

MELBOURNE PLANNING SCHEME

AMENDMENT C270

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Minister for Planning, who is the planning authority for this amendment.

Land affected by the amendment

The amendment applies to land generally within the Hoddle Grid and Southbank (the Central City), as shown on the map below:



The land affected by this amendment is within the Capital City Zone Schedules 1, 2 and 3, Public Use Zone Schedules 1, 2, 4 and 7, Road Zone, Public Park and Recreation Zone, Mixed Use Zone and General Residential Zone and is also within the Design and Development Overlay Schedules 2, 7, 40, 60 and 62 of the Melbourne Planning Scheme.

What the amendment does

The amendment introduces new built form provisions by:

- Amending Schedules 1, 2 and 3 to the Capital City Zone to introduce floor area ratio and uplift requirements, with delivery of associated public benefit(s), in the schedules to the zone;
- Deleting shadow prohibitions and permit requirements, and wind assessment application requirements from Schedules 1, 2 and 3 to the Capital City Zone;
- Amending Schedules 2 (Height Controls - Capital City Zone), 40 (River Environs), 60 (Southbank) and 62 (Bourke Hill) to the Design and Development Overlay to a mix of mandatory and discretionary height controls. Pre-existing mandatory height controls are to remain, where the discretionary height controls are to include an associated discretionary floor area ratio and setback controls. These schedules include permit and application requirements related to overshadowing and wind impacts;
- Replacing Design and Development Overlay Schedule 10 (DDO10) with a new schedule that applies street wall height, setbacks (to the street and to neighbouring boundaries), tower separation, overshadowing and wind impact requirements;
- Deleting Schedule 7 to the Design and Development Overlay (Former Fishmarket Site Northbank);
- Amending Clause 22.01 (Urban Design within the Capital City Zone) and Clause 22.02 (Sunlight to Public Spaces) for consistency with the revised provisions within DDO2, DDO10, DDO40, DDO60 and DDO62;
- Introducing a new Clause 22.03 (Floor Area Ratio and Delivery of Public Benefits) to guide the delivery of the associated public benefit(s) sought in the schedules to the Capital City Zone;
- Amending map 8DDO 2, 14 & 62 by extending Area 1 of Design and Development Overlay Schedule 2 to align with Schedule 2 to the Capital City Zone (Retail Core);
- Amending map 8DDOPT3 to remove Schedule 7 to the Design and Development Overlay;
- Amending map 8DDO10 to:
 - Include the area previously affected by Schedule 7 to the Design and Development Overlay; and
 - Delete the area to be included within Area 1 of Schedule 2 to the Design and Development Overlay.

The above provisions preserve transitional arrangements for existing planning permit applications.

Strategic assessment of the amendment

Why is the amendment required?

In recent years there has been a dramatic increase in the quantity, density and scale of development proposed, and approved, within the Central City. Cumulatively, this increase in density has created poor amenity outcomes that have the potential to damage the investment attraction to the Central City and the renowned liveability of Melbourne, generally.

The current planning scheme provisions are not responding to the emerging development challenges. As a result development is starting to have adverse impacts on the amenity of residents, workers and visitors to the Central City. These impacts include:

- poor building amenity due to closeness to neighbours (affecting light and privacy);
- impaired development opportunities on neighbouring sites (inequity);
- visual domination of historic and pedestrian scale streetscapes by new development;
- increased overshadowing of public space;
- uncomfortable wind effects in public space; and
- pressure on the capacity of public space facilities.

These adverse outcomes from the increase in quantity, density and scale of development, combined with an increasing number of major Central City planning permit applications in the last five years, signals that a review of the built form controls which apply to the Central City is now required.

The Melbourne Planning Scheme currently favours discretionary, performance-based controls to enable individual context responsive built form responses. There has been no significant update of the planning controls guiding development in the Central City since 1999, with most controls based on even earlier work. As a result some of the requirements are now outdated and there is inconsistency in the use of discretion, which affects the achievement of certainty and overall consistency of outcomes.

The introduction of the interim controls under Amendment C262 to the Melbourne Planning Scheme on 4 September 2015 provided time to review outcomes of the interim controls carefully, investigate further suitable controls and to put forward the proposed permanent built form controls set out in this amendment.

The proposed controls focus on maintaining Melbourne's Central City liveability and balancing short-term investment with the overarching primary objective which is to protect Melbourne's long-term value – as both a high amenity liveable place and as the generator of significant economic growth. The new planning provisions seek to:

- provide certainty and overall consistency in the application of discretion in relation to built form outcomes;
- improve public amenity; and
- ensure development enhances Melbourne's long-term liveability.

The amendment affects two types of development areas:

- General Development Areas, where the emphasis is on growth and more intensive development and is primarily where towers can be located; and
- Special Character Areas, where the emphasis is to protect specific valued attributes, including a relatively lower built form scale appropriate for each area.

