



8.6

**CONSIDERATION OF PANEL
RECOMMENDATIONS AND ADOPTION OF
AMENDMENT C122 - ST KILDA ROAD SOUTH
CANAL AND LAKE**

WARD:

GENERAL MANAGER:

**CLAIRE FERRES MILES, PLACE STRATEGY &
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ATTACHMENTS:

- 1. Amendment C122 Chronology**
- 2. Amendment C122 Panel Report**
- 3. Overall Building Heights**
- 4. Precinct-Wide Panel Recommendations and Responses**
- 5. Neighbourhood-Specific Panel Recommendations and Responses**
- 6. Amendment C122 - Documentation for adoption**
- 7. Amendment C122 - Reference Documents**

PURPOSE

- To consider the report and recommendations of the independent Planning Panel appointed by the Minister for Planning to review Amendment C122 - St Kilda Road South Precinct - which proposes new planning policy and provisions to establish clear directions for the future development of the Precinct.
- To determine whether to adopt Amendment C122 (with or without changes) and request Ministerial approval.



I. RECOMMENDATION

That Council:

- 1.1 Having considered the report and recommendations of the independent Planning Panel, adopts Amendment C122 to the Port Phillip Planning Scheme, pursuant to Section 29 of the *Planning and Environment Act 1987*, with the changes reflected in the amendment documentation provided at Attachments 6 and 7.
- 1.2 Authorises the Chief Executive Officer (or delegate) to finalise the amendment documentation for Ministerial approval and prepare an addendum to the *St Kilda Road South Urban Design and Land Use Framework* that describes the changes between the Framework and the final planning controls.
- 1.3 Submits the adopted Amendment C122, together with prescribed information, to the Minister for Planning for approval pursuant to Section 31 of the *Planning and Environment Act 1987*.
- 1.4 As part of its submission requesting approval of Amendment C122, advises the Minister for Planning that Council has not accepted all of the Panel's recommendations, based on the reasons detailed in Attachments 4 and 5.
- 1.5 Requests the Minister for Planning disregard the requirements of *Ministerial Direction – Form and Content of Planning Schemes* (dated 24 May 2017) for Schedule 27 to the Design and Development Overlay (DDO27), as adopted by Council, based on the significant progress of the Amendment C122 prior to the gazettal of the Direction.
- 1.6 Writes to the Minister for Planning to request an extension of the interim controls for Design and Development Overlay 27, which are due to expire on 31 December 2017.
- 1.7 Writes to all submitters advising of Council's decision, thanking them for their comments and interest in Amendment C122.

2. BACKGROUND

- 2.1 Council commenced a review of the St Kilda Road South Precinct in 2013 in the context of increasing development pressure and change.
- 2.2 Since 2010, in particular there has been increased development pressure for residential development south of St Kilda Junction, including within the established commercial strip along Wellington Street. This has resulted in the development of higher scale building forms in the Precinct (generally ranging from 8 up to 28 storeys).
- 2.3 The Precinct has a different and distinct role to St Kilda Road North (and areas north of the Junction), and nearby identified activity centres such as Acland Street, Fitzroy Street and Carlisle Street.
- 2.4 It is a complex area with varied urban design and heritage considerations and sensitive interfaces. Further, its various neighbourhoods have differing land use roles, building styles and streetscape characteristics.
- 2.5 The *St Kilda Road South Precinct Urban Design and Land Use Framework* (November 2015) was developed to provide a strategic basis for comprehensive revised planning policy



and controls that respond to this changing development context and to guide future development.

- 2.6 Two stages of consultation occurred during the preparation of the Framework. They included direct notification to property owner /occupiers in the Precinct and adjoining 'interface' areas. Stage 2 consultation invited comments on detailed land use and built form controls. Submissions were heard by Council and changes made to the Framework in response.

Amendment C122 – Implementing the St Kilda Road South Framework

- 2.7 C122 provides for the statutory implementation of the *St Kilda Road South Land Use and Design Framework* through:
- Revising the Municipal Strategic Statement (to reflect the strategic directions for the St Kilda Road South Precinct and guide changes in land use).
 - Introducing Schedule 27 to the Design and Development Overlay (DDO) to establish design objectives and requirements for new development.
 - Rezoning selected areas from a commercial to mixed use zones to facilitate future residential use.
 - Applying new individual Heritage Overlays to selected properties in Wellington Street.
- 2.8 Interim planning controls (which implement building heights and footpath overshadowing controls only) for the Precinct were introduced on 6 April 2017 and will expire on 31 December 2017. A request to extend these controls is proposed to be included in the report to Ordinary Council in September 2017 which considers adoption of the permanent controls.
- 2.9 C122 was placed on exhibition, with submissions considered and referred to an independent Planning Panel in line with the *Planning and Environment Act 1987*. A detailed chronology of the amendment process to date is provided in Attachment I.
- 2.10 The Panel heard submissions over six days between 21 March and 28 April 2017. Land owner interests made up the majority of parties appearing before the Panel. A number of residents and community groups also made representations and participated in the hearing.
- 2.11 The Panel Report was publicly released on 17 July 2017.
- 2.12 At this phase of the C122 planning scheme amendment process, Council must consider the Panel's recommendations and decide whether to adopt the Amendment (with or without changes) or abandon it.
- 2.13 Council must consider but is not obliged to accept the recommendations of the Panel in relation to Amendment C122. If Council decides not to accept one or more of the Panel's recommendations it must however provide its reasons to the Minister for Planning.



