

Planning and Environment Act 1987

Panel Report

Darebin Planning Scheme Amendment C161

Fairfield Village

3 December 2018

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Darebin Planning Scheme Amendment C161

Fairfield Village

3 December 2018

A handwritten signature in black ink, appearing to read 'Tim Hellsten', with a stylized flourish at the end.

Tim Hellsten, Chair

Contents

	Page
1 Introduction.....	1
1.1 The Amendment.....	1
1.2 The subject land	2
1.3 Background to the Amendment.....	3
2 Approach of the Panel and issues	6
2.1 Preliminary matters.....	6
2.2 Amendment VC148	7
2.3 Summary of issues raised in submissions	8
2.4 Matters not dealt with in this Report.....	8
2.5 Issues dealt with in this Report	9
3 Planning context	10
3.1 Policy framework.....	10
3.2 Strategies.....	12
3.3 Planning scheme provisions	16
3.4 Ministerial Directions and Practice Notes.....	17
3.5 Discussion and conclusion.....	17
4 Heritage Overlay	18
4.1 The issues	18
4.2 Context	18
4.3 Heritage values St Andrew’s Alphington and Fairfield Uniting Church	20
4.4 Heritage values of Fairfield Village.....	21
4.5 Strategic policy implications.....	27
4.6 Incorporated Plan.....	29
5 Design and Development Overlay	31
5.1 The issues	31
5.2 Does Fairfield Village have an identifiable built form character?.....	32
5.3 Strategic policy implications.....	35
5.4 Design objectives and relationship to the Heritage Overlay	37
5.5 Building height.....	39
5.6 Valued Street facades.....	41
5.7 Street wall and front setbacks.....	42
5.8 Side and rear setbacks.....	46
5.9 Design detail	48
5.10 Will DDO21 appropriately implement the vision for Fairfield Village?.....	48
5.11 How to take this Amendment forward	50

Appendix A	Submitters to the Amendment
Appendix B	Parties to the Panel Hearing
Appendix C	Document list
Appendix D	Council version of Design and Development Overlay Schedule 21

List of Tables

	Page
Table 1	VC148 changes 7
Table 2	Plan Melbourne Outcomes, Directions and Policies 12
Table 3	Incorporated Plan changes..... 30
Table 4	Building height requirements..... 39
Table 5	Street wall and front setback requirements 43

List of Figures

	Page
Figure 1	The subject land 2
Figure 2	Darebin Housing Change Framework Map 14
Figure 3	Strategic Economic Development Framework Plan..... 15
Figure 4	Fairfield Village Heritage Precinct Map..... 19
Figure 5	DDO21 Areas 32
Figure 6	Alternate Fairfield Village DDO precincts..... 34
Figure 7	Blade recommendations for Street wall height and setbacks 43
Figure 8	Bell recommendations for street wall and setbacks..... 44
Figure 9	Rear setback requirement..... 46

List of Abbreviations

C1Z	Commercial 1 Zone
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
GRZ	General Residential Zone
HO	Heritage Overlay
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
PPF	Planning Policy Framework
PUZ4	Public Use Zone 4 (Transport)
TfV	Transport for Victoria
VCAT	Victorian Civil and Administrative Tribunal

Overview

Amendment summary

The Amendment	Darebin Planning Scheme Amendment C161
Common name	Fairfield Village
Brief description	Application of a Heritage Overlay to land within the Fairfield Village Neighbourhood Centre (HO313) and to St Andrew's Alphington and Fairfield Uniting Church (HO314). Application of a Design and Development Overlay (DDO21) to Commercial 1 zoned land within Fairfield Village Neighbourhood Centre. Correct zoning and overlay anomalies. Make consequential policy changes and corrections. Introduce a new Incorporated Plan and reference document.
Subject land	Land located in Fairfield Village Neighbourhood Centre, namely: <ul style="list-style-type: none"> • 66 – 152 and 75 – 157 Station Street, Fairfield • 1 - 31 and 36 Railway Place, Fairfield • 254 – 294 Wingrove Street, Fairfield • 41 Hanslope Avenue, Fairfield (Fairfield Railway Station and surrounding reserve) • 50, 61, 85-87 Gillies Street, Fairfield • 86 Arthur Street, Fairfield.
The Proponent	Darebin City Council
Planning Authority	Darebin City Council
Authorisation	30 April 2018
Exhibition	15 May to 18 June 2018
Submissions	Number of Submissions: 11 (including late submission) Number of submissions opposed: 7 Submitters are listed in Appendix A

Panel process

The Panel	Tim Hellsten
Directions Hearing	Council Chamber, 350 High Street, Preston 22 August 2018
Panel Hearing	Planning Panels Victoria, 15 – 17 October 2018
Site inspections	Unaccompanied, 22 August 2018
Appearances	Refer Appendix B
Citation	Darebin PSA C161 [2018] PPV
Date of this Report	3 December 2018

Executive summary

(i) Summary

The Fairfield Village is located along Station Street, Wingrove Street and Railway Terrace, Fairfield in the south-east of the City of Darebin.

Fairfield Village is a vibrant, well performing neighbourhood activity centre focused along Station Street and around Fairfield Station. The Fairfield Village commercial area displays an eclectic mix of building styles, but with a predominance of modest inter-war period, one and two storey buildings. The subdivision pattern of narrow lots and lack of vehicle crossing points provides for continuity of fine-grain built form that provide a strong built form setting to the Centre. The Fairfield Village shopping area has a distinct edge and abuttal to residential areas generally characterised by detached single storey dwellings set within landscaped gardens. St Andrew's Alphington is located in this residential area.

This built form character provides the setting for Fairfield Station, the associated station forecourt, St Paul's Anglican Church and community centre which together establishes a strong sense of community focus and activity.

Fairfield Village is identified in Council's retail hierarchy as a Primary Neighbourhood Activity Area and one of the focus points for commercial activity and substantial housing change in the municipality. The residential area adjoining the village shopping area is generally identified for incremental housing change, although areas to the south of the precinct are identified for substantial housing change. There is evidence of this emerging character appearing in response to state and local planning policy through the recent development of four and five storey mixed use buildings, generally clustered to the south of the station.

Darebin Planning Scheme Amendment C161 (the Amendment) seeks to apply two Heritage Overlays as identified in the *Fairfield Village Heritage Assessment, 2017*, one to a portion of the Fairfield Village (HO313), and the other to St Andrew's Alphington and Fairfield Uniting Church (HO314) in Gillies Street, Fairfield. An updated Incorporated Plan is proposed to be introduced to extend a range of planning permit exemptions to the Fairfield Village precinct, Fairfield Station and St Andrew's Church.

The Amendment proposes to apply a Design and Development Overlay (DDO21) to the Fairfield Village precinct which encompasses all Commercial 1 zoned land and the Fairfield Railway Station. The proposed application of DDO21 is supported by the *Fairfield Village Built Form Design Guidelines* to be introduced as a background document (reference document).

In addition, the Amendment makes related policy changes and corrects a zoning and overlay anomaly.

Following exhibition of the Amendment, 11 submissions were received. The key issues raised in submissions related to:

- the application and extent of HO313 including its application to non-contributory buildings
- the application of HO314

- the extent and provisions of DDO21 in terms of height and setbacks provisions and identification of valued street facades
- impact of controls on property values and development opportunity.

The Panel considered all submissions as well as heritage and urban design evidence in reaching its conclusions.

Overall, the Panel concludes:

- that there is discernible and tangible heritage value within the Fairfield Village heritage precinct that warrants the application of HO313
- the application of HO314 to St Andrew's Alphington and Fairfield Uniting Church is sound and reflects the identified heritage values of the place
- DDO21 is an appropriate tool to respond to the identified built form character values of Fairfield Village and works and compliments the application of HO313
- DDO21 as exhibited however, requires substantial redrafting and modification to ensure it can operate effectively to achieve Council's broader objectives for Fairfield Village
- subject to changes to DDO21, the Amendment provides an appropriate balance between recognising, protecting and enhancing the heritage and built form values of the Fairfield Village precinct while ensuring the centre can play its identified strategic role as a substantial housing change area and in accommodating economic activity.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Darebin Planning Scheme Amendment C161 be adopted as exhibited subject to the following:

1. **Review the *Fairfield Village Heritage Precinct Statement of Significance* before finalisation of the Amendment.**
2. **Amend the City of Darebin Heritage Study Incorporated Plan - Permit Exemptions (2011, amended 2018) as shown in Table 3.**
3. **Substantial redraft DDO21 based on the version in Appendix D and the Panel's suggested changes identified in Chapter 5.**
4. **Amend the *Fairfield Village Built Form Design Guidelines, 2017* to align with the final form and content of DDO21.**

1 Introduction

1.1 The Amendment

Amendment C161 to the Darebin Planning Scheme seeks to implement the *Fairfield Village Heritage Assessment, 2017* (Heritage Assessment) and apply the *Fairfield Village Built Form Guidelines, 2017* (Built Form Guidelines) within the Fairfield Village precinct through the application of two Heritage Overlays and a Design and Development Overlay and other consequential policy and planning scheme changes.

The Amendment as exhibited proposes to:

- amend Clause 21.02-3 (Built Environment) and Clause 21.03-2 (Housing Development) to introduce the *Fairfield Village Built Form Guidelines, 2017* as a reference document
- amend Clause 21.02-4 (Heritage) to introduce the *Fairfield Village Heritage Assessment, 2017* as a reference document
- remove Heritage Overlay No 106 (HO106) from the North and South Platform Building and Signal Box at Fairfield Station, Wingrove Street
- remove Heritage Overlay No 112 (HO112) from the right-of-way at the rear of 129-135 Station Street
- apply the Heritage Overlay No 313 (HO313) to the Fairfield Village Heritage Precinct as identified in the *Fairfield Village Heritage Assessment, 2017*
- apply the Heritage Overlay No 314 (HO314) and apply it to St Andrew's Alphington and Fairfield Uniting Church, 85-87 Gillies Street
- amend the Schedule to Clause 43.01 Heritage Overlay to delete the incorporated plan *City of Darebin Heritage Study Incorporated Plan - Permit Exemptions (2011)* and introduce a revised incorporated document *City of Darebin Heritage Study Incorporated Plan - Permit Exemptions (2011, amended 2018)*
- apply a Design and Development Overlay Schedule 21: Fairfield Village (DDO21) to land zoned Commercial 1 (C1Z) and Public Use 4 (PUZ4) within the Fairfield Village Neighbourhood Centre.

The Amendment proposes to address minor zoning anomalies and:

- rezone part of the land at 72A Station Street, Fairfield from Public Use Zone Schedule 4 (PUZ4) to Commercial 1 Zone (C1Z)
- rezone land comprising the right-of-way at the rear of 129-135 Station Street, Fairfield from General Residential Zone Schedule 2 (GRZ2) to C1Z.

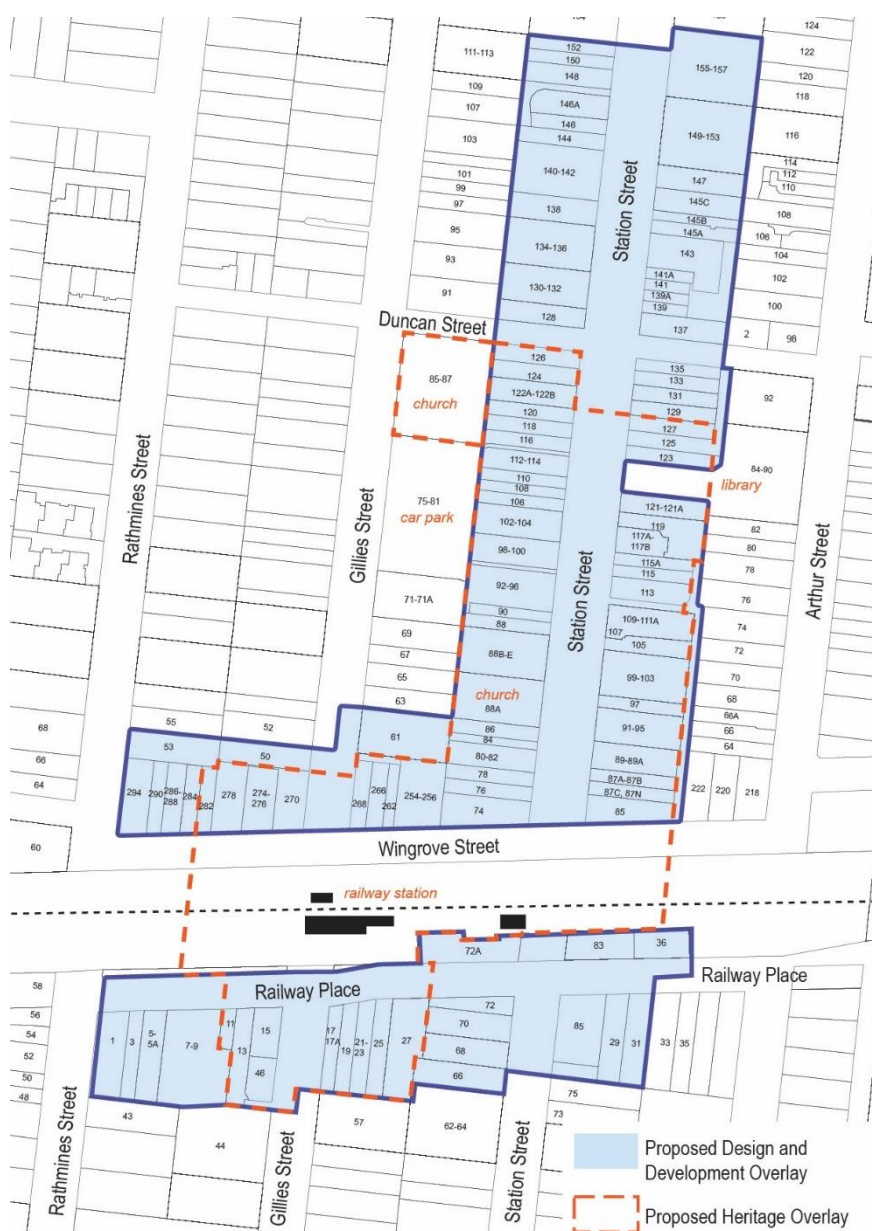
The Amendment makes related consequential changes to the Schedule to Clause 81.01 (Incorporated documents) and policy changes at Clause 21.02-3 and Clause 21.03-2 to remove reference to 'further strategic work' for Fairfield Village and to refer to the application of DDO21. The Amendment proposes to update a range of other reference document titles in Clause 21.02-3, Clause 21.02-4 and Clause 22.06 (Multi-Residential and Mixed Use Development). Clause 22.06-3.9 is amended to cross reference Clauses 58.03-2 to 58.03-4 and Clauses 58.05-1 to 58.05-4 'as applicable'.

