Planning Report
Planning Panel Submission – Amendment GC81
36-44 Gladstone Street, Southbank

Prepared on behalf of CBQ Corp P/L
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INTRODUCTION

1. Tract Consultants Pty Ltd has prepared this submission on behalf of CBQ Corp P/L in this matter.

2. This submission relates to proposed Amendment GC81 to the Melbourne and Port Phillip Planning Schemes (Amendment).

3. The Site is located within the City of Port Phillip which is approximately 1.5km south-west of the Melbourne CBD.

4. The Site is located within the Montague Precinct of the Fishermans Bend Urban Renewal Area.

5. The Site is currently occupied by a single storey warehouse building which fronts Gladstone Street, and abuts the route 109 tram corridor to the rear. Currently the Site also leases land to the rear from VicTrack located within the route 109 tram corridor.

6. The Site is used for the purposes of a brothel. This is a legitimate land use and continues to operate on the land in the interim period until our client can develop the site for the purposes of dwellings and commercial on ground floor generally in accordance with the plans prepared by Mills Gorman Architects.

7. Our client purchased and settled on the site shortly before Amendment GC50 was gazetted into the Port Phillip Planning Scheme. As such, our client purchased the site based on the controls specified within the Fishermans Bend Strategic Framework Plan July 2014 which allowed an eight (8) storey, 27m height limit (not subject to mandatory setback controls).

8. Although the existing and proposed controls allow for an eight (8) storey building, the setbacks above the street wall and to the side and rear boundaries do not allow for an appropriate mid-rise building to be constructed on the site. Effectively the site is limited to between five – six storeys.

9. We contend that the setbacks above the street wall have failed to acknowledge the height and scale of midrise buildings on smaller sites compared to midrise buildings to be located on larger sites. We submit that discretionary setbacks above the street wall should be included as part of the amendment for mid-rise buildings less than eight (8) storeys in height where site conditions allow for variations.

10. We submit that allowing discretionary controls will still achieve a high quality urban design outcome for the precinct as shown in the plans prepared by Mills Gorman.

11. Until our client can realise the highest and best use of the Site through development of a mixed use building of eight (8) storeys then the existing brothel will be forced to continue to operate on the site which is not in the interests of all stakeholders of the Fishermans Bend Precinct.
2 SITE CONTEXT

12. The subject site is shown highlighted red within Figure 1 below.

13. The site is some 221m² in size and is unconventional in size as it widens from the eastern to the western section due to the alignment of the Route 109 Tram Corridor to the north of the site and Gladstone Street to the south.

![Image of the subject site (Source: NearMap)](image)

14. The sites fronting Gladstone Street from numbers 34 – 60 are affected by the alignment of the 109 Tram Route and Gladstone Street coming closer together further east. Further to the west of these sites the alignment of Gladstone Street and tram line follow a more parallel pattern with one another resulting in a block width of approximately 25m (see Figure 2 below).

15. These sites are all located within the same height control under the proposed Design and Development Overlay – Schedule 30 (DDO30) but a key point of difference is that the subject site and those adjoining are much narrower and do not adjoin a lane to the rear, they directly adjoin the tram line.
16. Gladstone Street is also approximately 19.7m wide (see figure below).

17. Provided in Attachment 1 of this submission are a series of photos of the site and surrounding context.

18. We submit to the panel that the site and its attributes allow for a building of eight (8) stories, and that variable setbacks to the side and rear boundaries, and the frontage will result in a high quality built form outcome given the particulars of this site and the lack of sensitive interfaces.
3 SUBMISSIONS

19. The draft Amendment proposes a number of changes to the Melbourne and Port Phillip Planning Schemes.

20. This submission focuses on the changes proposed to the Port Phillip Planning Scheme which are most relevant to the redevelopment potential of our client’s land. They include:
   - The replacement of Clause 22.15 ‘Fishermans Bend Urban Renewal Area Local Policy’;
   - The replacement of Schedule 1 to Clause 37.04 ‘Capital City Zone’;
   - The replacement of Schedule 30 to Clause 43.02 ‘Design and Development Overlay’; and,
   - The replacement of Schedule 1 to Clause 45.09 ‘Parking Overlay’.

21. There are number of key issues which we raise in relation to the amendment and the above mentioned proposed planning controls. After careful review of the amendment documents the following recommendations are made to the panel:
   - Amend the drafting of the ‘building setbacks’ requirements from new and existing streets and laneways;
   - Increase the ‘Floor Area Ratio’ for Montague (Non-Core area);
   - Revisit the ‘Floor Area Uplift’ control;
   - Express ‘Building Height’ requirements in a discretionary manner;
   - Alter the car parking ratios set out in Schedule 1 to the Parking Overlay; and
   - Ongoing use of the site for brothel.
Amend the drafting of the ‘building setbacks’ requirements from new and existing streets and laneways

22. Various Planning Panels have considered the merits of mandatory provisions in planning schemes and all have generally concluded that:
   - Mandatory controls are the exception;
   - If they are imposed, they must achieve a clear built form objective; and
   - Discretionary controls are the preferred way to deliver a performance based outcome.

23. These observations are consistent with Practice Note 59 ‘The role of mandatory provisions in planning schemes’ which states “mandatory provisions will only be considered in circumstances where it can be clearly demonstrated that discretionary provisions are insufficient to achieve the desired outcome”. ¹

24. It is our submission that the relevant policy considerations do not demonstrate a compelling basis as to why mandatory building setback requirements should be applied in this instance.

25. It is requested that the mandatory setback controls are not imposed in this instance as they are onerous in terms of achieving desirable built form outcomes, especially for midrise buildings under eight (8) storeys in height. For midrise buildings setback outcomes can be appropriately delivered through a performance based criteria.

26. The application of discretionary preferred setback requirements is consistent with state planning policy, and will facilitate best-practice and development outcomes in accordance with the objectives of the DDO30.

27. A further analysis of these setback controls is provided as follows:

Setback above the “street wall”

28. Currently, the mandatory setback requirements severely limit development potential on the site above the street wall.

29. Upon our review of the plans prepared by Mills Gorman, these mandatory setbacks provide no useful contribution to the achievement of the preferred types of built form and character sought within this portion of the Montague Precinct for midrise buildings.

30. The provision of a maximum six (6) storey street wall height is supported. This will create a consistent and attractive outcome for Gladstone Street and will ensure that the human scale of the area is retained. The proposed street wall condition is reflected within the plans prepared by Mill Gorman provided in the original written submission to the Panel.

31. The drafting of the proposed DDO30 is unclear and potentially erroneous. The following points are made on the assumption of the DDO30 attempting to implement the findings of Fisherman’s Bend Urban Design Strategy.

32. We take issue with the (assumed) setback control above the street wall height. We use the word “assumed” as there appears to be numerous errors in the drafted version of the DDO30 as included in the documents for Amendment GC81 which is discussed in further detail below.

33. The DDO30 requires the following in Clause 2.0 for midrise buildings:

   Requirements
   All development must provide the following setbacks:
   - If overall building height is 8 storeys (30 metres) or less, buildings:
     - Should be setback 5 metres
     - Must be setback 3 metres. A permit cannot be granted to vary this requirement.

   Figure 4: Extract from proposed DDO30 Page 2

1 See Page 2 of Practice Note 59 ‘The role of mandatory provisions in planning schemes
34. Given the absence of the defined term “street wall setback” with the DDO30, we believe the above wording to be a drafting error and should include “street wall setback”. Please see Attachment 2 which outlines tracked changes version of the DDO30 and potential errors in its drafting.

35. We take the proposed meaning of these setbacks from Page 92 of the Urban Design Strategy which states:

*Mid-rise building - 8*

- Above the street wall, discretionary upper street
- Level setbacks of 5 metres apply from street boundaries, with 3 metres mandatory minimum

*Figure 5: extract from Fishermans Bend Urban Design Strategy Page 92*

36. Given this assumed drafting error, we address that the street wall setback in the manner recommended in the Fisherman’s Bend Urban Design Strategy for these reasons.

37. The requirement of a discretionary 5.0m setback and mandatory setback of 3.0m above the street wall for building eight (8) storeys in height is not well founded for midrise buildings. The proposed setback does not appropriately take into consideration the overall massing of the building, and also consider the constraints imposed on smaller sites of narrow width.

38. Instead the control imposes built form outcomes which represent a desktop study of built form at eight (8) storeys in height across the whole precinct, rather than analysing the particular development potential of the subject site and those immediately adjoining.

39. Due to the width and length of the site, mandatory setback requirements above the street wall and to side and rear boundaries would result in an undevelopable floor plate for level seven and eight of any building proposed on this site.

40. We submit to the panel that the mandatory controls do not comprise any flexibility to grant variations on sites such as these which deserve of a smaller setback above the street wall on site specific grounds.

41. With respect to the proposed street wall setbacks, it is important to note that similar oversights were made by the author of the Urban Design Strategy for Fishermans Bend in the “Central City Built form review” for Amendment C270 to the Melbourne Planning Scheme.

42. Specifically the submissions made by Tract Consultants to this amendment on behalf of Larkfield Estate resulted in a discretionary setback above the street wall being adopted by the Ministers for Planning for buildings up to a height of 40m (which were defined as “additions” within the Design and Development Overlay – Schedule 10). This flexible approach to street wall setbacks contemplated midrise buildings of 40m with the central city context.

