respond to the Koornang Road low-scale village identity.

(iii) Discussion

The proposed maximum building height of 20 metres (5 storeys) is justified because the model which tested different height scenarios found any height above this height would negatively impact the heritage streetscape.

DDO9 establishes a precinct-wide maximum building height which is unlikely to result in a tunnel effect if applied as a mandatory provision. This is because:

- this height will not be achieved on all properties because not all of them are equal and there may be property owners without development aspirations
- other provisions such as upper level setbacks increase the separation distances of new development on either side of Koornang Road which minimise any tunnel effect and dominance on existing heritage fabric.

The building height requirements will not impact heritage in surrounding streets because there is no street close enough with identified heritage significance, including properties in Chestnut Street.

(iv) Conclusion

The Panel concludes the maximum building height of 20 metres proposed for Retail Precinct 1 (heritage) is justified and appropriate.

5.3 Retail Precinct 3 (excluding HO157)

5.3.1 The issue

The issue is whether the maximum building height of 24 metres proposed for Retail Precinct 3 is justified and appropriate.

5.3.2 Koornang Road (west side) north of skyrail

(i) Evidence and submissions

Ms Roberts stated the discretionary maximum height of 24 metres (6 storeys) proposed for properties on the west side of Koornang Road north of the skyrail:

- responds to its location in a main retail precinct without the Heritage Overlay and surrounded by the Urban Renewal Precinct
- allows the length of Koornang Road to be read as a unified streetscape without unduly restricting development.

GEHS requested that building heights in the retail precincts be reduced from 20 and 24 metres (5 and 6 storeys) to better respond to the Koornang Road low-scale village identity.

Sullivan Property submitted that its properties at 21A, 21B and 23 Koornang Road, north of the skyrail, can enable development of up to 40.6 metres (12 storeys) excluding plant. It attached a development potential analysis to its submission which demonstrated how this height could be accommodated. Sullivan Property explained that this height:

- was possible due to the site's 26 metre width and aligned with a street wall ratio of 1:1.5
- responds to the site's position at the 'gateway' to the Urban Renewal Precinct.

Sullivan Property acknowledged the DDO9 preferred maximum 24 metre building height is discretionary, but it found no clear policy provisions for assessing the appropriateness of exceeding this height. It requested the maximum building height for its site be revised to a discretionary 39 metres.

(ii) Discussion

The Precinct 3 area north of the skyrail:

- is outside the Heritage Overlay (HO157) curtilage so a new building on a surrounding property does not need to sensitively respond to heritage fabric
- presents as a mixture of building heights, street wall heights and setbacks rather than a coherent finer grain retail streetscape evident along Koornang Road south of the skyrail
- is partially visually disrupted from the finer grain retail streetscape by the scale of the skyrail's structure.

The inconsistent setbacks are due to buildings on the west side of Koornang Road (between the skyrail and the Rosstown Hotel) being set back further than other buildings along this section of Koornang Road. The small portion of heritage buildings on the eastern side of Koornang Road (between Arawatta Street and Carnegie Central shopping mall) are not the predominant character north of the skyrail.

When taking all these factors into account, it is unclear why Ms Roberts considered it was possible to create a new streetscape north of the skyrail which would enable the length of Koornang Road to be read as a unified streetscape. This area meets the criteria of an urban renewal area, with little reason to apply the proposed maximum height of 24 metres. Without appropriate justification, this height measure will unduly restrict development.

The property comprising 21A, 21B and 23 Koornang Road is in the exhibited Precinct 3, and it may be an overreach to describe it as a 'gateway' site. The Sullivan Property submission, including its three-dimensional model, helped to demonstrate that it may be possible to achieve height of up to 40.6 metres while meeting other objectives. As acknowledged by Sullivan Property, the exhibited discretionary maximum height of 24 metres enables it to apply for a permit proposing such a height. However, for reasons outline above, this is not the appropriate height measure to apply for this part of Precinct 3. The Panel does not support a site-specific height for 21A, 21B and 23 Koornang Road, particular as this is generally not the approach taken for the rest of the Activity Centre.

The maximum building height specified for properties on the west side of Koornang Road should be appropriate and justified at a precinct-wide scale. Not all properties are equal but there may be good reasons to exceed it. However, it would be poor planning to specify different building heights based on development potential of individual properties.

Properties on the west side of Koornang Road are more closely aligned with attributes of properties forming part of the abutting Urban Renewal Precinct 1 to their west. Extending the Urban Renewal Precinct 1 to include those proposed to be Retail Precinct 3 would:

- apply a consistent maximum height of 31 metres to land east of Urban Renewal Precinct 2 and Koornang Road other than land affected by the Heritage Overlay
- simply the approach to building heights north of the skyrail by having urban renewal areas to all land not restricted by heritage.

There are enough policy objectives and provisions in the Planning Scheme to guide a permit application proposing a building height greater than what is specified in DDO9. The permit applicant and Council will read these collectively rather than consider DDO9 in isolation.

5.3.3 Neerim Road and Koornang Road intersection

(i) Evidence and submissions

Ms Roberts stated the discretionary maximum height of 24 metres (6 storeys) proposed for the Neerim Road and Koornang Road intersection area:

- was based on the same principles as Precinct 3 north of the skyrail
- retains the low-mid scale of development consistent with the preferred character while allowing development (noting the area has already undergone redevelopment of 4 to 5 storeys).

GEHS requested that building heights in the retail precincts be reduced from 20 and 24 metres (5 and 6 storeys) to better respond to the Koornang Road low-scale village identity. It did not suggest what the lower height should be.

One submission considered the maximum building height of 24 metres proposed to properties south of Neerim Road would result in issues such as noise and light spill that negatively impact existing residents. Another submission requested a mandatory maximum building height of 4 storeys be applied to 147 Koornang Road, located on the south-west corner of Neerim Road.

At the Hearing, Council said increased noise and light are natural consequences of increased activity in an activity centre. It explained there are other regulations and standards in place in Victoria regarding noise from commercial premises.

(ii) Discussion

The Panel considers the discretionary maximum building height of 24 metres is consistent with the building height approach sought for the Activity Centre. It is proposed for land outside the Heritage Overlay and provides an appropriate transition from the taller built form enabled in Retail Precinct 4 to lower built form in the surrounding Residential Growth Zone area within the Activity Centre. The resulting transition will be from 8, 6 then 4 storeys. The proposed maximum height is consistent with the prevailing heights of new developments around Neerim Road.

Noise and light emission issues can be addressed through design during the permit application process. Building height does not directly relate to these issues because taller buildings can be designed to avoid unreasonable amenity impacts. The Panel agrees with Council that Victoria has regulations and standards in place to manage issues such as noise and light emissions.

5.3.4 Conclusions and recommendation

The Panel concludes:

- The maximum building height of 24 metres proposed for Retail Precinct 3 should not apply to properties along the west side of Koornang Road north of the skyrail because it is unjustified and inappropriate in an inconsistent and robust streetscape which can accommodate more development.
- The properties along the west side of Koornang Road north of the skyrail should be recategorised as Urban Renewal Precinct 1 with a discretionary maximum height of 31 metres to reflect their context and role.
- The maximum building height of 24 metres proposed for Retail Precinct 3 should be applied to properties around the Neerim Road and Koornang Road intersection because it provides an appropriate transition in building height from 31 metres in Precinct 4 to 13.5 metres in the Residential Growth Zone.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to recategorise properties north of the skyrail in Map 2 (now Map 1) from ‘Retail Precinct 3’ to ‘Urban Renewal Precinct 1’ with a discretionary maximum building height of 31 metres.

5.4 Retail Precinct 4

(i) The issue

The issue is whether the maximum building height of 31 metres (8 storeys) proposed for Retail Precinct 4 is justified and appropriate.

(ii) Evidence and submissions

There were submissions which objected to the maximum building height of 31 metres (8 storeys) proposed for Retail Precinct 4 in the exhibited DDO9. They considered development of that height would:

- block out sunlight into existing apartments and increase traffic congestion
- overshadow buildings with existing solar panels
- be out of character with neighbouring single storey houses
- increase noise to existing residents.

There were different views about the maximum building height, with submissions seeking to restrict it to:

- a maximum of 6 storeys, to be more consistent with the Activity Centre’s heritage
- a maximum of 4 storeys
- the current heights.

Ms Roberts considered the potential amenity impacts on existing apartments should be addressed during the design stage. She was satisfied the potential impacts were not sufficient to justify limiting heights at a strategic location in proximity to various services and opportunities.

(iii) Discussion

DDO9 specifies requirements which form part of a planning framework for assessing future permit applications. Not all properties are equal, and the specified heights may not be able to be achieved in all instances. The Panel agrees with Ms Roberts that potential amenity impacts on existing apartments should be addressed during the permit application stage. This is when design details are known and when potential issues can be identified and addressed.

(iv) Conclusion

The Panel concludes the maximum building height of 31 metres (8 storeys) proposed for Retail Precinct 4 is justified and appropriate.

5.5 Urban Renewal Precinct 1**(i) The issue**

The issue is whether the discretionary maximum building height of 31 metres (8 storeys) proposed for Urban Renewal Precinct 1 is justified and appropriate.

(ii) Evidence and submissions

There were submissions which objected to the maximum building of 31 metres (8 storeys) proposed for Urban Renewal Precinct 1. They considered this height would:

- negatively impact the character of Chestnut Street properties
- enable new development in the western area of Activity Centre along Dandenong Road with excessive bulk and overshadowing of the abutting linear park to their south
- increase traffic problems in the area.

One submission requested the maximum height for properties in the western area of Activity Centre along Dandenong Road be reduced to 6 metres.

There were other submissions which:

- supported the discretionary maximum building height of 31 metres (8 storeys) subject to other provisions remaining discretionary
- requested the maximum building height be increased to 46 metres (12 storeys) to align with those in Urban Renewal Precinct 2.

Dandenong Road Management Pty Ltd and 1030 Dandenong Road Pty Ltd (Dandenong Road Management) owns 1030 Dandenong Road in Urban Renewal Precinct 1 and requested the building height be increased. It submitted:

- the Commercial 1 Zone applies to land north of skyrail and south of Dandenong Road west of Koornang Road
- the Urban Renewal Area is one of only three underused areas in Glen Eira with potential for future growth through higher density and scale
- the Urban Renewal Area has a 12 storey development at 1056-1060 Dandenong Road
- there is no strategic reason to categorise the property as Urban Renewal Precinct 1

- Council and Ms Roberts provide little reason for the categorisation of this renewal area
- Urban Renewal Precinct 1 on the eastern side of the Activity Centre interfaces the General Residential Zone and Neighbourhood Residential Zone but this does not exist on the western side.

Dandenong Road Management referred to a photo in its submission (see Figure 9) which shows the robust environment created by the Dandenong Road highway environment and dominating skyrail structure.

Figure 9 View of 1030 Dandenong Road bound by highway and skyrail



Source: Document 13

Its submission also included an image of its own three-dimensional model to show potential built form and to demonstrate that 8 storeys rather than 12 may result in a loss of about 1,420 square metres of floor space.

Regarding the Dandenong Road Management property, Ms Roberts:

- referred to shadow diagrams in her report to demonstrate the shadow impact of a 46-metre tall building on the skyrail open space at equinox is the same as the shadow cast by the 3-storey street wall on a site along Egan Street
- a discretionary height of 31 metres was specified rather than 46 metres because of the site's narrow depth and developable floorplates.

(iii) Discussion

The Panel agrees with submissions that new built form should not negatively impact the Chestnut Street streetscape because they have identified neighbourhood character. However, submissions did not explain how built form on properties over 80 metres from the Chestnut Street public realm would impact its character. Based on information in the Built Form Framework and associated documents, the Panel is satisfied that Chestnut Street's neighbourhood character will not be negatively impacted.

Regarding Urban Renewal Precinct 1 proposed west of Koornang Road, traffic issues and overshadowing of the skyrail open space and traffic should not influence the maximum building height specified for DDO9. The Transport Study considered the volume of traffic expected in the Activity Centre in 15 years and made recommendations to mitigate identified issues.

The Panel has concluded the skyrail open space does not warrant overshadowing requirements. One reason is because this diagonally oriented linear space is already significantly overshadowed by the solid skyrail structure around and above. Irrespective, the shadow modelling in Ms Roberts' report shows it is possible to have a building of 46 metres that does not cast a shadow beyond that of a three-storey street wall. This would require setting back the upper levels at a considerable distance from the street wall to achieve this outcome.

The proposed maximum building height of 31 metres is appropriate for the area identified west of Koornang Road, east and south of Urban Renewal Precinct 2. However, the strategic reasons to apply this height to the properties west of Urban Renewal Precinct 2 (triangle area) appear less evident. The Panel compared the triangle area with the abutting Urban Renewal Precinct 2 and with Urban Renewal Precinct 1 east of Koornang Road to consider how it aligns with the building approach for the Activity Centre.

The abutting Urban Renewal Precinct 2 is bound by the skyrail to its south and robust Dandenong Road highway environment to its north. So is the triangle area.

Urban Renewal Precinct 1 east of Koornang Road provides a transition from the taller form of 46 metres enabled in the abutting Urban Renewal Precinct 2 to lower built form enabled in the Mixed Use Zone and Residential Growth Zone within the Activity Centre. This approach is consistent with what was sought by the Built Form Framework and associated documents. However, this transitional environment does not exist at the triangle area.

The triangle area does not interface with any sensitive residential area outside the Activity Centre or Residential Growth Zone properties in the centre because it is masked by the dominating skyrail structure.

The Structure Plan's background work, submissions and Ms Roberts' report do not provide a strategic reason to lower the height to 31 metres. Property size, dimensions or development potential is not a strategic reason but may be relevant during the permit application stage.

(iv) Conclusions and recommendation

The Panel concludes:

- The discretionary maximum building height of 31 metres (8 storeys) is justified and appropriate for all properties in Urban Renewal Precinct 1 except for those west of Urban Renewal Precinct 2 west of Koornang Road.
- Urban Renewal Precinct 2 west of Koornang Road should be extended further west to include all properties exhibited as Urban Renewal Precinct 1.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to recategorise properties west of Urban Renewal Precinct 2 west of Koornang Road in

Map 2 from ‘Urban Renewal Precinct 1’ to ‘Urban Renewal Precinct 2’ with a discretionary maximum building height of 46 metres.

5.6 Urban Renewal Precinct 2

(i) The issue

The issue is whether the discretionary maximum building height of 46 metres (12 storeys) proposed for Urban Renewal Precinct 2 is justified and appropriate.

(ii) Evidence and submissions

There were submissions which objected to the maximum building of up to 12 storeys proposed for Urban Renewal Precinct 2 in the exhibited DDO9. They considered this height would overshadow and reduce sunlight to properties neighbouring 1100-1106 Dandenong Road, and negatively impact existing solar panels.

Regarding the exhibited discretionary maximum building height, Zuccubarr Pty Ltd (Zuccubarr) submitted:

We oppose Urban Renewal Area 2 having a mandatory height control instead of a discretionary height control.

At the Hearing, Zuccubarr submitted it no longer pursued this issue.

Ms Roberts included shadow diagrams in her report to demonstrate the shadow impact of a 46-metre tall building on the skyrail open space at equinox is the same as the shadow cast by the 3-storey street wall on the site adjacent to Egan Street to the west (when upper floors are setback). She explained:

- building on this site does not cast shadows onto the public space directly to the south of Egan Street
- therefore, there would be no additional amenity benefit from limiting the entire urban renewal area to 31 metres.

(iii) Discussion

Urban Renewal Precinct 2 is one of the two areas in the Activity Centre where most development growth will occur. This area is mostly bound by robust interfaces comprising the Dandenong Road highway environment and the dominating skyrail structure, as shown in Figure 9. The proposed discretionary building height of 46 metres.

This visual and physical separation from lower scale built form enables buildings of up to 46 metres without unreasonable interface issues.

(iv) Conclusion

The Panel concludes the discretionary maximum building height of 46 metres proposed for Urban Renewal Precinct 2 is justified and appropriate.