1.2 The subject land

The Amendment generally applies to land within and adjacent to the Fairfield Village Neighbourhood Centre as shown in Figure 1, with the area shaded blue included within proposed DDO21 and the land within the dashed red line within a Heritage Overlay (HO). More specifically the Amendment applies to land at:

- 66 – 152 and 75 – 157 Station Street, Fairfield
- 1 - 31 and 36 Railway Place, Fairfield
- 254 – 294 Wingrove Street, Fairfield
- 41 Hanslope Avenue, Fairfield (Fairfield Railway Station and surrounding reserve)
- 50, 61, 85-87 Gillies Street, Fairfield
- 86 Arthur Street, Fairfield.

Figure 1 The subject land



The land affected by the Amendment has the following characteristics:

- a contained commercial precinct with a diversity of commercial land uses along Station and Wingrove Streets and Railway Terrace. These buildings display a fine-grain built form, an eclectic mix of predominantly one and two storey structures with a range of intact and moderately intact facades punctuated by more recent structures and a number of larger scale buildings representing an element of emerging change
- the Fairfield Community Centre
- the Fairfield Railway Station which has retained extensive original heritage fabric and character and has a forecourt setting to Railway Place and Wingrove Streets
- a distinct edge to the adjoining residential area which comprises a mix of period styles and more recent additions or development. St Andrew's Alphington and Fairfield Uniting Church (St Andrew's Church) sits within this residential area adjacent to the commercial precinct.

1.3 Background to the Amendment

(i) Development of Fairfield Village Heritage Assessment and Built Form Guidelines

Council in its Part B submission provided the Panel with an overview of the planning and engagement processes involved in the development of the *Fairfield Village Heritage Assessment, 2017* (Heritage assessment) and *Fairfield Village Built Form Guidelines, 2017* (Built form Guidelines) which included:

- Hansen Partnership engaged in 2008 to prepare design guidelines for Fairfield Village to inform a permanent DDO to replace interim DDO8 (which provided a 9.0m height limit over Business 1 zoned land in Station Street and Railway Place). A Background Report and draft design guidelines proposing three and four storey height limits (10.5m – 13.5m) were released for informal consultation in early 2009, receiving 10 submissions. The guidelines were not adopted and DDO8 expired in March 2010.
- November 2015, Hansen Partnership prepared the *Fairfield Action Plan* to provide a framework for Council to improve Fairfield Activity Centre including through the development of built form controls.
- Council commenced preparation of new design guidelines in July 2016 which included engaging a heritage consultant (Heritage Intelligence) to review whether there were heritage values in the village to be protected.
- Council engaged Codesign Studio in November 2016 to undertake consultation on the preparation of a streetscape masterplan and draft built form guidelines.
- Fairfield Village Community Reference Group was established to provide feedback on the draft Built Form Guidelines and other work.
- Council undertook informal consultation on draft Built Form Guidelines and Heritage Assessment in September – October 2017. Consultation involved extensive mail outs, drop in information sessions and other engagement techniques. An analysis of the engagement was released in a *Community Engagement Summary Final Report* which identified broad community sentiment supporting controls on height, upper level setbacks, retention of valued street facades and protecting the 'village feel' from being overwhelmed.

(ii) Fairfield Village Heritage Assessment 2017

Prepared for Council by Heritage Intelligence in 2017, the Heritage Assessment formed the basis of the proposed HO313 and HO314, the revised Incorporated Plan and the proposed Built Form Guidelines.

The Heritage Assessment included:

- a methodology outlining assessment criteria, levels of integrity and significance, fieldwork, historical research, documentation and mapping, preparation of statements of significance, and design guidelines
- assessment findings including historic themes
- citations for individual places and the Fairfield Village precinct including statements of significance
- design guidelines which included cross section diagrams that were largely identical to those at Figures 1, 2 and 3 in DDO21, and included other drawings and guidance included in the proposed Built Form Guidelines
- recommendations
- appendices including a revised Incorporated Plan.

The assessment process refined the heritage precinct boundaries around the Fairfield Village Activity Centre based on research and field surveys supplemented in a later stage by more detailed research and assessment of the precinct and individual sites.

The key elements of the Heritage Assessment relating to Fairfield Village precinct and the St Andrew's Church are discussed in Chapter 4 of this Report.

(iii) Fairfield Village Built Form Guidelines and Background Report

Produced for Council in 2017 by Hansen Partnership as an update to the 2008 centre design guidelines (not incorporated), the Built Form Guidelines identified the existing character of Fairfield Village and a future built form outcome sought for the Centre. The guidelines comprised objectives and standards relating to height, valued street facades, setbacks, façade detailing and materials, landscaping and carparking that were largely translated into the proposed DDO21. The guidelines included useful images and examples to support interpretation of the DDO.

The *Fairfield Village Built Form Guidelines Background Report, February 2017* identified the scale and form of the centre including both the traditional and emerging forms, the latter comprised of new development completed, under construction or approved, ranging from four to six storeys along Station Street and Railway Place including the 'Nightingale 2' site (72A Station Street), RSL site (5 – 7 Railway Place) and 149-153 Station Street.

The Report identified a commercial centre with a strong 'village' character and sense of place particularly along Station Street which at casual view was not so apparent given a profusion of signage and mix of built forms characterised by elements such as:

- decorative corncicing
- single and double storey parapets with concealed pitched roofs
- large shop windows at ground floor

- some balconies and window seats at second floor levels, some with curved window forms
- awnings and strong horizontal features
- facade features defined in render or distinctive brickwork
- canopies extending to kerb line
- strong horizontal connection despite a staggering of one and two storey heights.

Station Street was described as featuring consistent attached facades with traditional built form characteristics with development representative of the 1910s and 1930s, particularly between Wingrove and Duncan Streets noting it makes *“a strong and valued contribution to local character and should be retained and enhanced”*. It is noted that this strong parapet form diminishes north of Duncan Street to one characterised by modest single storey profiles. Railway Place was identified as having a cluster *“of traditional building forms with strong parapets that create a sense of place”*.

The Report identified that the Centre performed well, with a diversity of offer, low vacancy rates, relatively high property values and a demand for housing, high level of walkability and public transport access and a *“medium propensity”* for change, tempered by typically small, deep and narrow sites with limited rear access for parking and a flood risk.

The Report identified the challenge of managing building scale and the relationship between new and old development while retaining the village character of the centre.

2 Approach of the Panel and issues

2.1 Preliminary matters

(i) Late submission

A Directions Hearing was held in relation to the Amendment on 22 August 2018. During that Hearing, Mr Biviano sought to be a party to the Amendment although he had not at the time made a submission to C161. Council at the Directions Hearing acknowledged that Mr Biviano had an interest in several sites in Station Street affected by the Amendment and were open to receiving a late submission. A Direction was issued by the Panel that this would need to be lodged by close of business 27 August 2018. A subsequent submission (submission 11) was received by both the Council and Planning Panels Victoria on 27 August 2018.

(ii) Amendment documentation

The Panel's Directions sought further information from Council to be addressed through its Part A and B submissions including:

- clarification of properties affected by the Amendment
- rationale for all suggested changes identified in the Authorisation letter to the proposed DDO21 not being applied in the exhibited document
- consistency in referencing the *Darebin Housing Strategy* at Clauses 21.02, 21.03 and 22.06 and whether this anomaly could be reflected in revised amendment documents
- the necessity of referring to state government guidelines in local policy particularly in the context of VC148 changes.

The Panel noted the Explanatory Reports written description of land affected by the Amendment was different from the map forming part of the Explanatory Report. Council identified in its Part A submission that while the map was correct, the written description was not, with the exclusion of 86 Arthur Street, Fairfield (to be included in the HO313 and DDO21) and 50 and 61 Gillies Street, Fairfield (to be included in the DDO21). On the basis that these sites were clearly identified in the map and land owners were notified with no submissions received from them, the Panel does not consider this error to be fatal to the Amendment.

The Amendment was authorised for preparation under delegation on the 30 April 2018 subject to the condition that an edited version of the DDO be considered based on changes identified by Department of Environment, Land, Water and Planning (DELWP) in the form of a tracked change document. Council in its Part A submission provided a comparison document which identified that the majority of DELWP's suggested edits had been accommodated. The Panel is satisfied that Council has responded appropriately to the direction, with specific DDO content detail discussed further in Chapter 5.

(iii) Post exhibition changes

In response to submissions, Council made no changes to the Amendment other than introducing two minor and inconsequential alterations unrelated to submissions to deal with amendment errors in:

- Clause 21.02-4, by correcting the date of the *Darebin Heritage Review* from 2002 to 2000.
- DDO Schedule 21, by correcting the title of Figure 4 to *Figure 4: front setbacks with retained valued street façade in Area 2* (Panel's emphasis).

These changes were included in the 23 July 2018 Council report considering submissions and is the version (Day 1 version) upon which the Panel's report and recommendations are based.

2.2 Amendment VC148

Amendment VC148 (VC148) was gazetted on 31 July 2018. Among other things, it changes the structure and content of the planning policy framework in all planning schemes. The Panel requested Council to provide a response to VC148 as it relates to transition provisions and the consequential impacts of the proposed Heritage Overlay changes which include a reformatted schedule.

Council identified several changes required, which are largely inconsequential. The key changes and potential implications on the Amendment are summarised in Table 1.

Table 1 VC148 changes

VC148 provision	Summary of change	Implications
Planning Policy Framework	Local Planning Policy Framework to transition over time to new format	This transition is yet to take place for the Darebin Planning Scheme and presents no particular consequence for the Amendment at this point in time
Heritage Overlay	Schedules restructured to include a Statement of Significance and alternate arrangements for identifying Incorporated Plans	Statement of Significance not required as Amendment was authorised within VC148 transition period Reformatted HO Schedule required to identify revised Incorporated Plan
Incorporated documents	Clause 72.04 replaces Clause 81.01	This translation has taken place New Schedule to be prepared to include the revised Incorporated Plan
Reference documents	Identified as 'background documents' under consolidated Planning Policy Framework and listed in a Schedule to a new Clause 72.08	This translation has yet to occur New Schedule to be prepared to include the <i>Fairfield Village Heritage Assessment, 2017</i> and the <i>Fairfield Village Built Form Guidelines, 2017</i> in consultation with DELWP

The identified changes to the Amendment required to respond to VC148 have generally been acknowledged by Council. The Panel considers that the changes are largely inconsequential as they do not change the intent of the Amendment or the application of the proposed policy and controls, and were not matters raised in submissions. The Panel agrees with Council's submission that a statement of significance is not required to be included in the HO Schedule for the two proposed heritage places as the Amendment was authorised three months before

gazettal of Amendment VC148. The required Amendment changes can be addressed with DELWP if Council adopts the Amendment.

2.3 Summary of issues raised in submissions

The key issues raised in submissions of the various parties are briefly summarised as follows:

- the application and extent of HO313 including its application to non-contributory buildings
- the application of HO314
- the extent and provisions of DDO21 in terms of height and setbacks provisions and identification of valued facades
- impact of controls on property values and development opportunity.

2.4 Matters not dealt with in this Report

(i) Property values

Some submissions raised concerns about the Amendment potentially decreasing property values. There is no evidence to suggest that this is the case. Panel reports have repeatedly concluded that such issues are not material to this stage of the planning process, a position supported by Planning Practice Notes and numerous VCAT decisions. Accordingly, this aspect of submissions has not been further considered in this Report.

(ii) Zoning anomalies

There were no submissions made or evidence led in response to this component of the Amendment. The Panel considers that the proposed zoning changes as exhibited appropriately reflect the underlying land use and relationship to adjoining lots and zoning.

(iii) Deletion of Heritage Overlays

The submission from Transport for Victoria (TfV) supported the Amendment which involved the removal of HO106 from Fairfield Station structures and its inclusion in HO313 supported by the application of planning permit exemptions for the Fairfield Station precinct in the Incorporated Plan. No other submissions were received to the deletion of HO106.