43. In the same manner here, the author of the Urban Design Strategy for Fishermans Bend has sought to impose mandatory street wall setbacks for midrise buildings. As found within the C270 amendment, this is not an appropriate response for wall setbacks of smaller scale where smaller setbacks can be considered (as per the findings on pages 192 – 193 of the C270 Panel Report, see Attachment 3).

44. Although this amendment does acknowledge midrise buildings we say that it does go far enough to ensure that acceptable built form outcomes can be achieved on this site.

45. We submit that the mandatory street wall setbacks for mid-rise buildings are not warranted, and can be exercised in a discretionary manner to achieve the preferred types of built form and character sought within this portion of the Montague Precinct and a similar logic as applied in the C270 amendment should be adopted.
Setbacks to side boundaries

46. The side and rear boundary setbacks are not well founded for mid-rise buildings. As per the submissions above, the author for the Urban Design Strategy for Fishermans Bend has neglected to take into account the physical opportunities and constraints of this site and the implications of mandatory setback controls.

47. Strict compliance for habitable space would result in the upper two levels of an eight (8) storey building on the subject site being undevelopable. The setback requirements for 30m, but associated with "walls do not include windows to habitable room and/or balcony" results in wasted floor space above the street wall which providing no amenity benefits to the site, and no tangible benefits to adjoining sites which are also subject to the same midrise height and scale requirements of the DDO30.

48. The figure below shows the indicative area which is developable under strict compliance with the DDO.

Figure 4: Areas of trafficable and non-trafficable roof space on Level 7 of the proposed building

49. We submit that for midrise buildings of up to eight (8) storeys habitable encroachments within the 3.0m setbacks should be allowed to the side and rear boundaries. This will allow for valuable and necessary amenity contributions to the dwellings to be proposed on the site, without causing any unreasonable impacts on the adjoining development potential of the adjoining sites.

50. We draw your attention to the Amendment C190—Arden Macaulay which recently gazette the DDO63 to the Melbourne Planning Scheme. This overlay seeks "to create a compact, high density, predominantly mid-rise, 6 – 12 storey" built form character for this area.

51. In particular we draw your attention to the absence of mandatory street wall and side and rear boundary setbacks under the overlay. We submit that the discretion built into this overlay regarding these types of setbacks is the appropriate manner in which to negotiate balance planning outcomes. See Attachment 4 for copy of DDO63.

Abuttals of side boundaries

52. We draw issue with the inability to develop to at least one side boundary within the precinct. This inflexibility does not result in an outcome that achieves the preferred built form outcomes for the precinct in relation to mid-rise buildings.

53. Within the CBD of Melbourne the DDO10 of the Melbourne Planning Scheme allows a building to:

   "be constructed up to one side or rear boundary, excluding a laneway, if an existing, approved, proposed or potential building on an adjoining site is built to that boundary and if a minimum setback of 5 metres is met to all other side and rear boundaries and the centre line of any adjoining laneway."

54. See Attachment 5 for a copy of the DDO10 of the Melbourne Planning Scheme.

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2 See table 1 of Page 3 of the DDO30
55. In terms of midrise buildings, adjoining one side boundary should be allowed for development above the street wall for buildings up to eight (8) storeys in height. This will still result in setbacks to other boundaries, but will provide greater flexibility for location of lift core and other service areas on a single location and ensuring consistent, yet varied, development between neighbouring sites.

56. Once again, this logic is permissible within the DDO63 of Arden Macaulay.

**Setbacks and abuttals to the rear boundary**

57. We also raise issue with the inability to adjoin the rear boundary. Once again, it appears the amendment failed to consider the specifics of this site, and its relationship with the Route 109 Tram Corridor.

58. It is our opinion that midrise buildings up to eight (8) storeys in height should be allowed to fully adjoin boundary if they have an interface with the Route 109 tram corridors. We make the following submissions around this.

59. The tram corridor is not a sensitive interface and in terms of adjoining this boundary the construction of a midrise building up to eight (8) storeys in height would not cause any unreasonable impacts to the experience of the users of this tram corridor which is generally limited to bicycles and pedestrians on the northern side of the tram tracks. We note that on the opposing side of the tram corridor in this location is the Yarra Trams depot which is not a high amenity use.

60. When considering the recommendation within the Fisherman’s Bend Urban Design Strategy the following is permissible:  

   *Street wall height can increase to 8 storeys on streets at least 22 metres wide for buildings 10 storeys or less in height. This is to support courtyard and perimeter block typologies.*

   This is reflected in the controls of the DDO30 as proposed.

61. The width of the tram corridor is some 30m to the nearest building. If the same logic was to be applied to the tram corridor as is applied to streets within the precinct, then an eight (8) storey street wall would be permissible adjoining this tram corridor. Given that this an outcome sought and encouraged by the Urban Design Strategy in streets, we do not see why it wouldn’t be an acceptable urban design outcome in a tram corridor of less amenity given the width of the tram corridor.

62. As such, we submit that the abuttal of an eight (8) storey building to the rear boundary with the tram corridor is both consistent with the character of this corridor and the overall built form outcomes recommended by the Fisherman’s Bend Urban Design Strategy for a 1:1 building height to public space ratio.

**Increase the ‘Floor Area Ratio’ for Montague (Non-Core area)**

63. In simple terms the FAR proposed for the subject Site is too low. The Fishermans Bend Urban Design Strategy makes the following statement regarding building density (our emphasis added):

   FARs can establish both maximum and minimum ratios to control development on a site. A maximum FAR is typically aligned to the overall population target for an area and must also be aligned with the preferred types of built form and character sought in each neighbourhood.

64. The FAR for the site is limited at 3.0:1, yet the permissible built form outcome on the site is a six (6) storey street wall, with a discretionary eight (8) storey overall height limit (approximate FAR of approximately 7.0:1 on this site).

65. When considering the permissible built form outcome under the DDO30 and the size of the site in terms of length and width, the proposed scheme shown in plans prepared by Mills Gorman which is generally consistent with proposed planning controls allows for a FAR in the order of 7.0:1.

66. The proposed FAR control, and the preferred built form and character sought in this neighbourhood do not align with one another, especially on the Site which is narrow but capable of being developed by midrise, eight (8) storey building.
In terms of the FAR not aligning with the built form and character sought we provide the following example. The Fishermans Bend Urban Design Strategy outlines a recommended street wall height of 0.5 – 1.5 the width of the street (see Figure below).

![Diagram of street wall height](imageURL)

*Figure 1: Image from The Fishermans Bend Urban Design Strategy page 50*

Given the constrained size of the Site the permissible FAR and proposed built form do not align with one another. Providing a six storey street wall interface on the site would result in a FAR of 6.0:1 without any additions above; the FAR being set at 3.0:1 does not align with this built form outcome.

The nominated FAR has neglected to take into account the built form outcomes which are imposed on smaller sites, and has instead has selected a ‘one size fits all approach’ and imposed FAR controls which better suit larger sites within the Non-Core area of the Montague precinct, and/or just achieve the dwelling targets for the precinct.

We make submissions that the FAR needs to be increased for these smaller sites within the Non-Core Area to better align with the built form controls permissible. Due to the depth of the sites fronting Gladstone Street, and the constraints of the Route 109 tram corridor the outcomes permissible are markedly different from other sites within the Non-Core Area, and also the wider precinct.

The current FAR represents a desktop study without due consideration to actual impacts on the development of this site, and those immediately adjoining. As such, the basis for increasing the FAR in this location seeks to commensurate the development potential of the site with the built form outcome encouraged.
Revisit the ‘Floor Area Uplift’ control

72. The FAU control is concerning. The amendment details comprise little detail of the following:
   - The amount of FAU which will be permissible on the site; and
   - The lack of transparency in the cost associated with calculating the FAU.

FAU amount

73. The amendment documents do not appear to nominate the amount of FAU which will be permissible above the FAR. The amendment documents including the Fishermans Bend Urban Design Strategy nominate a 1.0:1 ratio in all examples and test scenarios.

74. Adding to the points above regarding the low FAR for the site (3.0:1), if an FAU of 1.0:1 was to be adopted, the subject site would only be occupied by a four (4) storey building (combined FAR and FAU of 4.0:1) which would be two storeys short of the 1:1 ratio sought for street wall height for a street of this width.

75. Once again, the lack of certainty of the ratio causes angst to overall development potential of the Site, and achieving the "preferred types of built form and character sought in each neighbourhood" as stated within the Fishermans Bend Urban Design Strategy.

Cost of FAU

76. The fact sheet on "how to calculate Floor Area Uplifts and Public Benefits in Fishermans Bend" is far too scant on detail. Although the fact sheet outlines the public benefits categories, the amount of both "additional public open space" and "delivery of community infrastructure" are both to "the value subject to the approval of the Valuer General and subject to approval by the Victorian Government Land Monitor."

77. This requirement does not allow land owners to appropriately cost out developments in a transparent process at the point of purchase and DD phase without undertaking comprehensive investigations with the Valuer General prior to purchase. It is unclear what process would be available to facilitate these discussions with the Valuer General and its availability.