6 Interface types

6.1 Approach to interface types

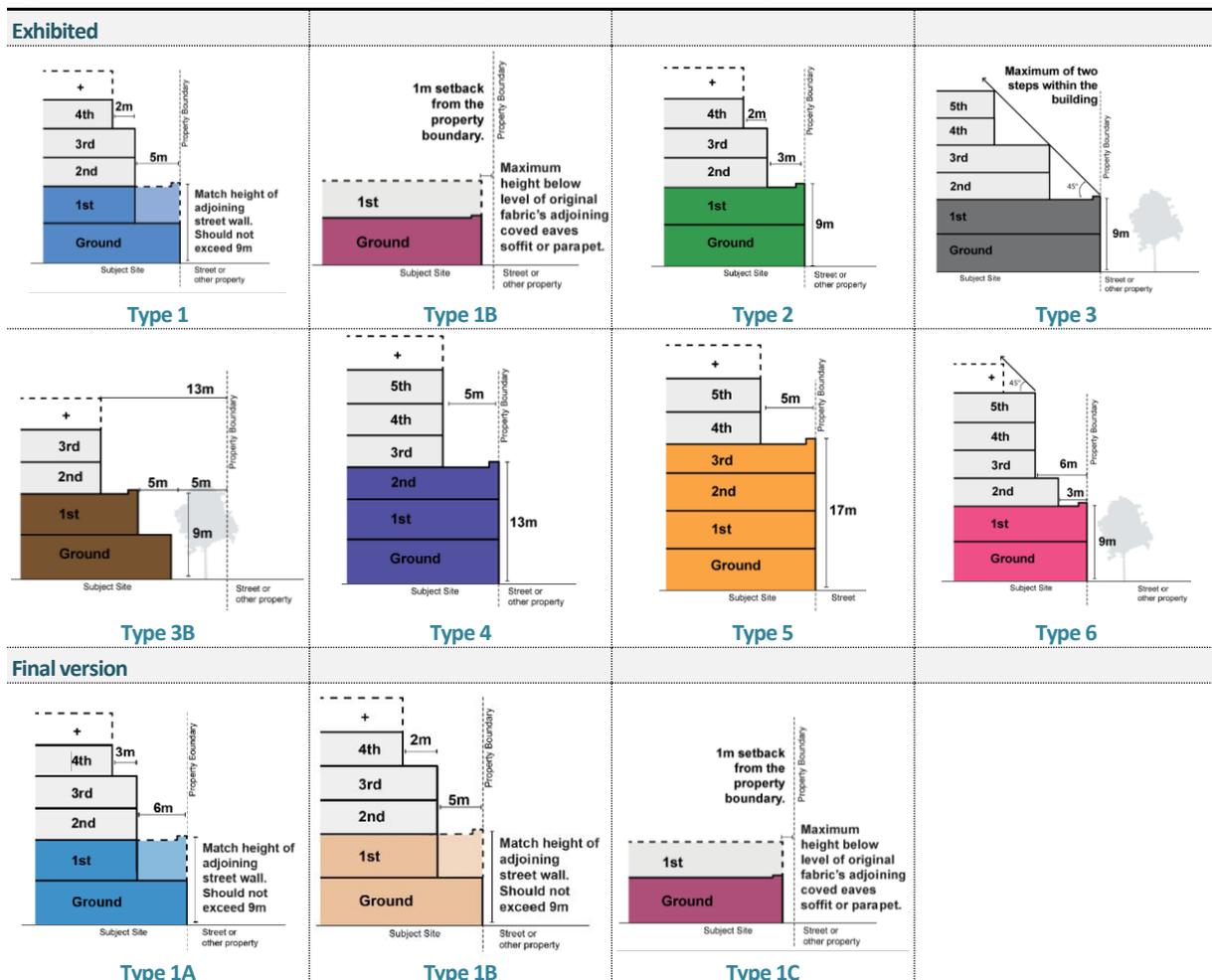
(i) The issue

The issue is whether the approach to interface types is appropriate to inform the interface types specified in DDO9.

(ii) Background

Chapter 2.2(ii) provides a broad overview of the Structure Plan’s approach to built form including street wall and upper level setbacks (interface types). The Amendment proposes eight interface types (Figure 10). All interface types are discretionary except for the primary and secondary setback above the street wall in Interface Type 1.

Figure 10 Exhibited DDO9 interface types (Exhibited and final version)



Note: Final version interface types only shows those revised since exhibition

The Built Form Framework explains:

- the street wall heights are informed by land use, street width, hierarchy and character

- heritage streets should maintain the existing street wall height, whereas areas of change may be able to accommodate a taller street wall
- street wall setback plays a key role in the character and activation
- street walls should be consistently built to the boundary on main streets
- upper level setbacks help reduce the impact of wind, allow for balconies that create engagement with the street and obscure the upper levels behind the street wall, and reinforce the height of the street wall as the dominant architectural feature of the street
- the depth of upper level setbacks is informed by street wall height, character of the street and heritage
- interface profiles manage the transition between the activity centres to lower scale residential areas, and address visual bulk, overshadowing and overlooking.

(iii) Submissions

Council submitted that DDO9 (exhibited and Version 1) includes specific interface types to deliver a nuanced approach to built form in the Activity Centre. It explained, the interface types, when combined with the building heights and overshadowing requirements will result in a modulated built form that responds to each site's individual characteristics.

Council submitted:

- the interface types are discretionary minimum setbacks and street wall heights, except for Interface Type 1 (heritage streetscape) which is mandatory
- discretionary interface types have been applied where it is not possible to say with confidence a greater mass cannot be accommodated or where a property does not need to respond to heritage considerations
- the mix of mandatory and discretionary requirements were subject to modelling and careful drafting to achieve the DDO9 design objectives.

(iv) Discussion

Street width, character and road hierarchy are commonly considered when setting street wall heights and setbacks in activity centres.

The Built Form Framework and preceding the Urban Form Analysis generally follow a logical methodology for developing and applying the interface types in DDO9. There was considerable testing to inform the setbacks in heritage areas, which is appropriate given mandatory provisions are proposed. However, the methodology has not considered two relevant matters:

- the scale and emerging character of new development
- the future scale of development in the Residential Growth Zone.

There is a disconnect between the proposed interface types and the actual conditions on the ground. Recent development, particularly street wall that are taller than those proposed in DDO9, influence the present character of streets. This new character is entirely appropriate in a Major Activity Centre, particularly outside heritage areas.

The interface types on the edge of the Activity Centre respond to the low scale of existing residential development, not the scale of development expected over time in the Residential Growth Zone. The proposed interface types will not maximise the opportunity for new floor

space in the Activity Centre or account for the site specific assessment that can be undertaken at the permit application stage to ensure residential amenity is not unreasonable compromised.

A higher street wall height that is responsive to the prevailing conditions of new development can still achieve the objectives for the Activity Centre. It is commonplace for a street wall adjoining a heritage place to be taller than its neighbour. For these reasons, a high street wall is considered appropriate outside heritage areas.

(v) Conclusions

The Panel concludes:

- It is appropriate and practical to apply interface types to property boundaries from a suite of interface types.
- The interface types applied in Design and Development Overlay Schedule 9 Map 2 are generally appropriate except for some on the edge of the Activity Centre.
- An interface type should respond to development envisaged in a Major Activity Centre rather than existing low scale residential development.

6.2 Neerim Road blocks

(i) The issue

The issue is whether it is appropriate and justified to apply the interface types proposed for the blocks bound by:

- south side of Neerim Road, Koornang Road, Shepparson Avenue and rear laneway
- south side of Neerim Road, Koornang Road, Kokaribb Road and rear laneway
- north side of Neerim Road, Koornang Road, Kokaribb Road and rear laneway.

(ii) Background

The exhibited DDO proposed to apply:

- Interface Type 1 to a property boundary with Neerim Road and Kokaribb Road
- Interface Type 2 to a property boundary with Kokaribb Road and Shepparson Avenue and to a property boundary adjoining land in the RGZ
- Interface Type 3 to a property boundary with a laneway.

(iii) Evidence and submissions

DRK Assets submitted the proposed setbacks in Interface Type 2 and Type 3 would make developing its 7.6 metre wide property at 315 Neerim Road unviable. It requested the Interface Type 2 setbacks be revised to:

- a minimum 1.5 metre setback for levels 2 and 3
- a minimum 3 metre setback for levels 4 and 5.

Ms Roberts did not support the changes proposed by DRK Assets. She stated the interface face types are:

- determined by street block, not individual lot, to account for future consolidation
- discretionary and provide flexibility for future development.

(iv) Discussion

Interface types should be determined by street block, consistent with Mr Roberts' opinion. It is also appropriate to provide a consistent street wall height around the perimeter of block, as proposed in DDO9.

Applying Interface Type 1 along Neerim Road however, does not respond to the scale of recent, nearby development. This consists of multi storey buildings with three and four storey street walls outside Heritage Overlay areas. Replacing Interface Type 1 with Interface Type 4 in these locations is appropriate.

To provide continuity in the preferred street wall height, Interface Type 2 and Interface Type 3 should also be replaced with Interface Type 4 outside Heritage Overlay areas. There is little difference between the metrics in Interface Types 2 and 4, however Type 2 has a lower street wall height which would be inconsistent with the 13 metre street wall preferred by the Panel outside Heritage Overlay areas.

As noted in the Panel's general discussion, Interface Type 3 does not account for the expected change in built form in the Residential Growth Zone. It requires a 6.4 metre setback for every two residential levels of building (assuming a 3.2 metre floor to floor height) and is unnecessarily onerous in an Activity Centre where substantial change is expected. The site and context specific amenity impacts of development on dwellings will be considered at the permit stage.

(v) Conclusions and recommendation

The Panel concludes:

- Interface types proposed for the Neerim Road blocks do not respond to the emerging character of the area and are too restrictive for a Major Activity Centre adjoining land in the Residential Growth Zone.
- Interface Type 4 more closely aligns with the emerging character of the Neerim Road blocks.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to apply on Map 2, Interface Type 4 to boundaries of the following blocks:

- south of Neerim Road and east of Koornang Road except for land in the Heritage Overlay
- south of Neerim Road and west of Koornang Road
- land bound by Neerim Road, Koornang Road, Kokaribb Road and rear laneway, except for land in the Heritage Overlay.

6.3 Koornang Road heritage blocks**(i) The issue**

The issue is whether it is appropriate and justified to apply the Interface Type 1 to land in the Heritage Overlay (HO158 and HO159) generally located on Koornang Road.

(ii) Background

Council proposed to split the exhibited Type 1 interface into two categories, Type 1A and Type 1B. Type 1A applies to land in HO158 and HO159 and has a preferred street wall height of 9 metres, a primary setback above the street wall of 6 metres and a secondary setback above the street wall of 3 metres.

(iii) Evidence and submissions

GEHS supported Interface Type 1.

Mr Gard'ner stated the additional setbacks are necessary to protect the visual primacy of the heritage streetscape while accommodating the building heights proposed in DDO9. This approach is more appropriate because it will:

- respond to the predominant rhythm of the streetscape;
- encourage the retention of the front room and associated roof form of the shop/residences;
- retain the majority of the frontmost chimneys;
- provide improved visual separation between the heritage street wall and new development as demonstrated by historic built form occupying a greater proportion of the view from the opposite side of the street ...; and
- avoid the impression of facadism.

Mr Gard'ner referred to built form testing and analysis carried out by GJM Heritage. Sight line diagrams were prepared to assess the proportion of new development visible above the heritage street wall when viewed from the footpath on the opposite side of Koornang Road. In Mr Gard'ner's opinion, an acceptable heritage outcome is for new development to be about one third of the view above the street wall.

Table 6 Visibility of new development above the street wall in Koornang Road

Development Type	Primary Setback	Secondary Setback	Visibility of new development
Commercial	5 metres	2 metres	40 %
Commercial	6 metres	3 metres	36 %
Residential	5 metres	2 metres	32 %
Residential	6 metres	3 metres	28 %

Ms Roberts considered a 5 metre setback is commonly used in Victorian Planning Schemes to ensure the 'podium' or street wall is the most dominant and visual element within a streetscape. However, she supported the heritage advice to increase the setback to 6 metres along Koornang Road.

(iv) Discussion

Street wall heights will work in tandem with the building heights. The Panel has concluded the proposed mandatory maximum building height of 20 metres is justified in Retail Precinct 1, where Interface Type 1 largely applies.

The primary setback of the Type 1 interface is justified because modelling which tested different street wall and setback requirements confirmed this interface type best protects the visual prominence of the heritage street wall by separating it from new development. A

better outcome is achieved by the 6 metres setback because it will encourage retention of the front room and associated roof form of buildings.

However, it has not been demonstrated that it is necessary to increase the secondary setback from the street wall from 2 metres to 3 metres to preserve the visual primacy of heritage wall and original building fabric. In the context of a Major Activity Centre, the originally exhibited 2 metre secondary setback is sufficient.

Mr Gard'ner's analysis of visibility above the street wall may have been more persuasive had it benchmarked to commonly accepted standards. The Panel is not satisfied a 4 per cent difference in visibility is perceptible to a pedestrian on the ground.

(v) Conclusions and recommendations

The Panel concludes:

- It is appropriate and justified to create a separate Interface Type 1A for land in the Heritage Overlay which sets a primary setback from the street wall at 6 metres.
- The secondary setback for new Interface Type 1A should be 2 metres (total 8 metres from the front property boundary) because there is no justification to increase this measure.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to:

- a) **on Map 2, replace Interface Type 1 with Interface Type 1A for land in the Heritage Overlay (HO158) and Heritage Overlay (HO159)**
- b) **in Table 2 (Building setbacks and street wall heights) and associated diagrams replace Interface Type 1 with Interface Type 1A and:**
 - **increase the setback for second and third building levels from 5 metres to 6 metres**
 - **increase the setback for fourth and above building levels from 7 metres to 8 metres.**

6.4 Koornang Road blocks north of the skyrail

(i) The issue

The issue is whether it is appropriate and justified to apply the interface types proposed for the blocks bound by Egan Street, Koornang Road, Dandenong Road and the skyrail.

(ii) Background

The exhibited DDO9 proposed to apply:

- Interface Type 1 to a property boundary with Koornang Road and Egan Street (first block only)
- Interface Type 2 to a property boundary with a laneway
- Interface Type 4 to a property boundary with Egan Street and the skyrail reserve
- Interface Type 5 to a property boundary with Dandenong Road.

Council proposed to split the exhibited Type 1 interface into two categories, 1A and Type 1B. Interface Type 1B applies to land in Koornang Road and Neerim Road not in the Heritage

Overlay and has a preferred street wall height of 9 metres, a primary setback above the street wall of 5 metres and a secondary setback above the street wall of 7 metres.

The Structure Plan has a strategy under ‘Activity and Land Use’ to connect the Urban Renewal Precinct with the heart of the activity centre.

The Public Realm Review states:

Reconnect the two sides of the Carnegie activity centre.

The removal of the level crossing on Koornang Road has reconnected the public realm on the north and south sides of the station, however these two spaces still feel disjointed and unrelated.

Reconnect the two sides of the Carnegie activity centre through the following public realm improvements:

- Ensure high quality pedestrian and cycling connections to and through the activity centre.
- Extend the public realm’s “village feel” to the north of the station with consistent street trees, realign footpaths, spaces for outdoor dining and street furniture.
- Ensure new developments in the urban renewal area continue the streetscape of active frontages and footpath dining spaces that line Koornang Road.

(iii) Evidence and submissions

Ms Roberts stated Interface Type 1B reflects the “*urban design outcome*” and is applied where similar character is sought to Interface Type 1A, but where land is not in a Heritage Overlay. She supported this interface as a way of ensuring a consistent character along the main streets.

Sullivan Property submitted that Interface Type 1B:

- is unsuitable outside heritage areas
- is inconsistent with the dominant character of land north of the skyrail, which includes the four-storey street wall at Carnegie Central and contemporary apartment development at 40 Koornang Road
- constrains the ability to provide large floorspaces suited to offices above the podium levels, and in turn impacts on opportunities to provide local employment.

Sullivan Property considered a three or four storey street wall could still provide an active and human scale interface in the Urban Renewal Precinct. It provided a Development Potential Analysis for its land which modelled an Interface Type 4 on the east, south and western boundaries of the site. This interface type would serve as a midway point between the two-storey heritage character and four-storey contemporary character.

Dandenong Road Management submitted the street wall height on its land should be increased from 13 to 17 metres. It considered this appropriate given the existing visual bulk of the skyrail structure. In recognition of the site context and its constrained proportions, it requested:

- on its southern boundary, the setback above the street wall be reduced from 3 metres to 5 metres
- on its northern boundary, the setback above the street wall be deleted.

(iv) Discussion

The DDO9 interface type requirements seek to create a broadly consistent streetscape along Koornang Road south of the Rosstown Hotel and Carnegie Central shopping centre. It does this through similar interface types 1 (mandatory) and 1B (discretionary).

The principle of a consistent streetscape is theoretically sensible. However, it is unlikely the blocks on the east and west side of Koornang Road will ever achieve a consistent future streetscape based on the proposed lower scale Interfaces 1 and 1B. This is because, as discussed in Chapter 5.3.2, the Koornang Road blocks north of the skyrail:

- have a mixture of built form typologies including the Rosstown Hotel site and robust built forms of the Carnegie Central shopping centre and four storey apartment building with no upper level setback on the south-east corner of Arawatta Street
- have considerably varied building setbacks, particularly those on the west side of Koornang Road south of the Rosstown Hotel
- do not have the coherent finer grain retail streetscape evident south of the skyrail
- are partially visually disrupted by the skyrail structure.