No submissions were received to the removal of HO112 from the right-of-way at the rear of 129-135 Station Street, Fairfield.

These matters have not been further considered in this Report and the Panel supports the changes as exhibited.

(iv) Policy changes

Aside from Council's Part A submission, no submissions were made to the policy change aspects of the Amendment. In the main these changes are minor and largely inconsequential to the Amendment but are important to support the functionality of the HO and DDO21. In the case of the *Darebin Heritage Study* title corrections, the proposed changes are opportune.

The Panel notes that the Amendment seeks to replace and introduce several state-based design guideline documents in Clause 21.02-3, Clause 21.02-4 and Clause 22.06. The Panel is

of the view that these reference document changes represent unnecessary duplication and are largely superfluous given the consequential changes of Amendment VC148 to the PPF and the role and identification of background documents. This is also the case for the proposed changes to Clause 22.06-3.9 to include references to several Clause 58 provisions.

Council anticipates that the referencing of background documents in policy, DDO21 and Clause 72.08 will be resolved through DELWP's consideration of the Amendment and post Amendment VC148 LPPF transition implementation.

The Panel supports Council's position to either correct the reference inconsistencies to the Darebin Housing Strategy 2013-2033 in its next anomalies amendment, or to make this change as part of the Amendment.

The proposed Policy changes are not generally discussed in this Report and are supported as exhibited in addition to the Clause 21.02-4 post-exhibition change proposed by Council, subject to changes recommended in Chapters 4 and 5.

2.5 Issues dealt with in this Report

The Panel has reviewed a large volume of material from submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the key issues to be resolved under the following headings:

- Planning context
- Heritage Overlay
- Design and Development Overlay.

3 Planning context

3.1 Policy framework

(i) Planning and Environment Act 1987

Section 4 of the Act lists the objectives of planning in Victoria. The Panel considers the Amendment implements these objectives through:

- providing for the fair, orderly, economic and sustainable use and development of land in Fairfield Village
- securing a pleasant, efficient and safe work, living and recreational environment
- balancing the present and future interests of local residents and those who might wish to live in and adjacent to Fairfield Village
- conserving and enhancing those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value in Fairfield Village
- enabling land use and development planning and policy to be integrated with environmental, social, economic policies at the State and municipal levels
- ensuring the effects on the environment provide for balanced consideration of social and economic effects about the future use and development of Fairfield Village.

The Amendment balances these objectives by recognising, protecting and enhancing the heritage and built form values of Fairfield Village which is important to the local community while ensuring the Centre can continue to fulfil its strategic role as a Principal Neighbourhood Centre and a Substantial Change Housing Area.

(ii) Planning Policy Framework

Council submitted that the Amendment takes account of and is supported by the following clauses in the PPF:

- Clause 11 (Settlement) – the Amendment supports creation of a network of diverse and vibrant activity centres of varying role and function and mixed use neighbourhoods at varying densities and housing choice offer.
- Clause 15 (Built Environment and Heritage) – the Amendment provides for built form outcomes that contribute positively to Fairfield Village’s sense of place, community life and cultural identity and manages the impact on the public realm and amenity neighbouring properties. The Amendment provides for the identification and protection of heritage places, respectful development of heritage places including contributory elements.
- Clause 16 (Housing) – the Amendment ensures that Fairfield Village can support Melbourne’s and Darebin’s housing needs by providing opportunities for an appropriate level of housing diversity and choice within the Centre consistent with Plan Melbourne and Council’s Housing Strategy.
- Clause 17 (Economic Development) – the Amendment provides flexibility within DDO21 to ensure that Fairfield Village can accommodate further retail activity and investment that supports its role as a Principal Neighbourhood Centre.

- Clause 18 (Transport) – the Amendment appropriately responds to the availability of public transport to the Centre including Fairfield Station and the creation of built form that encourages walking.

(iii) Local Planning Policy Framework

The Amendment supports the following elements of the LPPF:

- Clause 21.02-3 (Built Environment) by encouraging high quality design and buildings that promote an urban scale and character appropriate to the role and function of the activity centre.
- Clause 21.02-4 (Heritage) by:
 - ensuring that places of heritage significance are conserved and enhanced.
 - promoting sympathetic infill and redevelopment of heritage places by providing clear policy parameters to ensure redevelopment of heritage buildings is sympathetic and visually compatible with existing forms, while not discouraging innovation in design.
- Clause 21.03-2 (Housing Development) by:
 - supporting a variety of housing typologies at increased densities as sought for Substantial Change Areas, at a scale appropriate to precinct characteristics.
 - providing guidance on how heritage places in Fairfield Village can be sensitively developed.
 - facilitating higher density development in Fairfield Village at a scale that is consistent with a neighbourhood centre.
 - supporting a diversity of housing and facilitate increase densities and efficient use of land in Substantial Change Areas, with above ground floor level housing in retail precincts. The Amendment contains provisions which ensure the degree of change is appropriate and responsive to conditions.
 - facilitating residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity.
- Clause 21.03-3 (Housing Diversity and Equity) by increasing the diversity of housing types, sizes, design and configurations available in a Substantial Housing Change area.
- Clause 21.04-3 (Commercial and Retail Activity) by:
 - facilitating a higher intensity of activity in and around neighbourhood centres and promoting mixed use development which can support complementary uses. The HO will enhance the viability of Fairfield Village by facilitating investment that will conserve key heritage places and features which are highly valued and distinguish the Centre.
 - encouraging the consolidation of retail, business, employment, community and leisure facilities and higher density housing in and around activity centres.
- Clause 21.05-2 (Integrated and Sustainable Transport) by:
 - facilitating a mix of land uses and greater housing densities in and around activity centres and train stations to reduce trip length to employment, shops and services and support the use of public transport.
 - encouraging good urban design standards in built environments to support walkability and pedestrian amenity, including prioritisation of street frontage areas for pedestrians rather than vehicles.

- Clause 22.06 (Multi Residential and Mixed Use Development) by providing detailed design objectives and requirements through DDO21 to achieve improved design quality and interface with and amenity of the public realm.

3.2 Strategies

(i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which describe how the Outcomes will be achieved. Outcomes 2, 4 and 5 are particularly relevant to the Amendment, and are summarised in Table 2. The Panel considers that the application of a HO and DDO to Fairfield Village are appropriate tools to achieve appropriate built form outcomes for the centre while still accommodating housing opportunities to meet the growth needs of Melbourne and the municipality.

Table 2 Plan Melbourne Outcomes, Directions and Policies

Outcome	Directions and policies
Outcome 2 - Melbourne provides housing choice in locations close to jobs and services	<ul style="list-style-type: none"> - manage the supply of new housing in the right locations to meet population growth and create a sustainable city - support new housing in activity centres and other places that offer good access to jobs, services and public transport - facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods (neighbourhoods in which people can meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home) - provide certainty about the scale of growth in the suburbs - provide greater choice and diversity of housing, and facilitate housing that offers choice and meets changing household needs
Outcome 4 – Melbourne is a distinctive and liveable city with quality design and amenity	<ul style="list-style-type: none"> - promote urban design excellence in every aspect of the built environment - recognise the value of heritage when managing growth and change
Outcome 5 - Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	<ul style="list-style-type: none"> - create a city of 20-minute neighbourhoods - create mixed-use neighbourhoods at varying densities - support a network of vibrant neighbourhood activity centres

(ii) Darebin Housing Strategy

The *Darebin Housing Strategy*, 2013 (Revised 2015) is a reference document in Clause 21.02 and Clause 21.03.

The Strategy seeks to address the challenges of housing a growing, ageing community and smaller households. The Strategy identifies Major and Principal Activity Areas as well as Neighbourhood Centres (such as Fairfield Village) with good access to the Principal Public Transport Network as 'substantial change areas', discouraging underdevelopment and providing for a variety of housing typologies including medium to high density apartments, townhouses and shop top dwellings with the scale dependent on specific precinct characteristics and context. It notes:

Principal and Major Activity Areas should encourage higher density development with diverse apartment configuration. Lower order centres such as Neighbourhood Activity Areas and other identified Substantial Change precincts should encourage a more modest scale of change.

Station Street, Fairfield (generally from the northern extent of the C1Z south to Heidelberg Road) is identified as a Substantial Housing Change Area in the Darebin Housing Change Framework Map included in Figure 2.

(iii) Darebin Economic Land Use Strategy 2014

The *Darebin Economic Land Use Strategy*, 2014 is a reference document in Clause 21.04 and Clause 22.04.

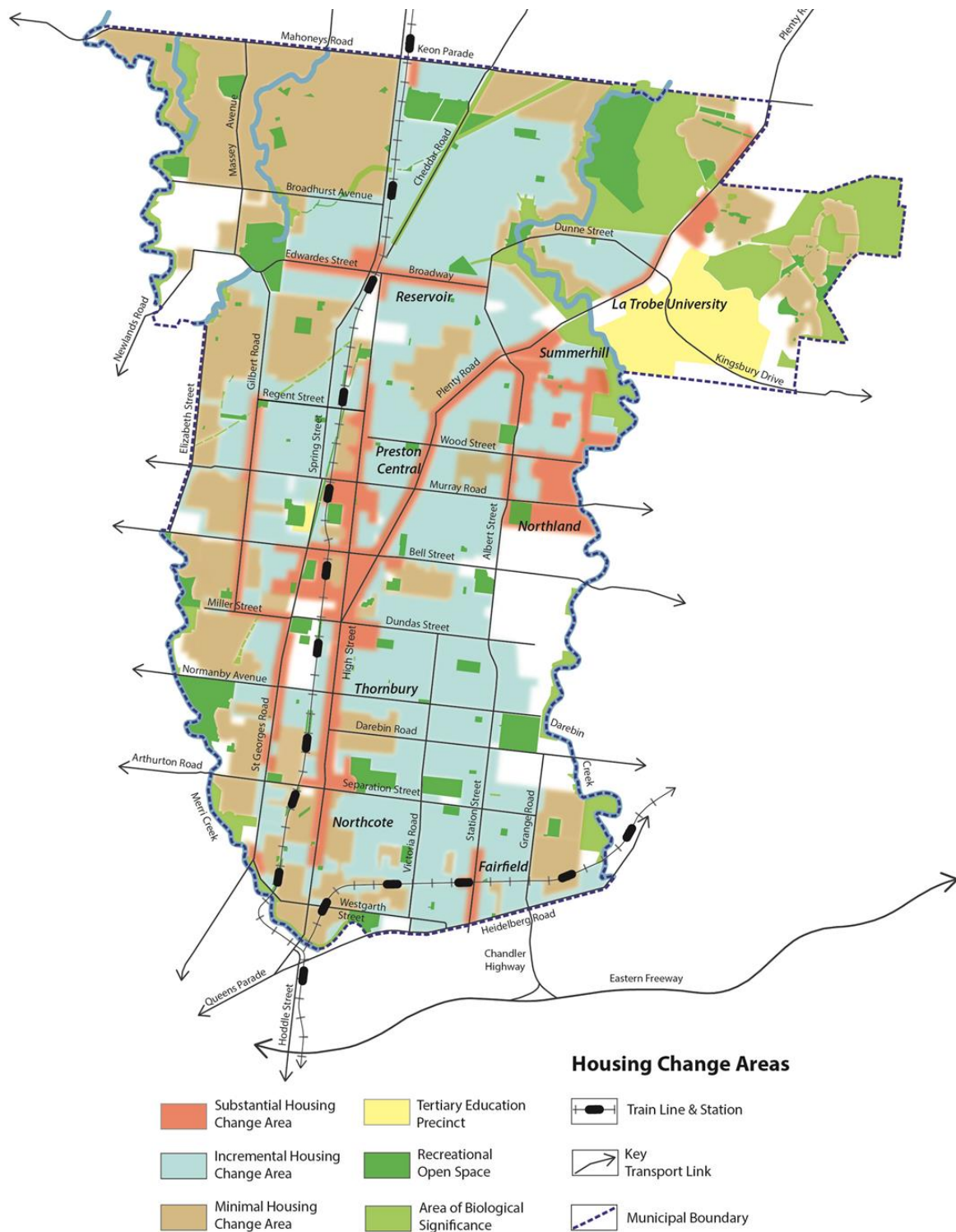
The Strategy supports the strengthening of City of Darebin Retail Activity Centre Hierarchy (identified in the *City of Darebin Retail Activity Centres Strategy*, 2005) in which Fairfield Village is identified as a Primary Neighbourhood Activity Area and a vibrant centre that is performing well as the retail focal point for the south-east of the municipality. Capacity to support a full line supermarket in the Centre is identified although acknowledges the challenges of land assembly. A Structure Plan process is identified as being required to support any potential expansion.

The Strategy encourages a high intensity of development in and around designated activity areas including focusing future retail expansion around Primary Neighbourhood Activity Areas.

The *Retail Activity Centres Strategy*, 2005 identifies the role of a Primary Neighbourhood Activity Centre as:

Major neighbourhood shopping locations providing weekly grocery shopping and, in some cases, limited specialty store shopping.