These two very different urban contexts require different built form provisions.

In the Special Character Areas, where a mandatory height control was in place prior to the introduction of the interim provisions, the mandatory height controls are proposed to remain. This maintains the well-established built form character in the retail core and in other Special Character Areas where the built form provisions have recently been reviewed, such as Southbank and Bourke Hill, where the built form controls were assessed by an independent Planning Panel.

In the Special Character Areas where a discretionary height control was in place prior to the introduction of the interim provisions, the discretionary height controls are proposed to remain, but with the introduction of an associated floor area ratio to guide the discretion that can be exercised in relation to overall height.

In addition, it is proposed that the Retail Core height control Area 1 of Design and Development Overlay Schedule 2 is extended to generally include properties along the western edge of Elizabeth Street and north to include Melbourne Central so as to align the control with the long-standing Retail Core boundary (Schedule 2 to the Capital City Zone) and recognise the strategic retail and civic importance of Elizabeth Street.

The amendment seeks to delete the Former Fishmarket Site affected by Schedule 7 to the Design and Development Overlay due to the development's completion.

The following provisions are proposed in the General Development Areas:

- A preferred street wall height of 20 metres;
- A minimum 5 metre upper level street setback for towers (above the street wall);
- Minimum side and rear setbacks of 5 metres for buildings up to 80 metres in height;
- Side and rear setbacks for buildings 80 metres or higher at 6 per cent of tower height; and
- A separation distance for multiple towers within a large site of 6 per cent of the combined tower height of the adjacent towers.

Variations to these provisions that allow design flexibility are proposed in limited and well-defined circumstances in order to promote appropriate, site specific design responses and innovation while ensuring that certainty around development outcomes is not undermined.

In the General Development Areas, no overall limit to development capacity is proposed subject to the following requirements. A Floor Area Ratio (FAR) of 18:1 is introduced as a threshold density control. This is paired with the option for a permit applicant to pursue a Floor Area Uplift (FAU) for development capacity greater than 18:1 provided that all other relevant built form provisions are met. The FAU triggers a value sharing mechanism in the form of investment into public benefits in the Central City. This aims to achieve two purposes:

- Setting realistic and clear expectations about what the potential reasonable yield of a typical development site could be; and
- Establishing a threshold density which triggers a value-sharing contribution towards public benefits.

The qualities of the amenity of public spaces in the Central City are relevant and common to both the General Development Areas and Special Character Areas. These spaces must be safe, comfortable and enjoyable places for the residents, workers, students and visitors. In high density environments these spaces are even more critical as they provide space for people to socialise, do business, exercise, relax and move around. To achieve this, the proposed provisions also include:

- The protection of key public open spaces from overshadowing at defined times, including the introduction of new spaces and extended dates and times of protection; and
- Wind control criteria to achieve adequate levels of personal comfort 80 per cent of the time, rather than just protecting against extreme wind gust conditions.

How does the Amendment implement the objectives of planning in Victoria?

The amendment implements the objectives in section 4 of the *Planning and Environment Act 1987* (the Act), in particular

- to provide for the fair, orderly, economic and sustainable use, and development of land;
- to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and
- to balance the present and future interests of all Victorians.

How does the Amendment address any environmental, social and economic effects?

The amendment is considered to have a positive social impact as it will facilitate the protection of valued attributes of the Special Character Areas and provide certainty and consistency of built form outcomes within both the General Development Areas and the Special Character Areas. Overarching the built form provisions within these two types of development areas is the protection of public spaces through shadowing protection and wind impacts. The provisions will ensure the City continues to define street edges, with setbacks

to taller structures which in turn allows open sky views, sunlight access, minimises wind impacts, contributes to active street frontages and human scale.

The application of a combination of mandatory and discretionary built form provisions is considered to be a balanced approach to planning for the Central City which will ensure that valued attributes of the Central City are maintained while facilitating on going development.

The proposed provisions are also in the context of there being other significant central city urban renewal areas that will continue to facilitate development as recognised within Plan Melbourne including the expansion of the CBD into Fishermans Bend, Arden & Macaulay, E-Gate and Dynon. Overall it is considered that the amendment will have a net community benefit, economically and socially as identified in the proposed Reference Document the '*Central City Built Form Review Synthesis Report*'.

The amendment will not have any significant negative natural environmental impacts.

Does the Amendment address relevant bushfire risk?

The amendment affects land within inner metropolitan Melbourne which is not a bushfire prone area.

Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act, Direction No.9 – Metropolitan Strategy and Direction 11- Strategic Assessment under Section 12(2) of the Act.

How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?

The provisions implemented by this amendment are generally consistent with the relevant objectives of the State Planning Policy Framework and *Plan Melbourne: Metropolitan Planning Strategy* (Department of Transport, Planning and Local Infrastructure, 2014) (Plan Melbourne).