The small group of heritage buildings on the east side of Koornang are not enough to anchor a future interface type across all properties north of the skyrail. The relationship between Koornang Road north and south of the skyrail is seriously affected by the scale of the railway structure. The Koornang Road blocks north of the skyrail have emerged to establish their own diverse mix of characters. Applying interface types normally associated with lower scale finer grain buildings to new development will further depart from the principle of a more consistent streetscape.

The Koornang Road blocks present an opportunity to recognise the emerging streetscape and to apply an interface type with a taller height which complements the mandatory Interface Type 1A street wall height of 9 metres. Interface Type 4 street wall height of 13 metres provides a complementary transitional height between the existing Carnegie Central shopping centre and four storey apartment and Interface Type 1A.

Applying Interface Type 4 to the property boundaries on the west side of Koornang Road north of the skyrail (Precinct 3) would:

- continue to enable future development to achieve objectives sought by the Structure Plan, including activation and complementary character
- not negatively impact the small group of heritage buildings on the east side
- recognise that properties on the south of the Rosstown Hotel are set back at a notable distance to the rest of the streetscape and can accommodate a more robust interface.

(v) Conclusions and recommendation

The Panel concludes:

- Interface Type 1B is not appropriate for Precinct 3 properties north of the skyrail because it seeks a lower scale response which would never achieve a consistent streetscape at this location because of existing and relatively recent larger scale and inconsistent built form.

- Interface Type 4 is appropriate for Precinct 3 properties north of the skyrail because they:
 - recognise the emerging character of this location
 - will continue to achieve Structure Plan objectives
 - will enable a transitional and complementary street wall between existing larger built form and the small group of heritage buildings on the east side
 - will not negatively impact the small group of heritage building on the east side.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to apply Interface Type 4 to all boundaries of Precinct 3 properties on the west side of Koornang Road and north of the skyrail except for land subject to the Heritage Overlay (HO157) on Map 2 (now Map 1).

6.5 Interface Type 2

(i) The issue

The issue is whether the discretionary street wall height *“Match the height of the adjoining heritage street wall. No taller than 9m”* proposed for Interface Type 2 in DDO9 (Version 1) is appropriate and justified.

(ii) Evidence and submissions

No submission requested a change to the Interface Type 2 requirements.

Mr Gard’ner explained that Interface Type 2 applies to side and laneway boundaries and frequently abuts Interface Type 1 (heritage properties in Heritage Overlay (HO158)). To avoid a street wall with substantial changes in height between properties, he recommended the preferred street wall height for this interface be *“Match height of adjoining heritage street wall. No taller than 9 metres.”*

Council accepted the recommendation which was included in DDO9 (Version 1).

(iii) Discussion

As discussed, the principle of a consistent streetscape is theoretically sensible. Interface Type 2 (no taller than 9 metres) will provide continuity with land in Interface Type 1. The proposal to insert *“match the height of the adjoining heritage street wall”* will have unacceptable consequences where development adjoins a single storey heritage street wall. Restricting a street wall to a single storey on a secondary frontage is not appropriate in major activity centre, even where growth expectations are proposed to be tempered to respect existing heritage places. It is sufficient for the preferred street wall height for Interface Type 2 to simply provide a metric of *“9 metres”*.

(iv) Conclusion

The Panel concludes it is not appropriate or justified to amend Interface Type 2 to include *“Match the height of the adjoining heritage street wall. No taller than 9m”* because the exhibited height of 9 metres will achieve a consistent street wall height with Interface Type 1 in most instances, and otherwise is an appropriate height for a major activity centre.

7 Other DDO9 design objectives and requirements

7.1 Design objectives

(i) The issue

The issue is whether the design objectives in DDO9 Clause 1.0 are appropriate and justified.

(ii) Background

The exhibited DDO9 design objectives were:

- To support future development within the Carnegie Activity Centre that:
 - retains the two-storey street wall in Koornang Road as the dominant streetscape feature.
 - responds to the existing heritage fabric in Koornang Road and the heritage significance of the Rosstown Hotel.
 - recognises the strategic sites in Shepparson Avenue and Kokaribb Road as identified in the Carnegie Activity Centre Structure Plan for more intensive development.
 - directs the tallest development to the urban renewal precinct north of the railway line.
- To promote building design that:
 - supports employment generating land uses or can be easily converted to provide opportunities for employment.
 - supports the housing, economic and place making role and function of the activity centre.
- To minimise amenity impacts on existing dwellings including through overlooking, overshadowing and visual bulk.
- To enhance the public realm through the development of well-designed buildings that prioritise pedestrian movement and retain sunlight to key public spaces as shown on Map 2 to this schedule.

(iii) Evidence and submissions

Council submitted that including heritage related design objectives and design guidelines in DDO9:

- is consistent with the approach taken in other planning scheme amendments around Melbourne and regional areas
- supports the more general design objectives that apply in the Heritage Overlay
- recognises the important heritage fabric in Koornang Road and the Rosstown Hotel
- recognises the Rosstown Hotel is the only individual heritage place in the Activity Centre and a local landmark.

Ms Roberts considered the proposed design objectives:

- are based on background research
- are appropriate for guiding what a site or location needs to achieve to contribute to the Activity Centre's vision
- provide a comprehensive list to address good design when read with proposed changes to Clauses 02.03-1, 11.03-1L and 15.02-2L-01.

Mr Gard'ner was satisfied the two heritage related objectives do not duplicate existing heritage provisions and are appropriate and necessary.

Burke Co submitted:

- the design objective seeking to “*minimise amenity impacts on existing dwellings including through overlooking, overshadowing and visual bulk*” in a major activity centre setting and with an urban renewal precinct is unreasonably onerous
- the objective should be deleted to more reasonably address amenity expectations in a setting where planning provisions support buildings of up to 12 storeys
- there should be an objective which acknowledges and promotes urban renewal at higher densities to better balance urban renewal with protecting existing residential amenity.

Benon objected to the design objective seeking future development which “*responds to the existing heritage fabric in Koornang Road and the heritage significance of the Rosstown Hotel*”. It explained that these issues are dealt with by the existing Heritage Overlay (HO157), specifically buildings and works under ‘permit requirements’.

Ms Jordan considered the design objectives provide narrow guidance and limited expression on how the Activity Centre will change and developed. She added the objectives:

- do not clearly articulate the Activity Centre’s overall vision
- are more focussed on retaining existing character rather than promoting built form outcomes that will enhance the Activity Centre’s character
- do not provide guidance as to:
 - the important role of the Urban Renewal Precinct which is critical in delivering housing growth
 - how the Activity Centre might be expected to transition at the edges where there is lower scale residential development
- are unnecessarily specific regarding one site (Rosstown Hotel)
- do not promote desired activation of key streets and importance of high quality built form at street level
- do not refer to sustainable built form in new development.

Ms Jordan recommended the design objectives be redrafted to:

- articulate the Activity Centre’s overall vision
- remove some of the more detailed outcomes that are addressed elsewhere in DDO9
- provide specific objectives for the Rosstown Hotel to guide future development, including reinforcing its presentation to both road frontages and respecting the scale and built form of the building.

(iv) Discussion

Following the previous discussions on the Rosstown Hotel, building heights and interface types, the Panel is satisfied there is sound justification for DDO9 to manage new development in heritage places in Retail Precinct 1. The Heritage Overlay will play a significant role in assessing future applications, however, DDO9 provides additional provisions that account for the centre-wide strategic objectives.

The Practitioner’s Guide states an objective:

Specifies the outcomes a decision under a provision should seek to achieve. Objectives can be general or specific to a particular class of use or development regulated by a provision.

The exhibited DDO9 design objectives are not outcome focussed, but rather provide context to the objective (“*as identified in the Carnegie Major Activity Structure Plan*”) or provide detailed guidance that belongs in Clause 2.0 (“*as shown on Maps 2 and 3 to this schedule*”). The design objectives should frame the requirements rather than replicate them.

Having regard to the broad issues raised in submissions, the Panel is satisfied there is justification for DDO9 to manage:

- building adaptability, scale and mass, including in heritage areas and urban renewal precincts
- public realm solar access and activation
- movement and circulation
- residential amenity outside the Activity Centre.

Ministerial Direction 7(5) does not enable a Design and Development Overlay schedule to specify more than five objectives. The Panel considers it is possible to express up to five design objectives in every circumstance. It is not good practice to list multiple objectives as bullet points under a shared introductory element to bypass this direction.

Council’s proposed design objectives should be redrafted into five simplified objectives which achieve the same intended outcome.

(v) Conclusion and recommendations

The Panel concludes the design objectives of Design and Development Overlay Schedule 9 should be simplified into five objectives which express outcomes sought for the Activity Centre and frame the schedule’s requirements.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to replace the design objectives in Clause 1.0 with:

- *To graduate building scale which maintains heritage places as the dominant streetscape feature and directs taller development to other locations.*
- *To ensure buildings are adaptable for different uses and activate public realm.*
- *To protect solar access to key public spaces.*
- *To prioritise pedestrian movement and redirect vehicle traffic to laneways and lower order roads.*

7.2 Built form and design requirements

(i) The issue

The issue is whether the exhibited and post-exhibited built form and design requirements are appropriate and justified.

(ii) Evidence and submissions

Council referred to the exhibited DDO9 which included one built form and design requirement:

Provide ground floor active frontages and outdoor dining opportunities to activate laneways and pedestrian links.

DDO9 (Final version) revised this requirement and added five new requirements:

Provide ground floor frontages that enable outdoor dining opportunities to activate laneways and pedestrian links.

Encourage building design that supports employment generating uses at first floor.

Avoid projections such as balconies and building services intruding into a setback specified in Tables 2 and 3 to this schedule.

Buildings should minimise the number of steps in any setbacks.

Encourage pedestrian access to the Djerring Trail for those properties that adjoin the trail, where supported by Vic Track.

Create new laneways on larger consolidated sites where appropriate.

One submission objected to neighbouring development abutting the proposed Kokaribb Road open space with activates frontage on the ground floor which encourage outdoor dining. It explained:

- outdoor dining should occur along Koornang Road to protect and develop the atmosphere and vicinity of the main shopping strip
- outdoor dining on the edge of open space is unfeasible and unsafe because vehicle access is needed along the north and east boundaries for the supermarket and shops
- residents in the neighbouring apartment building have the right to enjoy a quiet environment.

Council meeting attachment 1, which responded to this submission, did not propose any change. It explained the Structure Plan seeks to activate ground floor frontages of neighbouring buildings if the Kokaribb car park becomes an open space to encourage outdoor dining from cafes and restaurants to maximise the open space benefits.

At the Hearing, the live model presented by Council showed the angled built form shape above the street wall which responded to the corresponding mandatory overshadowing requirements. Council proposed a new fourth requirement which sought to avoid what Council referred to as the *“wedding cake effect”*.

(iii) Discussion

The exhibited and revised requirement to provide floor frontages that enable outdoor dining opportunities seek to activate laneways and pedestrian links. This is consistent with the approach sought by the Structure Plan in preferred strategic direction 1 and more specifically the ‘laneways and pedestrian connections’ section.

The pedestrian links should have been identified on Map 2 to understand whether they relate only to those shown in Figure 12 of the Structure Plan. This is needed because other figures and content in the Structure Plan refer to ‘pedestrian only lanes’, ‘pedestrian recommendations’ and ‘pedestrian connections’ to a larger number of paths including those in Figure 12.

Council should consider identifying the preferred laneways to clarify which ones are considered safe from commercial vehicle traffic or other hazards. Council is best placed to determine this, and the Panel makes no recommendation.

The Panel has considered the new requirements proposed in DDO9 (Final version).

The fourth requirement for buildings to minimise the number of steps in any setbacks should be included because:

- it is a commonly applied in planning to ensure good legible built form
- it will be particularly important around open spaces with mandatory overshadowing requirements.

The second and fourth requirements that begin with 'encourage' are expressed as objectives. The third and fifth requirements are expressed differently to others in DDO9 which use 'should' and 'must'. Good drafting required consistent expression of requirements.

The fifth and six requirements should be deleted. The fifth requirement is expressed as an unclear objective with no supporting information or strategic work. VicTrack should have been consulted to confirm whether this requirement, if its intent is to provide direct access to the Djerring Trail, would be practical and supported.

The sixth requirement relates to laneways rather than built form and design. This is discussed further in Chapter 7.5.

(iv) Conclusions and recommendation

The Panel concludes:

- The first built form and design requirement seeking ground floor frontages that enable outdoor dining is appropriate and justified, and Council should consider identifying which laneways are considered safe and appropriate.
- The second, third and fourth built form and design requirements proposed in Design and Development Overlay Schedule 9 (Final version) should be expressed consistent with other requirements in the schedule.
- The fifth requirement regarding direct access to the Djerring Trail should be deleted because it is unclear and not supported by accurate information or strategic work.
- The sixth requirement regarding laneways should be deleted because it does not relate to built form and design and is address by other requirements.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to revise the requirement and add three new built form and design requirements as:

Buildings should:

- ***Provide ground floor frontages to laneways and pedestrian links identified in Map 2 that enable outdoor dining opportunities.***
- ***Encourage building design that supports employment generating uses at first floor.***
- ***Avoid projections such as balconies and building services intruding into a setback specified in Tables 2 and 3 to this schedule.***

- *Minimise the number of steps in any setback.*

7.3 Floor to floor height requirements

(i) The issue

The issue is whether the floor to floor height requirements in DDO9 Clause 2.5 are justified and appropriate.

(ii) Background

DDO9 Clause 2.5 specifies:

Buildings should provide the floor-to-floor heights set out in Table 5 to this schedule unless the development is within a heritage building.

Table 5 – floor to floor height requirements

Development type	Building level	Floor to floor height
Commercial	Ground level	4.2 metres
Commercial	First floor and above	3.8 metres
Residential	All levels	3.2 metres

(iii) Evidence and submissions

Burke Co submitted the Table 5 should refer to retail as a 'development type'. Council agreed to this change.

In response to questions from the Panel, Ms Roberts advised it was important to set floor heights in the lower levels of buildings to ensure they provide or are adaptable for active uses over time. She considered it was less important to set floor heights for residential uses because Clause 58 contains provisions that manage the amenity of dwellings.

DDO9 (Final version) deleted the proposed floor to floor dimension for residential floors.

(iv) Discussion

It is important to ensure the lower floors of new buildings are adaptable over time and have sufficient floor to floor heights that can accommodate commercial uses that activate the public realm. This is consistent with the strategies in the Structure Plan to activate laneways and pedestrian spaces.

Council's proposal to delete the floor to floor heights for residential development is supported. Clause 58 already operates to ensure future dwellings achieve an appropriate level of internal amenity.

The final drafting of Clause 2.5 can be simplified so it better aligns with the design objective to activate the public realm (and avoid confusion that it maybe be a use provision). The preferred drafting is:

Buildings should:

- Provide a minimum 4.0 metres floor to floor height at ground floor.
- Provide a minimum 3.8 metres floor to floor height at first floor.

(v) Conclusions and recommendation

The Panel concludes the floor to floor height requirements:

- are justified and appropriate to ensure buildings are adaptable for commercial and retail uses that activate the public realm
- should be redrafted to a simplified form.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to replace Clause 2.5 with:

Buildings with no identified heritage should:

- ***Provide a minimum 4.0 metres floor to floor height at ground floor.***
- ***Provide a minimum 3.8 metres floor to floor height at first floor.***

7.4 Urban renewal precinct requirements**(i) The issue**

The issue is whether the requirement in DDO9 Clause 2.6 to *“step buildings down and provide a landscape interface to residential areas”* is justified and appropriate.

(ii) Evidence and submissions

Burke Co submitted the requirement to provide a landscape interface to residential areas should be deleted because it is inconsistent with the Type 6 interface which makes no allowance for landscaping.

Council proposed to delete the requirement.

(iii) Discussion

The Panel agrees that a requirement to provide a landscape interface to residential areas is contrary to requirements to provide a zero metre setback on the ground floor for all interface types abutting land in a residential zone.

(iv) Conclusion and recommendation

The Panel concludes the Design and Development Overlay Schedule 9 Clause 2.6 requirement seeking a landscape interface to residential areas should be deleted because it is inconsistent with the interface types.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to delete in Clause 2.6 *“step buildings down and provide a landscaped interface to residential areas”*.

7.5 Laneway, transport and car park design requirements

(i) The issues

The issues are whether the exhibited DDO9 Clause 2.6 and (Laneway requirements) and Clause 2.11 (Transport and car park design requirements) and post-exhibition changes proposed to these requirements and Map 2 are appropriate and justified.