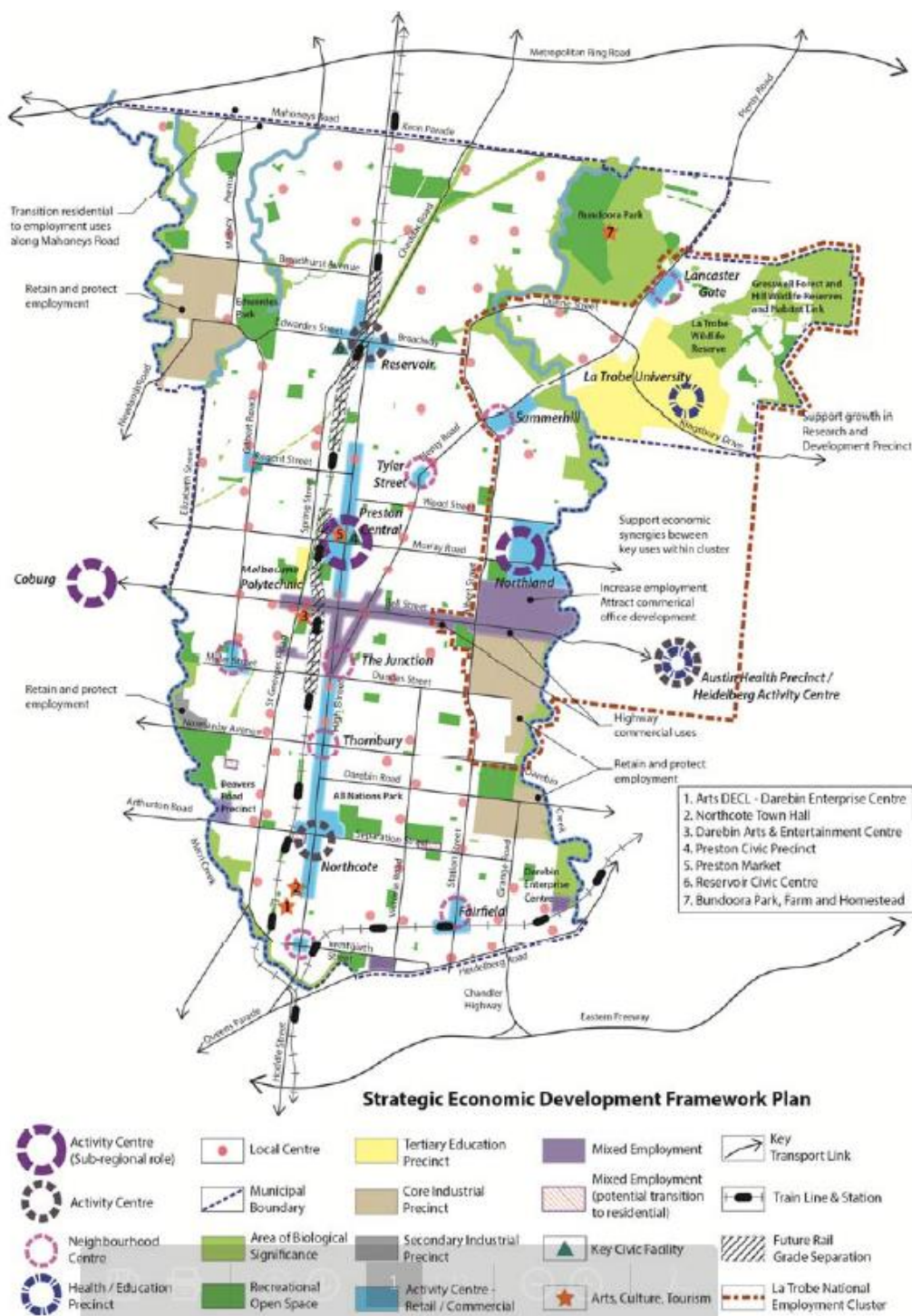
The Strategy identifies that the higher order centres within the municipality closest to Fairfield Village include Northcote Plaza to the north west (Major Activity Centre) and the Northland Shopping Centre to the north (Principal Activity Centre). The Panel notes these centre terms are no longer in use since Plan Melbourne was updated.

Figure 2 Darebin Housing Change Framework Map

The 2005 *Retail Activity Centre Strategy* also identified the importance of the visual quality of centres on the attractiveness and vibrancy of centres, the contribution made by urban design to the functional role of centres and of maximising density of urban development within character and amenity constraints.

The key elements of Strategy are included in the Strategic Economic Development Framework Plan included in Clause 21.04 and reproduced in Figure 3.

Figure 3 Strategic Economic Development Framework Plan



3.3 Planning scheme provisions

(i) Zones

With the exception of St Andrew's Church (GRZ2) and Fairfield Station (PUZ4), all land within the Amendment area is zoned C1Z. The Amendment area primarily adjoins the GRZ2 and pockets of the Residential Growth Zone along Station Street to the south of the Amendment area.

The purpose of the C1Z includes:

To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

To provide for residential uses at densities complimentary to the role and scale of the commercial centre.

(ii) Overlays

Heritage Overlays currently extend over four places/objects within the Amendment area, HO190 St Paul's Anglican Church at 84 Station Street and HO106 Fairfield Railway Station platform buildings and signal box. The Amendment removes the individual listing of these railway and station structures and includes them generally within proposed HO313.

The purpose of the HO includes:

To conserve and enhance heritage places of natural or cultural significance.

To conserve or enhance those elements which contribute to the significance of heritage places.

To ensure that development does not adversely affect the significance of heritage places.

The HO requires a planning permit for subdivision, demolition, and a range of buildings and works and alterations. A range of application types can be considered under VicSmart provisions. Permit exemptions can be extended to anything done in accordance with an incorporated plan identified in a schedule to the HO.

The Amendment proposes to introduce a new updated Incorporated Plan which will extend specified permit exemptions to the Fairfield Village Heritage Precinct, Fairfield Railway Reserve and the St Andrew's Church.

The Special Building Overlay extends over extensive areas of Station Street and adjoining properties reflecting areas subject to inundation because of urban drainage network overflow in major rainfall events. The proposed DDO21 accounts for the establishment of flood levels within the identification of street wall height measurements.

3.4 Ministerial Directions and Practice Notes

Council submitted that the Amendment meets the relevant requirements of:

- Ministerial Direction 9 (Metropolitan Planning Strategy)
- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction 15 (The Planning Scheme Amendment Process)
- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

Council submitted that the Amendment is consistent with:

- Planning Practice Note 1 (PPN01) Applying the Heritage Overlay, August 2018
- Planning Practice Note 10 (PPN10) Writing Schedules, September 2018
- Planning Practice Note 46 (PPN46) Strategic Assessment Guidelines, August 2018
- Planning Practice Note 59 (PPN59) The Role of Mandatory Provisions in Planning Schemes, September 2018
- Planning Practice Note 60 (PPN60) Height and setback controls for activity centres, September 2018.

The Panel considers that the Amendment is consistent with the identified Ministerial Directions and Planning Practice Notes in relation to the application of HO313 and HO314 and the use of the DDO tool. PPN10 was replaced with *A Practitioner's Guide to the Victorian Planning Schemes* in September 2018 and provides significant guidance for the appropriate format, content and language to be used for preparing schedules. PPN01 was updated in August 2018.

3.5 Discussion and conclusion

The Panel considers that the application of HO313 and DDO21 to Fairfield Village as proposed in the Amendment is consistent with the objectives of planning in Victoria, the PPF and LPPF, Ministerial Directions and Planning Practice Notes. However for reasons expressed in Chapter 5, the Panel considers that the DDO21 is not well crafted. It is overly complex and requires significant alteration to ensure it is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* and *A Practitioner's Guide to the Victorian Planning Schemes* to achieve the desired built form outcomes and provide a sufficient level of flexibility warranted for this precinct.

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the PPF and LPPF and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is generally well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

The Panel acknowledges the work undertaken by Council in establishing a vision for Fairfield Village, investing in the Centre it and undertaking the strategic work to provide a basis for implementing that vision via the Darebin Planning Scheme. The broader policy context for the Amendment was largely unchallenged.

4 Heritage Overlay

4.1 The issues

The issues relate to:

- Whether there is sufficient heritage value to warrant the application of the Heritage Overlay (HO) to St Andrew's Church and Fairfield Village?
- Whether the application of the HO compromises other strategic outcomes being achieved?
- Content and application of the Incorporated Plan.

4.2 Context

(i) Applying the Heritage Overlay Practice Note

PPN01 is relevant in the consideration of the application of the HO. Amendment provides guidance around the role of a local heritage study in justifying the application of the overlay, heritage assessment criteria, writing a statement of significance, drafting schedules, use of incorporated plans and design guidelines and mapping.

(ii) Fairfield Village Heritage Assessment

The Heritage Assessment identifies that the Fairfield Village Heritage Precinct contains 90 places of which 60 are significant or contributory heritage places with the remaining properties designated as not significant. The extent of the precinct and levels of significance is shown in Figure 4.

The Fairfield Village Heritage Precinct Statement of Significance identifies:

What is significant?

The Fairfield Village Heritage Precinct, comprising the Federation and Inter-war commercial buildings, the church and the railway reserve and station buildings, platforms, footbridge and signal box, and its spacious setting in the precinct as shown on the precinct map, is significant. The original form, materials and details of the heritage places as shown in the schedule, are significant as are views to and from the station. Other buildings and non-original alterations are not significant.

How is it significant?

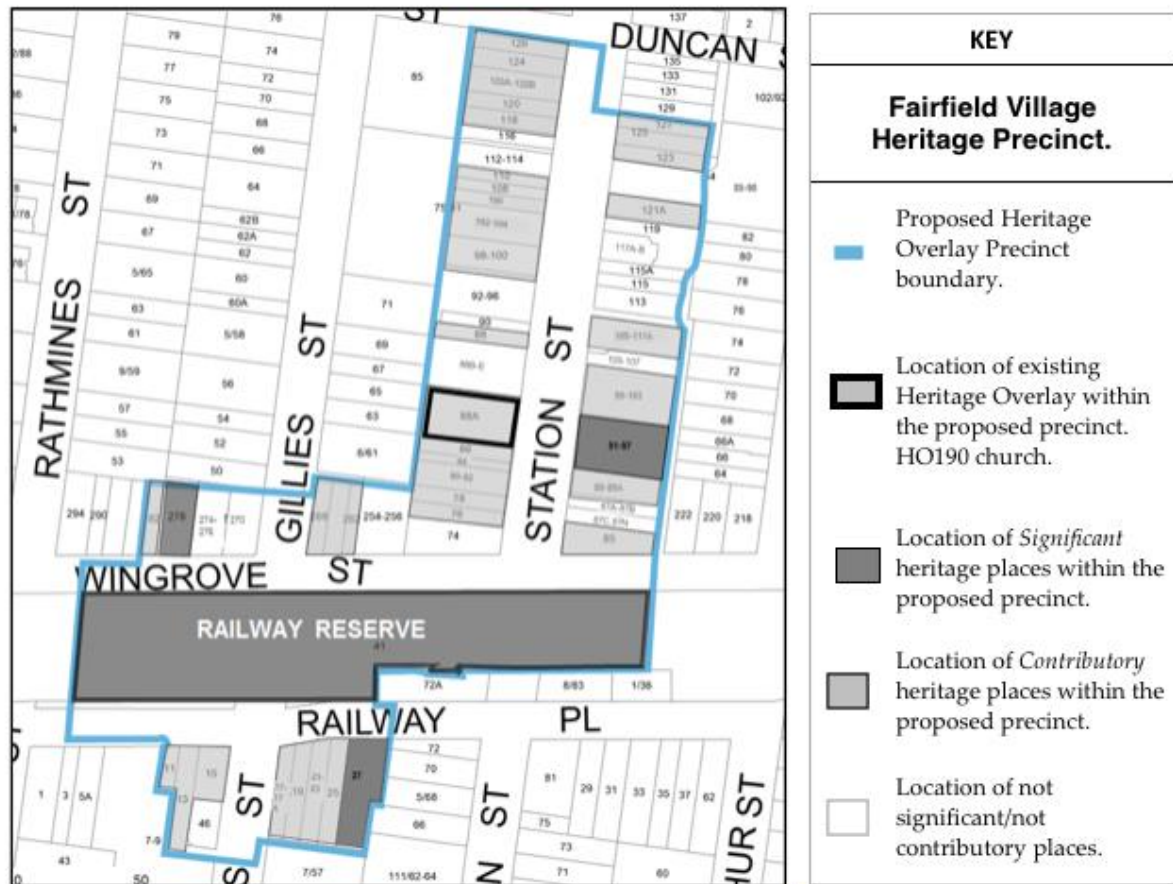
The Fairfield Village Heritage Precinct is locally significant for its historical, social and aesthetic values.

The Statement of Significance identifies the role the Fairfield Railway Station and associated village square plays in “the evolution of the modest working man's commercial precinct”. In relation to the Station Street inter-war streetscapes the Statement of Significance identifies that:

Station Street is aesthetically significant for the streetscapes of predominantly Inter-war historic commercial buildings of low rise one or two storey structure,

the articulation of the building facades, the moderately Inter-war decorative elements, varying pediments and broken skyline, they provide an interesting and diverse streetscape that is divided into narrow allotments and buildings which have a human scale.

Figure 4 Fairfield Village Heritage Precinct Map



The Statement of Significance for St Andrew's Church identifies:

What is significant?