78. We would recommend that a similar transparent process such as that of Clause 22.03 – Floor area uplift and delivery of public benefits of the Melbourne Planning Scheme (for the Capital City Zone and Design and Development Overlay – Schedule 10) be adopted. This local policy includes a "How to Calculate Floor Area Uplifts and Public Benefits, Department of Environment, Land, Water and Planning (as amended from time to time)".

79. The above mentioned process allows land owners and purchasers a transparent process to appropriately calculate the realisation of their project under any FAU control which may be imposed.

Express ‘Building Height’ requirements in a discretionary manner

80. The scheme prepared by Mills Gorman shown in Attachment 1 of the original submission complies with the discretionary height requirements of the height control. Despite this, we request that the building heights continue to be expressed in discretionary terms to ensure greater flexibility for all land owners.

Alter the car parking ratios set out in Schedule 1 to the Parking Overlay

81. We encourage the panel to adopt a maximum rate of one (1) space per each dwelling which is consistent with the provisions of other parking overlays of the City of Melbourne within close proximity to the Melbourne CBD (See Parking Overlay – Schedule 12 of the Melbourne Planning Scheme).

82. We seek to construct seven (7) – eight (8) large dwellings on the site which would all comprise three bedrooms each. These family orientated dwellings generate the need for a single car space.

83. We do not raise issue with the 0.5 rate being applied to one and two bedroom dwellings within the precinct, but would encourage a maximum rate of one (1) space for three bedroom dwellings.

84. We note these rates are imposed in the Parking Overlay – Schedule 2 applied to the Footscray town centre in the Maribyrnong Planning Scheme.

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3 See Page 20 of the Fishermans Bend Urban Design Strategy
4 See Page 3 of the how to calculate Floor Area Uplifts and Public Benefits in Fishermans Bend Fact Sheet
Ongoing use of the site for brothel

85. Our client purchased this site prior to the interim controls being imposed which prohibited the eight (8) storey scheme shown in the original submission to the panel. Due to the controls in place at the time which allowed an eight storey building, our client paid commercial rates for this potential redevelopment.

86. From the outset, it was our client’s intention to obtain a permit for the modest and high quality midrise scheme as shown in the Mills Gorman Plans. Once the permit was obtained the brothel operations would be removed from the site to realise the highest and best use of the site for a mixed use building comprising large family three bedroom dwellings and commercial floor space on the ground floor.

87. Due to the interim controls imposed, our client has had to enter into longer term leasing negotiations with the current occupier (and former owner) of the site as it is unclear when the development potential of the site will be realised.

88. As per numerous commercial studies, the commercial rates generated per year for brothels are higher than any other commercial business which would be allowed to operate within this existing building as it currently stands.

89. As such, our client has had little choice but to retain the brothel on the Site to ensure that the relevant holding costs and other financial interests’ vested into the land are continued to be met.

90. Despite the matters raised earlier in this submission that the site is an appropriate candidate for an eight storey building, should this development not be attainable through the revised controls for the site then our client will be likely to enter into a longer term leasing agreement with the current brothel occupier in order to recuperate the opportunity loss incurred from the lesser built form outcome being permissible.

91. This is not in the interests of our client who desperately wishes to develop this site for its highest and best use (a high quality mixed use building), and certainly isn’t in the interests of the wider precinct in general (noting that a park is proposed less than 50m from the site, and that a school is currently under construction less the 150m from the site).

92. Should the interim controls be amended to realise the development shown in the Mills Gorman plans then our client would seek to terminate the lease early and compensate the current tenant of the brothel to allow the project to commence.
CONCLUSION

93. Our client supports the broad principles of the Amendment and commends the Minister for Planning for their work in this regard.

94. As outlined in this submission there are a number of issues which are required to be revisited in order to achieve the highest and best use of this site. The introduction of mandatory setback controls inhibits the achievement of a quality urban design outcome on the site as shown in the Mills Gorman plans.

95. We request that our suggestions to the redrafting of DDO30 be taken into account as these best reflect the points made in this submission.

96. We thank the Panel for the opportunity to present this submission.

Liam Riordan
Senior Town Planner
Tract Consultants Pty Ltd
Attachment 1
36-44 Gladstone Street, Southbank
View of subject site from opposite side of Gladstone Street
Tram Corridor Route 109 (to the rear of the subject site)
Access to public is limited to this narrow walkway
Attachment 2

36-44 Gladstone Street, Southbank
SCHEDULE 30 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO30.

FISHERMANS BEND URBAN RENEWAL AREA

1.0 Design objectives

To implement the Fishermans Bend Vision, September 2016 and the Fishermans Bend Framework, XX 2018.

To create distinct places that respond to the local conditions and context and which deliver the preferred character for each precinct.

To encourage a diversity of architectural styles, to create a place of architectural excellence, and an engaging and varied built form in response to the desired/preferred place and character.

To ensure the scale, height and setbacks of development protects internal amenity and delivers a high quality public realm with good access to daylight and sunlight and appropriate levels of street enclosure.

To encourage developments to create publicly accessible, private and communal open spaces for people to meet, gather, socialise, exercise, and relax.

To support family-friendly living through housing design that supports family needs.

To encourage buildings to be designed to be adaptable over time.

2.0 Buildings and works

Buildings and works for which no permit is required

A permit is not required to construct a building or construct or carry out works for:

- The construction, or modification, of a waste pipe, flue, vent, duct, exhaust fan, air conditioning plant, lift motor room, skylight, security camera, street heater or similar minor works.

- An addition or modification to a verandah, awning, sunblind or canopy of a building.

- External works to provide disabled access to a building or works to comply with legislative requirements.

- Building or works which rearrange, alter or renew a plant area if the area or height of the plant equipment is not increased.

- Bus and tram shelters required for public purposes by or on behalf of the Crown or a public authority.

Requirements

The following buildings and works requirements apply to an application to construct a building or construct or carry out works.

Construction of more than one dwelling on a lot

A development of four or less storeys must meet the provisions of Clause 55 if it proposes to:

- Construct a dwelling if there is at least one dwelling existing on the lot,

- Construct two or more dwellings on a lot,

- Extend a dwelling if there are two or more dwellings on the lot,

- Construct or extend a dwelling on common property, or
Construct or extend a residential building

Where a requirement of this schedule varies a requirement of Clause 55, the provisions of this schedule apply.

**Building height**

**Built Form Outcomes**

All development must satisfy the following built form outcomes:

- Respond to the preferred future precinct character and deliver built form diversity.
- Contribute to a varied and architecturally interesting skyline.
- Provide an appropriate transition and relationship to heritage buildings and existing lower-scale neighbourhoods of South Melbourne, Port Melbourne and Garden City.
- Limit impacts on the amenity of the public realm as a result of overshadowing.

**Requirements**

Development should not exceed the heights shown in Map 2 to this schedule, apart from where they are identified as ‘4 storeys (mandatory)’, with the exception of:

- Architectural features, building services, plant equipment
- Rooftop landscaping or communal recreation facilities up to 4 metres.

Development in areas identified as ‘4 storeys (mandatory)’ on Map 2 to this Schedule, must not exceed 4 storeys and 15.4 metres. A permit cannot be issued to vary this requirement.

**Building setbacks from new and existing streets and laneways**

**Built Form Outcomes**

All development must satisfy the following built form outcomes:

- Create a distinct street wall effect and avoid overwhelming the view from the street.
- Mitigate wind effects on the public realm.
- Enable adequate daylight, sunlight and sky views in the street, laneway, or lower levels of development.
- Ensure buildings do not compromise the heritage character of a heritage building on the site or adjoining site.
- Ensure upper levels of mid-rise buildings are visually recessive.

**Requirements**

All development must provide the following street wall setbacks of:

- If overall building height is 8 storeys (30 metres) or less, buildings:
  - Should be setback 5 metres
  - Must be setback 3 metres. A permit cannot be granted to vary this requirement.

- If overall building height is greater than 8 storeys (30 metres) and up to, or less than, 20 storeys (68 metres), buildings:
  - Should be setback 10 metres
  - Must be setback 5 metres. A permit cannot be granted to vary this requirement.

- If overall building height is greater than 20 storeys (68 metres), buildings must be setback 10 metres. A permit cannot be granted to vary this requirement except where: [Comment [LR1]: This Section is most relevant to the subject site and plans prepared by Mills Gorman included with the original submission to the panel. The sections below relating to higher buildings and street wall setback are amended for consistency of language.]
Built form requirements table

All development must:

- Satisfy the Built Form Outcomes in Table 1.
- Achieve all Built Form Requirements in Table 1. A permit cannot be granted to vary these requirements, unless in circumstances explicitly stated within Table 1. A permit cannot be granted to further reduce an explicitly stated variation to a Built Form Requirement.