3. KEY INFORMATION

Council's position at the Panel hearing and key issues raised by submitters

- 3.1 Council's submission to the Panel was prepared by officers, based on the position endorsed at the Ordinary Council meeting on 1 February 2017.
- 3.2 The main points of contention among the parties were building height, and use of mandatory or discretionary controls. Residents and community groups were in favour of lower building heights and use of mandatory controls to provide certainty, whereas land owners with development interests argued that higher heights were more appropriate and discretionary controls would optimise the design response to the individual site conditions.

Panel findings and recommendations

- 3.3 In summary, the Panel recognised that Amendment C122 is necessary in order to provide greater guidance about the scale and design of future development, and recommended that it be adopted subject to changes. Their full report is provided at [Attachment 2](#).
- 3.4 Key aspects of Amendment C122 which were supported by the Panel include:
- The overall land use outcomes, design intent and design objectives, which have informed the management of scale and form of new development.
 - The consideration of residential interfaces in the Precinct and the transition in scale to surrounding residential areas.
 - Building heights generally along the eastern side of St Kilda Road and in Wellington Street (noting the Panel did not support the proposal for mandatory controls on the north side of Wellington Street).
 - Building heights around Alma Road and mandatory setbacks to protect the prominence of the Presbyterian Church (although the Panel did not support mandatory heights in this location).
 - The street-wall requirements and upper level setbacks for the majority of the Precinct.
 - The application of a new Heritage Overlay to six properties in Wellington Street (noting two additional properties were not supported).

Commentary on the findings of the Panel

Approach to growth

- 3.5 While the Panel supported the overall objectives of the Framework, their overall view is that the Precinct has a strategic role to support growth and intensification, and that the emphasis on managing 'development pressure' has led to overly restrictive built form requirements. Ultimately, they concluded that this approach does not recognise the reality of recent development nor optimise the opportunity presented for urban renewal, particularly on the western side of St Kilda Road.
- 3.6 The Panel supported development at a somewhat greater scale in parts of the Precinct, but not to the extent sought by some submitters.



- 3.7 The Panel's approach emphasises new development responding to the St Kilda Road context, rather than the residential interfaces. In contrast, the approach of C122 was to respond to the Precinct's highly varied built form and land use context, site characteristics (including site size and depth), and sensitive residential interfaces in the adjoining areas.
- 3.8 The Precinct does provide opportunities for urban renewal and intensification within an accessible and well-serviced part of Melbourne, albeit at a different scale than was sought by some development interests.

Urban structure and building heights

- 3.9 The Panel supported the overall urban structure for the Precinct which underpins the DDO, but questioned how it has been translated into built form provisions.
- 3.10 It supported design objectives that seek to:
- Contribute positively to the amenity, vibrancy and preferred built form character of each neighbourhood.
 - Strengthen the boulevard character of St Kilda Road.
 - Reinforce the topographic high point of St Kilda Hill, and St Kilda Junction as the entry point to the Precinct and the transition point to St Kilda Road North with a defined cluster of higher scale buildings at the Junction and the crest of St Kilda Hill.
 - Achieve a transition down in scale to established residential areas.
- 3.11 However, they ultimately considered that development of a consistent scale on both sides of St Kilda Road is neither practical nor necessary to achieve a cohesive boulevard given the width of the road.
- 3.12 In terms of building heights, the Panel recommended increased building heights around the Junction and St Kilda Hill where higher scale development has already occurred and to create a strong urban form in these locations. Additionally the Panel supported increased heights to emphasise the corners in the Precinct such as Inkerman Street, Alma Road and Carlisle Street – stepping down in height travelling south down St Kilda Road.
- 3.13 The Panel considered the 4 to 6 storey heights proposed for the western side of St Kilda Road somewhat low given the St Kilda Road context. However it supported the 4 to 6 heights along the eastern side of St Kilda Road and on the north side of Wellington Street (but recommended a change from mandatory to discretionary heights.)