(ii) Background

Transport Study

The Transport Study:

- identifies laneways as narrow, discontinuous and shared between various users, leading to low amenity walking environments that may challenge future development
- identifies an opportunity to expand the existing laneway network to enhance permeability rather than simply relying on the 'high street'
- recommended vehicle access paths to mitigated to better manage existing and future traffic movements, including Recommendation 1:

Interconnected north-south laneways between Egan Street and Dandenong Rd.

For the purposes of potential future uses, it defines laneways as:

- public laneways: those listed on Council's road register or that exist on a specific Council-owned land parcel that is publicly accessible
- private laneways: those that are publicly accessible, but which appear to exist on private property or common areas that are not known to be owned by Council.⁵

The Study recommends options for implementing the network of laneways needed to manage future traffic movements, including:

- Public Acquisition Overlay
- Development Contributions Plan
- voluntary agreements.⁶

Built Form Framework and Structure Plan

The Built Form Framework and Structure Plan include a place-making objective seeking to:

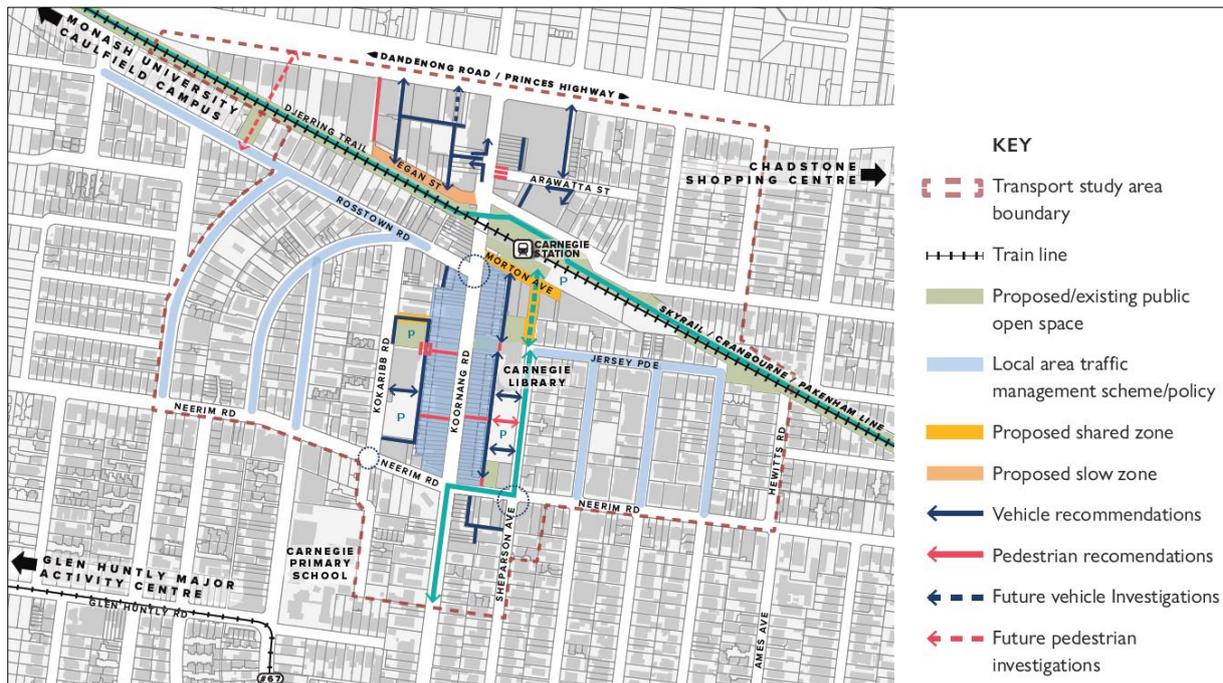
Support a network of urban laneways, streets and shared zones that easily connect the community to facilities and each other.

Structure Plan Figure 40, as shown in Figure 11, identifies vehicle and pedestrian recommendations, future vehicle investigations, and future pedestrian investigations.

⁵ Transport Plan, p49

⁶ Transport Plan, p89

Figure 11 Structure Plan movement and parking plan extract



As shown in Table 7, DDO9 (Version 1) revised the exhibited:

- laneway requirements and associated Map 2 changes which remained in the subsequent versions
- transport and car park design requirements which evolved in subsequent versions.

Table 7 DDO9 (Final version) laneway, transport and car park design requirements

Laneway requirements	Transport and car park design requirements
<p>Buildings should where practicable:</p> <ul style="list-style-type: none"> • provide connections with universal access for pedestrians to access the rear of the site from Koornang Road. This can be internal or external. • prioritise pedestrian and commercial traffic in the laneways behind Koornang Road (south of Rosstown Road and Morton Avenue and north of Neerim Road) over residential traffic. minimise residential traffic in laneways. • minimise residential traffic in the laneways behind Koornang Road (south of Rosstown Road and Morton Avenue and north of Neerim Road) • provide vehicle access/egress via service lanes and secondary streets where possible. • retain vehicle access and egress on the laneways between Egan Street and Dandenong Road generally in accordance with the pink dotted line on Map 2 to avoid additional traffic on Egan Street and Koornang Road. • retain vehicle access between Dandenong Road and Arawatta Street. 	<p>Buildings should:</p> <ul style="list-style-type: none"> • minimise vehicle movements and access on Egan Street. • promote shared vehicle crossovers in Egan Street. • avoid on-street parking on the north side of Egan Street. • support vehicle access to the Dandenong Road service road. • concentrate vehicle access on the south side of Arawatta Street in Arawatta Street rather than in Woorayl Street. • provide basement car parking fully below the finished street level to maximise areas devoted to the provision of employment and housing. • consider semi-basements up to 1.2 metres above the finished street level if dwelling privacy would benefit from a raised ground floor. • consider above ground car parking only where: <ul style="list-style-type: none"> - it can be demonstrated that basement car

Laneway requirements**Transport and car park design requirements**

- parking is not practical.
- it is fully screened by commercial, retail and/or residential uses.

(iii) Evidence and submissions

Council called Leigh Furness of Traffix as a traffic expert who recommended DDO9 be revised to:

- add in Clause 2.11 or elsewhere a requirement to provide suitable splays on intersection corners for pedestrian safety
- clarify in Clause 2.9 (Laneways) that dot points 2 and 3 refer only to laneways servicing properties abutting Koornang Road
- include guidance for:
 - the desired future laneway network for Carnegie to support delivery of key laneways
 - preferred vehicle access to Arawatta Street over Woorayl Street
- add a new application requirement in Clause 5.0 for cumulative traffic and parking assessment:
 - if vehicle access is via a laneway, an assessment of the capacity of the laneway to accommodate development traffic for all users of the laneway.

The numerous revised requirements shown in Table 7 were in response to Mr Furness' recommendations.

Zuccubarr submitted:

- DDO9 was exhibited with laneway requirements without any associated mapping
- a pedestrian link can be provided along the western boundary of 8 Egan Street and 1062-1064 Dandenong Road as shown in the Structure Plan.

Zuccubarr considered it unreasonable for DDO9 (Version 1) to now propose a pedestrian link through 8 Egan Street and 1062-1064 Dandenong Road. It explained:

- there is no easement for it
- the existing building is built to the western boundary
- the link through the property would mean the floor area lost at ground floor would result in the site not achieving an appropriate uplift.

Zuccubarr requested that the reference to pedestrian and vehicle links affecting its properties be deleted from the Structure Plan. It explained it would be inappropriate to redirect vehicle traffic along the existing laneways because they are too narrow, and the Structure Plan does not include enough detail about their widening.

It further requested that the existing vehicle laneway at 1060 Dandenong Road be explored as an alternative alignment.

In response to questions by Zuccubarr at the Hearing, Mr Furness stated:

- the north-south easement is about 3 to 3.6 metres wide and is proposed to be shared by pedestrians and vehicles
- he was aware the existing easement is privately owned and accepted the new laneway would be of public benefit

- he was not aware of any intention to apply the Public Acquisition Overlay to land subject to the future laneway.

Council responded it can reasonably be said that Zuccubarr was aware of the implications of the laneways because its submission:

- acknowledged DDO9 Clause 2.9 included laneway requirements
- requested the Structure Plan be revised to remove pedestrian and vehicle link references from its property.

Council disagreed the Public Acquisition Overlay needed to apply to affected land to show laneways in DDO9 Map 2. It submitted it is appropriate to include the Activity Centre's access and movement network in DDO9, like it appears in other planning schemes. Council referred to:

- the Yarra C191 [2020] PPV Panel report:
 - The Panel accepts that the locations of the three north-south accessways are indicative and are a discretionary requirement. Co-locating two of the accessways with upper level building breaks into a central accessway will provide a useful additional break to the building form along Swan Street. The Panel is satisfied that there is sufficient flexibility in the provisions to ensure a range of possibilities to achieve appropriate access to the properties in this section of Swan Street.
- Central Geelong Framework Plan Advisory Committee report [2021] PPV which similarly supported the notation of new laneways and stated:
 - The acquisition strategies required to deliver these future links is not a matter for the Committee. The Committee does, however, agree with submitters that this will require consultation with and cooperation from the relevant landowners.

Council also referred to the Stonnington Planning Scheme DDO9 and Activity Centre Zone Schedule 1 which include similar examples showing pedestrian and laneway links in schedule maps.

Council advised it will review the Parking Overlay, as indicated as Structure Plan action 4.9, after it completes the Integrated Transport Strategy.

DDO9 (Final version) introduced a new built form requirement:

Create new laneways on larger consolidated sites where appropriate.

(iv) Discussion

The exhibited DDO9 included laneway, transport and parking requirements in two different locations (Clauses 2.9 and 2.11 respectively). The Panel has considered these requirements collectively because they have shared intents. Two contradictory requirements sought to:

- minimise residential traffic in laneways
- provide vehicle access/egress via service lanes and secondary streets.

Subsequent DDO9 versions included considerably more detail and requirements, as shown in Table 7. These changes:

- explained that residential traffic should be minimised in the service lane behind the Koornang Road commercial and retail properties
- identified the service lanes and secondary streets for vehicle access in the requirements and Map 2.

These changes were the basis of considerable discussion at the Hearing.

The Panel supports adding further detail which better clarifies what was intended by the Amendment. Providing vehicle access through service lanes and secondary streets is an appropriate response to redirecting traffic away from higher order roads. It is unclear whether this meant to provide access through:

- existing lanes and secondary streets, or
- service lanes and secondary streets as a general approach, whether they be existing or future thoroughfares.

The Panel agrees with Council that it can be reasonably assumed that Zuccubarr was aware of the implications of the laneways as presented in the exhibited DDO9 and in the Structure Plan. However, it can also be assumed that Council consciously excluded from DDO9 the alignment of its preferred future laneway network outlined in the Structure Plan because it was not sufficiently evolved.

This circumstance is problematic because future development in the Urban Renewal precincts north of the skyrail and the broader Activity Centre will need to redirect a portion of traffic from higher order roads onto existing and future laneways. This will help manage future traffic movements, particularly in areas where the taller and more intense development is expected. The Transport Study has found that certain street locations in the Activity Centre are at or near capacity. Excluding any indication of these laneways may affect the ability to achieve objectives sought in the Activity Centre.

DDO9 should clarify that reference to laneways includes existing and potential new laneways, consistent with what was identified in the Transport Study and the Structure Plan. The Structure Plan indicates an aspiration for possible new laneway alignments without explaining how this privately owned land will be transformed into publicly accessible spaces. With this degree of uncertainty, how should future laneways be represented in DDO9? DDO (Final version) represents them in an unclear and misleading way because it:

- shows hatched lines in Map 2 labelled as ‘vehicle recommendations’
- adds definitive laneway requirements seeking to ‘retain’ vehicle access.

The term ‘vehicle recommendations’ is unclear and does not refer to a laneway. The Panel acknowledges that Structure Plan Figure 40 applies laneway categories – Vehicle recommendations, Pedestrian recommendations, Future vehicle investigations, and Future pedestrian investigations. However, these are also unclear.

The requirement to ‘retain’ vehicle access is misleading when referring to private land which is currently not a publicly accessible laneway such as the gated portion of 1062-1066 Dandenong Road and the Rosstown Hotel car park access at Dandenong Road. The Structure Plan incorrectly labels the potential laneway through 1062-1066 Dandenong Road as ‘vehicle recommendations’ rather than ‘future vehicle recommendations’. This error should not be translated into DDO9.

As a precautionary measure, DDO9 Map 2 should differentiate between existing and potential future publicly accessible laneways:

- An existing laneway should be shown as a solid line and labelled as ‘preferred vehicle access through existing vehicle laneway’, consistent with the exhibited DDO9 Clause 2.11 requirement.
- A potential laneway should be shown as a hatched line and labelled as ‘potential future vehicle laneway’.

This approach is consistent with:

- Structure Plan Figure 33 which applies the term ‘potential future pedestrian link’
- Structure Plan Figure 40 which differentiates between recommended movements on existing laneways and future laneway investigations
- their status in the Transport Study.

The term ‘new laneway preferred’ is simpler and perhaps clearer, however it was not used in the Structure Plan or in the exhibited DDO9 so may elevate it beyond its status in supporting documents.

There is no evident reason in any submission, expert report or Structure Plan why a new built form requirement seeking to create new laneways on larger consolidated sites is needed. The Panel does not support including this new laneway requirement in DDO9.

The laneway, transport and parking design requirements should be merged into one suite to read related planning provisions more coherently.

(v) Conclusions and recommendations

The Panel concludes:

- As a precautionary measure, Design and Development Overlay Schedule 9 Map 2 should identify and differentiate between retaining existing laneways for vehicle access and potential future laneways to be investigated for the same role.
- Design and Development Overlay Schedule 9 laneway, transport and car park design requirements proposed since exhibition are generally appropriate but should be merged, simplified and revised in line with other Panel conclusions.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to:

- revise Clause 2.9 laneway requirements (now Clause 2.6) to specify existing laneways and to identify locations where vehicle access is sought to be retained**
- move transport and parking design requirements into laneway requirements into a new revised Clause 2.9 (now Clause 2.6)**
- revise the Clause 5.0 application requirement seeking a traffic, transport and car parking report to clarify it is only needed if vehicle access is through a laneway and to include a traffic capacity analysis**
- identify laneways in Map 2 (now Map 1) as ‘preferred vehicle access through existing vehicle laneway’ as a solid line and ‘potential future vehicle laneway’ as a hatched line.**

7.6 Application requirements

(i) The issue

The issue is whether the application requirements are appropriate.

(ii) Evidence and submissions

Mr Gard’ner did not support Council’s post-exhibition change related to heritage reports. He considered this application requirement is needed where the Heritage Overlay does not

require a permit for development, but may affect a heritage place, such as development on an adjoining site. DDO9 (Version 2) deleted this requirement, although Council's notated comments stated it would be retained because the Heritage Overlay requirement was not as detailed.

Burke Co submitted the application requirement for a landscape plan was unnecessary where built form requirements called for buildings to be built to property boundaries. Council deleted this requirement in DDO9 (post-exhibition) and explained at the Hearing a landscape plan is always provided with a permit application.

Council revised DDO9 to:

- require a 3D digital model of the proposed buildings and works if four or more storeys in height in a format compatible with Council's 3D model (Version 1)
- limit the acoustic report to land adjacent to Dandenong Road and the railway line and specify further regulations to be met (Version 2)
- delete requirements repeated elsewhere in the Planning Scheme (Version 2).

In response to questions from the Panel, Council confirmed it was purchasing a new 3D digital model which was expected to be operating soon.

(iii) Discussion

As discussed in Chapter 8.3, the Panel supports deleting application requirements which duplicate other Planning Scheme provisions, consistent with guidance in the Practitioner's Guide. Further discussion can be found in that chapter.

The Panel does not support the requirement for a heritage report because it duplicates existing provisions. The Heritage Overlay Schedule includes application requirements for permit applications with identified heritage. It would be unreasonable to require a heritage report for a property which abuts the Heritage Overlay because if this property can affect the abutting heritage, it should have been included within the Heritage Overlay curtilage. Adding 'where practical' does not resolve this issue. The application requirements in the Heritage Overlay Schedule should be revised through a separate process if they are considered to need more detail.

The Panel supports the requirement for an acoustic report and the intent behind specifying relevant environmental regulations and standards. There is an underlying requirement for development to meet them. They should be translated into Clause 2.0 (Buildings and works) requirements, consistent with the drafting approach in Clause 53.06-3:

Requirement

Residential development adjacent to Dandenong Road and the railway line should:

- Meet the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 and the Incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) as may be amended from time to time.
- Meet the Australian Standard AS2670.2-1990 (Evaluation of human exposure to whole-body vibration) as may be amended from time to time.