St Andrew's Alphington and Fairfield Uniting Church at, 85 Gillies St, Fairfield, is significant. The original form, materials and details of the building as constructed c1950 are significant, The Empire Roll, Alphington Methodist Church (First World War) and St Andrew's Presbyterian Church Honour Roll (First World War), are also significant. Later buildings and alterations to the earlier building are not significant.

How is it significant?

St Andrew's Alphington and Fairfield Uniting Church at, 85 Gillies St, Fairfield, is locally significant for its historical, social, spiritual and aesthetic values.

The Panel considers that the Heritage Assessment and Statements of Significance have been prepared in a manner consistent with PPN01.

(iii) Incorporated Plan

The proposed updated Incorporated Plan was produced as part of the Heritage Assessment and:

- inserts St Andrew's Church and the Fairfield Railway reserve as places to which the permit exemptions apply
- inserts a revised and updated Definitions Table
- inserts 'Fairfield Village' (HO313) into the table of Heritage precincts
- inserts a new section relating to St Andrew's Church which identifies significant and non-significant features and a range of interior and exterior buildings and works that will not require a planning permit under the HO
- inserts a new section relating to Fairfield Railway Reserve which identifies significant and non-significant features and a range of demolition and buildings and works that will not require a planning permit under the HO
- inserts a Fairfield Village Heritage Precinct, Fairfield Map which identifies significant, contributory and not significant/not contributory places.

The inclusion of Fairfield Village into the list of Heritage precincts in 'business zones' will result in the application of HO permit exemptions for Non-contributory and Not significant places including demolition and routine maintenance, below and above verandah (conditional) signage, façade alterations (conditional), installation of ATM's and awnings (conditional).

The "business zone" exemptions apply to four other centres namely High Street and Plenty Road, Preston; High Street, Reservoir; and High Street, Thornbury which have a range of neighbourhood or activity centre roles.

The Panel considers that the Incorporated Plan has been prepared in a manner consistent with PPN01, however the Panel identified an error in the Plan's reference to the blue polygon area associated with St Andrew's Church which designates external demolition and routine maintenance no-permit required areas and non-significant features. The Panel also noted that the Fairfield Village Heritage Precinct map key was inconsistent with the other precinct maps in the Incorporated Plan. These matters are discussed briefly in Chapter 4.6.

4.3 Heritage values St Andrew's Alphington and Fairfield Uniting Church

(i) Evidence and submissions

The submission from the Council of St Andrews Uniting Church Fairfield (Submission 6) raises concerns about the level of the significance of St Andrew's Church and its relative architectural and aesthetic merit in the context of other church buildings across Melbourne and because of the extent of internal and external changes. The submission identified concerns about the possible restrictions the overlay places on future alterations.

Evidence from Ms Huddle cited the primary research documented as part of the Heritage Assessment study identified that St Andrew's Church:

is an accomplished transitional modernist/traditionalist design. Furthermore, the work is a fine example of a creative design by Victorian architect F Bruce Kemp, a highly accomplished architect. The clinker brick details are typical of

Arts and Crafts preferences, but the minimalist and modernist aspect of the design is typical of designs that deliberately pare down the use of architectural decorative detailing, as does this building, but this may be read, by some, as 'not outstanding'.

The evidence from Ms Huddle indicated St Andrew's Church to be significant for the local Fairfield community with examples of other modernist churches on the Victorian Heritage Register including the All Saints Anglican Church, Mitcham (1958) and St Andrews Church, Brighton (1962). The evidence identified that St Andrew's Church is significant at the local level for its historical and social values.

(ii) Discussion

No contrary heritage evidence was provided to the Panel about the Church's heritage values and level of significance. The Panel notes Ms Huddle's qualifications and experience as an architectural historian and concludes that the Heritage Assessment's historical research, comparative analysis and Statement of Significance for St Andrew's Church to be compelling.

The Panel considers that the updated Incorporated Plan provides an appropriate and practical range of permit exemptions for internal alterations and identifies an extensive external area for accommodating future additions or new development. This appropriately allows St Andrew's Church to continue to meet the needs of its local community.

(iii) Conclusion

The Panel concludes:

- That the application of HO314 is appropriate and should be applied as exhibited.

4.4 Heritage values of Fairfield Village

(i) Submissions and evidence

The key issues raised in submissions not supporting HO313 relate to:

- whether the HO should include non-contributory buildings (Submissions 1, 3, 4 and 10)
- the extent of building change (new buildings and alterations, including alterations to contributory buildings) and small proportion of significant buildings within the identified Heritage place (Submissions 3, 10 and 11)
- the area not being identified in previous 2011 Heritage Study (Submission 7).

In relation to the application of the HO, Council relied on the statements of significance and evidence of Ms Huddle, which included a specific response to each of the submissions not supporting its application. Council submitted that the Heritage Assessment provided a sound strategic basis for the proposed HOs and:

In the absence of any independent evidence challenging Ms Huddle's assessment of the threshold significance of the St Andrew's Uniting Church or the precinct the Panel is entitled to consider no such evidence exists.

Council pointed to the discretion used by Ms Huddle in determining the boundaries of the Fairfield Village precinct reducing the overall precinct area and removing several properties that were either too visually disconnected or altered to meet threshold criteria or where there were too many non-contributory buildings.

Council further submitted that:

- places identified as individually significant or contributory were identified using appropriate criteria
- to remove non-contributory places from the HO would be contrary to established principles and frameworks which contemplate non-contributory places being located within a heritage place
- non-contributory places need to be included *“to ensure that their development does not impact on the heritage values of the precinct as a whole”*.

Ms Huddle’s evidence indicated that:

It is important for the historic integrity of the precinct to [be] protected and enhanced, and this includes new development behind and between the significant/contributory places within the precinct.

All the non contributory/non significant places are included within the precinct Heritage Overlay in order to protect and enhance the valued heritage character of the streetscape as a whole, rather than only the individual/contributory historic buildings.

The main difference in the management of non contributory/non significant places and contributory/significant places is that the complete demolition of a non contributory/non significant place would not diminish the integrity of the heritage precinct whereas the complete demolition of contributory/significant places that are visible from the public realm would.

Ms Huddle indicated that methodology used for the assessment of the places in the study area for important heritage values included:

Criteria (see page 12), thresholds and integrity (see page 21), definitions (see page 22) and the Statement of significance (see page 17). This is an accepted professional approach to precinct Heritage Overlays which is in accordance with the principals and practices of the Burra Charter 2013.

In response to the level of change and alteration present in the precinct Ms Huddle’s evidence identified that:

Large numbers of alterations are typically part of precinct HO, as the HO is not to turn the place into a museum, and it is not to stop development, rather it is to manage the process of change.

Mr Walker for Mr Pateras, De Petro Trading Pty Ltd and Mr Biviano (Submissions 3,7 and 11) who collectively have significant holdings in the Fairfield Village Neighbourhood Centre, presented an extensive submission on these matters.

Mr Walker submitted that the imposition of a HO posed serious consequences for landowners and potentially on the ability to achieve other strategic objectives such as urban consolidation.

He argued it required clear justification established through rigorous analysis. Consequently, he said it was for the Panel to establish whether the proposed precinct *“makes the grade”* and *“passes the appropriate threshold required to establish heritage significance”* and to err on the side of caution. He urged the Panel not to support the application of the HO to the precinct *“unless its significance is clear, or fully justified”*.

In the context of HO313, he submitted that:

Put simply, the proposed precinct is not exceptional, except perhaps, for a precinct which is said to exhibit exceptionally valued character, in the extent of diversity in built form, and significant gaps in the form of unsympathetic post-war additions.

This position was based on many of the buildings within the proposed precinct having no heritage value, resulting in extensive gaps in the streetscape where there are *“poor buildings capable of being demolished”* (up to 50% of streetscape on eastern side of Station Street).

Mr Walker submitted that it must be concluded that the proposed precinct was at *“the lower end of the spectrum of significance”* particularly given that the Fairfield Village area had not been identified in previous heritage studies including the *Darebin Heritage Review 2000* and the *Thematic Environmental History* which collectively identified 41 new precincts. He submitted that while there was no magic number for the ratio of significant and contributory to non-contributory buildings, in this instance it was *“considerably below 80% referred to in the Monash L51 Panel Report”*.

Mr Walker contended that the application of the Heritage Overlay *“does not meet the threshold test for local heritage significance, on any one of the criterion”* pointing to flaws in the Heritage Assessment including:

- the heritage significance assessment criteria being set so low as to make it impossible to fail regardless of the level of integrity and intactness
- the lack of comparative analysis.

Mr Walker referred to criteria limitations that included listing all inter-war buildings in Station Street as being contributory or significant regardless of state or that they were *“typical”* examples of the period thereby limiting the class of buildings the place is said to represent.

Setting such a low threshold, he submitted, diminished the integrity of the municipality’s heritage stock. Mr Walker agreed that rarity itself will not translate to heritage significance and an area must still meet the threshold for significance. He submitted that inter-war commercial precincts are not rare and were in fact common, yet Council was proposing controls similar to precincts of much greater built form consistency.

In relation to the lack of comparative analysis Mr Walker contended in relation to the Heritage Assessment and Ms Huddle’s evidence that:

Ms Huddle, despite conceding that there were many, many examples of interwar commercial precincts in Melbourne and regional Victoria, did not undertake any comparative analysis of these precincts. Instead for her, it was sufficient that the precinct was of significance for the “Fairfield Village”

Mr Walker concluded that the heritage evidence and analysis was flawed and should not be accepted.

In response to cross examination about whether the precinct was “*at the lower end of the spectrum of heritage across the municipality*”, Ms Huddle indicated that from an architectural quality and level of elaboration it was, but as a working-class area the level of architectural finesse would be expected to be less and was significant in the context of Fairfield’s heritage.

Council’s submission acknowledged that Fairfield Village is low scale and modest:

It is a ‘working man’s commercial shopping area’. This means that one should not expect to see overly grand or ornate buildings lining Station Street as one does along Sydney Road, Brunswick or Glenferrie Road, Malvern. These more humble buildings are not necessarily any less important or should not necessarily be valued any less.

In relation to the non-contributory building gaps, Ms Huddle indicated that there was enough historic fabric present to allow it to be read as a historic area and the gaps mostly comprised one and two storey buildings that don’t dominate the heritage buildings. Ms Huddle indicated under cross-examination that the range of architectural styles present was reflective of the inter-war era of architecture.

The use of guidelines was identified by Ms Huddle as a way of managing this process to provide a level of development certainty and restoration providing “*win-win outcomes*”.

Mr Walker’s submission included positions on the Heritage Assessment’s Design Guidelines, particularly those elements relating to height and setbacks. These aspects of submissions are discussed in more detail in Chapter 5 of this Report.

(ii) Discussion

In considering whether the application of HO313 is warranted the Panel has to consider whether there is sufficient evidence that the precinct has the appropriate level of heritage value and significance. The robustness of the Heritage Assessment and associated Statement of Significance form the basis of that justification. The Panel accepts the submission that in applying a HO, the Panel needs to be satisfied that the place is of sufficient importance and that its heritage values should be recognised in the planning scheme or put another way, it “*makes the grade*”.

A focus of Mr Walker’s submission related to the level of the threshold criteria used to assess the significance of potential heritage places. The Panel notes that the Heritage Assessment uses five criteria rated from high priority to low priority to assess historic places that best represent the historic themes of the Fairfield commercial area. While a heritage place needed to include one or more of these criteria, the place having a prima facie case for rarity, aesthetic or architectural significance whose extant fabric is suitable for protection was of the highest priority, while a place representing an important historic era (inter-war) in the development of the Fairfield commercial area was of the lowest priority.

Mr Walker pointed to a number of Panel reports including Monash L51 where the proportion of non-contributory to contributory places in a precinct was a factor in the application of a HO. In Monash L51 the Panel considered an 80 per cent level of intactness demonstrated

genuine heritage significance and that more careful consideration was required where the proportion is much lower. The Panel is of the view that such a consideration should be based on the Heritage Assessment and the local circumstances.

There was considerable discussion during the Hearing through submissions, evidence and cross-examination around the level of significance of the proposed heritage precinct and its relative intactness in the context of the ratio of significant/contributory and non-contributory places. The Heritage Assessment identified that there are 90 places in the precinct, 60 of which are significant or contributory. The Panel was not able to reconcile this number with either the Schedule of Places in Appendix 7 of the Heritage Assessment or by using the cadastra map. The Heritage Assessment identified that *“these figures are approximate as it depends on whether they are counted according to the allotments shown in the cadastra map, or by the addresses including subdivision allotments”*.

Using the street number and building sub-tenancy addresses in Appendix 7 of the Heritage Assessment there appears to be close to 90 places identified, with eight significant places (including one building with four ground floor tenancies), 46 contributory and 32 non-significant places. On the Precinct Map the most spatially dominant place is the Railway Reserve with only one significant place in Railway Place and in Wingrove Street and one significant place on each side of Station Street.

The sites on the south side of Railway Place are all identified as being of significance or contributory value and have a strong visual relationship to the Railway Reserve heritage place. Land on the north side of Wingrove Street has around 50 per cent of sites identified as being of contributory value, although again this area has a strong visual connection with the Railway Reserve heritage place.

The Station Street portion of the proposed precinct has approximately 60 to 70 per cent of street frontage comprised of significant or contributory places, the overwhelming majority of these contributory. While there are continuous groupings of contributory buildings there are distinct one or two building breaks on both sides of Station Street. The southern portion of Station Street however has a strong visual relationship with the Railway Reserve heritage place.