Table 1 Built Form Requirements

<table>
<thead>
<tr>
<th>Built Form Requirement</th>
<th>Built Form Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Street wall height</strong></td>
<td>On streets or laneways with a width of 12 metres or less</td>
</tr>
<tr>
<td>- Street wall height must not exceed 4 storeys and 15.4 metres.</td>
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<tr>
<td>On streets with a width of greater than 12 metres and less than 22 metres:</td>
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<tr>
<td>- Street wall height must not exceed 6 storeys and 23 metres.</td>
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<tr>
<td>On streets with a width of greater than 22 metres and an overall building height of 10 storeys and 38 metres or less:</td>
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</tr>
<tr>
<td>- Street wall height must not exceed 8 storeys and 30 metres.</td>
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</tr>
<tr>
<td><strong>Walls on side or rear boundaries</strong></td>
<td>Walls built on or within 200mm of a side or rear boundary must not exceed 6 storeys and 23 metres. A permit cannot be granted to vary this requirement, except where:</td>
</tr>
<tr>
<td>- An 8 storey street wall height is proposed permitted in which case the building may be built to 8 storeys and 30 metres on side boundaries only, or</td>
<td></td>
</tr>
<tr>
<td>- An 8 storey and 30 metre wall is built on or within 200mm of a side boundary if an existing, approved, proposed or potential building on an adjoining site is built to that boundary and if the minimum building setbacks required by the Built Form Requirement to side and rear boundaries (excluding a street or laneway) is met to all other side and rear boundaries. Buildings of no more than 8 storeys and 30 metres in height, may be constructed to a second side or rear boundary if an adjoining site cannot, by legal restriction benefiting the application site, be developed above the street wall height.</td>
<td></td>
</tr>
<tr>
<td><strong>Building setbacks to side and rear boundaries (excluding a street or laneway)</strong></td>
<td>Where a building is not built on a boundary, and: the overall building height is up to 6 storeys and 23 metres:</td>
</tr>
<tr>
<td>- Buildings must be set back at least 6 metres, except where:</td>
<td></td>
</tr>
<tr>
<td>- Walls do not include windows to a habitable room and/or balcony in</td>
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</tr>
<tr>
<td>Setbacks from side or rear boundaries must:</td>
<td></td>
</tr>
<tr>
<td>- Provide access to privacy, sunlight, daylight, and outlook from habitable rooms.</td>
<td></td>
</tr>
<tr>
<td>- Ensure tall buildings do not appear as a continuous wall</td>
<td></td>
</tr>
</tbody>
</table>

Comment [LR2]: Definition for “street wall height” in the proposed DDO30 does not contain an “s” for plural.

Comment [LR3]: The wording for this abutment allowance is taken from the DDO10 of the Melbourne Planning Scheme. See top of page 8/12, “Modified Requirement (Figure 3)” of design element “Building setbacks from side boundaries and rear boundaries (or from the centre line of an adjoining laneway) and tower separation within a site”.
which case the setback must be at least 3 metres.

- Building separation within a site

<table>
<thead>
<tr>
<th>Building separation within a site</th>
<th>When viewed from street level or from nearby vantage points.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any part of a building which is up to 6 storeys and 23 metres in height must be separated by:</td>
<td>Provide equitable development outcomes between adjoining sites.</td>
</tr>
<tr>
<td>12 metres, if there are habitable room windows/balconies in both buildings fronting onto the separation distance.</td>
<td></td>
</tr>
<tr>
<td>9 metres, if one of the buildings does not include any habitable room windows/balconies fronting onto the separation distance.</td>
<td></td>
</tr>
<tr>
<td>6 metres if both buildings do not include any habitable room windows/balconies fronting onto the separation distance.</td>
<td></td>
</tr>
</tbody>
</table>

If overall building height is greater than 7-8 storeys and 30 metres:
- Buildings must be setback at least 9 metres, except where:
  - Walls do not include windows to habitable room and/or balcony, in which case the setback must be at least 3 metres.

When the overall building height is greater than 8 storeys and 30 metres:
- Any part of the building 6 storeys in height or less must be setback a minimum of 6 metres from the boundary, except where:
  - The building does not include habitable room window and/or balcony, in which case the setback must be at least 3 metres.

If the overall height is greater than 8 storeys and 30 metres:
- Any part of the building that exceeds 6 storeys and 23 metres in height, must be setback a minimum of 10 metres from all site boundaries, except where:
  - The building does not include habitable room window and/or balcony, in which case the setback must be at least 5 metres.

This requirement can be varied if the side or rear boundary of the building, above the street wall, interfaces with the Westgate Freeway, Citylink overpasses, or existing Route 109 tram corridors, in which case a minimum 5 metre setback applies.

Comment [LR4]: Delete this mandatory requirement and introduce a discretionary control. The introduction of a discretionary control could allow for a 0m setback varying up to the suggested 5m depending on the height and scale of a building and the different conditions of each of these areas which vary from one another.

We note the poor quality of the Route 109 tram corridor adjoining the rear of 36-44 Gladstone Street.
• 18 metres, if there are habitable room windows/balconies in both buildings fronting onto the separation distance.
• 12 metres, if one of the buildings does not include any habitable room windows/balconies fronting onto the separation distance.
• 6 metres if both buildings do not include any habitable room windows/balconies fronting onto the separation distance.

If overall building height is greater than 8 storeys and 30 metres and any part of a building up to 6 storeys and 23 metres in height must be separated by a minimum of:
• 12 metres from another building, if there are habitable room windows/balconies in both buildings fronting onto the separation distance.
• 9 metres, if one of the buildings does not include any habitable room windows/balconies fronting onto the separation distance.
• 6 metres, if one of the buildings does not include any habitable room windows/balconies fronting onto the separation distance.

If overall building height is 20 storeys and 68 metres or less, and any part of a building exceeds 6 storeys and 23 metres in height, it must be separated by a minimum of:
• 20 metres from another building, if there are habitable room windows/balconies in both buildings fronting onto the separation distance.
• 15 metres, if one of the buildings does not include any habitable room windows/balconies fronting onto the separation distance.
• 10 metres, if one of the buildings does not include any habitable room windows/balconies fronting onto the separation distance.

If the overall height is greater than 20 storeys and 68 metres in height, and any part of the building exceeds 6 storeys and 23 metres in height, it must be separated by a minimum of 20 metres.

Overshadowing of public open space requirements

With the exception of minor works or minor changes to existing buildings within that defined space, a permit must not be granted to construct a building or construct or carry out works which would cast any additional shadow across existing and proposed parks/reserves listed in Table 2 and shown on Map 3, during the hours specified as listed in Table 2.

Table 2 Public Open Space hierarchy and overshadowing requirements

<table>
<thead>
<tr>
<th>Category</th>
<th>Park/Reserve</th>
<th>Hours and Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>District parks</td>
<td>JL Murphy Reserve (Wirraway), Wirraway East (Prohasky Street, Wirraway) North Port Oval (Williamstown Road,</td>
<td>11:00am to 2:00pm 21 June to 22 September</td>
</tr>
<tr>
<td>Category</td>
<td>Park/Reserve</td>
<td>Hours and Dates</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td>Precinct parks</td>
<td>Wirraway North (Woolboard Road, Wirraway)</td>
<td>11:00am to 2:00pm 21 June to 22 September</td>
</tr>
<tr>
<td>Neighbourhood parks</td>
<td>Montague Park (Ferrars Street, Montague)</td>
<td>No additional shadows above the street wall height within the following dates and times: 11:00am to 2:00pm 22 June to 22 September</td>
</tr>
<tr>
<td>Neighbourhood parks (equinox)</td>
<td>Parks with frontage to: Buckhurst Street, Gladstone Street, Whiteman Street and Thistlethwaite Street (Montague) Fennell / Bertie Streets, Plummer Street (Southside), Boundary Street / Woodruff Street (extension), and new streets between Graham Street and Bertie Street, excluding Bridge St/Plummer (Northside) (Sandridge) Plummer Street (South side), new streets between Salmon and Smith Streets (Wirraway)</td>
<td>11:00am to 2:00pm 22 September</td>
</tr>
<tr>
<td>Neighbourhood parks (with variations)</td>
<td>A: Montague North (Montague Street, Montague)</td>
<td>No additional shadows above the street wall height within the following dates and times: 11:00am to 2:00pm 22 September</td>
</tr>
<tr>
<td></td>
<td>B: Woolboard Street (South side) (existing section of the street), Wirraway</td>
<td>10:00am to 1:00pm 22 September</td>
</tr>
<tr>
<td></td>
<td>C: Woolboard Street South side (proposed extension) to Plummer Street, Wirraway</td>
<td>12:30pm to 3:30pm 22 September</td>
</tr>
<tr>
<td>Streets</td>
<td>Plummer Street (South side) first 6 metres north of property boundary</td>
<td>11:00am to 2:00pm 22 September</td>
</tr>
<tr>
<td>Existing Residential Zoned Land</td>
<td>South of Williamstown Road, and City Road and East of Montague Street</td>
<td>11:00am to 2:00pm 22 September</td>
</tr>
</tbody>
</table>

**Wind effects on the public realm requirements**

A permit must not be granted for buildings and works with a total building height in excess of 40 metres that would cause unsafe wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

A permit should not be granted for buildings and works with a total building height in excess of 40 metres that do not achieve comfortable wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

**Figure 1**
Site Coverage Requirements

A development within the non-core areas of Sandridge and Wirraway, should not exceed 70% site coverage and should provide for ground level outdoor or communal open space or landscaping.