(iv) Conclusions and recommendations

The Panel concludes:

- The application requirements are generally appropriate but should be revised to delete the requirement for a heritage report which duplicates requirements in the Heritage Overlay Schedule and includes land not relevant to heritage.
- Council's proposed applications requirements since exhibiting the Amendment and regarding environmental regulations and standards should be translated into buildings and works requirements.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to revise Clause 5.0 (Application requirements) to:

- **delete the requirement for a heritage report**
- **translate the relevant environmental regulations and standards into building and works requirements in Clause 2.0.**

7.7 Other requirements**(i) The issues**

The issues are whether it is appropriate and justified to include in DDO9:

- limited 'as of right' area of rooftop features as part of the building heights requirements in Clause 2.1
- Clause 2.7 interface and transition requirement stating "*buildings should provide a suitable transition to residential areas*"
- the exhibited and subsequently proposed transport and parking design requirements in Clause 2.11.

(ii) Evidence and submissions

Lite Footprint Pty Ltd objected to requiring certain requirements in DDO9 Clauses 2.1 (Building height requirements) and 2.11 (Transport and parking design requirements). It submitted that limiting rooftop features to 10 percent of the gross floor area of the building would:

- compromise provision of rooftop solar
- require other services to be incorporated into the building at lower levels which would be visible from the public realm.

Regarding Clause 2.11, Lite Footprint submitted:

- it is unnecessary to require charging stations for bicycles because charging battery packs are portable
- the 'commercial fronts at footpath level' requirement is unclear.

Burke Co submitted DDO9 Clause 2.7 should be deleted because it has the potential to confuse and undermine the role of the requirements for building height, interface type and building separation, which already account for interface conditions.

Council agreed to delete the requirements identified by Lite Footprint Pty Ltd and Burke Co.

(iii) Discussion

The Panel supports Council's proposal to delete identified requirements from Clauses 2.1, 2.7 and 2.11.

Including roof top features in Clause 2.1 as part of the overall calculation of building height may affect the ability to achieve other outcomes sought for the Activity Centre.

As outlined in Chapter 8.3, Council proposes to delete DDO9 requirements which duplicated other Planning Scheme provisions. This includes Clause 2.7 which duplicates the Clause 15.01-2L and Clause 2.11 which duplicates Clauses 18.02-2L and 18.02-4S. For reasons outlined in Chapter 7.5, the Panel has recommended these requirements be deleted.

(iv) Conclusions and recommendations

The Panel concludes that, consistent with Council's changes proposed for Design and Development Schedule 9, it is appropriate to delete:

- roof top features requirement in Clause 2.1 because it may affect the ability to achieve other outcomes sought for the Activity Centre
- Clause 2.7 and most of Clause 2.11 because they duplicate other Planning Scheme provisions.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to:

- a) delete in Clause 2.1 *"The combined floor areas of these features should not exceed 10 per cent of the gross floor area of the top storey of the building"*
- b) delete Clause 2.7 (Interface and transition requirements).

7.8 Decision guidelines**(i) The issue**

The issue is whether the exhibited heritage related decision guidelines are appropriate.

(ii) Evidence and submissions

Benon submitted the following decision guidelines are inappropriate:

- Whether the heritage buildings retain their prominence when viewed from the street.
- Whether upper-level development above the street wall is visually recessive and does not visually overwhelm the heritage buildings.

Benon explained that these guidelines duplicate Heritage Overlay provisions which require a relevant permit application to consider these matters.

Council proposed to delete these decision guidelines in DDO9 (Final version).

(iii) Discussion

As previously discussed, the Panel is satisfied there is sound justification for DDO9 to manage development of heritage places in the Activity Centre. The proposed decision guidelines are therefore appropriate in principle. However, in this instance, the decision guidelines are not warranted because they duplicate:

- decision guidelines in the Design and Development Overlay parent provision at Clause 43.02-6
- the effect of DDO9 Clause 2.0 requirements.

(iv) Conclusion and recommendation

The Panel concludes proposed decision guidelines for heritage buildings are unnecessary because they duplicate other provisions of the Planning Scheme and those proposed through the Amendment.

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to delete the decision guidelines in Clause 6.0 related to heritage.

8 Other issues

8.1 Traffic and parking

(i) The issues

The issues are:

- whether the Amendment has appropriately considered traffic and parking issues
- whether it is appropriate for DDO9 to identify the Council-owned car park in Kokaribb Road as proposed open space.

(ii) Background

The Transport Study concludes:

- forecast traffic associated with increased development is likely to create challenges, given the existing network is likely near or at capacity
- doubling the number of dwellings and increasing retail and commercial floorspace by 30 to 40 per cent will increase pressure on transport infrastructure
- there is a need to encourage public transport, active transport and other measures to manage demand
- laneways capable of supporting growth need to be changed, while improving walkability and amenity
- measures which support reduced traffic generation (such as reduced or capped provisions) need to be implemented.

The Transport Study includes 29 traffic and parking recommendations.

The Structure Plan:

- seeks to minimise traffic issues through:
 - lower speed along a section of Koornang Road and traffic treatments at key locations
 - reduced off-street parking in new developments
 - mitigating impacts to rear laneways
- proposes to convert the Council-owned car park in Kokaribb Road into a new public open space, subject to resolving access arrangements.

DDO9 identifies the car park as 'Proposed open space (subject to resolution of access and parking)'.

(iii) Evidence and submissions

There were different views in submissions on how much parking should be provided and on how to resolve traffic and parking issues.

Those seeking more car parking submitted:

- the Planning Scheme and Structure Plan do not require enough car parking for new developments to address the current shortage
- permit applications seeking to reduce the number of parking spaces should not be supported because they will exacerbate the current shortage

- owners should be able to park on the street near their property rather than be used by visitors and tradespeople
- Koornang Road is congested and unsafe so more parking should be required
- the Kokaribb Road car park should:
 - remain or be upgraded because the Activity Centre has limited parking, its removal would discourage shoppers and impact businesses, and it is in one of the busiest areas of Carnegie
 - remain because there is enough green open space
 - include multi-level underground parking if it becomes open space
 - be replaced with 66 parking spaces south of the Woolworths Metro supermarket if it becomes open space
- there is no assurance the public will be able to use parking provided in new developments
- Council should investigate having another pedestrian crossing on Koornang Road
- the Structure Plan should:
 - identify increased car parking in the Activity Centre to meet projected population demand
 - identify a multi-level car park in Shepparson Avenue next to the library, as previously planned by Council, to offset the loss of parking resulting from the Kokaribb car park being transformed into open space
 - prioritise electric vehicle charging stations and improvements to public transport
 - support the claim that increased parking will exacerbate existing congestion issues.

Other residents submitted:

- providing too much car parking will encourage car ownership
- maximum car parking rates should be introduced through a new Parking Overlay to prevent oversupply
- Koornang Road is congested and unsafe so less car parking should be required
- the Structure Plan seeks to improve and promote transport options
- the Structure Plan's approach of leveraging off the excellent public and private transport links is supported
- locals should be encouraged to walk, ride or use public transport where possible
- pedestrian and cycling access and bicycle parking should be improved
- Clause 18.02-4L-02 is not robust enough to achieve the 50:50 car and non-car trips by 2031 sought by the Glen Eira Integrated Transport Strategy.

A local resident submitted that Arawatta Street was already negatively impacted by increased traffic and reversing trucks accessing the Spotlight Centre car park. This makes the area unsafe.

Mr Furness considered that identified traffic and parking issues could be mitigated through actions recommended in the Transport Study.

(iv) Discussion

The Panel considers the Amendment has appropriately considered traffic and parking issues, as informed by the Transport Study. The Transport Study identifies the need to phase out

the extent of parking included in new development to help manage future traffic volumes. Conversely, providing more car parking in the centre will result in more people driving to the centre to find these new opportunities. This would negatively impact the Activity Centre because some of its streets are nearly fully saturated.

Submissions have assumed the Kokaribb Road car park spaces will be lost if it is converted into public open space. However, it is unclear whether some or all spaces will be replaced by basement car parking under the new open space or at another location. Not replacing these spaces aligns with the objectives sought by the Transport Study, Structure Plan and sustainable transport and activity centre related planning policy.

Specifically, the Transport Study recommends, among other actions, that:

- Council prepare a car parking strategy for the Activity Centre
- car parking provision be reduced or capped in the core precinct to help reduce traffic demand.

(v) Conclusions

The Panel concludes:

- The Amendment has appropriately considered traffic and parking issues.
- It is appropriate and justified for Design and Development Schedule 9 to identify the existing Kokaribb Road car park as future public open space because the Transport Study has found that this will not negatively impact the Activity Centre, subject to recommended mitigating actions.

8.2 Solar panel overshadowing

(i) The issue

The issue is whether the Amendment has appropriately considered the potential impact of development on the operation of solar panels.

(ii) Background

The decision guidelines of the Commercial 1 Zone require a responsible authority to consider:

- The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.

Planning Practice Note 88 (Planning for domestic rooftop solar energy systems) advises about buildings and works that require a planning permit in a residential zone or Commercial 1 Zone, if an adjoining lot in a residential zone contains an existing domestic rooftop solar energy system.

(iii) Evidence and submissions

Favre-Cranage Property Trust submitted:

- an hourly shading analysis should be prepared for land in the Urban Renewal Precincts 1 and 2

- based on this information, the height differential between the two precincts should be reviewed to ensure direct sunlight exposure to the roofs in Precinct 1 between 9am and 3pm at the winter solstice
- a reduction in height in Precinct 2 would be an improvement to the amenity of the whole neighbourhood
- building heights should be mandatory.

Council confirmed guidance in the Commercial 1 Zone and Planning Practice Note 88 only applies where commercial land adjoins a residential zone.

Council submitted the Amendment should not develop a standard for overshadowing of roof top panels. It considered this is a matter that should be undertaken at a broader level so that there is consistency across Melbourne's activity centres.

Council submitted there are circumstances which will arise where there is no direct guidance for assessing impacts of development on existing roof top solar systems (such as commercial land adjoining commercial land), but even in those cases, assessments are likely to consider "*what is reasonable*".

(iv) Discussion

There is no justification for modifying the preferred maximum buildings heights in the urban renewal precinct, to protect opportunities for solar energy systems. There are provisions in the Planning Scheme that deal with energy efficient dwellings and buildings. These include:

- Clause 15.01-2S (building design)
- Clause 58.03 (site layout for apartments).

The Panel agreed with Council that future assessments are likely consider what is reasonable in an Activity Centre context. Any further guidance is more appropriately applied at a state policy level.

(v) Conclusion

The Panel concludes the Amendment has appropriately considered the potential impact of development on the operation of solar panels.

8.3 Railway land

(i) The issue

The issue is whether two sections of railway land, which did not form part of the exhibited Amendment, should be rezoned from the existing Commercial 1 Zone to Transport Zone 1.

(ii) Evidence and submissions

VicTrack owns the railway land which runs diagonally through the Activity Centre and did not object to the Amendment. It requested the Amendment rezone two sections of its land on the south side of the station area facing Morton Avenue from the existing Commercial 1 Zone to Transport Zone 1. VicTrack explained the Commercial 1 Zone applied to a car park and landscaping used for transport purposes and was anomalous.

Council submitted it is appropriate to rezone these parcels to Transport Zone 1 through a separate planning scheme amendment process.

(iii) Discussion

The Practitioner’s Guide contains extensive commentary on the zoning of public land. Of note, it states:

A public land zone can be applied to public land where the surrounding zoning is inappropriate or where there is a special reason to separately identify the public land for planning purposes. This will commonly be where land management arrangements apply under legislation other than the Act.

A useful test in considering if a public land zone is appropriate is to determine if a public land manager or transport manager needs some level of flexibility, protection or exemption that is different from the surrounding zone provisions because of the special nature of the public land or asset and its control (in a land use or management sense) under another Act. For this reason, public land zones should be applied in consultation with the relevant public land manager or transport manager.

Having regard to this commentary, it may be appropriate for railway land to be rezoned to a public land zone. However, this zoning change was not exhibited as part of the Amendment and should be subject to a future planning scheme amendment process.

(iv) Conclusion

The Panel concludes the future zoning of two sections of railway land which did not form part of the exhibited Amendment should be considered through a separate planning scheme amendment process.

8.4 Drafting matters

(i) Background

The Amendment was authorised with the following conditions:

- Reference to the “Carnegie Activity Centre” must be amended to read “Carnegie Major Activity Centre” and references to the “activity centre” changed to the “major activity centre” in all amendment documentation and the Structure Plan to align with the Plan Melbourne designation.
- In the proposed DDO9, mandatory and preferred building heights must be expressed as “M, up to X storeys” in Table 1, Table 2 and Map 2 – Building Heights and Interfaces.

The Panel facilitated drafting discussion through a written process and at the Hearing after submissions had closed. To support this process, the Panel asked parties to refer to:

- Ministerial Direction on the Form and Content of Planning Schemes issued under section 7(5) of the PE Act which specifies how local schedules must be drafted
- A Practitioner’s Guide to Victorian Planning Schemes Version 1.5, April 2022 which provides planning provision drafting guidance.

Council provided parties with DDO9 (Version 2) which included further changes than the post-exhibition version. Parties used Version 2 to base their preferred tracked drafting.

(ii) Duplication with existing Planning Scheme provisions

The Panel made a direction that Council include in its Part A submission whether there was any duplication between the proposed provisions and other Victoria Planning Provision clauses. Council identified duplication and proposed deleting provisions shown in Table 8.

Table 8 DDO9 provisions proposed to be deleted in response to identified duplication

Clause	Provision	Addressed in Clause:
2.0	Buildings and works	
2.3	Buildings along Koornang Road should: <ul style="list-style-type: none"> - Build the street wall to the Koornang Road boundary. - Ensure the street wall is no higher or lower than the abutting neighbour on either side. 	15.01-2L-01
2.6	include retail and commercial uses at ground and first levels.	15.01-2L-01
2.7	Buildings should provide a suitable transition to residential areas.	15.01-2L-01
2.8	Provide connection with universal access for pedestrians to access the rear of the site from Koornang Road. This can be internal or external and should include passive surveillance.	55 and 58 so delete underline wording
2.8	provide windows above ground level for passive surveillance over laneways	55 and 58
2.10	facilitates a high level of internal amenity for occupants of the development and adjoining development	55.04-6 Standard B22 and 55.04-01 Standard D14
2.10	achieves privacy through setbacks and building design, rather than screening	15.01-2L-01 and 58.04-1 Standard D14
2.10	contributes to a varied and architecturally interesting skyline	15.01-1R
2.10	Providing charging stations for electric cars, bicycles, and scooters within car parks	18.02-2L and 18.02-4S
2.11	avoid additional vehicle crossovers on Koornang Road	18.02-4L-01, 55.03-7, Standard 14 and 58.03-6 Standard D11
2.11	consolidate existing vehicle crossovers	58.03-6
2.11	consider semi basements up to 1.2 metres above the finished street level if dwelling privacy would benefit from a raised ground floor	55 and 58
2.12	Provide primary pedestrian entrance to building from the street	55.05-2 Standard B26 and 58.02-5 Standard D5
2.12	provide separate entries from the street for pedestrians and vehicles	55.07-17 Standard 51
2.13	consolidate sites where appropriate to deliver an efficient built form and to ensure the visual and amenity impact of the developments can be managed within the site	15, 55 and 58, noting that consolidation almost always occurs after development ends and before subdivision

Clause	Provision	Addressed in Clause:
5.0	Application requirements	
5.0	A design response that ...	55.01-2 and 58.01-3
5.0	A planning report that explains how the design meets ...	55 and 58
5.0	A heritage report prepared by a suitably qualified heritage expert ...	Heritage Overlay
5.0	A landscape plan prepared by a suitably qualified landscape designer	55.07-4 Standard B38 and 58.03-5 Standard D10
5.0	An acoustic report ... – replace with “ <i>A vibration report for residential development prepared by a suitably qualified professional demonstrating how the development reduces the impact of vibration from the Carnegie Station.</i> ”	55.07-7 Standard B41 and 58.04-3 Standard D16
5.0	An environmental assessment of sites included in the Environmental Audit Overlay prepared by a suitably qualified professional	Environmental Audit Overlay
5.0	A waste management plan ...	55.07-11 and 58.06-3
5.0	A sustainability management plan prepared by a suitably qualified professional that demonstrates how the proposal ...	55.07-1 Standard B35 and 58.03-1 Standard D6

Panel response

The Panel agrees with Council’s proposed changes which seek to avoid duplication with existing Planning Scheme provisions.

(iii) Building height measures

DDO9 specifies maximum building heights in metres and storeys. At the Hearing, there was discussion whether it was necessary to also specify height in storeys. Council explained DDO9 referred to storeys because people better understand storeys rather than metres.

Department of Transport and Planning advises through Planning Practice Note 60 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.

Panel response

Expressing maximum building height in metres provides a certain measure which does not need to be supported by a secondary measure in storeys. In some instances, the metres and heights specified in DDO9 do not align. For example, when applying the preferred floor to floor heights, a 13 storey building can be achieved within 46 metres rather than the 12 storeys specified for Urban Renewal Precinct 2. To avoid confusion and align with the preferred approach, building heights should be expressed in metres only.