While the proposed heritage precinct is dominated in spatial proportion by the Railway Reserve heritage place and contributory buildings (many of the latter altered), a visual analysis of the street and the review of the significant features for the contributory sites identified in the Heritage Assessment confirms a level of consistency in original fabric still readily apparent. This includes parapets, stall boards, metal shop window frames, recessed entries, verandahs, brick and rendered facades.

While many of the contributory buildings have altered shop fronts, have been painted, had fabric removed or obscured and more modern awning forms added, much of this is superficial and can be recovered or reinstated where appropriate. The Panel considers that the level of intrusion of non-significant buildings or alterations to contributory buildings in the precinct has not been compromised the extent to which the inter-war architectural and heritage values can be readily observed and appreciated.

The visible and cohesive heritage character is further enhanced by the lack of vehicle crossovers which has resulted in a continuity of buildings built to the street edge and the narrow lot arrangement which has maintained a regular fine-grain form and rhythm. It is considered that the precinct extent is appropriate and that the Heritage Assessment has applied a sufficiently rigorous analysis to confine it.

The Panel considers that these values cannot be readily managed with another planning tool such as a Neighbourhood Character Overlay or a DDO alone. The loss of these heritage elements within Fairfield Village would visually transform it, and substantially impact on its character and sense of place.

In terms of a comparative analysis the Heritage Assessment identifies that:

while a place may be of less architectural significant than a comparable place within the City, they remain of very high historical and social significance to the local Fairfield community and architecturally representative of the Heritage Village.

The Panel does not consider it fatal to the rigour of the Heritage Assessment that it had not included a comparative analysis with other inter-war heritage places. The focus of the assessment was on Fairfield Village. The Panel is satisfied that the Heritage Assessment has established that the Fairfield Village Heritage Precinct is of local level significance to Fairfield.

The Panel was asked by submitters to review a series of previous Panel Reports and the *Review of Heritage Provisions in Planning Schemes Advisory Committee Report*, August 2007 (Advisory Committee Report) in its consideration of the Amendment. The Panel has done this, noting however the circumstances and context are always different. Some of the salient elements from the Advisory Committee Report relating to heritage assessments include:

- assessment criteria at the local level should be based on the HERCON criteria, modified to suit local area analysis and allow each of the values to be assessed
- thresholds have the potential to vary from place to place responding to particular history and cultural fabric of the area
- the inability to see elements of significance from outside the site does not detract from their significance
- while intactness is relevant in an assessment of significance, condition or structural integrity should not influence the inclusion of a place in a HO.

The Panel considers that the methodology adopted in the preparation of the Heritage Assessment has applied well established and recognised criteria for identifying integrity and levels of significance and is consistent with the Advisory Committee Report and PPN01. The Panel notes that the Statement of Significance for Fairfield Village is strongly focused on Fairfield Station and the associated village square and immediate surrounds and less so on the Station Street component of the heritage place. While the Panel understands that this appropriately relates to the level of local significance associated with the railway station heritage fabric and its role in the growth of the Fairfield Village commercial area, it limits the significance of Station Street to an aesthetic one. This may have implications later if Council's objective is to retain substantial heritage fabric in Fairfield Village. It is recommended that Council consider reviewing the Statement of Significance before finalisation of the Amendment.

(iii) Conclusion

The Panel concludes that:

- The *Fairfield Village Heritage Assessment, 2017* assessment methodology uses well established and recognised criteria for identifying integrity and levels of significance consistent with PPN01.
- The *Fairfield Village Heritage Assessment, 2017* provides sufficient support for the identification and protection of heritage fabric in the Fairfield Village Neighbourhood Centre.
- There is sufficient discernible heritage fabric and heritage values associated the Fairfield Village Neighbourhood Centre to warrant the application of HO313 as exhibited.
- The *Fairfield Village Heritage Assessment, 2017* provides useful information in terms of understanding the development of the Heritage Overlay and identifies the significant features of significant and contributory buildings and as such is an appropriate document to identify in the Darebin Planning Scheme as a background document.
- A tighter Statement of Significance for Station Street would provide better guidance for the administration of the HO and Council should review it in relation to Station Street before finalisation of the Amendment.

(iv) Recommendations

The Panel recommends:

1. **Review the *Fairfield Village Heritage Precinct Statement of Significance* before finalisation of the Amendment.**

4.5 Strategic policy implications

(i) Evidence and submissions

Submissions 7 and 11 indicated the application of HO313 and DDO21 was inconsistent with the housing and economic development objectives of the PPF and LPPF. Accordingly, it would compromise development opportunities and outcomes.

Mr Walker described the “*perfect storm*” of circumstances relating to population growth, demand for housing and infrastructure, that state and local planning policy were seeking to address and that the application of heritage and mandatory design controls effectively curtailed.

Submissions from Council and Mr Walker discussed the strategic intent of:

- Planning policy Framework including Clause 11: Settlement
- The Municipal Strategic Framework
- The Darebin Housing Strategy.

Council’s submission acknowledged that:

the HO introduces another layer of control for property owners. Council concedes that a planning control which imports additional permit triggers and

relevant considerations will add to the planning controls for these submitters' properties.

Council further submitted that:

given the lack of evidence presented to the Panel on heritage matters by the submitters, there is no basis to suggest the Amendment precludes the 'fair, orderly, economic and sustainable use, and development of the land' through the application of the HO. The Act is clear that 'as with many other aspects of societal regulation, the application of heritage and other planning controls is intended principally to confer a wider net community benefit than an individual benefit ...'

When balancing the merits of heritage protection against other issues raised in the submissions, it is important to remember that heritage significance is an enduring and long term concern, whereas matters of development potential, building condition, economic matters or current or mooted planning approvals are by contrast short-term in nature.

In discussing the role of Fairfield Village in the hierarchy of activity centres, Council identified a shift in the role played by Fairfield Village including its likely accommodation of a larger supermarket. This position was based on the nearby development of the Alphington Paper Mills site in the City of Yarra which provided for 13,500 sqm retail and commercial floor space and on the *Fairfield Village Action Plan*, 2015 which identified that the Centre's role and function was stable and that:

Fairfield village should play to its strengths as a traditional strip, based Centre and seek to enhance its 'point of difference' from the new Amcor centre. In particular, this highlights its role and image as a generous 'public' place with a particular diverse range of food convenience and local produce in tandem with civic and community destinations.

(ii) Discussion

The relevant PPF and LPPF provisions have been identified in Chapter 3. While this policy framework supports the role of activity centres such as Fairfield Village in meeting future housing needs and supporting economic activity, this is to be part of a municipal wide response and tempered by local circumstances.

The Panel considers the *Darebin Housing Strategy* seeks to address its growth and housing provisions in a balanced manner. The identification of Fairfield Village as a substantial change area is not compromised by the application of the HO. Clause 21.03 envisages that the scale and intensity of development will vary across substantial change areas (with Neighbourhood centres having a mid-hierarchy role). The application of the HO does not inhibit the ability for Fairfield Village to support a variety of housing typologies at increased densities, particularly when read with DDO21 which anticipates four and five storey high development in the precinct.

Importantly the HO has not been applied to the entirety of the Fairfield Village Neighbourhood Centre and does not prevent development, demolition or alteration. The application of the

HO will enable better management of signage, façade treatments and awnings and new building forms that respect the existing heritage character and contribute to the sense of place consistent with Council’s vision for the precinct.

The question of personal economic impact or potential constraint on development are matters for the next stage of the planning process, that is, at the time a permit is applied for.

Specific issues regarding policy objectives being achieved through the proposed mandatory provisions in DDO21 is discussed further in Chapter 5.

(iii) Conclusions

The Panel concludes that:

- The application of HO313 is consistent with Council’s broader vision and aspirations for the Fairfield Village Neighbourhood Centre.
- The application of HO313 to the Fairfield Village Neighbourhood Centre will not compromise the achievement of housing and economic strategies and objectives for the Centre.

4.6 Incorporated Plan

(i) Discussion

Only the submission from TfV discussed the content or role of the revised Incorporated Plan. The TfV submission noted that the permit exemptions alleviate concerns regarding ease of future maintenance and improvement of buildings and structures.

The Panel considers the updated Incorporated Plan provides appropriate permit exemption provisions for Fairfield Station and St Andrew’s Church.

Council provided a response to the Panel’s identification of two document errors or inconsistencies relating to St Andrew’s Church permit exemption areas and the Fairfield Village Heritage Precinct Map. The appropriate changes to the Incorporated Plan are identified in Table 3.

The Panel considers these to be minor and inconsequential changes that should be included in the final Incorporated Plan at adoption to support legibility and consistency.

The policy changes relating to the inclusion of the *Fairfield Village Heritage Assessment* as a reference or background document while minor, is operationally important to support the application of the HO.

Table 3 **Incorporated Plan changes**

Incorporated plan item	Issue	Recommended change
Section 3.9 <i>St Andrew's Alphington and Fairfield Uniting Church</i>	Makes two different references to the " <i>blue polygon</i> " used to identify non-significant features (Attachment B) and Demolition and routine maintenance (Figure 2)	Replace reference to Appendix B with Figure 2
Fairfield Village Heritage Precinct map	Inconsistencies in the Key on the Fairfield Village Heritage Precinct Map utilising longer form descriptions of places than all other precinct maps in Attachment A, which use the simplified categories of Contributory, Non-contributory and Significant	Amend the Fairfield Village Heritage Precinct Map so that it uses the same key as other Incorporated Plan precinct maps

(ii) Conclusion

The Panel concludes that:

- the Heritage Assessment is suitable to be identified as a Background document.
- the strengthening of the Fairfield Village Statement of Significance relating to the Station Street inter-war streetscape is warranted.

(iii) Recommendation

The Panel recommends:

- 2. Amend the City of Darebin Heritage Study Incorporated Plan - Permit Exemptions (2011, amended 2018) as shown in Table 3.**

5 Design and Development Overlay

5.1 The issues

The issues relate to whether:

- Fairfield Village has an identifiable built form character that supports the application of a DDO?
- DDO21 compromise other strategic policy priorities?
- DDO21 operates effectively with the proposed HO?
- the DDO21 provisions are appropriate, particularly:
 - building heights
 - valued street facades
 - street walls and front setbacks
 - side and rear setbacks
 - design detail
- DDO21 will appropriately implement the vision for Fairfield Village?

During its submission on Day 1, Council produced a revised version of the DDO21 (see Appendix D) for consideration by the Panel. Council advised that this version incorporated suggested changes (those accepted by Council) recommended in Ms Bell's urban design evidence for street wall heights and setbacks, and Ms Huddle's heritage evidence relating to materials and finishes, and a number of minor matters recommended in Mr Blades' Urban Design evidence relating to materiality.

The key changes in this version:

- deleted references to 'should' or replaced them with 'must' throughout the documents to ensure they are expressed as requirements
- amended street wall and front setback requirement by replacing Figure 4 to remove staggered setbacks between second and fourth storey levels and replace them with a uniform 4.0m setback behind valued street facades
- amended side setback requirements so that any part of a building that exceeds 4 storeys be setback 3.0m from a side boundary (permit cannot be granted to vary requirement)
- amended street façade form and detailing requirements to clarify meaning and intent
- amended materials and finishes requirements by providing a link to heritage considerations.

These changes are discussed in context within the relevant issue sub-chapters of this Report.

The Practice Notes relevant to the application, form and content of DDO21 are:

- A Practitioner's Guide to the Victorian Planning Schemes (Practitioners Guide)
- Planning Practice Note 59 (PPN59) The Role of Mandatory Provisions in Planning Schemes, September 2018
- Planning Practice Note 60 (PPN60) Height and setback controls for activity centres, September 2018.

PPN59 describes the criteria used to determine whether mandatory provisions are appropriate, including the level of strategic support. PPN59 is read in conjunction with PPN60 in relation to height.

PPN60 requires that mandatory height and setback controls be applied only in exceptional circumstances or where Council has undertaken comprehensive strategic work to justify they are appropriate in context, further they are absolutely necessary to achieve the built form outcomes and it can be demonstrated that unacceptable outcomes would result from exceeding them. PPN60 outlines the strategic work required to justify the application of mandatory provisions including consistency with the PPF, currency and the role of the activity centre to accommodate growth based on its role, location and potential for development.

5.2 Does Fairfield Village have an identifiable built form character?

(i) What is proposed?

DDO21 seeks to apply controls over two sub-precincts, Area 1 aligning with proposed HO313 and Area 2, the balance of Fairfield Village Neighbourhood Centre.

Figure 5 DDO21 Areas



(ii) Evidence and submissions

Ms Bell provided urban design evidence and described the existing character of Fairfield Village as follows:

[3] Station Street has a 'village' character, comprising a traditional main street environment of fine grain shop fronts generally of 1 to 2 storeys forming a fairly consistent streetscape elevation, excluding some isolated more recently developed higher built form. Station Street consists of a mix of considerable amount of old and moderately detailed building facades, which are interspersed with more contemporary forms. Generally, the facades include parapets that vary in height and style and add to the distinct eclecticism of the village. Refer to photos 1-8.

[4] Land to the south of the railway station on Railway Place also contains some older buildings and varies between 1-2 storeys with a fine grain, hard edge character. Newer built form of up to 5 storeys is emerging within the streetscape and in peripheral residential zones. Refer to photos 9-16.