Site coverage should only exceed 70% where:

- There is an existing building being retained that covers more than 70% of the site.
- The site has a Gross Developable Area less than 1200 square metres.
- The responsible authority is satisfied that other site constraints warrant an increased site coverage.

Active Street Frontages

On streets marked as primary active street on Map 1 to this Schedule, development should provide:

- At least 80% visual permeability along the ground level of the building to a height of 2 metres.
- Pedestrian entries at least every 15 metres.

On streets marked as secondary active streets on Map 1 to this Schedule, development should provide:

- At least 60% visual permeability along the ground level of the building to a height of 2 metres.

Development of primary and secondary active streets should provide footpath canopies where retail uses are proposed to provide weather protection and define the streetscape. Development on all other streets should address and define streets or open spaces through building design.

Adaptable buildings

Car parking areas not within a basement should have level floors and a floor-to-floor height not less than 3.8 metres (except for ramps) and should make provision for future conversion of car parking areas to alternative uses over time.

Buildings should be designed with:

- Minimum floor to floor heights at ground level of 4.0m and of 3.8m for lower levels up to the height of the street wall, that accommodate employment uses and provide for future adaptation or conversion of use over time.
Flexible and adaptable internal layouts and floor plates with minimal load bearing walls that maximise flexibility for retail or commercial refits.

Floorplate layout for Residential Floor Area should be designed with embedded flexibility to combine and adapt one and two bedroom dwellings into three or more bedroom dwellings.

Whether parking areas are of a size and dimension that they can adapt to other uses over time.

**Building finishes**

Building materials should be selected with regard to potential impacts of reflectivity of development along main roads and should not exceed 15% perpendicular reflectivity, measured at 90 degrees to the façade surface.

Buildings should not create blank facades.

Building faces on shared boundaries should be finished or treated to provide visual interest until the abutting site is developed.

**Landscaping**

Landscaping should be provided in all areas of open space including public open space, communal open space, and private open space and should:

- Contribute to the creation of a sense of place and identity and the preferred character sought for the precinct.
- Support the creation of complex and biodiverse habitat which include native and indigenous flora and fauna.
- Balance the provision of native and indigenous plants with exotic climate resilient plants that provide resources for biodiversity.
- Through plant selection and design, support the creation of vegetation links within Fishermans Bend to surrounding areas of biodiversity.
- Encourage vertical and roof top greening to contribute to biodiversity outcomes.
- Include deep soil zones of at least 1.5 metres or planter pits to accommodate canopy trees.
- Incorporate green facades, rooftop, podium or terrace planting that is located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions.
- Incorporate opportunities for productive landscaping or community gardens.
- Interpret and celebrate both non-aboriginal and Aboriginal heritage and culture.
- Incorporate innovative approaches to flood mitigation and stormwater runoff, and at least best practice water sensitive urban design.

**Exemption from notice and review**

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

**Subdivision**

None specified.

**Exemption from notice and review**

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.
4.0 Advertising signs

None specified.

5.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- How the proposal responds to the Fishermans Bend Urban Renewal Area local policy.
- The urban context report, design response and other supporting information.
- The key elements of the future urban structure of Fishermans Bend.
- The preferred future character and building typologies defined in the Municipal Strategic Statement.
- Whether the proposal delivers design excellence, and contributes to creating a range of built form typologies.
- The impacts of built form and visual bulk on daylight, sunlight, and sky views from within public open spaces, streets, laneways or on adjoining heritage places.
- Internal amenity of the development and the amenity and equitable development opportunities of adjoining properties.
- The impacts of wind on the amenity and useability of nearby public open spaces, streetscapes or the public realm.
- The impacts of overshadowing on the existing and future amenity, function and useability of public open spaces and ability for vegetation to thrive.
- The siting, location, orientation and design of public, private and communal open space.
- Provision for enhanced permeability and connectivity for pedestrian and cyclist prioritisation and safety in the street, and ease of access to public transport.
- The interface of the building with the street, including the creation of an activated, fine grain streetscape with connection and direct surveillance and the public environment.
- How the proposal will adapt and transition over time.
- The visual impact of car parking on the public realm.
- How any on-site parking integrates into the design of buildings, limiting the urban design impacts of private car parking on the streetscape and public realm.

Definitions

The following definitions apply for the purposes of interpreting this schedule:

Family-friendly housing: Housing that supports the living arrangements of families, particularly with children. A visual relationship between the internal apartment areas and communal spaces provided for recreation and play are critical.

Gross Developable Area: means the area of the proposal land, including any proposed roads or laneways, new public open space and land for community infrastructure (public benefit).

Laneway: means a road reserve of 9 metres or less in width.

Unsafe wind conditions: means the hourly maximum 3 second gust which exceeds 20 metres/second from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage.

Comfortable wind conditions: means a mean wind speed from any wind direction with probability of exceedance less than 20% of the time, equal to or less than:
• 3 metres/second for sitting areas
• 4 metres/second for standing areas
• 5 metres/second for walking areas.

Mean wind speed means the maximum of:
• Hourly mean wind speed, or
• Gust equivalent mean speed (3 second gust wind speed divided by 1.85).

Residential Floor Area means the gross floor area used for or associated with any accommodation use except for residential aged care facility (including nursing home), residential hotel and motel, or floor area used for Affordable Housing which are excluded from the residential floor area calculations. Floor areas of common areas shared by Affordable Housing and other accommodation uses should be calculated based on the proportion of accommodation use to affordable housing within the building.

Setback to boundaries (excluding a street) is measured from the site boundary. Where a boundary adjoins a laneway, the setback is measured from the centreline of the laneway.

Street means a road reserve of greater than 9 metres in width.

Street wall means any part of the building constructed within 0.3 metres of a lot boundary fronting the street.

Street wall height means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the street wall, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the street wall.

Street wall setback is the shortest horizontal distance from a building façade, including projections such as balconies, building services and architectural features greater than 300mm, to the boundary.

Total building height means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the façade.

Comment [LR5]: This definition is not used once in the drafted DDO30.
We have included this definition within our track changes of the DDO30 where we think it is required.
Map 1 Core and Non-core areas and active street frontages (Map 1 consists of the following two map parts)
Map 2 Building Heights (Map 2 consists of the following two map parts)

Comment [LR6]: Change colours used in map. These are all very similar and could be made more clear from one another.
Map 3 Overshadowing (Map 3 consists of the following two map parts)
(iii) Conclusions

The Panel considers that there can be, in principle, sound urban design reasons to encourage the construction of buildings to abut the wall of an existing building on the common boundary as a means of ‘hiding’ an unattractive blank wall. However, given the width, height and position of that existing wall, there is little likelihood of a close or exact match between it and any proposed wall due to built form controls affecting setbacks from front or rear boundaries for podiums and towers and the likely design of the new floor plate.

Having regard to the various factors that determine a building’s siting and design, the Panel considers that, where a blank wall exists on an adjacent site, a new building which may abut that boundary up to a height of 80 metres should, above that height, meet the side setback requirements.

Above 80 metres, the new building can respond to the abutting blank wall by locating areas such as vertical circulation cores and service areas facing the setback to that blank wall.

The Panel concurs with the position of the Minster and the evidence of Mr Sheppard and Ms Hodyl in this respect.

10.15 71 Collins Street (Submitter 61)

(i) Evidence and submissions

71 Collins Street is located on the south-west corner of Collins and Exhibition Street and is owned by Larkfield Estate. The site is currently occupied by a six storey heritage building with ground floor retail and offices above. The site is affected by DDO10 and heritage overlays.

Tract Consultants represented the land owner at the Hearing and raised a number of points in relation to the site. The main concern was with the drafting of the controls being too generalised and focussed on larger scale development. The submitter stated that:

... whilst the control places clear emphasis on an appropriate built form outcome for taller buildings within Melbourne’s CBD, it has not yet adequately considered or provided sufficient discretion to smaller scale building additions for buildings that are already generally low-medium rise in scale.

The submitter did not consider the wording of DDO10 to be appropriate or relevant to the subject site, as it made reference to ‘towers’. It was considered that “a building of up to 40 metres is not and should not be considered a tower” and “... smaller and more modest additions to heritage buildings can contribute to the long term preservation and can enhance a heritage place”.

(ii) Discussion

The Minister for Planning responded to the submission with the following statement:

Consideration of heritage buildings was also given and there may be the opportunity to construct a building to boundaries in part, which would be considered as a Modified Requirement within DDO10.
The wording was amended in the control to clarify references to ‘towers’ to also include ‘additions’.

The wording of the DDO10 was subsequently amended to clarify the definitions of the words ‘tower’ and ‘addition’ and clarify the modified building requirements. It appeared that any development envisaged by Larkfield Estate would be accommodated by the revisions to the requirements of the schedule.

(iii) Conclusion

The Panel concludes that the issues raised by the submitter were adequately addressed by the Minister in the final version of the Amendment (Document 175).

10.16 Melbourne Central (Submitter 85)

(i) Evidence and submissions

The GPT Group has a number of properties (at 349-373 Swanston Street, 183-265 and 214-252 La Trobe Street, 316-364 Elizabeth Street, 198-262 and 285-307 Little Lonsdale Street and 284-310 Lonsdale Street) which together constitute the multi-level mixed use development known as Melbourne Central. The consolidated property comprises the majority of the block bounded by La Trobe Street, Swanston Street, Lonsdale Street and Elizabeth Street, with the exception of two properties facing Swanston Street - a student accommodation building and a church.