The Panel acknowledges that DDO9 specified ‘up to’ next to the building height measure in response to an authorisation condition. However, the term ‘maximum’ in the table header already suggests that height can be anything up to the specified building height measure.

(iv) Other DDO9 drafting changes

Council proposed other DDO9 drafting changes:

- adding 'Major' to Carnegie Activity Centre (Post-exhibition), in line with authorisation condition 5
- changes which sought to clarify the provision.

Panel response

The Panel agrees with Council's DDO9 drafting changes which help clarify the operation and intent the provisions.

DDO9 should refer to terms which are used elsewhere in the schedule or in the Planning Scheme. For example, DDO9 (Final version) refers to service lanes and secondary streets (Clause 2.6) and Map 2 refers to rear lanes.

The Panel has identified further inconsistencies or anomalies in DDO9 which should be addressed before adopting the Amendment. It recommends:

- the interface type shown for the Neerim Road open space southern boundary in Map 2 be deleted because no interface is shown for other open spaces
- references to 'railway line' be replaced with 'skyrail' because both terms are used interchangeably.

(v) Final form of the provisions

The Panel recommends:

Amend Design and Development Overlay Schedule 9, as shown in Appendix D, to make drafting related changes which:

- a) delete provisions which duplicate other Glen Eira Planning Scheme provisions**
- b) specify building heights in metres without referring to storeys**
- c) improve its clarity and operation.**

Appendix A Submitters to the Amendment

No	Submitter	No	Submitter
1	Norman Lindsey	26	Dimitrios Anastasopoulos
2	Lachlan Smith	27	Carla and Hamish Emms
3	DRK Assets Pty Ltd	28	Alroy Dcosta
4	Martin Murphy	29	Lite Footprint Pty Ltd
5	South East Water	30	Priyanka Dcosta
6	VicTrack	31	Sullivan Property Pty Ltd
7	Catherine Sherwin	32	Harry Moutsokos
8	Emma Oneal	33	James Earls
9	David Bloxham	34	Chelsie Dickson
10	Alison Campbell Rate	35	Yiyang Jin
11	Keran Li	36	Li Li
12	Owen Boushel	37	Sarah Bugden
13	Favre-Cranage Property Trust	38	Tassia Antoniou
14	Anna Tesoriero	39	Susan McKenna
15	Margaret Summers	40	Michelle Bennett
16	Timothy Marks	41	Graeme Callen
17	Peter Turczyn	42	Elizabeth Rowell
17	Ann Turczyn	43	Glen Eira Historical Society
18	Benon Pty Ltd	44	Burke Co Pty Ltd (trustee for Burke Co Trust)
19	Holly Lu	45	Dennis Winning
20	Belinda Poole	46	Melissa Bates
21	Mark Musgrave and Katherine Marks	47	Zuccubarr Pty Ltd
22	John Cotterill	48	Jennifer McCoy and Tony Austin
23	Sofia Anastasopoulos	49	Louise Graham and Jerard Corrie
24	Dianne Nicholson	50	Whyte family
25	Shirley Pflieger	51	Dandenong Road Management Pty Ltd and 1030 Dandenong Road Pty Ltd

Appendix B Document list

No.	Date	Description	Provided by
2023			
1	4 Dec	Directions Hearing notice letter	Planning Panels Victoria (PPV)
2	20 Dec	Panel Directions and Hearing Timetable (version 1)	PPV
3	22 Dec	Documents requested by the Panel under Direction 7:	Glen Eira City Council (Council)
		a) DDO9 (post-exhibition) – Council preferred tracked changes	
		b) Built Form Framework V8 (29 June 2022)	
		c) Carnegie Transport Study - Rev. I	
		d) Assessment of the Economic Impacts of Transformation Concepts on Activity Centres: Bentleigh, Carnegie & Elsternwick (Blair Warman Economics, 2017)	
		e) Background Report V5 (21 December 2021)	
		f) City Plan 2020	
		g) Memorandum of Advice - Heritage Advice - Carnegie Major Activity Centre Built Form Framework (GJM Heritage, 8 August 2022)	
		h) Glen Eira Activity Centres Community Engagement Summary - Final Report (March 2017)	
		i) Glen Eira Community Benefits Discussion Paper (Planisphere, 2017)	
		j) Glen Eira Economic Analysis and Forecasting Study (February 2018)	
		k) Glen Eira Transformative Concepts Review (One Mile Grid, 2017)	
		l) Glen Eira Transformative Concepts Review (Planisphere, 2017)	
		m) Glen Eira Activity Centres Urban Context Report (Planisphere, 2017)	
		n) Glen Eira Urban Design Analysis Report (Planisphere, 2017)	
		o) Glen Eira Urban Design Guidelines (Planisphere, 2017)	
		p) Parking Analysis For Bentleigh, Carnegie And Elsternwick Draft Structure Plans (October 2017)	
		q) Peer Review of Glen Eira's Draft Quality Design Guidelines and Strategic and Urban Renewal Development Plans Analysis (Aecom, 2017)	
		r) Planning Strategy Impacts on Housing Opportunity (October 2017)	
		s) Carnegie Public Realm Review - Structure Plan Revision 2022	

No.	Date	Description	Provided by
		t) Employment Land Needs Assessment for the Bentleigh, Carnegie, and Elsternwick Major Activity Centres (SGS Economics and Planning, 2022)	
		u) Glen Eira Transport Analysis and Forecasting Discussion Paper - Carnegie Activity Centre (MRCagney, 2017)	
		v) Glen Eira Housing Capacity and Demand Analysis (SGS Economics and Planning, 2022)	
		w) Housing Framework Plan	
		x) Public Open Spaces in Carnegie Structure Plan (SP) 2022	
5	28 Dec	Suggested site inspection locations	Carla Emms
	2024		
4	5 Jan	Email confirming withdrawal from the Hearing	DRK Assets Pty Ltd
6	11 Jan	Suggested site inspection locations	Glen Eira Historical Society
7	22 Jan	GJM Heritage memorandum of advice (13 October 2023)	Council
8	22 Jan	LatStudios memorandum of advice (23 October 2023)	Council
9	29 Jan	Expert report – Jim Gard’ner of GJM Heritage	Council
10	29 Jan	Expert report – Leigh Furness of Traffix	Council
11	29 Jan	Expert report – Julian Szafranec of SGS Economics and Planning	Council
12	29 Jan	Panel Directions and Timetable (version 2)	PPV
13	29 Jan	Expert report – Amanda Roberts of Lat37	Council
14	29 Jan	Email confirming withdrawal from the Hearing	Glen Eira Historical Society
15	1 Feb	Further Panel Directions	PPV
16	5 Feb	Expert report – Sophie Jordan	Benon Pty Ltd
17	5 Feb	Part A Submission and attachments: <ul style="list-style-type: none"> a) Carnegie Major Activity Centre – Summary of Submissions b) DDO9 (Version 1) c) Clause 11.03 - Planning for Places (Version 1) d) Clause 18.02 - Movement Networks (Version 1) e) Clause 02.03 - Strategic Directions (Version 1) 	Council
18	8 Feb	Hearing Submission	Remy Favre
19	9 Feb	1030 Dandenong Road – Urban Renewal Precinct 1 study	Dandenong Road Management Pty Ltd
20	9 Feb	Part B Submission	Council

No.	Date	Description	Provided by
21	9 Feb	Hearing presentation – Jim Gard’ner	Council
22	9 Feb	Hearing presentation – Amanda Roberts	Council
23	9 Feb	Overshadowing modelling for Koornang Road showing: a) 6 metre upper level setback b) 5 metre upper level setback	Council
24	9 Feb	Amanda Roberts response to Benon Pty Ltd evidence	Council
25	14 Feb	Hearing Submission	Burke Co Pty Ltd (trustee for Burke Co Trust)
26	14 Feb	Shadow comparison diagram	Council
27	14 Feb	Hearing Submission and attachments: a) Development Potential Analysis b) DDO9 Building Footprint Analysis	Sullivan Property Pty Ltd
28	14 Feb	Hearing Submission and attachments: a) 8 Egan Street Carnegie -TP100 Series Design Response – 20211001 b) 8 Egan Street - Letter of determination to applicant VPP2101466 c) 8 Egan Street - Plans d) 8 Egan Street – Copy of plan PS 420159T e) 8 Egan Street – Copy of Plan LT 149460X f) Map of PS 420159T g) Central Alliance Investments No 2 Pty Ltd v Glen Eira CC [2015] VCAT 735 (20 May 2015) h) Goal Number 7 Pty Ltd v Glen Eira CC [2015] VCAT 1565 (6 October 2015) i) Goal Number 7 Pty Ltd v Glen Eira CC [2017] VCAT 695 (23 May 2017) j) Twenty Eighth Jantor Pty Ltd v Glen Eira CC [2013] VCAT 745 (16 May 2013) k) Mornington Peninsula C190 and C206 Panel Report l) Maroondah C130maro Panel Report m) Built Form Assessment - Final B (14 Feb 2024)	Zuccubarr Pty Ltd
29	14 Feb	Hearing Submission	Carla Emms
30	14 Feb	Overshadowing modelling for Koornang Road showing 5-metre and 6-metre setbacks	Council
31	14 Feb	Supplementary submission	Susan McKenna
32	16 Feb	Hearing Submission	Benon Pty Ltd

No.	Date	Description	Provided by
33	16 Feb	Hearing Submission and attached tracked changes to DDO9 (Version 1)	Dandenong Road Management Pty Ltd
34	20 Feb	Part C Submission	Council
35	20 Feb	DDO9 (Version 2) – clean	Council
36	20 Feb	DDO9 (Version 2) – tracked changes	Council
37	20 Feb	Memorandum from Amanda Roberts	Council
38	21 Feb	Email regarding Amanda Roberts memorandum	Benon Pty Ltd
39	21 Feb	Drafting comments	Burke Co Pty Ltd
40	21 Feb	Drafting comments	Dandenong Road Management Pty Ltd
41	21 Feb	Drafting comments	Benon Pty Ltd
42	21 Feb	Drafting comments	Zuccubarr Pty Ltd
43	22 Feb	Invitation for responses to Amanda Roberts memorandum	PPV
44	22 Feb	Nearmap image – 7 September 2020 at 11.57am	Benon Pty Ltd
45	22 Feb	Nearmap image – 1 September 2021 at 11.47am	Benon Pty Ltd
46	22 Feb	Nearmap image – 26 September 2021 at 2.30pm	Benon Pty Ltd
47	22 Feb	Nearmap image – 14 September 2022 at 9.28 am	Benon Pty Ltd
48	23 Feb	Response to Amanda Roberts memorandum	Sullivan Property Pty Ltd
49	28 Feb	Corrected overshadowing modelling for area around Woorayl Reserve	Council
50	28 Feb	Request for further overshadowing modelling	PPV
51	28 Feb	DDO9 (Final version) – clean	Council
52	28 Feb	DDO9 (Final version) – tracked changes	Council
53	29 Feb	Djerring Trail existing overshadowing conditions	Council
54	29 Feb	Woorayl Reserve existing overshadowing conditions	Council
55	1 Mar	Response to further overshadowing modelling	Sullivan Property Pty Ltd
56	1 Mar	Response to further overshadowing modelling	Zuccubarr Pty Ltd
57	1 Mar	Response to further overshadowing modelling	Dandenong Road Management Pty Ltd
58	4 Mar	Response to further overshadowing modelling	Benon Pty Ltd

No.	Date	Description	Provided by
59	8 Mar	Response to comments on Amanda Roberts memorandum and further overshadowing modelling	Council

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

- providing greater clarity about built form outcomes and expectations in the Carnegie MAC
- supporting more efficient and orderly planning processes
- implementing the relevant aspects of the Structure Plan that seek to improve public amenity, and interfaces between the public realm and adjoining residential areas
- ensuring the design of new development respects, complements and responds to the heritage significance and neighbourhood character of the precinct
- implementing permanent planning provisions.

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)

The Amendment supports Clause 11 by:

- Clause 11.03-1S (Activity Centres):
 - encouraging the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are accessible to the community
 - building up activity centres as a focus for high-quality development, activity and living by developing a network of activity centres
- Clause 11.03-1L (Activity Centres):
 - supporting a transition of employment and housing growth across the activity centre network by:
 - directing growth of the most substantial scale into urban renewal precincts identified on the Activity Centre Hierarchy Plan in clause 02.04-2
 - directing growth into opportunity sites identified in local structure plans with a building scale that reflects the opportunities and constraints of the site
 - supporting growth in all other commercial and mixed use zones within activity centres that reflects local opportunities and context while also maintaining the street presentation of the shopping strip
 - supporting housing growth to provide a transition in building scale and height from the commercial core to the lower scale residential built form within and adjoining activity centres.

Clause 15 (Built Environment)

The Amendment supports Clause 15 by:

- **Clause 15.01-1S (Urban Design):**
 - creating urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity
- **Clause 15.01-1L (Landscaping):**
 - strengthening landscape character across Glen Eira
 - Mitigating the impact of urban heat island effect and support community health and wellbeing
 - maximising retention of existing canopy trees and gardens
 - integrating landscaping, including canopy trees, into development design
- **Clause 15.01-2S (Building Design):**
 - achieving building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development
 - minimising the detrimental impact of development on neighbouring properties, the public realm and the natural environment.
- **Clause 15.01-2L-01 (Building Design):**
 - encouraging transition in scale from larger buildings to adjacent areas of smaller scale
 - achieving dwelling privacy through design and separation rather than screening
- **Clause 15.01-5S (Neighbourhood Character):**
 - recognising, supporting and protecting neighbourhood character, cultural identity, and sense of place
- **Clause 15.03-1S (Heritage Conservation):**
 - conserving of places of heritage significance
- **Clause 15.03-1L (Heritage):**
 - retaining and protecting individually significant buildings and contributory buildings as identified in the relevant Statement of Significance for the precinct
 - supporting development that is respectful of the existing scale, rhythm, massing, form and siting of significant and contributory buildings.

Clause 16 (Housing)

The Amendment supports Clause 16 by:

- **Clause 16.01-1S (Housing Supply):**
 - facilitating well-located, integrated and diverse housing that meets community needs
- **Clause 16.01-2S (Housing affordability):**
 - delivering more affordable housing closer to jobs, transport and services
- **Clause 16.01-L-01 (Housing Supply):**
 - encouraging a mix of dwelling types and layouts within developments
 - in commercial and mixed use areas in activity centres, supporting dwellings above commercial and retail uses in mixed-use buildings
- **Clause 1.01-2L (Housing affordability):**
 - encouraging affordable housing in areas with convenient access to jobs, services and public transport.

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.