Integration of the planning for the Precinct with its hinterland

- 3.14 The Panel expressed concern about the integration of planning for the Precinct with its hinterland. The Panel considered that development outcomes for the western side of St Kilda Road (south of Waterloo Crescent) and the residential land to the west may be compromised by the boundaries proposed for the Precinct. It also considers that land at the eastern end of Waterloo Crescent should be removed from DDO27.
- 3.15 It is noted that detailed analysis of the residential areas to the immediate west of St Kilda Road was undertaken. These areas are well established fine grain residential areas



which, without significant intervention, have limited redevelopment potential. However, it is anticipated that the zoning of parts of these areas will be further reviewed during the development of the Housing Strategy.

- 3.16 The Framework was developed through detailed analysis and consideration of the wider surrounding area and reflects these broader considerations through:
- Built form policy relating to the sensitive residential interface areas.
 - Built form policy which considers the scale and form of development sought in adjoining areas under existing DDOs.
 - Design objectives based on respecting the scale of development on the opposite side of the street (in the case of both Wellington Street and Carlisle Street).
 - Definition of green links which connect the Precinct to nearby open spaces and activity centres.

Mandatory versus discretionary controls

- 3.17 The community supports the use of mandatory provisions because they provide greater certainty, particularly regarding overall building heights, however developer/landowner interests contend that discretionary / performance based controls provide the flexibility to achieve better outcomes. The building heights proposed by C122 are mainly discretionary except for Wellington Street and around the Presbyterian Church.
- 3.18 While the Panel stated that '*generally, the Amendment is balanced in its proposed use of mandatory controls*', in practice it did not support the application of mandatory building heights (proposed in Wellington Street and in the vicinity of the Church). However, it did support mandatory setbacks to protect view lines to the church, and a mandatory street wall height, and zero front setback for a small area of the eastern side of St Kilda Road to reinforce the heritage elements of the streetscape.

Impacts of changes to the Residential Zones

- 3.19 An additional complexity in considering and finalising C122 is the inter-relationship with the residential zones. Two issues have created this complexity:
- Significant changes were made to the residential zones through state-wide Amendment VC110, introduced during the Panel Hearing stage; and
 - Amendment C123 which proposes to apply the new residential zones across Port Phillip (proposed before recent changes) is still outstanding at this point in time.
- 3.20 Key changes to the residential zones included:
- Increasing the overall mandatory height of the Neighbourhood Residential Zone (NRZ) from 8 metres to 9 metres (but retaining a two storey height limit).
 - Removing the density limit from the NRZ.
 - Changing the maximum height in the General Residential Zone (GRZ) from a discretionary 9 metres height to a default mandatory height of 11 metres (but with a maximum of 3 storeys) that can be varied upwards with the use of schedules.
 - Including a 'Garden Area' requirement in both the NRZ and the GRZ for lots over



400 square metres.

- 3.21 One of the principal issues of VCI 10 for C122 is that height limits in the GRZ that were intended to be discretionary would become mandatory in the GRZ. This includes:
- Parts of Carlisle Street;
 - The Western side of St Kilda Road at Waterloo Crescent;
 - The southern side of Charles Street; and
 - Between Carlisle and Vale Streets.
- 3.22 This would undermine the intent of the discretionary controls in these locations, which was to provide flexibility where a residential site is incorporated into a development parcel fronting St Kilda Road.
- 3.23 The Panel suggested that an additional 1 to 2 storeys should be added to account for the change from discretionary to mandatory, and that Council should consider increasing its application of the Residential Growth Zone (which does not set a mandatory height). It is noted that the latter will need to be considered as part of the development of a new Housing Strategy.

Key Panel recommendations and detailed officer response

- 3.24 A detailed officer response to the Panel's recommendations is provided at Attachments 4 and 5. The Panel's recommended changes and officer responses have been spilt into:
- Precinct-wide changes; and
 - Neighbourhood-specific changes focussing on building heights, street wall heights, heritage and land use.
- 3.25 The attachments provide an officer response to each of the Panel's recommendations and provides advice (and a rationale) as to whether these changes should be accepted by Council. Where appropriate, additional / alternative changes are proposed.
- 3.26 Where Council's position on changes to the amendment are not consistent with the Panel's recommendations, the rationale provided would need to be submitted to the Minister for Planning as part of the amendment approval process. This includes where Council determines to maintain the controls 'as exhibited' (ie not accept a change recommended by the Panel.)
- 3.27 The following table summarises the Panel's key recommended changes and provides a summary of the proposed officer response.