The Amendment proposes to remove the northern part of the site and the remainder of the land in the block north of Little Lonsdale Street from DDO10 and apply DDO2 – Area 1 relating to the core retail area.

A written submission was made by The GPT Group (Submitter 85) as owner of the Melbourne Central site. The owner opposed the change of DDO control on the northern part of the site as follows:

_We consider that this proposed amendment is inappropriate. The northern part of the site has long been recognised as a precinct with a variety of building heights, and includes the 51 storey office Tower at 360 Elizabeth Street. Little Lonsdale Street has long been recognised as the boundary between the Central Core lower area, and higher development form to the north._

The GPT Group was represented at the Hearing by Jane Kelly of Urbis.

The Group's submission was that the Amendment C270 proposal to delete the northern part of its site from DDO10, which has no height limit, and impose a mandatory 40 metre height limit by the extension of Design and Development Overlay 2 - Area 1 (DDO2-A1) (which already applies to the southern part of the land)\(^{59}\) is unwarranted and should not proceed.

The submission noted that the Amendment proposes a range of revisions to DDO2-A1 including identification of preferred street wall heights and setbacks and that these were

\(^{59}\) See discussion of southern part of the site in Chapter 7
Attachment 4
36-44 Gladstone Street, Southbank
SCHEDULE 63 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO63.

MACAULAY URBAN RENEWAL AREA, KENSINGTON AND NORTH MELBOURNE

1.0 Design objectives

- To create a compact, high density, predominantly mid-rise, 6 – 12 storey walkable neighbourhood that steps down at the interface with the low scale surrounding established residential neighbourhoods.
- To provide for higher development that delivers identified demonstratable benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.
- To create urban streetscapes that are defined by a generally consistent plane of building facades that enclose streets but allow daylight and sunlight to penetrate to the streets and to lower building levels.
- To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.
- To encourage the ground floor of buildings to be designed so that they can be used for a variety of uses over time.

2.0 Buildings and works

A permit is not required for buildings and works that do not alter the height or setback of an existing building.

An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form outcomes of this schedule, and any local planning policy requirements and the following:

- Design objectives and built form outcomes contained in this schedule.
- Detailed elevation and section drawings at a minimum of 1:50 scale at all street interfaces for at least the lower levels.
- Any local planning policy requirements.

The specified building height does not apply to service equipment including plant rooms, lift overruns, solar collectors and other architectural features and equipment provided the following criteria are met:

- The equipment is located in a position on the roof so as to minimise overshadowing of neighbouring properties and public spaces.
- The equipment is designed to the satisfaction of the responsible authority.

Building Heights

Development should not exceed the Preferred maximum height in Table 1.

All developments that exceed the Preferred maximum height in Table 1 must demonstrate each of the following:

- A demonstrable benefit to the broader community that include among others:
  - Exceptional quality of design.
  - A positive contribution to the quality of the public realm.
  - High quality pedestrian links where needed.
  - Good solar access to the public realm.
A permit cannot be granted to exceed the **Absolute maximum height** in Table 1 except in Area 5 where the following applies:

**Area 5:**

The absolute maximum building height does not apply to Area 5. Any redevelopment of this area above the preferred height should include a master plan that reintegrates the whole area with the surrounding urban fabric, including:

- improved interfaces with surrounding streets through innovative urban design treatments, visually recessive built form closer to the road frontages, and
- improved pedestrian and cycling connections to and from the site.

### Table 1: Building heights

<table>
<thead>
<tr>
<th>Area</th>
<th>Preferred maximum height</th>
<th>Absolute maximum height</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>10.5m (3 storeys)</td>
<td>10.5m (4 storeys)</td>
</tr>
<tr>
<td>A2</td>
<td>14m (4 storeys)</td>
<td>20m (6 storeys)</td>
</tr>
<tr>
<td>A3, A4</td>
<td>20m (6 storeys)</td>
<td>26m (8 storeys)</td>
</tr>
<tr>
<td>A5</td>
<td>26m (8 storeys)</td>
<td>N/A</td>
</tr>
<tr>
<td>A6</td>
<td>20m (6 storeys)</td>
<td>26m (8 storeys)</td>
</tr>
<tr>
<td>A7</td>
<td>28m (9 storeys)</td>
<td>36.4m (12 storeys)</td>
</tr>
<tr>
<td>A8</td>
<td>30m (9 storeys)</td>
<td>39m (12 storeys)</td>
</tr>
</tbody>
</table>

### Table 2: Built form outcomes

<table>
<thead>
<tr>
<th>Area</th>
<th>Built Form Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>Deliver a scale of development that complements the established low-scale residential area. Protect the amenity of existing residential areas by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</td>
</tr>
<tr>
<td>A2</td>
<td>Set back higher building form along Melrose Street to deliver scale of development that responds appropriately to the existing context.</td>
</tr>
<tr>
<td>A3</td>
<td>Deliver a scale of development that provides street definition and a pedestrian friendly scale. Deliver a scale of development that provides appropriate access to sunlight and daylight. Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</td>
</tr>
</tbody>
</table>
### Area | Built Form Outcomes
--- | ---
A4, A5 | Deliver a scale of development that provides street definition and a pedestrian friendly scale. 
Deliver a scale of development that provides appropriate access to sunlight and daylight. 
Deliver a scale of development at the interface with established low-scale residential development that provides an appropriate transition in height and minimises the visual impact of upper levels. 
Solar access is maintained to ground floors on western side of Thompson Street and southern side of Scarborough Place. 
Deliver the reintegration of Office of Housing estates into the surrounding urban fabric.

A6, A7 | Deliver a scale of development that provides street definition and a pedestrian friendly scale. 
Deliver a scale of development that provides appropriate access to sunlight and daylight. 
Provide limited opportunities for taller buildings that deliver significant public realm outcomes.

A8 | Deliver a scale of development that provides street definition and a pedestrian friendly scale. 
Deliver a scale of development that provides appropriate access to sunlight and daylight. 
Deliver a scale of development at the interface with established low-scale residential development that provides an appropriate transition in height and minimises the visual impact of upper levels.

All areas | Ensure laneways have appropriate levels of access to daylight and sunlight. 
Deliver developments that maximise surveillance of public and communal areas and nearby creek environs. 
Deliver a scale of development setbacks from the Moonee Ponds Creek environs which respond appropriately to creek/public space conditions and provision of public thoroughfares in the public and private domain adjacent to the creek, as appropriate. 
Where development respond to flood risk by providing ramp structures or other measures flood mitigation measure, high quality urban design outcomes must be provided at the building and public interfaces.

### Street wall and setbacks
A permit cannot be granted to increase the Street Wall Height in Table 3.
Development should be setback from all streets identified in Map 1 in accordance with Table 3. This applies even if the site does not have frontage to the identified street.
Buildings should be built to street edge at ground level to provide a clearly delineated and fronted public realm.
Buildings should be setback from existing low scale residential development in accordance with Table 3.
### Table 3: Street wall height and setbacks

<table>
<thead>
<tr>
<th>Interface type shown on Map 1</th>
<th>Street wall height</th>
<th>Setback of buildings above street wall</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 and 30 metre wide renewal street</td>
<td>Development at the frontage must not exceed a height of 6 storeys. Development should be set back 1 metre for every metre of height above 20 metres.</td>
<td></td>
</tr>
<tr>
<td>15 metre wide renewal street</td>
<td>Development at the frontage must not exceed a height of 4 storeys. Development should be set back 1 metre for every metre of height above 15 metres.</td>
<td></td>
</tr>
<tr>
<td>10 to 15 metre wide renewal street</td>
<td>Development at the frontage must not exceed a height of 3 storeys. Development should be set back 1 metre for every metre of height above the street wall.</td>
<td></td>
</tr>
<tr>
<td>Residential interface street</td>
<td>Development at the frontage must not exceed a height of 3 storeys. Development above the street wall should be setback at least 10 metres and be visually recessive.</td>
<td></td>
</tr>
<tr>
<td>Laneway</td>
<td>Development along the laneway must not exceed a height of 3 storeys. Development above the street wall should be setback 4 metres. In addition, development on the northern side of an east-west laneway should be set back 1 metre for every metre of height above the preferred maximum height.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Interface type shown on Plan</th>
<th>Set back from boundary with low scale residential development</th>
</tr>
</thead>
<tbody>
<tr>
<td>ResCode Applies</td>
<td>A new building not on or within 200mm of a boundary should be set back from the boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</td>
</tr>
</tbody>
</table>
Active Street Frontages

A building in a Commercial Zone, with ground-level frontage should provide:

- At least 5 metres or 80 per cent of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or as other uses, customer service areas and activities, which provide pedestrian interest and interaction.

- Clear glazing (security grilles must be transparent).

A building with ground-level frontage to a street identified on Map 2 should present an attractive pedestrian oriented frontage with commercial uses where practical. Buildings with ground-level frontage to all other streets, should provide an active and physically connected street interface, for example by providing multiple entrances off the street.
Weather protection and facade treatment
A building with a road frontage to a street identified on Map 2, should provide a veranda for weather protection over the footpath unless this would cause detriment to the integrity of a heritage building or streetscape.