Table 9 Plan Melbourne relevant policies

Outcome	Directions	Policies
Outcome 1 – Melbourne is a productive city that attracts investment, supports innovation and creates jobs	Direction 1.3 – Create development opportunities at urban renewal precincts across Melbourne	Policy 1.3.1 – Plan for and facilitate the development of urban renewal precincts
		Policy 1.3.2 – Plan for new development and investment opportunities on the existing and planned transport network
Outcome 2 – Melbourne provides housing choice in locations close to jobs and services	Direction 2.1 – Manage the supply of new housing in the right locations to meet population growth and create a sustainable city	Policy 2.1.4 – Provide certainty about the scale of growth in the suburbs
	Direction 2.2 – Deliver more housing closer to jobs and public transport	Policy 2.2.2 – Direct new housing and mixed-use development to urban renewal precincts and sites across Melbourne
		Policy 2.2.3 – Support new housing in activity centres and other places that offer good access to jobs, services and public transport
	Direction 2.5 – Provide greater choice and diversity of housing	Policy 2.5.1 – Facilitate housing that offers choice and meets changing household needs
Outcome 4 – Melbourne is a distinctive and liveable city with quality design and amenity	Direction 4.1 – Create more great public places across Melbourne	Policy 4.1.1 – Support Melbourne's distinctiveness
	Direction 4.3 – Achieve and promote design excellence	Policy 4.3.1 – Promote urban design excellence in every aspect of the built environment
	Direction 4.4 – Respect Melbourne's heritage as we build for the future	Policy 4.4.1 – Recognise the value of heritage when managing growth and change

Outcome	Directions	Policies
	Direction 4.6 – Strengthen community participation in the planning of our city	Policy 4.6.1 – Create diverse opportunities for communities to participate in planning
Outcome 5 – Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	Direction 5.1 – Create a city of 20-minute neighbourhoods	Policy 5.1.1 – Create mixed-use neighbourhoods at varying densities
Outcome 6 – Melbourne is a sustainable and resilient city	Direction 6.4 – Make Melbourne cooler and greener	Policy 6.4.1 – Support a cooler Melbourne by greening urban areas, buildings, transport corridors and open spaces to create an urban forest.

ii) Glen Eira Council Plan 2021-2025

This plan outlines Council’s objectives for the next four years around planning, service and infrastructure delivery, and community engagement.

iii) Glen Eira City Plan 2020

This plan sets out a long-term strategic framework for Glen Eira’s activity centres, housing, and local economy, with a focus on directing new growth into activity centres while maintaining local character. Preparing structure plans for Glen Eira’s activity centres is a key action of the Plan.

iv) Glen Eira Local Economy and Place Making Action Plan 2020–2025

This plan extends the economic goals of the Glen Eira City Plan, focusing on economic growth and job creation.

v) Glen Eira Community Wellbeing Plan 2021–2025

This plan sets out strategies to improve the health and wellbeing of Glen Eira residents through public health measures, mental health support, promotion of active lifestyles, environmental improvements, and encouraging creativity, learning, and equity.

vi) Our Climate Emergency Response Strategy 2021–2025 (Dhumbali Wurrungi-Biik Parbin-Ata)

This strategy aims to mitigate and adapt to the impacts of climate change in Glen Eira by setting climate and sustainability targets, increasing community education, and fostering collaboration between areas of government.

vii) Glen Eira Open Space Strategy Refresh 2020

The *Glen Eira Open Space Strategy* sets out a 15-year plan for the planning, design, and management of public open spaces in Glen Eira. The 2020 refresh of the *Strategy* identified a need for more public open space in the Carnegie Major Activity Centre.

viii) Integrated Transport Strategy 2018–2031

This strategy guides the creation of a cohesive transport framework in Glen Eira, including increasing walking, cycling and public transport use and improving key driving routes.

ix) Glen Eira Social and Affordable Housing Strategy 2019–2023

This strategy aims to evaluate the demand for social and affordable housing within the Glen Eira area and define Council's role in meeting this need.

x) Glen Eira Urban Forest Strategy 2021

This strategy outlines a plan to improve and increase Glen Eira's urban forest, which comprises all trees and vegetation in the area as well as the underlying soil and water. Additional tree canopy planting in the Carnegie Major Activity Centre is a focus of the strategy.

xi) Biodiversity in Glen Eira Report 2018

This report evaluated biodiversity in Glen Eira, focussing on wild flora and fauna, particularly indigenous species.

xii) Draft Integrated Water Management Plan (Dhumbali W'urneet Gadhaba)

This plan sets out a collaborative approach to water planning and management which aims to support sustainable development and community health.

xiii) Glen Eira Parking Policy 2020

This policy was developed in response to the increasing number of vehicles on Glen Eira's roads, aiming to address the need for parking while maintaining the quality of public spaces.

xiv) Planning Scheme Review 2016 Report

This report outlines a four-year Work Plan to address the key issues and opportunities raised by the community about the Glen Eira Planning Scheme, including preparation of structure plans.

xv) Glen Eira Youth Strategy 2019–2023

This strategy sets out Council's plan to supporting young people who live and study in Glen Eira.

xvi) The Positive Ageing in Glen Eira Strategy 2015–2020

This strategy sets out Council's plan to support the growing population of adults aged 60 and over in Glen Eira.

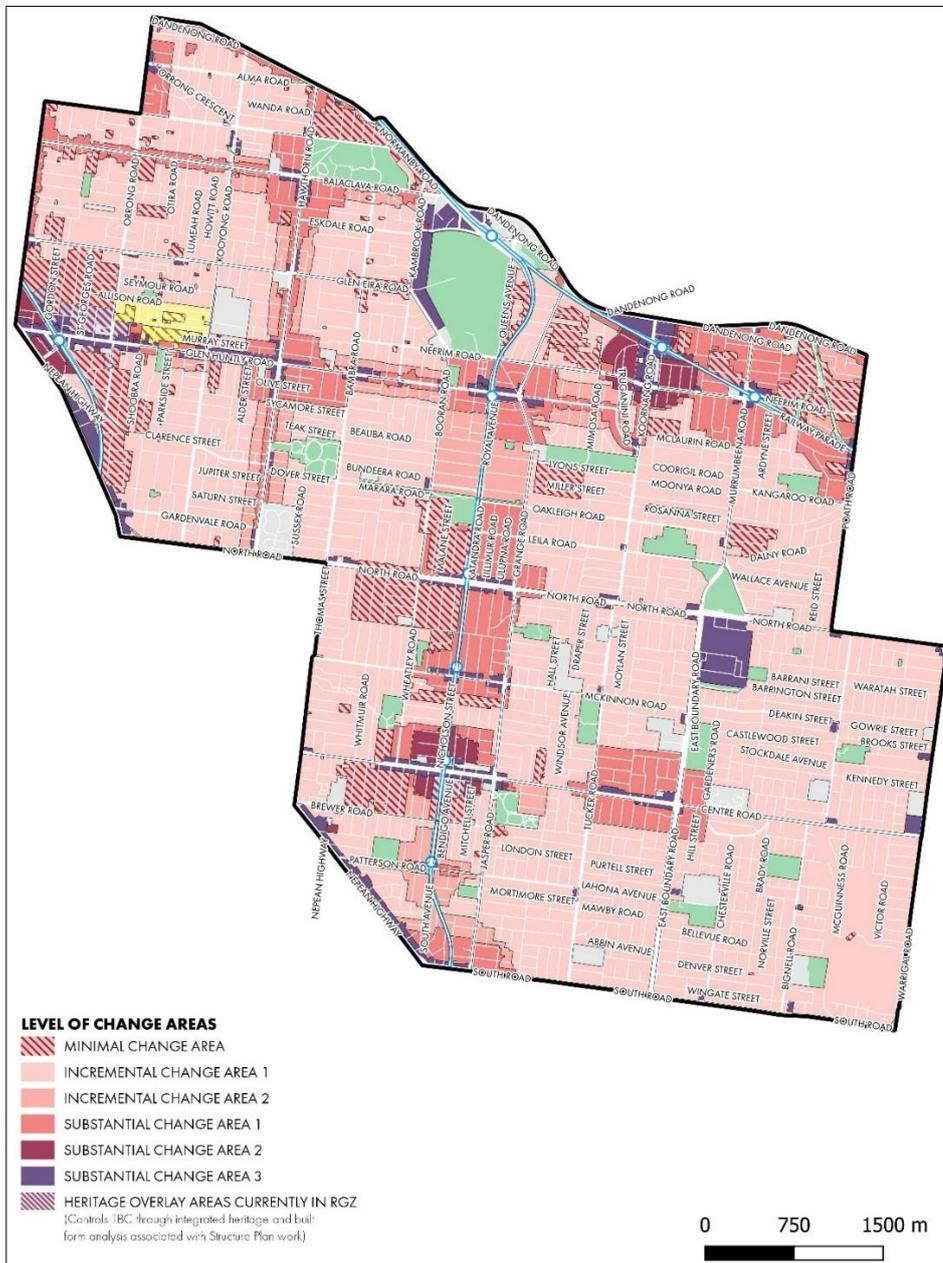
xvii) Glen Eira Active Recreation Action Plan July 2021

This plan aims to provide more opportunities for active recreation in Glen Eira's parks and reserves.

xviii) Glen Eira Housing Strategy 2022

The Strategy provides Glen Eira City Council’s framework for managing population and housing growth over the next 15 years. It includes the following framework plan:

Figure 12 Housing framework plan



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 in the Commercial 1, Mixed Use and Public Use zones. The purposes of these zones are:

Commercial 1 Zone:

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.

Mixed Use Zone:

To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.

To provide for housing at higher densities.

To encourage development that responds to the existing or preferred neighbourhood character of the area.

To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

Public Use Zone:

To recognise public land use for public utility and community services and facilities.

To provide for associated uses that are consistent with the intent of the public land reservation or purpose.

Residential Growth Zone:

To provide housing at increased densities in buildings up to and including four storey buildings.

To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.

To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.

To ensure residential development achieves design objectives specified in a schedule to this zone.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

ii) Overlays

The land is subject to the Design and Development Overlay. The purpose of the Overlay is:

To identify areas which are affected by specific requirements relating to the design and built form of new development.

C:4 Ministerial Directions, Planning Practice Notes and guides

i) 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. That discussion is not repeated here.

ii) Planning Practice Notes

Planning Practice Note 59 (The role of mandatory provisions in planning schemes)

This practice note sets out criteria that can be used to decide whether a mandatory provision is appropriate in a planning scheme:

- Is the mandatory provision strategically supported?

- Does the proposed mandatory provision have a solid strategic objective while having regard to the planning objective?
- Does the proposed mandatory provision implement state, regional or local planning policy?
- Is the mandatory provision an appropriate substitute for a performance-based provision?
- Will most proposals that contravene the proposed mandatory provision lead to unacceptable planning outcomes?
- Has the proposed mandatory provision been drafted to limit any unnecessary loss of the flexibility and opportunity available through a performance-based approach?
- Have all other relevant performance-based provision options been explored?
- Would policy or performance-based measures lead to the outcome prescribed by the proposed measure in most cases?
- Is there evidence of adverse existing or proposed use or development that justifies the proposed provision?
- Does the mandatory provision provide for the preferred outcome?
- Is the proposed mandatory provision limiting?
- Does it only lead to one outcome from suitable ones that would deliver on related planning policy?
- Does the proposed mandatory provision avoid the risk of adverse outcomes in a way that a performance-based approach cannot?

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

This practice note:

- provides guidance on the preferred approach to applying height and setback provisions for activity centres
- should be read with Planning Practice Notes 58 and 59
- sets out when discretionary and mandatory provisions should be applied.

The practice note advises:

- height provisions must not encumber a centre's ability to accommodate community requirements
- a council will need to demonstrate:
 - it has enough land and capacity to meet forecast demand for at least 15 years and up to 30 years
 - the proposed height and setback provisions are based on identifiable objectives or outcomes and as a result of a comprehensive built form analysis completed as part of a structure planning process
- the preferred expression of heights and setbacks is in metres.

Planning Practice Note 90: Planning for housing

This practice note 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.

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 recommended provisions

[Tracked Added](#)

~~Tracked Deleted~~

SCHEDULE 9 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO9**.

CARNEGIE [MAJOR](#) ACTIVITY CENTRE

1.0 Design objectives

~~To support future development within the Carnegie Activity Centre that:~~

- ~~▪ retains the two-storey street wall in Koornang Road as the dominant streetscape feature.~~
- ~~▪ responds to the existing heritage fabric in Koornang Road and the heritage significance of the Rosstown Hotel.~~
- ~~▪ recognises the strategic sites in Shepparson Avenue and Kokaribb Road as identified in the Carnegie Activity Centre Structure Plan for more intensive development.~~
- ~~▪ directs the tallest development to the urban renewal precinct north of the railway line.~~

~~To promote building design that:~~

- ~~▪ supports employment generating land uses, or can be easily converted to provide opportunities for employment.~~
- ~~▪ supports the housing, economic and place-making role and function of the activity centre.~~

~~To minimise amenity impacts on existing dwellings including through overlooking, overshadowing and visual bulk.~~

~~To enhance the public realm through the development of well-designed buildings that prioritise pedestrian movement and retain sunlight to key public spaces as shown on Map 2 to this schedule~~

~~[To graduate building scale which maintains heritage places as the dominant streetscape feature and directs taller and more intensive development to other locations.](#)~~

~~[To ensure buildings are adaptable for different uses and activate public realm.](#)~~

~~[To protect solar access to key public spaces.](#)~~

~~[To prioritise pedestrian movement and redirect vehicle traffic to laneways and lower order roads.](#)~~

2.0 Buildings and works

A permit is not required to construct a building or construct or carry out works for:

- 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 facade at ground floor level is maintained as an entry or window with clear glazing.
 - an awning that projects over a road is authorised by the relevant public land manager.

2.1 Building height requirement

Building height requirements are set out in Table 1 and Map 2 to this schedule.

A permit cannot be granted to vary the mandatory maximum building height unless the existing building is non-compliant with the mandatory maximum building height.

A storey does not include a basement.

Building heights do not apply to architectural features, roof top services including plant rooms, air conditioning, lift overruns and roof mounted equipment.

~~The combined floor areas of these features should not exceed 10 per cent of the gross floor area of the top storey of the building.~~

Table 1 – Building height requirements

Location identified on Map 1 or 2	Preferred maximum building height	Mandatory maximum building height
Between 2-5 metres from the Rosstown Hotel terracotta roof in HO157	None specified 24 metres	24 metres up to 6 storeys None specified
Retail precinct 1 (heritage)	None specified	20 metres up to 5 storeys
Retail precinct 2 (non-heritage)	20 metres up to 5 storeys	None specified
Retail precinct 3 (excluding HO157)	24 metres up to 6 storeys	None specified
Retail precinct 4	31 metres up to 8 storeys	None specified
Urban renewal precinct 1	31 metres up to 8 storeys	None specified
Urban renewal precinct 2	46 metres up to 12 storeys	None specified

~~2.2 Building height requirements for the land in HO157 (Rosstown Hotel)~~

~~Building height requirements are set out in Map 1 and Table 2 to this schedule.~~

~~A permit cannot be granted to vary the mandatory maximum building height, in Table 2 to this schedule.~~

~~Building height excludes roof top services including plant rooms, air conditioning, lift overruns and roof mounted equipment.~~

Table 2 – Building height requirements for the land in HO157 (Rosstown Hotel)

Location identified on Map 1	Preferred maximum building height	Mandatory maximum building height
Existing terracotta roof	None specified	No additions to, through or above the terracotta roof as shown in Map 1 to this schedule.
Within 2 metres of the terracotta roof	None specified	No additions higher than the west facing parapet wall or the eaves soffit of the original terracotta roof as shown in Map 1 to this schedule.
Between 2-5 metres from the terracotta roof	None specified	24 metres up to 6 storeys

Map 1 to Schedule 9 of Clause 43.02 – Height and setback requirements for the land in HO157 (Rosstown Hotel)



2.3 Street wall and building setback requirements

Street wall and building setback requirements are set out in Table ~~2s 3 and 4~~ to this schedule. Street wall includes architectural details such as parapets, railings and balustrades.

Buildings must:

- ~~▪ Be set back from the terracotta roof of the Rosstown Hotel heritage building as specified in Table 3 and Map 1 to this schedule.~~
- ~~▪ A permit cannot be granted to vary the mandatory street wall setback requirement specified in Table 3 to this schedule.~~

Buildings should:

- Not exceed the preferred maximum street wall height specified in Table ~~24~~ and Map 2 to this schedule.
- Be set back from property boundary as specified in Table ~~24~~ and as represented in the interface sections shown in Table ~~24~~ to this schedule.