Issue	Panel recommended changes	Officer recommendations and proposed changes to Amendment C122
<p>Building heights – Overall heights</p>	<p>Increase heights at the Junction, St Kilda Hill and at key intersections as follows:</p> <ul style="list-style-type: none"> • St Kilda Hill and St Kilda Junction – increase from 10 storeys to 18 storeys. • Intersection of St Kilda Road and Alma Road – increase from 8 /10 storeys to 15 storeys. • Intersection of St Kilda Road and Inkerman Street – increase from 6 storeys to 8 storeys. <p>Increase heights by 1-2 storeys along the remainder of the western side of St Kilda Road (excepting Waterloo Crescent).</p> <p>Minor increases of 0.5-1m along the eastern side of St Kilda Road, and north side of Wellington Street.</p> <p>Heights on the eastern side of St Kilda Road and Wellington Street were generally supported by the Panel.</p>	<p>Vary the Panel’s recommendation.</p> <p>See Attachment 3 for maps showing the heights that were exhibited, recommended by the Panel, and recommended by officers.</p> <p>See Attachment 5 for specific responses to heights.</p> <p>Some increase to height is supported at the Junction and St Kilda Hill, to respond to recent development, however not to the heights or extent proposed by the Panel.</p> <p>In some locations adjacent to the increased heights, the exhibited heights have been maintained (eg 10 storeys adjoining 18 storeys) to ensure development further steps down to adjoining lower scale areas in the Precinct and in neighbouring residential areas.</p> <p>An increase in heights at the intersections of St Kilda Road, and Inkerman Street, and St Kilda Road and Alma Road is supported, to emphasise these key ‘corners’ in the Precinct.</p> <p>Increases in heights on the western side along St Kilda Road are not supported. The Panel’s recommendations do not recognise the residential hinterland in this location, and that transitional heights are required to be provided to sensitive interfaces of heritage or residential properties.</p>
<p>Additional criteria to guide discretionary heights</p>	<p>Include a requirement which allows for the consideration of one or two additional storeys above the preferred height, where the applicant demonstrates specific criteria will be achieved, including:</p> <ul style="list-style-type: none"> • The vision and objectives for the Precinct • Exemplary quality design • Results in specific design benefits • Facilitates community benefits such as public open space, or affordable housing • Does not have adverse impacts on the streetscape, heritage values, the public realm or the amenity of adjoining properties. 	<p>Vary the Panel’s recommendation.</p> <p>The inclusion of additional criteria which ensure that, where discretionary heights apply, increases in height should be limited to 1-2 storeys and must meet stringent criteria is strongly supported.</p> <p>Strengthening and limiting the extent of discretion for discretionary building heights to <u>only</u> one or two storeys is supported.</p> <p>While the provision of community benefits is supported in principle, it was not exhibited as part of the Amendment and has not been adequately defined. Officers do not support the inclusion of this clause, with legal advice also indicating this position.</p> <p>The Panel’s proposed wording however is vague. It is recommended more specific matters are identified such as limiting overshadowing of adjoining residential areas and addressing the impacts of building bulk. Specific wording is provided in Attachment 4.</p>



Issue	Panel recommended changes	Officer recommendations and proposed changes to Amendment C122
<p>Consistent approach to building heights</p>	<p>Align the preferred maximum building height in metres and storeys in all the mixed use and commercial zoned areas of the Precinct as follows:</p> <ul style="list-style-type: none"> • 3 storey height should be increased to 10.5 metres; • 4 storey height should be increased to 14 metres; • 5 storey height should be increased to 17.5 metres; and • 6 storey height limit should be increased to 21 metres. 	<p>Accept the Panel's recommendation.</p> <p>Updating the heights to reflect commercial / retail floor to ceiling heights is supported.</p> <p>However, it is recommended that a further increase of 0.5m is included for each height. This would accommodate an average 4m ground floor commercial use with 3.5m upper levels.</p>
<p>Heights in land prone to flooding</p>	<p>In DDO27 include a provision to allow an increase in overall heights and street wall heights where land is within the Special Building Overlay (SBO) or is subject to inundation. This increase should equal the minimum floor level determined by the relevant drainage authority or floodplain management.</p>	<p>Accept the Panel's recommendation.</p> <p>This proposal is supported.</p> <p>An additional assessment criterion could be added to the DDO to allow consideration of additional height where sites are within the SBO or subject to inundation.</p> <p>The SBO only affects a small part of the Precinct. As mandatory controls do not apply in these locations, the criterion is not strictly required. However it will assist assessing any proposed increases in discretionary heights which may be needed to address the SBO.</p>
<p>Changes to heights for properties in a Residential Zone</p>	<p>For properties in the GRZ (where the maximum height has now changed from a discretionary height to a mandatory height):</p> <ul style="list-style-type: none"> • Change the schedule to the GRZ to specify a mandatory height that is greater than the preferred maximum height identified in the Amendment (eg an additional two storeys above the proposed discretionary height.); and • Include the preferred maximum building height in DDO27 (or in the GRZ character statement and decision guidelines). 	<p>Vary the Panel's recommendation.</p> <p>The Panel's solution, to apply a mandatory height through the zone and recommend a preferred height through the DDO, would operate in a similar fashion to existing DDOs, with a 'preferred' height and an 'absolute maximum' height.</p> <p>This approach is not supported. It is not a contemporary approach to writing controls. For example in a recent review of DDO1, which applies to Port Melbourne, the concept of 'absolute' and 'preferred' heights was removed as developers as the absolute height becomes the default.</p> <p>Additionally the approach is not clear and could be confusing having different heights in different parts of the Scheme.</p> <p>Along Carlisle Street, it is proposed to apply a mandatory height in the Schedule to the GRZ that is one storey higher than exhibited to allow for an additional level of built form which may have been permitted under the discretionary height.</p> <p>In other locations, given the site sizes and their abuttal to sensitive residential interfaces, it is proposed to retain the height proposed under the discretionary control and convert it to a mandatory control at the same height. For example a 4 storey discretionary control becomes a 4 storey mandatory control.</p>
<p>Visual cohesion across St Kilda Road</p>	<p>In the objectives, remove references to 'visual cohesion between the east and west side of St Kilda Road'.</p>	<p>Vary the Panel's recommendation.</p> <p>Retain the objective seeking visual cohesion but clarify that this will be achieved through street wall heights and upper level setbacks on opposite sides of St Kilda Road rather than from consistent overall building heights.</p>