[5] Wingrove Street contains a row of commercial buildings lining the northern side of the street, with the railway line and historic Station buildings on the southern side. Lots are generally of a fine grain and 1-2 storeys in height. Some built form variation consists due to previously residential properties that have been converted to commercial uses. These properties generally include small front setbacks rather than a hard edge. The historic railway station buildings and wide native vegetation strip form part of the distinct Wingrove Street character. Refer to photos 17-24.

[1] Lots within the study area are consistently at 36m-40m in depth. Many lots have narrow frontages, reinforcing the fine grain character. Larger parcels are interspersed throughout but are generally located closer to the periphery of the study area.

Both Ms Bell's and Mr Blade's evidence acknowledged an emerging character of taller building forms towards the southern end of the precinct.

Mr Blades' evidence was generally in accordance with this analysis, although he included additional precinct-based analysis. Mr Blades' evidence suggested that Council's precinct distinction was based primarily on heritage considerations and did not recognise the distinct character differences between Station Street and streets adjacent to the station. Mr Blades' analysis identified two distinct character precincts (Figure 6):

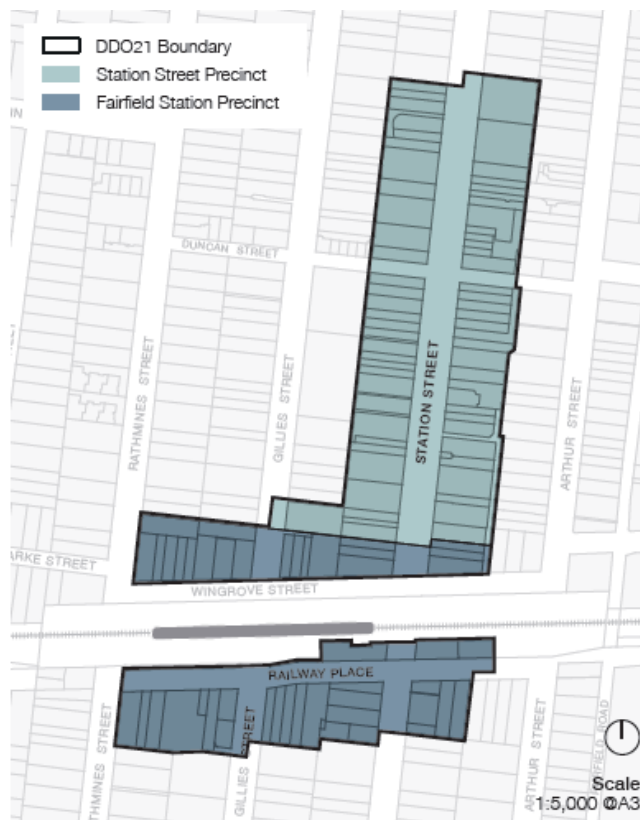
- Station Street with its prevailing one and two storey building height, wider road reserve, fine-grained subdivision pattern, eclectic building mix and sense of intimacy created by canopies
- Fairfield Station with its greater diversity of street wall height and overall building height, diversity of architectural styles, public realm landscape character and inconsistency between streets on either side of the station.

Mr Blades considered this precinct distinction would be a more appropriate basis of design controls, including height, as the two areas essentially had different capacity to absorb height.

Mr Blades' evidence and Mr Walker's submission refer to the 2008 version of the *Fairfield Village Design Guidelines* which showed a four-storey height response adjacent to Fairfield Station and three storey height provision in Station Street was anticipated, supporting this precinct distinction.

Council did not support this position. Ms Bell indicated in that Mr Blades' precinct assessment did not respond to key character elements or heritage. Ms Bell's evidence did however recommend the inclusion of the properties at 129-135 Station Street in Area 1 to create a distinct edge to the two areas and to ensure that different sides of Station Street south of Duncan Street did not have different height provisions. Council indicated its acceptance of this recommendation in its revised DDO21.

Figure 6 **Alternate Fairfield Village DDO precincts**



Mr Walker indicated that this Area change potentially represented a transformation to the Amendment and that affected land-owners had not had the opportunity to consider the potential impacts of this change.

The evidence of both Ms Bell and Mr Blades supported the strategic intent of providing greater built form and certainty through DDO21. Mr Blades qualified this with concerns about specific content and the design aspirations of DDO21. Mr Walker identified that the submitters were not requesting much in the form of changes to the Amendment that could not be addressed by removing mandatory height and setback provisions and allowing greater height consistent with Mr Blades' precinct approach.

(iii) Discussion

The Panel considers that there is discernible built form character within the proposed DDO21 area. This is supported by the evidence of Ms Bell and Mr Blades. Council supported by Ms Bell's evidence, have aligned the sub-precinct areas with the heritage values identified in the Heritage Assessment and the gaps in contributory buildings and valued street facades in Area 2. Mr Blades' approach is more focused on the spatial relationship with the station, across streets and height characteristics. The Panel considers that neither approach is incorrect per se from a first-principles perspective. The difference of approach is more marked when used as a basis of height controls.

In this instance, the DDO controls and response have been developed cognisant of the heritage values of the precinct and as discussed elsewhere in this Report, the identified heritage values and architectural characteristics are closely aligned with the identified built form character of Fairfield Village. This is not to say that the two controls are doing the same job.

On balance the Panel supports the recognition of the built form characteristics of Fairfield Village through the application of a DDO. The Panel supports the two area approach as proposed in the exhibited version of DDO21.

The Panel agrees with Ms Bell's evidence that Area 1 should be extended to Duncan Street on the east side of Station Street. This is logical for the reasons identified by Ms Bell however the Panel acknowledges that affected land owners have not had the opportunity to make a submission to this change. The change could be perceived as a minor transformation of the Amendment particularly given that DDO21 proposes lower street wall and building heights in Area 1. This change could be addressed by splitting the Amendment into two parts and pursuing further changes to the DDO through re-exhibition. This might be an appropriate action given other concerns with the form and content of the DDO discussed in Chapter 5.10 of this Report. An alternate option is to leave the extent of areas as exhibited and further review the DDO21 at a later time.

(iv) Conclusion

The Panel concludes that:

- The application of a DDO to Fairfield Village is supported.
- The two-area designation in DDO21 is appropriate.
- There is value in Area 1 being extended to Duncan Street on the east side of Station Street, however this may represent a transformation of the Amendment.

5.3 Strategic policy implications

(i) Submissions and evidence

As identified in Chapter 4.5 several submissions raised concerns with the application of the HO and DDO21 and the ability for centres like Fairfield Village to pull their weight in accommodating housing growth and economic activity. These submissions identified that application of mandatory controls in particular, are excessive given the eclectic architectural character, lack of exceptional character and more recent modern, taller building intrusions.

Some noted it may stifle innovation and design excellence and constrain the ability to achieve broader policy objectives. Mr Walker submitted this was particularly the case for centres such as Fairfield that are close to public transport and identified for substantial change.

(ii) Discussion

The relevant PPF and LPPF considerations identified in Chapter 4.5 are not repeated here.

The two-area approach to controls appropriately reflects that the northern portion of the precinct (Area 2) has a different character than Area 1 given its greater mix of building typologies.

The application of DDOs (and HOs) in activity centres is common to ensure the key character and built form elements are considered in new built form responses. Further, these maintain the sense of place and a level of distinctiveness.

The Panel considers that the application of DDO21 provides a trigger for permit applications and an appropriate design response. Given the narrow lot subdivision pattern, modest lot area, and lack of rear access and the focus of major retail and commercial floor space activity in other centres, it is considered that the application of a DDO with the appropriate balance of controls would not stifle the level of development activity anticipated for the Centre. The proposed DDO21, mandatory provisions aside, anticipates and provides for substantial development opportunity well above the existing heritage façade heights to accommodate future housing and commercial floor space provision. The level of development activity anticipated by DDO21 provides for what is a level of substantial change for a Centre of this size and its place in the retail hierarchy and could not be said to be encouraging underdevelopment. DDO21 supports site consolidation.

The Panel agrees with Mr Walker's proposition that where there is a lower level of heritage significance, and significant stretches of the streetscape which do not have any heritage value, there is greater scope for flexibility in the design response. Issues relating to mandatory controls are particularly relevant in considering the appropriate level of development control that should apply in Fairfield Village and are discussed further.

(iii) Conclusion

The Panel concludes that:

- The application of DDO21 is consistent with Council's broader vision and strategic aspirations for the Fairfield Village Neighbourhood Centre.
- The application of DDO21 to the Fairfield Village Neighbourhood Centre will not compromise the achievement of housing and economic policies and strategies for the Centre.

5.4 Design objectives and relationship to the Heritage Overlay

(i) What is proposed?

DDO21 as exhibited includes five design objectives:

To encourage high quality urban development that achieves moderate intensification while being responsive to the valued character and amenity of the centre.

To ensure development complements the established traditional streetscape of the centre by contributing to consistency of form, scale and facade articulation.

To ensure development respects and enhances identified heritage buildings and precincts.

To ensure development makes a positive contribution to the public realm.

To ensure development provides an appropriate transition to and limits adverse amenity impacts on residential zoned properties.

(ii) Evidence and submissions

The key concerns arising out of submissions and evidence related to the reference to heritage buildings and whether DDO21 and the identified built form character elements of Fairfield Village are more focused on heritage.

Mr Blades identified that the DDO is primarily a built form tool to articulate a preferred future character while the HO is the primary tool “for the consideration existing heritage fabric makes to preferred heritage outcomes”. Mr Blades’ evidence acknowledged that “there is a nexus between urban design and heritage insofar as considerations such as streetscape character are concerned” but suggested that the DDO was based primarily on heritage considerations. He said it consequently “dilutes the effectiveness of the DDO as a principle design-based tool for the articulation of best practice built form outcomes”.

Council considered that it was critical that development of DDO21 considered the built form outcomes that would “maintain the existing village feel and be acceptable under the HO”. Council submitted that the critical language in the design objectives was “respects and enhances identified heritage buildings and precincts” rather than protects. Council referred to DDO19 (Glenferrie Road and High Street Activity Centre) in the Stonnington Planning Scheme which included in the design objectives the encouragement of development which “complements the existing heritage fabric”.

Council’s submission identified that to prepare a DDO in isolation to a HO would create a hostile situation where the two controls would be in conflict and that Council had worked actively to ensure the two tools worked together.

(iii) Discussion

The Panel considers that it is not unusual to have both a DDO and a HO applying to an activity centre. Depending on the context, these controls might apply to the same precinct or cover different parts of an activity centre depending on the heritage or built form character present.

HOs and DDOs have distinct roles and purposes. The HO seeks to identify places of heritage significance through demolition and building alteration permit triggers and require development responses to consider the impacts on the significance of a place. While a HO can include design guidelines, these cannot include mandatory provisions and will generally be focused on appropriate heritage place responses rather than preferred design or character aspirations for the whole centre.

The Panel considers the conclusions of the Panel in Moreland C134 which also considered this issue are relevant to the Amendment:

The Panel agrees with Council and its experts that heritage is an appropriate issue which DDOs can provide guidance on. The head clause of the DDO identifies this. The Heritage Overlay informs decision makers what is significant, but not how development should respond to that significance by way of a built form response. This is an obvious role for the DDO, and in the case of Sydney Road and parts of Lygon Street where heritage does form part of the character and existing built form, DDO18 and DDO19 can appropriately provide guidance. This guidance is important, not only for listed properties, but also for properties which sit next to or could impact on the significance of a listed place.

The Panel in Melbourne C240 (PSA) [2015] PPV 37 considered this issue and concluded that while it was not appropriate for a DDO to solely look to protect heritage considerations and that the HO is the tool for preservation, particularly in a precinct wide HO.

... notwithstanding this level of control in a precinct HO, guided as it is by the Statement of Significance and the policy framework of the Planning Scheme, it may be beneficial as it is in the present case, to layer the HO with another planning tool which sharpens the understanding of, or places parameters around, acceptable design outcomes.

The Panel notes that in the case of DDO62, the design objectives, correctly, are not expressed in terms of retaining the heritage elements of significance in the Precinct per se. Instead they seek to 'protect character'...

In the Panel's view all of these matters are a legitimate purpose for applying DDO controls.

The general decision guidelines of the DDO referred to by Ms Porritt, also make it clear that seeking to achieve development outcomes consistent with the heritage characteristics of a place would not fall outside the proper use of a DDO.

The Panel considers that this is the case here. DDO21 seeks to ensure the design objectives and built form responses recognise the heritage significance of Fairfield Village. The design objectives extend beyond respecting and enhancing heritage buildings and precincts and anticipates and accommodates significant built form change throughout Fairfield Village. DDO21 manages and tempers the extent of new built form envisioned for the Centre in a manner that allows the heritage place to be identified and understood but does not unreasonably fetter change.

Council in preparing this Amendment have developed the HO and DDO21 side by side in a precinct where the built form character and heritage values are strongly aligned. This is a reasonable approach in the context of this Centre.

Importantly the HO is the only mechanism where the valued street facades identified in DDO21 can practically be retained (their demolition requiring a permit) and incorporated into development in the manner anticipated.

(iv) Conclusion

The Panel concludes that:

- The design objectives of DDO21 are appropriate.
- HO313 and DDO21 work effectively together.