~~Buildings along Koornang Road should:~~

- ~~▪ Build the street wall to the Koornang Road boundary.~~
- ~~▪ Ensure the street wall is no higher or lower than the abutting neighbour on either side.~~

~~Avoid projections such as balconies and building services intruding into a setback specified in Tables 3 and 4 to this schedule.~~

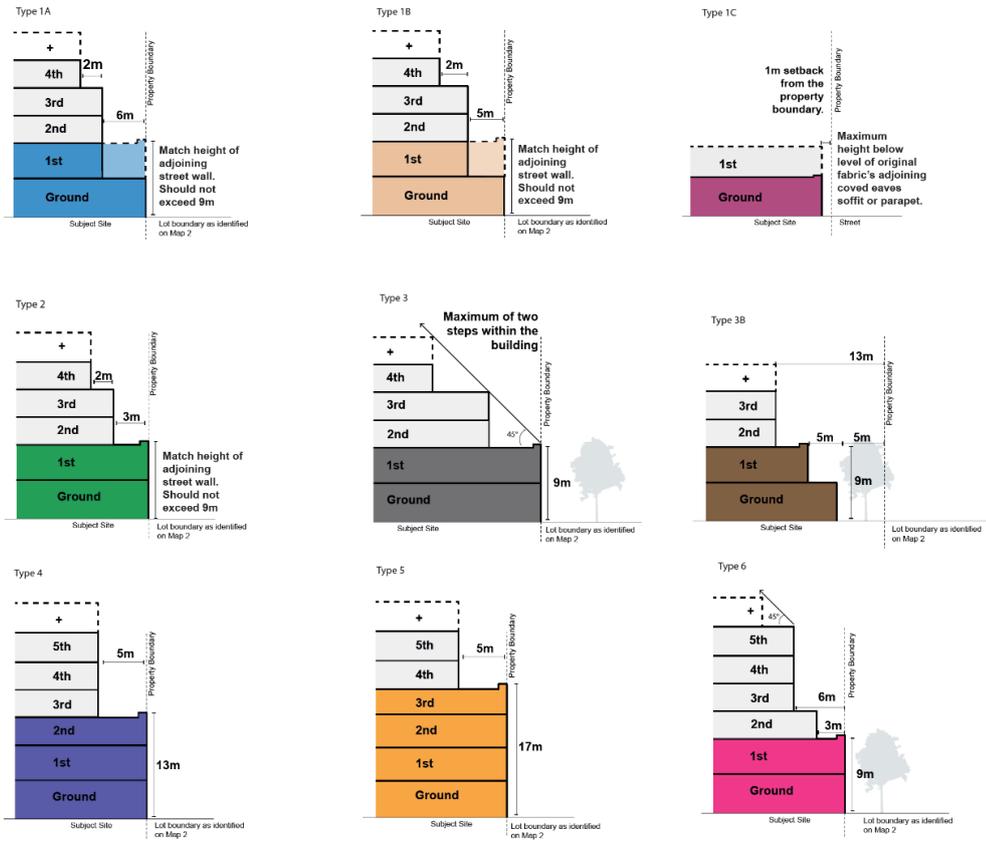
Table 3 – Street wall setback requirements for land within HO157 (Rosstown Hotel)

Applies to	Mandatory street wall setback	Interface Type	Preferred street wall setback
Development within 2 meters of the western and southern edge of the existing terracotta roof (shown in orange in Map 4 to this schedule)	1 metre from <ul style="list-style-type: none"> ▪ the Dandenong Road frontage, and ▪ the Koornang Road frontage for a length of 2 metres	Type 1B	None specified
Development beyond 2 metres of the western and southern edge of the existing terracotta roof (shown in blue on Map 4 to this schedule)	None specified	Type 1	Built to the boundary

Table 24 – Building setbacks and street wall heights

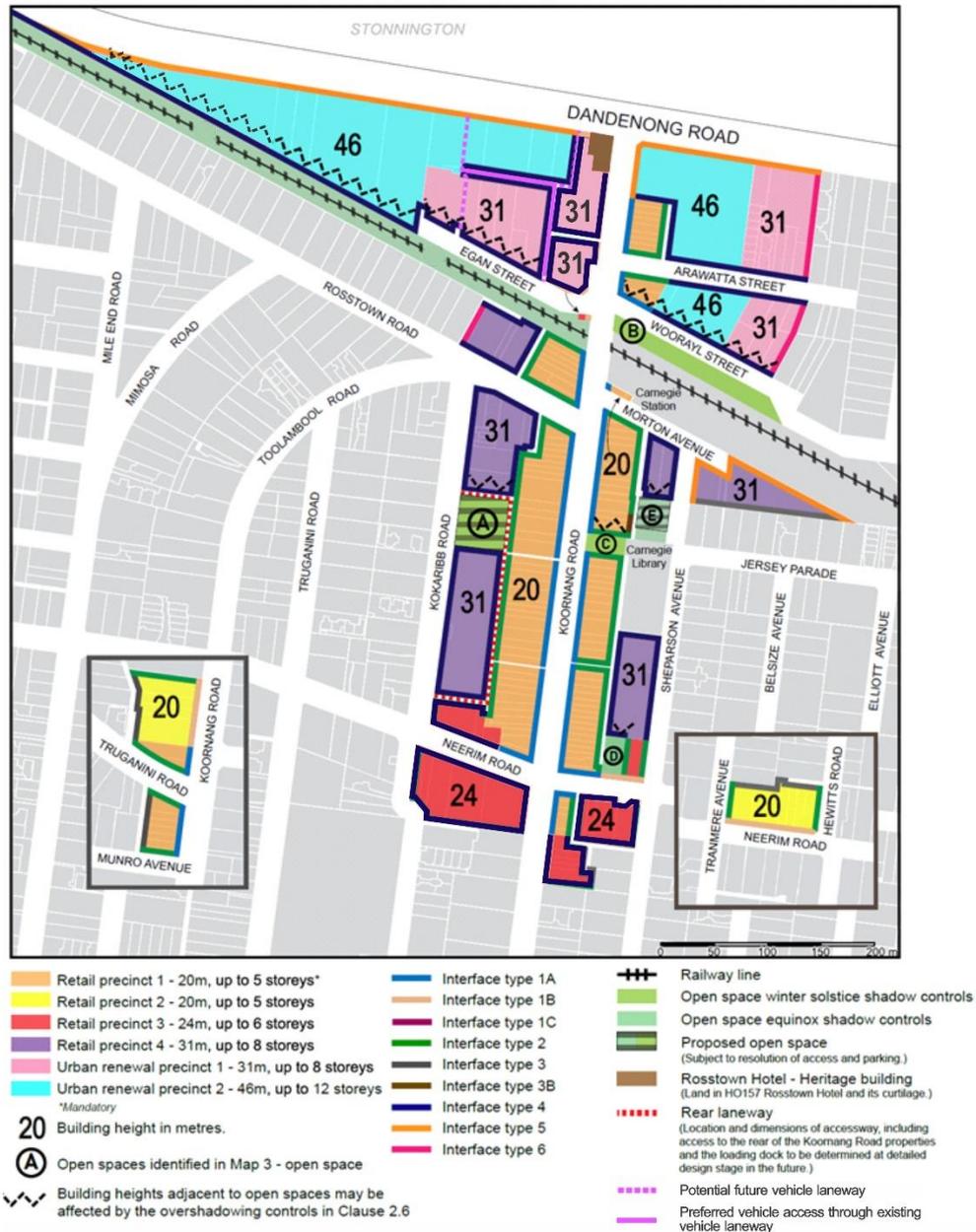
Interface type identified on Map 2	Building level	Mandatory minimum setback from front property boundary	Preferred minimum setback from front property boundary	Preferred street wall height
Type 1	Ground and first Second and third Fourth and above	0 metres 5 6 metres 7 8 metres	None specified	Match height of adjoining heritage street wall No taller than 9 metres.
Type 1B	Ground and first Second and third Fourth and above	None specified	0 metres 5 metres 7 metres	9 metres
Type 2	Ground and first Second and third Fourth and above	None specified	0 metres 3 metres 5 metres	9 metres
Type 3	Ground and first Second and third	None specified	0 metres 45 degree angle	9 metres
Type 3B	Ground First Second and above	None specified	5 metres 10 metres 13 metres	9 metres
Type 4	Ground to second Third and above	None specified	0 metres 5 metres	13 metres
Type 5	Ground to third Fourth and above	None specified	0 metres 5 metres	17 metres
Type 6	Ground and first Second Third to fifth Sixth and above	None specified	0 metres 3 metres 6 metres 45 degree angle	9 metres

Diagrams for interface types in Tables 23 and 4



Map 12 to Schedule 9 of Clause 43.02 - Building heights and interfaces

Map 1 changes below are shown in final view



2.34 Built form and design requirements

Provide ground floor **active** frontages **and that enable** outdoor dining opportunities to activate laneways and pedestrian links.

Encourage building design that supports employment generated uses at first floor.

Avoid projections such as balconies and building services intruding into a setback specified in Table 2 to this schedule.

Buildings should minimise the number of steps in any setbacks.

2.45 Floor to floor height requirements

Buildings with no identified heritage should:

- Provide a minimum 4.0 metres floor to floor height at ground floor.
- Provide a minimum 3.8 metres floor to floor height at first floor.

Buildings should provide the floor to floor heights set out in Table 5 to this schedule unless the development is within a heritage building:

Table 5 – Floor to floor height requirements

Location identified on Map 4	Preferred — maximum — building height	Mandatory — maximum — building height
Commercial	Ground level	4.2 metres
Commercial	First floor and above	3.8 metres
Residential	All levels	3.2 metres

2.6 Requirements for development within the urban renewal precincts 1 and 2

Development within the urban renewal precincts should:

- enhance the streetscape with active frontages, ground floor retail, outdoor dining opportunities.
- include retail and commercial uses at ground and first levels.
- include employment generating land uses.
- step buildings down and provide a landscaped interface to residential areas.

2.7 Interface and transition requirements

Buildings should provide a suitable transition to residential areas.

2.5.8 Overshadowing requirements

Map 3 to Schedule 9 of Clause 43.02



Add skyrail active open space dimensions

Overshadowing requirements below are shown in final view due to extent of changes.

A building or works must not overshadow Kokaribb Road future open space shown in Map 3 on 22 June between 10am - 2pm by more than the shadow cast by:

- the existing buildings and infrastructure; or
- a street wall built to the nominated street wall height in Table 4 to this schedule – whichever is greater.

A permit cannot be granted to vary this requirement.

Buildings and works must not overshadow any of the following spaces shown in Map 3 at the equinox between 10am - 2pm:

- Library forecourt – Jersey Parade Reserve
- Neerim Road open space
- Open space north of the library –

by more than the shadow cast by:

- the existing buildings and infrastructure; or
- a street wall built to the nominated street wall height in Table 4 to this schedule –

whichever is greater.

A permit cannot be granted to vary this requirement.

Building and works must not overshadow the Woorayl Street Reserve and Active recreation space below Skyrail immediately west of Koornang Road shown on Map 3.

2.69 Laneway, transport and car park design requirements

Buildings should:

- provide internal or external pedestrian connections ~~with universal access for pedestrians to access~~ the rear of the site from Koornang Road. ~~This can be internal or external and should~~ which includes passive surveillance.
- ~~▪ prioritise pedestrian and commercial traffic in laneways over residential traffic.~~
- minimise residential traffic in the laneways behind Koornang Road (south of Rosstown Road and Morton Avenue and north of Neerim Road).
- minimise vehicle movements and access on Egan Street and Woorayl Street.
- provide vehicle access through:
 - the Dandenong Road service road
 - south side of Arawatta Street
 - existing vehicle laneways shown in Map 2 and secondary streets
 - shared vehicle crossovers in Egan Street.
- consider potential future laneways shown in Map 2
- provide basement parking:
 - fully below the finished street level, or
 - up to 1.2 metres above the street level where dwellings are proposed at ground level.
- ~~▪ provide windows above ground level for passive surveillance over laneways.~~

2.10 Building separation requirements

~~Buildings should provide building separation that:~~

- ~~▪ facilitates a high level of internal amenity for occupants of the development and adjoining development.~~
- ~~▪ achieves privacy through setbacks and building design, rather than screening.~~
- ~~▪ offsets direct views between buildings within the same site or adjoining sites.~~
- ~~▪ allows for views to the sky.~~
- ~~▪ ensures tall buildings do not appear as a continuous wall when viewed from street level.~~
- ~~▪ contributes to a varied and architecturally interesting skyline.~~
- ~~▪ encourages a continuous street wall when building to the boundary.~~
- ~~▪ assists with achievement of the shadow controls in Clause 2.8 of this schedule.~~

Buildings should provide the building separations set out in Table 36 of this schedule.

The building separation requirements in Table 36 of this schedule apply ~~ies above the street wall to all levels~~ where there is a common boundary or a laneway or no specified interface type. The building separation is to be measured from the centre of the laneway where the common boundary is a laneway.

Table 36 - Building separation

Primary outlook refers to the windows of living and dining rooms. It also refers to the balcony, measured from the main balcony edge.

Secondary outlook refers to bedroom and bathroom windows, and commercial windows.

Building separation from adjoining properties or laneway	Building height	Setback from common boundary of the centre of the laneway
No outlook, built to boundary	Up to 28 metres	0 metres
	Above 28 metres	6 metres
From a secondary outlook to the boundary	Up to 28 metres	3 metres
	Above 28 metres	6 metres
From a primary outlook to the boundary	Up to 28 metres	4.5 metres
	Above 28 metres	6 metres
Building separation within a site	Building height	Setback between the buildings
From a secondary outlook to no outlook (blank wall)	Up to 28 metres	3 metres
	Above 28 metres	6 metres
From a primary outlook to no outlook (blank wall)	Up to 28 metres	4.5 metres
	Above 28 metres	6 metres
Between secondary outlooks	Up to 28 metres	6 metres
	Above 28 metres	12 metres
From a primary outlook to a secondary outlook	Up to 28 metres	7.5 metres
	Above 28 metres	12 metres
Between primary outlooks	Up to 28 metres	9 metres
	Above 28 metres	12 metres

2.11 Transport and parking design requirements

Buildings should:

- ~~• provide charging stations for electric cars, bicycles and scooters within car parks.~~
- ~~• provide vehicle access/egress via service lanes and secondary streets.~~
- ~~• avoid additional vehicle crossovers on Koornang Road.~~
- ~~• consolidate existing vehicle crossovers.~~
- ~~• provide basement parking fully below the finished street level to maximise areas devoted to the provision of employment and housing.~~
- ~~• consider semi-basements up to 1.2 metres above the finished street level if dwelling privacy would benefit from a raised ground floor.~~
- ~~• provide commercial fronts at footpath level.~~
- ~~• consider above ground parking only where:

 - ~~• it can be clearly demonstrated a basement cannot be achieved.~~
 - ~~• it is fully screened by commercial, retail and/or residential uses.~~~~

2.12 Building access and pedestrian requirements

Buildings should:

- ~~• provide primary pedestrian entrance to buildings from the street.~~
- ~~• provide separate entries from the street for pedestrians and vehicles.~~
- ~~• avoid locating the primary pedestrian entrance from car parking or a rear accessway.~~
- ~~• provide each individual ground floor dwelling with a separate entry and address to the public street.~~

~~2.13 Site consolidation~~

~~Buildings should:~~

- ~~▪ consolidate sites where appropriate to deliver an efficient built form and to ensure the visual and amenity impact of the developments can be managed within the site.~~
- ~~▪ create new laneways on larger consolidated sites where appropriate.~~

3.0 Subdivision

None specified.

4.0 Signs

None specified.

5.0 Application requirements

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

- ~~▪ A design response that:

 - ~~▪ Includes detailed site layout, building design and elevations drawn to scale.~~
 - ~~▪ Shows the colour and materials of all buildings and works.~~
 - ~~▪ Demonstrates how the design has mitigated impacts on adjoining land.~~~~
- ~~▪ A planning report that explains how the design meets the requirements of this schedule.~~
- ~~▪ A heritage report prepared by a suitably qualified heritage expert that demonstrates how the design proposal responds to the heritage significance of any heritage buildings on site or the adjoining site.~~
- ~~▪ A landscape plan prepared by a suitably qualified landscape designer.~~
- A 3D digital model of the proposed buildings and works (where it is four of more storeys in height) in a format compatible with Council's 3D model.
- For land adjacent to Dandenong Road and the railway line, Aan acoustic report for residential development prepared by a suitably qualified acoustic engineer demonstrating how the development:
 - Meets the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 and the Incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) as may be amended from time to time.
 - Meets the Australian Standard AS2670.2-1990 (Evaluation of human exposure to whole-body vibration) as may be amended from time to time.
 - Reduces the impact of noise and vibrations from:
 - Carnegie Station the railway line.
 - mechanical equipment.
 - car lifts.
 - transformers.
- If vehicle access is through a laneway, aA traffic, transport and car parking report, prepared by a suitably qualified traffic engineer that provides an assessment of the capacity of the laneway to accommodate traffic for all users of the laneway.~~the following:~~
 - ~~▪ The appearance, layout and allocation of car parking including visitor parking.~~
 - ~~▪ Bicycle parking provision including number and location.~~
 - ~~▪ Electric charging locations for electric cars, bicycles and scooters.~~

- ~~• Vehicular ingress and egress to and from the site.~~
- ~~• Location and arrangements for loading and unloading of heavy vehicles.~~
- ~~• An environmental assessment of sites included in the Environmental Audit Overlay prepared by a suitably qualified professional.~~
- ~~• A waste management plan prepared by a suitably qualified waste management expert.~~
- ~~• A sustainability management plan prepared by a suitably qualified professional that demonstrates how the proposal incorporates environmentally sensitive design.~~

6.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- ~~• Whether the proposal offers a high quality design, including materials and finishes.~~
- ~~• Whether the heritage buildings retain their prominence when viewed from the street.~~
- ~~• Whether upper level development above the street wall is visually recessive and does not visually overwhelm the heritage buildings.~~
- ~~• The extent to which proposed buildings respect the preferred scale and form of development, particularly when viewed from the public realm.~~
- The contribution the building makes to the streetscape and whether it enhances the pedestrian environment.
- ~~• Whether the proposal provides for environmentally sustainable design.~~
- Whether the landscaping has been well integrated into the development and will support and sustain healthy plants.
- Whether the design and form of buildings supports the housing and economic needs of the Carnegie [Major](#) Activity Centre.
- Whether proposed buildings are ~~sensitively~~[reasonably](#) designed to avoid views into secluded private open spaces and habitable room windows of dwellings on adjacent land.
- The impact of overshadowing to footpaths and open space.
- ~~• Whether the residential component of a building is designed to effectively mitigate noise, fumes, odour, vibration and other amenity impacts from non residential uses.~~
- The [contribution the proposal will make to the](#) movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The effect the proposal will have on existing traffic and [car](#) parking in the activity centre.
- ~~• Location for storage of rubbish and materials for recycling.~~