Issue	Panel recommended changes	Officer recommendations and proposed changes to Amendment C122
<p>Street walls</p>	<p>Change the mandatory street wall requirements to discretionary, except in Area 2D (between Charnwood Road and Charnwood Crescent).</p> <p>In Area 2D increase the street wall height from 10m to 11m (3 storey) or the verified height of the heritage buildings including parapets.</p> <p>Change mandatory 5 metre upper level setbacks to a discretionary requirement.</p>	<p>Vary the Panel's recommendations.</p> <p>The Panel's recommendation to change the street wall requirements from mandatory to discretionary controls are supported, except Area 2D as recommended by the Panel and in Wellington Street.</p> <p>The Panel's recommendation to increase street walls, including parapets, to 11m is supported as it would provide for generous floor to ceiling heights allowing access to daylight without compromising the human scale that is sought.</p>
<p>Overshadowing of footpaths</p>	<p>Remove all overshadowing of footpath requirements from DDO27</p>	<p>Not accept the Panel's recommendation.</p> <p>The majority of overshadowing requirements are discretionary and at the Equinox. Noting - Mandatory equinox controls are proposed for Wellington Street and Carlisle Street.</p> <p>Equinox controls, which are less restrictive than solstice controls, are proposed, and should be retained to protect key pedestrian routes identified in the Framework, including the eastern side of St Kilda Road, Wellington Street, Carlisle Street, Alma Road and Inkerman Street.</p>
<p>Application of new Heritage Overlays</p>	<p>Remove 17-17A Wellington Street, St Kilda (proposed HO490) and 59-59A Wellington Street (proposed HO496) from the proposed Heritage Overlay.</p>	<p>Not accept the Panel's recommendation.</p> <p>The recommendation to remove these properties is not supported. Both properties are considered significant heritage places and should be protected.</p> <p>Both inclusion of both properties was supported by Council's independent heritage expert and are identified as individually significant properties.</p>
<p>Building separation</p>	<p>Undertake further evaluation of the implications of the building separation/side and rear setbacks provision.</p>	<p>Accept the Panel's recommendation.</p> <p>Officers have assessed this further since receiving the Panel's recommendation and maintain the need for mandatory building separation / side and rear setback provisions, as exhibited.</p>
<p>Floor to ceiling heights for car parking</p>	<p>Reduce the car parking height under adaptable buildings from 3.5m to 2.7m floor to ceiling height.</p>	<p>Vary the Panel's recommendation.</p> <p>Amend the requirement to require that the height of floor accommodating car-parking match the height of other uses on the same level (creating a level floorplate).</p>
<p>Consistency with other strategic planning work</p>	<p>Apply consistent principles across the Amendment, Amendment C123 and the Review Areas in the proposed future comprehensive review of the Residential Zones.</p> <p>This should include consideration of locations in the Precinct where the RGZ may be appropriate.</p>	<p>Noted.</p> <p>No change to the Amendment required.</p> <p>The application of Council's residential zones has been guided by criteria, consistent with its adopted Housing Strategy.</p> <p>Application of the RGZ is not supported at this stage as this is inconsistent with Council's approach to the New Residential Zones proposed through Amendment C123. These areas could be reviewed with the other 'Review Areas' as part of the development of the Housing Strategy.</p>



Issue	Panel recommended changes	Officer recommendations and proposed changes to Amendment C122
	Review the extent, the appropriate zoning and the management or mitigation of impacts for the hinterland areas of the Precinct's St Kilda Road West Neighbourhood (south of Alma Road) in Council's proposed 'Review Areas' work.	<p>Noted.</p> <p>No change to the Amendment required.</p> <p>Council will take the nominated Review Areas into consideration during the development of the Housing Strategy.</p>