The amendment supports *Clause 15.01 Urban Environment*, by ensuring that there is development equity and that key attributes of the public realm and open spaces which underpin Melbourne's liveability are protected.

The amendment also supports the Plan Melbourne Direction 1.4, '*Plan for an expanded central city to become Australia's largest commercial and residential centre by 2040*', by providing built form provisions to maintain the liveability of the Central City and encouraging business investment.

Notably, the introduction for Plan Melbourne states:

"The city we enjoy today did not come about by accident. It has been shaped by the foresight and planning of earlier generations. We can see the legacy of their vision in the vibrant places we value and the liveable communities we participate in every day.

But we cannot plan the city of the future with yesterday's thinking. As our city grows and develops, we need to plan for, and manage, growth. We must do so in ways that respond to long-term patterns of economic, social and environmental change; that enhance Melbourne's liveability; and that capitalise on opportunities to strengthen our productivity and competitiveness".

Specifically for the Central Subregion, Plan Melbourne states that "*our aim is to plan for growth and change in Melbourne's Central Subregion to consolidate Melbourne's position as a highly competitive global city and to maintain the high standards of liveability, distinctiveness and character that make Melbourne special*".

How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The provisions provided by this amendment generally support the Local Planning Policy Framework and Municipal Strategic Statement of the Melbourne Planning Scheme.

Specifically, the amendment supports *Clause 21.04-1.1 The original city centre – the Hoddle Grid* by ensuring that the 'area will be managed to facilitate continued growth where appropriate and limit change or the scale of development in identified locations to preserve valued characteristics. A strong emphasis will be placed on a quality public realm and good pedestrian amenity and connectivity'.

The amendment maintains and enhances the Retail Core as a world class retail offer, which is supported by Strategy 1.1 at Clause 21.08-1. The Retail Core as a compact, high-density retail precinct with easy pedestrian access including the development of the Bourke Street Mall as a high quality pedestrian and retail space is outlined at Clause 21.12. Of note, Figure 6 at Clause 21.12 shows the Retail Core including the western side of Elizabeth Street and Melbourne Central to the north.

The amendment also generally supports *Clause 21.06-1 Urban Design*, notably Strategy's 4.5, 5.8 and 5.9, and *Clause 21.12 Hoddle Grid*.

The amendment supports policy at Clause 21,06-1 and Clause 21.12 which seeks to protect key spaces from overshadowing including the formality and legibility of the Yarra River corridor as a key organising element of the city structure and maintain this corridor as a continuous, high pedestrian amenity focus for the city including ensuring the north bank of the Yarra River has increased open space opportunities.

Does the Amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the Victoria Planning Provisions by applying schedules to the Design and Development Overlay to influence built form outcomes within the Central City.

The amendment is also considered an appropriate use of the *Victoria Planning Provisions* where Floor Area Uplift scheme, providing transparency and certainty about the permit conditions.

The amendment also supports the purpose of the Capital City Zone, which is;

- *To enhance the role of Melbourne's central city as the capital of Victoria and as an area of national and international importance.*
- *To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.*
- *To create through good urban design an attractive, pleasurable, safe and stimulating environment.*

How does the Amendment address the views of any relevant agency?

The amendment maintains Melbourne City Council as a recommending referral authority for any permit application with a gross floor area in excess of 25,000m² within Schedules 1, 2 and 3 of the Capital City Zone.

Any planning permit application will be subject to normal planning permit application process, including that the views of relevant authorities.

Does the Amendment address relevant requirements of the Transport Integration Act 2010?

The amendment does not have any direct impact on the transport system.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment is unlikely to have an adverse impact on resource and administrative costs to the responsible authority.

Where you may inspect this Amendment

The amendment is available for public inspection, free of charge, during office hours at the following places:

Department of Environment, Land, Water and Planning
Level 15, 1 Spring Street, Melbourne

(By appointment, please call 1800 789 386)

and

Melbourne City Council
Level 3, 240 Little Collins Street
MELBOURNE VIC 3000

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.delwp.vic.gov.au/central-city

Submissions

Any person who may be affected by the Amendment may make a submission to the planning authority. Submissions about the Amendment must be received by **30 May 2016**.

A submission must be sent to:

Minister for Planning

C/- Department of Environment, Land, Water and Planning

www.delwp.vic.gov.au/central-city

Alternatively, a hard copy submission can be sent to:

The Minister for Planning

C/- The Department of Environment, Land, Water and Planning

Submission to Melbourne C270

GPO Box 500

MELBOURNE VIC 8002

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been scheduled for this amendment:

- Directions hearing: **22 June 2016**
- Panel hearing: Commencing the week of **11 July 2016**

Panel Hearing dates are subject to change, confirmation will be provided to any person who makes a submission to the planning authority.