The articulation of a building facade should express a fine grain variety and modulation that assists in reducing the visual dominance of buildings, particularly a wide street frontage. Expressing the vertical elements is encouraged to further minimise the dominance of wide building frontages.

Map 2 – Frontages to primary streets

Connectivity and laneways
Development must provide for a high quality pedestrian link generally along the eastern side of CityLink to provide direct pedestrian connection to Macaulay and Flemington Bridge Stations for land between Macaulay Road and Racecourse Road.

Development should provide for a fine-grained system of laneways and pedestrian connections that are:
Safe, direct and attractive;
- Publicly accessible;
- Aligned with other lanes or pedestrian connections to provide direct through routes.

Development along new and existing laneways and pedestrian connections must comply with the laneway controls in Table 3.

**Heritage**

When new developments adjoin heritage buildings located in a Heritage Overlay, the design of new buildings should have regard to the height, scale, rhythm of and proportions of the heritage buildings.

**Reference documents**

Arden-Macaulay Structure Plan 2012

**3.0 Subdivision**

None specified.

**4.0 Advertising signs**

None specified.

**5.0 Decision guidelines**

None specified.

**Expiry**

The requirements of this overlay cease to apply after 30 September 2019.
Attachment 5
36-44 Gladstone Street, Southbank
SCHEDULE 10 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO10.

GENERAL DEVELOPMENT AREA- BUILT FORM

1.0 Design objectives

- To ensure development achieves a high quality of pedestrian amenity in the public realm in relation to human scale and microclimate conditions such as acceptable levels of sunlight access and wind.
- To ensure that development respects and responds to the built form outcomes sought for the Central City.
- To encourage a level of development that maintains and contributes to the valued public realm attributes of the Central City.
- To ensure that new buildings provide equitable development rights for adjoining sites and allow reasonable access to privacy, sunlight, daylight and outlook for habitable rooms.
- To provide a high level of internal amenity for building occupants.
- To ensure the design of public spaces and buildings is of a high quality.
- To encourage intensive developments in the Central City to adopt a podium and tower format.

2.0 Buildings and works

2.1 Definitions

For the purpose of this schedule:

- **street** means a road reserve of a public highway more than 9 metres wide.
- **main street** means a road reserve of a public highway more than 20 metres wide.
- **laneway** means a road reserve of a public highway 9 metres or less wide.
- **street wall** means any part of the building constructed within 0.3 metres of a lot boundary fronting the street.
- **street wall height** means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the street wall, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the street wall.
- **total building height** means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the façade.
- **tower** means a building that exceeds the street wall, excluding an addition.
- **addition** means a building that exceeds the street wall and which is less than 40 metres in height.
- **floorplate** means the area of each floor above the street wall defined by the setback from street frontages and setbacks from side and rear boundaries.
Setback is the shortest horizontal distance from a building façade, including projections such as balconies, building services and architectural features greater than 300mm, to the boundary.

Separation is the shortest horizontal distance from a building façade, including projections such as balconies, building services and architectural features greater than 300mm to another building on the same site.

Unsafe wind conditions means the hourly maximum 3 second gust which exceeds 20 metres/second from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage.

Comfortable wind conditions means a mean wind speed from any wind direction with probability of exceedance less than 20% of the time, equal to or less than:
- 3 metres/second for sitting areas
- 4 metres/second for standing areas
- 5 metres/second for walking areas.

Mean wind speed means the maximum of:
- Hourly mean wind speed, or
- Gust equivalent mean speed (3 second gust wind speed divided by 1.85).

Additional shadow means any shadow cast outside any existing shadow from buildings or works, but not a shadow cast by incidental elements such as canopies, kiosks, artworks, screens or trees.

2.2 Buildings and works for which no permit is required

A permit is not required for:
- Buildings and works at ground level, including external works to provide access for persons with disabilities that comply with all legislative requirements.
- Buildings and works to install or modify plant and service fixtures to an existing building.
- Buildings and works to an existing building(s) which do not alter the height or setback of any part of an existing building or result in any additional habitable or occupiable floor area.
- Buildings and works which would cast a shadow across the Yarra River Corridor between 11.00 am and 2.00 pm on 22 June caused by unenclosed structures associated with the construction of gangways, mooring poles and pontoons which are constructed by or on behalf of Melbourne Parks and Waterways or Parks Victoria under the Water Industry Act 1994, the Water Act 1989, the Marine Act 1988, the Port of Melbourne Authority Act 1958, the Parks Victoria Act 1998, or the Crown Land (Reserves) Act 1978.

2.3 Requirements

Built form

Buildings and works:
- must meet the Design Objectives specified in this schedule;
- must satisfy the Built Form Outcomes specified for each relevant Design Element in Table 3 to this schedule; and
- should meet the Preferred Requirement specified for each relevant Design Element in Table 3 to this Schedule.

An application to vary the Preferred Requirement for any Design Element specified in Table 3 to this schedule must document how the development will achieve the relevant Design Objectives and Built Form Outcomes.
An application which does not meet the Preferred Requirement, must be considered under the Modified Requirement for each relevant Design Element.

A permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) for buildings and works that do not meet the Modified Requirement for any relevant Design Element specified in Table 3 to this schedule.

**Wind effects**

A permit must not be granted for buildings and works with a total building height in excess of 40 metres that would cause unsafe wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

A permit should not be granted for buildings and works with a total building height in excess of 40 metres that do not achieve comfortable wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

**Figure 1**

![Figure 1](image)

Assessment distance $D$ = greater of:

- $L/2$ (Half longest width of building)
- $H/2$ (Half overall height of building)

**Overshadowing**

With the exception of minor works or minor changes to existing buildings within that defined space, a permit must not be granted for buildings and works which would cast any additional shadow across a space listed within Table 1 to this schedule and shown in Figure 2 of this schedule during the hours and dates specified as follows:

**Table 1 to Schedule 10**

<table>
<thead>
<tr>
<th>Space</th>
<th>Hours between</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Yarra River corridor, including 15 metres from the edge of the north bank of the river</td>
<td>11.00am and 2.00pm</td>
<td>22 June</td>
</tr>
<tr>
<td>Location</td>
<td>Time</td>
<td>Dates</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>--------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Federation Square</td>
<td>11.00am and 3.00pm</td>
<td>22 April to 22 September</td>
</tr>
<tr>
<td>City Square</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Library Forecourt</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shrine of Remembrance and its northern forecourt</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bourke Street Mall south of tram tracks</td>
<td>12.00pm and 2.00pm</td>
<td>22 April and 22 September</td>
</tr>
<tr>
<td>Boyd Park</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Figure 2
A permit must not be granted for buildings and works which would cast any additional shadow across a space listed within Table 2 to this schedule during the hours and date(s) specified, unless the overshadowing will not unreasonably prejudice the amenity of the space:

### Table 2 to Schedule 10

<table>
<thead>
<tr>
<th>Space</th>
<th>Hours between</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parliament Gardens</td>
<td>11.00am and 3.00pm</td>
<td>22 April to 22 September</td>
</tr>
<tr>
<td>Treasury Gardens</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gordon Reserve</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parliament Steps and Forecourt</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Old Treasury Steps</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flinders Street Railway Station Steps</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Batman Park</td>
<td>11.00am and 2.00pm</td>
<td>22 April to 22 September</td>
</tr>
<tr>
<td>Birrarung Marr</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sturt Street Reserve</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grant Street Reserve and the Australian Centre for Contemporary Art Forecourt, south side of Grant Street between Sturt Street and Wells Street</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dodds Street between Southbank Boulevard and Grant Street</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Swanston Street between south bank of the Yarra River and Latrobe Street</td>
<td>12.00pm and 2.00pm</td>
<td>22 April to 22 September</td>
</tr>
<tr>
<td>Elizabeth Street between Flinders Street and Flinders Lane</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hardware Lane and McKillop Street</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The southern footpath of Bourke Street between Spring Street and Exhibition Street</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The southern building line of Little Bourke Street between Spring and Swanston Streets and Cohen</td>
<td>12.00pm and 2.00pm</td>
<td>22 April and 22 September</td>
</tr>
<tr>
<td>Space</td>
<td>Hours between</td>
<td>Date(s)</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Place/Chinatown Plaza&lt;br&gt;Liverpool Street and Crossley Street&lt;br&gt;Market Street between Collins Street and Flinders Lane</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flagstaff Gardens and proposed new public open space within Queen Victoria Market</td>
<td>11.00am and 2.00pm</td>
<td>22 June</td>
</tr>
<tr>
<td>Any public space, public parks and gardens, public squares, open spaces associated with a place of worship and privately owned public spaces accessible to the public</td>
<td>11.00am and 2.00pm</td>
<td>22 September</td>
</tr>
</tbody>
</table>