Drafting issues

- 3.28 In addition to the specific changes to provisions identified above and detailed in Attachments 4 and 5, the Panel recommended some changes to the drafting of the planning controls, including:
- Revising Schedule 27 to the Design and Development Overlay (DDO) to reduce the number of objectives, and remove generic guidance and policy addressed elsewhere in the planning scheme.
 - Re-drafting the exhibited Clause 21.06-6 (St Kilda) strategies relating to the Precinct to provide more succinct overarching guidance with more specific provisions located solely in the DDO.
 - Adopting the Framework as a reference document in the Port Phillip Planning Scheme, with a qualifying statement on the document to indicate the provisions implemented in the planning scheme contain significant modifications.
- 3.29 Revised planning controls have been included at Attachment 6. (The Reference documents are at Attachment 7.)
- 3.30 The DDO has been revised to make it more succinct and reduce repetition while maintaining the overall 'intent' and 'effect' of the control. This has been achieved by:
- Deleting some Precinct-wide objectives where they repeat content in a Neighbourhood-specific objective or vice versa (whilst ensuring the content is retained).
 - Rewriting the Preferred Character Statements as Neighbourhood-specific objectives.
 - Combining objectives to reduce repetition or where the detail is addressed in a 'Requirement'.
 - Combining and moving a number of Neighbourhood-specific requirements into Precinct-wide Requirements to reduce repetition (eg requirements addressing front setbacks, fine grained character, upper level setbacks.)
 - Including new maps showing overall building heights in the Neighbourhood-Specific Requirements.
- 3.31 An addendum to the Framework will be prepared to highlight the changes between the adopted Framework and the final planning controls.
- 3.32 The planning controls need to comply with a Ministerial Direction which guides the format of planning controls. The *Ministerial Direction on the Form and Content of Planning*



Schemes was recently approved and introduced on 24 May 2017.

- 3.33 The Ministerial Direction includes a requirement that a maximum of five objectives may be included in a DDO. Currently DDO27 contains a significant number of Design Objectives, including Precinct-wide, Neighbourhood and General Design Objectives.
- 3.34 The DDO was prepared, authorised, exhibited and considered by a Planning Panel prior to the approval of the new Ministerial Direction.
- 3.35 While officers have sought to simplify the DDO and reduce the number of objectives, compliance with the Direction would undermine due process as third parties would not have an opportunity to provide comment. A recommendation has been included to request Minister for Planning disregard the Ministerial Direction based on the significant progress of the amendment prior to gazettal of the Direction.

Issues outside the planning scheme

- 3.36 The Panel made comment on several issues which were outside the planning scheme but were included in the Framework and raised by submitters, including opportunities for public realm and movement and access improvements that will further enhance the identity and function of the Precinct.
- 3.37 While C122 implements the land use and built form elements set out in the Framework, many of the public realm and transport initiatives will be implemented through a range of other programs and initiatives of the Council outside the Planning Scheme, including through:
- Council Programs and Services.
 - Council's Capital Works Program – Council's 10 Year Plan and Annual Program.
 - Partnerships – with State Government agencies, key land owners, service providers and community organisations.

Public realm improvements

- 3.38 Public realm improvements were raised by several individual submitters and the CAPP community group during the submission process and at the Panel Hearing. In particular, the submitters raised the need to embrace opportunities for pedestrian overpasses and pathways and provide a clear investment strategy for the location of open space throughout the Precinct and hinterland, including the rezoning of the Waterloo Crescent embankment to public purposes.
- 3.39 The Framework identifies a range of opportunities to improve the public realm and open space, including:
- identifying and enhancing key walking connections to existing open space, including Alma Park and Albert Park Reserve
 - improvements to existing local open spaces
 - the creation of 'pause points'
 - landscaping, pedestrian and cyclist improvements to key east-west streets.
- 3.40 It also identifies that new development presents an opportunity to achieve more consistent and well-defined streetscapes, to repair the missing 'edge' along the western



side of St Kilda Road and positively contribute to the public realm through presenting 'active' edges to the street.

- 3.41 The planning scheme provisions are directed primarily at managing development of the private realm, while being cognisant of the implications for the public realm and opportunities to improve it.
- 3.42 The Panel was satisfied that the Framework recognises the importance of supporting initiatives within the public realm. Their implementation will be need more detailed planning and community consultation, within the context provided by the Framework.
- 3.43 With regard to 'left over' area of land on the western side of St Kilda Road which resulted from the widening of St Kilda Road in the 1970s, the Panel endorses Council's intention to assess the optimum future of the underused land, either as landscaped public space or for development as part of adjoining sites. The Panel noted that the latter option may well produce a better outcome where the adjoining land has redevelopment potential and the space can contribute to creating a strong edge to the boulevard.
- 3.44 The Panel agreed with CAPP that the land at the eastern end of Waterloo Crescent presents a good opportunity for improved treatment of the public space, but found that rezoning to public use is not necessary to achieve that outcome – it is common practice to include small public open spaces in the zone that applies to the surrounding land.
- 3.45 The Panel did not agree with the submitters that specific reference in the Amendment to the option of an elevated pedestrian link at Waterloo Crescent is justified. The Panel considered the viability of an overpass, should be part of a wider public realm study.
- 3.46 At its Ordinary Meeting of 1 February 2017, Council resolved to undertake a Public Spaces and Linkages Opportunity Study for the Precinct. The project will commence this financial year. It will review the proposed public realm interventions in the Framework, including refining the future use outcomes for the left over spaces from the road widening, identifying how to achieve the green links identified in the Framework and identifying if there are any additional opportunities for water sensitive urban design within the precinct and adjoining areas. Outcomes of the study will provide an input for the city-wide Public Spaces Strategy.

Transport and car parking

- 3.47 Submitters raised concerns about the impacts of increased traffic from new development on local roads, the need to ensure adequate car parking is provided within new developments and added pressure on an already crowded public transport system. The ability to cross St Kilda Road was also highlighted as an issue.
- 3.48 A Transport and Parking Capacity and Demand Study was undertaken to inform the Framework, recognising that as development density increases, that the impacts on public transport, traffic and parking need to be considered and effectively managed.
- 3.49 The DDO seeks to ensure that vehicle access is provided to the side or rear of lots, wherever possible. This is partly to ensure that the design of new development makes a positive contribution to the street rather than being dominated by car parking access points. Ideally access would be provided at the nearest lane or other main roads such as Alma Road, Inkerman and Carlisle Streets, rather than St Kilda Road.



- 3.50 The Transport and Parking Study considered that this will have a limited impact on local streets, mostly being contained to peak hour. Vehicle access arrangements are carefully considered, looking at multiple access points so that traffic generation does not concentrate in one particular side street. Drivers accessing driveways in side streets generally approach these access points at a slower speed, which is a safer arrangement for pedestrians.
- 3.51 It should be noted that the implementation of traffic calming measures identified within the Framework, will be through Council's Capital Works Program and subject to available budget.
- 3.52 The Panel was satisfied that the Framework was informed by analysis of the implications of more intensive development for each mode of transport and parking.
- 3.53 Many of the initiatives to address transport issues sit outside the purview of the planning scheme and the Amendment.
- 3.54 Based on its view that further planning of the residential hinterland to the west of St Kilda Road should be undertaken by Council, the Panel considered that any review should also consider traffic management issues. It commented that this work should consider permeability of the area and access to properties.
- 3.55 The Panel also commented that the constraints of the Precinct and its surrounding area (e.g. access and parking requirements) may temper the amount of development that could occur.
- 3.56 The Panel accepted the proposed car parking rates included in proposed planning policy in C122 (which were not challenged at the Hearing). However, considers a more consistent approach to parking rates across the municipality or activity centres / zones should be developed and implemented, rather than the area-specific approach proposed.

Loss of private views

- 3.57 Whilst it is understood that views are important to residents, case law has established the principle of 'no right to a view'.
- 3.58 The Panel agreed with Council's response to submitters' concerns about the loss of private views from their properties and a consequent devaluation of property.

Next steps / options in the process

- 3.59 At this stage in the amendment process, the *Planning and Environment Act 1987* sets out the following options for Council as the Planning Authority:
- Option 1: Adopt Amendment C122 without changes (as exhibited).
 - Option 2: Adopt Amendment C122 with changes (based solely or partially on the recommendations of the Panel).
 - Option 3: Abandon Amendment C122.
- 3.60 Option 1 is not recommended. In the absence of a balanced consideration of the exhibited Amendment and the Panel's recommendations, the Minister is likely to accept the Panel's recommendations.
- 3.61 Option 2 is recommended. Overall, the Amendment (with the recommended officer changes post exhibition) is considered to provide an appropriate balance between



providing development opportunities and protecting the sensitive residential interfaces. This aims to achieve the best overall design outcomes for the Precinct.