Table 3 to Schedule 10

<table>
<thead>
<tr>
<th>Design Element</th>
<th>Preferred Requirement (Figure 3)</th>
<th>Modified Requirement (Figure 3)</th>
<th>Built Form Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street wall height</td>
<td>Up to 20 metres</td>
<td>The street wall height must be no greater than:</td>
<td>Street wall height is scaled to ensure:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• 40 metres; or</td>
<td>• a human scale.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• 80 metres where it:</td>
<td>• an appropriate level of street enclosure having regard to the width of the street with lower street wall heights to narrower streets.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• defines a street corner where at least one street is a main street and the 80 metre high street wall should not extend more than 25 metres along each street frontage, and/or fronts a public space including any road reserve wider than 80 metres.</td>
<td>• consistency with the prevalent parapet height of adjoining buildings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• defines a street corner where at least one street is a main street and the 80 metre high street wall should not extend more than 25 metres along each street frontage, and/or fronts a public space including any road reserve wider than 80 metres.</td>
<td>• height that respects the scale of adjoining heritage places.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• defines a street corner where at least one street is a main street and the 80 metre high street wall should not extend more than 25 metres along each street frontage, and/or fronts a public space including any road reserve wider than 80 metres.</td>
<td>• adequate opportunity for daylight, sunlight and skyviews in the street.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• front a public space including any road reserve wider than 80 metres.</td>
<td>• definition of main street corners and/or public space where there are no significant impacts on the amenity of public spaces.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• maintenance of the prevailing street wall height and vertical rhythm on the street.</td>
</tr>
<tr>
<td>Building setback(s) above street wall</td>
<td>Above the street wall, towers and additions should be setback 10 metres from the title boundary.</td>
<td>Above the street wall, towers must be setback a minimum of 5 metres from the title boundary.</td>
<td>Towers and additions are setback to ensure:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• large buildings do not visually dominate the street or public space.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• the prevalent street wall scale is maintained.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• overshadowing and wind impacts are mitigated.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• The tower or addition includes a distinctly different form or</td>
</tr>
<tr>
<td>Design Element</td>
<td>Preferred Requirement (Figure 3)</td>
<td>Modified Requirement (Figure 3)</td>
<td>Built Form Outcomes</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Building setbacks from side boundaries and rear boundaries (or from the centre line of an adjoining laneway) and tower separation within a site | Above the street wall or 40 metres (where there is no street wall), towers and additions should be setback a minimum of 5 metres or 6% of the total building height whichever is greater. | Towers and additions up to 80 metres in height: Above the street wall or 40 metres (where there is no street wall), towers and additions must be setback a minimum of 5 metres. Towers and additions of no more than 80 metres in height may be constructed up to one side or rear boundary, excluding a laneway, if an existing, approved, proposed or potential building on an adjoining site is built to that boundary and if a minimum setback of 5 metres is met to all other side and rear boundaries and the centre line of any adjoining laneway. Buildings of no more than 80 metres in height, may be constructed to a second side or rear boundary if an adjoining site cannot, by legal restriction benefitting the application site, be developed above the street wall height. **Towers exceeding 80 metres in total height:** Above the street wall or 40 metres (where there is no street wall), towers and additions must be setback a minimum of 5 metres and must meet the design element requirements for tower floorplate. **Tower separation within a site:** Towers must be separated by a minimum of 10 metres. | Towers and additions are designed and spaced to ensure:  
- sun penetration and mitigation of wind impacts at street level.  
- provision of reasonable sunlight, daylight, privacy and outlook from habitable rooms, for both existing and potential developments on adjoining sites.  
- floorplate layout or architectural treatment limits direct overlooking between habitable rooms.  
- buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them.  
- buildings do not visually dominate heritage places and streetscapes, nor significant view lines. |

Tower floorplate  
The tower floorplate is determined by the preferred requirement for building setbacks from side and rear boundaries and tower separation within a site, and the modified requirement for building setback(s) above the street  
The tower floorplates above the street wall for a tower above 80 metres in height may be adjusted in terms of location and/or shape but must not:  
- Result in an increase in the floorplate area;  
- be situated less than 5 metres from a side or rear boundary (or from the centre line of an adjoining laneway);  
- be less than 5 metres to a street boundary;  
The adjusted floorplate is designed and spaced to:  
- reduce impact on existing and potential neighbours in terms of privacy, outlook, daylight and sunlight access.  
- minimise visual bulk.  
- reduce impact on public spaces, including overshadowing and wind effects and reduced visual dominance.  
- buildings do not visually dominate heritage places.
<table>
<thead>
<tr>
<th>Design Element</th>
<th>Preferred Requirement (Figure 3)</th>
<th>Modified Requirement (Figure 3)</th>
<th>Built Form Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>wall</td>
<td>▪ be less than 10 metres to an adjoining tower on the site.</td>
<td>▪ buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them.</td>
<td>and streetscapes, nor significant view lines.</td>
</tr>
</tbody>
</table>

Figure 3 to Table 3

**TOWERS UP TO 80 METRES IN TOTAL HEIGHT**

- **Preferred Requirement:**
  - Street setbacks: 10m minimum
  - Side & rear setbacks: 5m minimum

- **Modified Requirement:**
  - Building to one boundary
  - Street setbacks: 5m minimum

- **Modified Requirement:**
  - Building to corner or public space
### 2.4 Exemption from notice and appeal

An application to construct a building or construct or carry out works is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

### 2.5 Application Requirements

If in the opinion of the responsible authority an application requirement listed below is not relevant to the assessment of the application, the responsible authority may waive or reduce the requirement.

#### Urban context report

An application for permit must be accompanied by a written and illustrated urban context report.

The urban context report must:

- explain the key planning, design and contextual considerations and influence on the proposed buildings and works.
- describe the existing urban context of the area in which the proposed buildings and works are to be located.
- explain how the proposed buildings and works relate to and respond to their urban context including:
  - built form character of adjacent and nearby buildings.
  - equitable outcomes for potential development on adjoining sites.
  - heritage character of adjacent and nearby heritage places.
- identify the key opportunities and constraints supporting the design response.
- explain the effect of the proposed buildings and works, including on:
microclimate, including sunlight, daylight and wind impacts on streets and other public spaces.

- vistas.

- Explain how the proposed buildings and works respond to each of the Design Objectives and the Built Form Outcomes in Table 3 of this schedule, as appropriate.

Wind analysis report

An application for a permit for a building with a total building height in excess of 40 metres must be accompanied by a wind analysis report prepared by a suitably qualified person. The wind analysis report must:

- explain the effect of the proposed development on the wind conditions in publicly accessible areas within a distance equal to half the longest width of the building, measured from all façades, or half the total height of the building, whichever is greater.

- at a minimum, model the wind effects of the proposed development and its surrounding buildings (existing and proposed) using wind tunnel testing.

- identify the principal role of each portion of the publicly accessible areas for sitting, standing or walking purposes.

- not rely on street trees or any other element such as screens, within public areas for wind mitigation.

3D digital model of buildings and works

An application for a permit must be accompanied by a 3D digital model of the proposed buildings and works in a format to the satisfaction of the responsible authority. The model may be used for assessing overshadowing and visual impacts caused by the proposal and for general archive, research and public information purposes.

3.0 Subdivision

A permit is not required to subdivide land.

4.0 Advertising signs

None specified.

5.0 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Design Objectives.

- The Built Form Outcomes of Table 3 to this schedule.

- Whether the development respects the built form scale and urban structure of the precinct where it is located.

- Whether the development provides a high quality architectural response.

- Whether the cumulative effect of the proposed development in association with adjoining existing and potential development supports a high quality of pedestrian amenity in the public realm, in relation to human scale and microclimate conditions including overshadowing and wind impacts.

- Whether the development provides a high level of amenity for building occupants.
Whether the proposed street wall height responds appropriately to the prevalent parapet height of adjoining buildings, respects the scale of adjoining heritage places and provides a human scale.

Whether the proposed tower setbacks are sufficient to allow for equitable access to privacy, sunlight, daylight and outlook from habitable rooms for both existing and potential development of adjoining sites.

An appropriate mechanism to restrict development on an adjoining site where the proposed development relies on that site.

Securing the floor area ratio across a site where a site is developed in part to ensure:
- that an agreement be entered into to acknowledge that the remaining site cannot be later developed;
- that when a heritage building being retained, that an agreement be entered into to conserve the heritage building in perpetuity;
- that the proposed building is sited so that adequate setbacks are maintained in the event that the land is subdivided or separate land holdings are administratively effected to create a future development site.

The location of the site and whether it has an interface with the Westgate Freeway and/or is an island site.

The effect of the proposed buildings and works on solar access to existing and proposed open spaces and public places.

The potential for increased ground-level wind gust speeds and the effect on pedestrian comfort and the amenity of public places, with allowance to exceed uncomfortable conditions only if the wind effects of the proposed development do not exceed the existing wind condition(s).

6.0 Reference documents


7.0 Transitional arrangements

The requirements of this schedule do not apply to:

- an application (including an application to amend the permit) made before the commencement of Amendment C262 to this planning scheme. For such applications, the requirements of this scheme, as they were in force immediately before the commencement of Amendment C262, continue to apply.

- an application (including an application to amend the permit) made after the commencement of Amendment C262 but before the commencement of Amendment C270 to this planning scheme. For such applications, the requirements of this schedule, as they were in force immediately before the commencement of Amendment C270, continue to apply.