- 3.62 Option 3 is not recommended. The Amendment will establish planning controls to offer greater certainty and guide future development in the Precinct. Abandoning the Amendment would result in the absence of local policy and updated and detailed planning controls for the Precinct – especially after 31 December 2017 when interim controls lapse.
- 3.63 Should Council choose to adopt C122 (as exhibited or with changes), it will need to submit a request for approval of the Amendment to the Minister for Planning. The Minister may determine to approve C122 as adopted by Council (or with changes) or may refuse the Amendment altogether.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 Implementation of the *St Kilda Road South Urban Design and Land Use Framework* through Amendment C122 will contribute to Council Plan Outcome 4.1 – ‘Liveability in a high density city’, by managing intensification of land use in the context of the varying development opportunities and constraints across each part of the Precinct.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 On-going community engagement has been an integral part of the development of St Kilda Road South Framework. ‘Stage 1’ community consultation provided for input on local issues at an early stage in the project. The draft Framework responded to these key issues.
- 5.2 In June-July 2015, community and stakeholder consultation occurred as part of a five week ‘Stage 2’ consultation process on the draft Framework. Submitters were heard by Council in October 2015 and Council considered changes to the Framework and adopted it in November 2015.
- 5.3 Amendment C122 was placed on public exhibition between 8 August and 12 September 2016, in accordance with the requirements of the *Planning and Environment Act 1987*.
- 5.4 A comprehensive public exhibition / consultation process was undertaken to ensure wide community awareness of Amendment C122 and enable feedback through submissions. Exhibition of the Amendment involved:
- Direct notification (letter) to approximately 4,200 owners and occupiers within and adjoining the Precinct, inviting interested stakeholders to lodge submissions with Council.
 - Direct notification (letters) to prescribed Ministers, local members of Parliament, community groups, historical societies, the National Trust, the City of Melbourne, relevant government agencies, and infrastructure providers.
 - Public Notices in the Port Phillip Leader and the Government Gazette.
 - Availability of amendment documentation and supporting information on Council’s website. This included an interactive map showing the proposed changes to properties. Amendment documentation was also provided on the State Government’s Planning Amendments Online website.
 - Display of information folders at Council ASSIST centres and libraries in Port Melbourne and St Kilda.
 - A drop-in session was held on 1 September 2016 at St Kilda Town Hall providing the opportunity for interested persons to speak to a planner one on one.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Amendment C122 has been carried out in accordance with the legislative requirements of the *Planning and Environment Act 1987*. This has provided interested and affected parties with the opportunity to make submissions to Council and independent planning



panel.

- 6.2 Amendment C122 will be submitted to the Minister for Planning for final approval, with the Minister having the discretion to make changes to Council's adopted amendment.
- 6.3 A detailed rationale which justifies Council's position on the final form of Amendment C122, including where any of the Panel's recommendations have not been accepted, has been developed. This rationale will be submitted to the Minister for Planning to support the Amendment as adopted by Council.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 Implementing the St Kilda Road South Framework and Amendment C122 will contribute to environmental sustainability through facilitating active transport choices by residents and workers in the Precinct, directing housing growth to an area that is well serviced by public transport and promoting buildings that incorporate environmentally sustainable design features.

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 Amendment C122 provides for housing growth and diversity, and ensures that new development makes a positive contribution to the public realm. It also seeks to protect the existing amenity of the area and ensure a high level of internal amenity for new dwellings constructed in the Precinct.
- 7.2.2 The Framework also focusses on improving the walkability of the Precinct, and connections to nearby activity centres, open spaces and community facilities will support an active, healthy and well-connected community.

7.3 ECONOMIC IMPLICATIONS

- 7.3.1 Amendment C122 will introduce planning controls which provide more certainty to landowners and development interests to assist in investment decisions.
- 7.3.2 The future directions for the St Kilda Road South Precinct includes building on its role as a 'niche' retail and business cluster, and promoting active land uses at street level (such as shops and cafes) to increase the vitality of the area.

7.4 FINANCIAL IMPLICATIONS

- 7.4.1 The major costs associated with Amendment C122, being the public exhibition and Panel hearing processes, were incurred in the 2016/17 financial year.
- 7.4.2 A statutory fee is payable to the Department of Environment, Land, Water and Planning with any request for approval of the Amendment.



8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

- 8.1.1 If Council decides to adopt Amendment C122, the Amendment will be submitted to the Minister for Planning for approval within 10 business days.
- 8.1.2 The Minister is required to make a decision on the Amendment within 40 business days of the date the Amendment was adopted (pursuant to Ministerial Direction 15).

8.2 COMMUNICATION

- 8.2.1 All submitters will be advised of Council's decision at this meeting and will continue to be informed of the progress of Amendment C122. If approved by the Minister, submitters will be directly advised and the wider community informed through Council's Divercity publication.
- 8.2.2 The key messages:
- Amendment C122 will establish updated planning parameters to guide future redevelopment of the St Kilda Road South Precinct.
 - Amendment C122 and the *St Kilda Road South Urban Design and Land Use Framework* have undergone significant consultation to ensure community and developer interests have been considered.
 - The Independent Planning Panel has recommended Amendment C122 be adopted, considering that the amendment is required to provide greater guidance about the scale and design of future development.
 - The Panel has generally supported the design objectives and requirements of the exhibited Amendment (and subsequent changes proposed by Council). However, it considers building heights at the Junction, St Kilda Hill and other prominent corners are too low, and does not support building heights and street wall requirements being expressed as mandatory controls.
 - Changes made to the amendment have responded to the community and land owner submissions and have considered the recommendations of the independent Planning Panel.

9. OFFICER DIRECT OR INDIRECT INTEREST

- 9.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.