5.5 Building height

(i) What is proposed?

DDO21 proposes maximum height requirements (which cannot be varied with a permit) based on land area as summarised in Table 4.

Table 4 Building height requirements

Area	Maximum height limit
Land under 1000 sqm	14.5m and 4 storeys
Land 1000 sqm or greater	17.5m and 5 storeys

(ii) Submissions and evidence

Submissions 3 and 11 raised concerns about the application of mandatory heights and using land area as a basis of height differentiation. These submissions raised concerns about the effect mandatory provisions would have on the Centre fulfilling its strategic growth role.

Mr Walker referred to PPN60 and submitted that the case for mandatory controls had not been based on the necessary level comprehensive analysis required. Mr Walker referred to earlier versions of the Hansen Partnership design guidelines which identified higher height opportunities. It did not nominate the application of mandatory provisions identifying that this was added later in the Council officer prepared version. Mr Walker submitted that:

Mandatory controls stifle innovation and design excellence, and encourage mediocrity in the form of development that builds to a box. The Nightingale project is a prime example of this. It is an innovative project which delivers in spades on sustainability and affordability objectives. It would be prohibited under DDO21.

Mr Blades' evidence, which is based on his character analysis, recommended the removal of the mandatory height provisions and applying discretionary preferred building heights of five storeys (17.5m) to his identified Station Street Precinct and six storeys (20.5m) to his identified Station Precinct. Mr Blades recommended the removal of minimum land size prerequisite.

These changes were considered to reflect the emerging character of the precinct and its role as a substantial change area.

Ms Huddle supported the application of mandatory height provisions although they were not expressed this way in the Heritage Assessment. She acknowledged that the building heights were a compromise and that from a purely heritage perspective, lower height forms were more appropriate.

Ms Bell's evidence supported the application of the proposed heights based on the level of strategic work undertaken to inform the controls. Ms Bell however recommended two changes:

- applying the mandatory height provisions to Area 1 only
- using a lot width trigger (24m) for height rather than minimum lot area supported with a mandatory 3m side setback at the fifth floor level.

Ms Bell indicated that the recommendation not to apply mandatory height limits to Area 2 was due to the built form analysis not being compelling enough. She considered that this area had less heritage and character value than Area 1. Ms Bell considered that there was a *"higher imperative to respond to the valued character in Area 1"*. Ms Bell concluded that removing the mandatory height provision from Area 2 would provide allowance for more design flexibility.

In relation to the minimum land area trigger, Ms Bell's evidence suggested that this was an inappropriate tool and that minimum widths were more likely to stimulate lot amalgamation and was already used within Darebin (DDO3, DDO16 and DDO17). Ms Bell identified that side setback provisions were more likely to retain the openness of the streetscape and moderate scale.

Council's submission did not support Ms Bell's evidence regarding the proposed height triggers. Council referred to Clause 21.03 that identifies 1000sqm sites as strategic opportunity sites as a basis for using the minimum lot area criteria for height. It was Council's view that nominating mandatory height provisions was critical to respond to the identified character and to rely on preferred heights inevitably meant that this was the starting point for development proposals. Council indicated that the proposed heights were well above the heights that existed under former DDO8 and that it had worked closely with the community to accept more intensive and higher built form in their village.

(iii) Discussion

Consistent with PPN60 the Panel agrees that mandatory provisions should only be applied where strategically justified. The Panel considers that sufficient strategic analysis was undertaken by Council to support mandatory controls in Area 1. The Panel considers that a mandatory control is necessary to provide an appropriate response to the established character of Fairfield which has a greater level of consistency and heritage character than Area 2.

Heights of five and six storeys as a consistent height outcome would, in the Panel's opinion, significantly overwhelm the established character and heritage values of Fairfield Village to the point where it is no longer appreciable.

The Panel considers that DDO21 and the HO in this instance need to be read together to ensure that Council's aspirations for the centre are realised. The Panel believes this requires a balanced approach to be taken in respecting the heritage elements of the place, enhancing the Centres urban design characteristics and encouraging an appropriate level of development that is appropriate to the strategic role of Fairfield Village Neighbourhood Centre. This means that a mix of mandatory and non-mandatory requirements is necessary.

The Panel agrees with Ms Bell's evidence however that the built form analysis does not justify the application of mandatory height provisions in Area 2 and the characteristics of this area means it could accommodate greater flexibility.

The Panel is of the view that the 1000sqm minimum land area trigger for height is somewhat arbitrary. This lot size is larger than the majority of lots in the centre and will work to effectively limit height to 14.5m or four storeys. The Panel agrees with Ms Bell's evidence that width would be a better trigger as it reflects the predominant lot width and land area in the Centre. The Panel agrees however with Mr Walker's submission that the addition of a 3m side setback potentially represents a transformation of the Amendment as it is expressed as a mandatory provision and potentially changes the anticipated built form opportunities proposed in the exhibited version.

(iv) Conclusion

The Panel concludes that:

- The 8.5m and 11.5m (four and five storey) maximum height limits are appropriate.
- The mandatory height limit provision should apply to Area 1 only as proposed by Ms Bell's evidence.
- The minimum land area trigger should be replaced with a lot width trigger as proposed by Ms Bell's evidence.

5.6 Valued Street facades

(i) What is proposed?

DDO21 proposes that development should retain and incorporate the Valued Street Facades identified in the Map 1 forming part of the Schedule. These facades are depicted with street numbers and the identified sites hatched.

(ii) Submissions and evidence

A number of submissions questioned how the value of these sites was identified, why some of these sites were included given they were identified in the Heritage Assessment as non-contributory and the whether the DDO was the appropriate tool for their inclusion.

The source of the identification of valued street facades appears to have been the *Design Guidelines Station Street Fairfield*, 2008 and associated Background Report prepared by Hansen Partnership. This document provides limited explanation as to how these sites were identified although generally they contain buildings which display the façade features and built form characteristics of Station Street sought to be retained in the Heritage Assessment.

Mr Blades' evidence questioned why these facades are valued over other existing facades that identify similar qualities and by whom are they valued? Mr Blades concluded that their inclusion operates as a defacto heritage control and is therefore inappropriate with the purpose of a DDO.

Council's Amended DDO21 proposed to change the provision of "*Development should retain and incorporate*" valued street facades with "*Development must retain and incorporate*".

Council indicated in its closing submission that there were several valued street façade sites that were non-contributory and could be deleted. These were 88B - 88E Station Street, 115-115A Station Street and 116 Station Street.

(iii) Discussion

The Panel notes that other than the sites identified by Council as non-contributory, all valued street facades are identified in the Heritage Assessment as contributory. Several of these sites are also located outside HO313.

The Panel is not convinced that a DDO can be structured to require the retention or incorporation of a building. This is typically the role and purpose of a HO. The requirement however appropriately excludes the words this "*requirement cannot be varied with a permit*" as to do so would be inconsistent with the provisions of Clause 43.01. The Panel agrees with Council's submission to delete the valued street façade sites in Area 1 that are not identified as contributory or significant in the Heritage Assessment to avoid future misinterpretation.

Based on the largely arbitrary nature of their identification and lack of urban design advice justifying their inclusion the Panel considers that they should be removed from Area 2 which is not in the HO as there is no guidance to establish what is valued about them relative to other sites. The Panel is of the view that Council should review this element to see if it is able to work as intended or whether reference to them is removed in totality. The Panel acknowledges that their removal would have some consequence to the effectiveness of the proposed DDO21 given the street wall and front setback provisions are largely predicated on their retention. An alternate approach could be to include a definition for them and using alternate requirement language that identifies them as a significant or contributory building.

(iv) Conclusion

The Panel concludes:

- That the Valued Street Facade identified in Map 1 of DDO21 be deleted from Area 2 and from 88B - 88E Station Street, 115-115A Station Street and 116 Station Street.
- The Valued Street façade provisions should be reviewed before finalisation of the Amendment.

5.7 Street wall and front setbacks

(i) What is proposed?

DDO21 proposes maximum street wall heights and front setbacks for Areas 1 and 2 as generally summarised in Table 5. Five Figures are included in the DDO providing street cross section view line drawings to support the interpretation of setback provisions. Street wall

heights cannot be varied with a permit. Criteria are included for considering variations to front setbacks.

Table 5 Street wall and front setback requirements

Area	Maximum wall Height	Street	Minimum front setbacks
Area 1	Greater of 8.5 m or adjacent street wall		<ul style="list-style-type: none"> - 4.0m for second storey and 8.0m for third and fourth storey where single storey building (or part) retained - 4.0m for third storey and 8.0m for fourth storey where double storey building (or part) retained - 0m for first two storeys and 4.0m for third storey and 8.0m for fourth storey where new building proposed - Reduced 2.0m at third and 4.0m fourth storey setbacks for Duncan Street corner sites - Specific 'bookend' setbacks for 85 Station Street
Area 2	11.5m		<ul style="list-style-type: none"> - 2.0m for second storey and third storey and 4.0m for fourth storey where single or double storey Valued Street façade retained - 4.0m for third storey and 8.0m for fourth storey where double storey building (or part) retained - 0m for first two storeys and 4.0m for third storey and 8.0m for fourth storey where new building proposed - Reduced 2.0m at fourth storey setbacks for Duncan Street corner sites

(ii) Submissions and evidence

Mr Blades proposed, that rather than the stepped setback approach adopted by Council, a quarter/ three-quarter upper level setback be applied to Station Street with a minimum upper level setback of 4m and a minimum 4m upper level street level for all sites adjacent of the station and rail corridor (refer Figure 7). Mr Blades suggested this was a superior approach to the sight-line approach used by Council.

Figure 7 Blade recommendations for Street wall height and setbacks

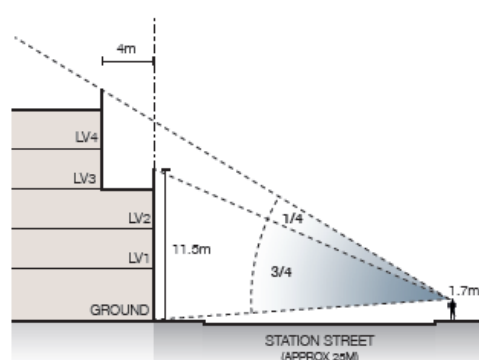


Figure 35: Recommended Station Street Precinct Setbacks

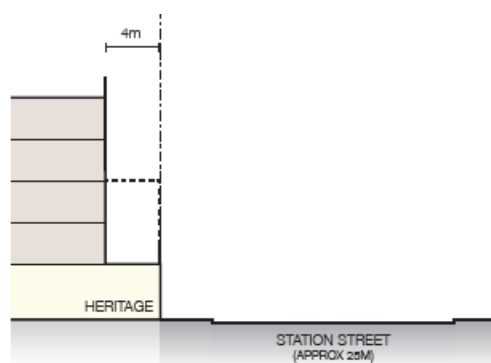


Figure 36: Possible Setback Response to Heritage Fabric

Ms Bell's evidence supported the discretionary nature of the controls and considered that the generous upper level setbacks ensures that the heritage values and streetscape character of Fairfield Village isn't compromised. Ms Bell considered they will achieve consistent built form

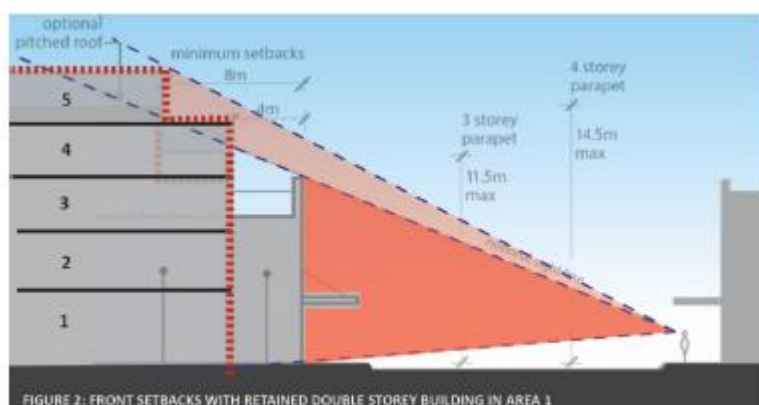
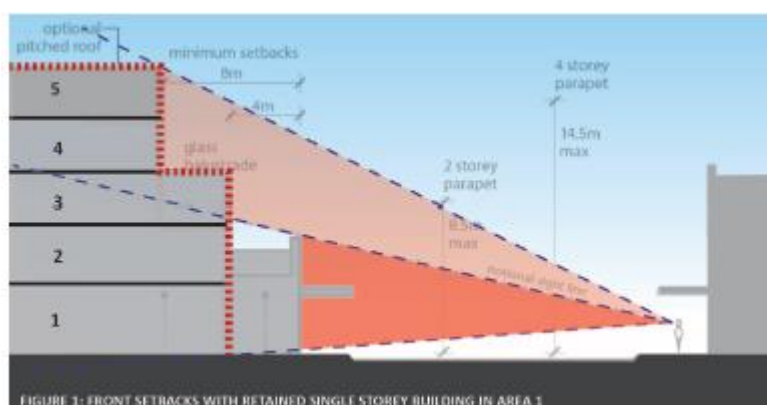
outcomes relative to the street, ensure new development respects and emphasises heritage places and valued facades, and limits the prominence of new buildings from the oblique view. Ms Bell considered however that:

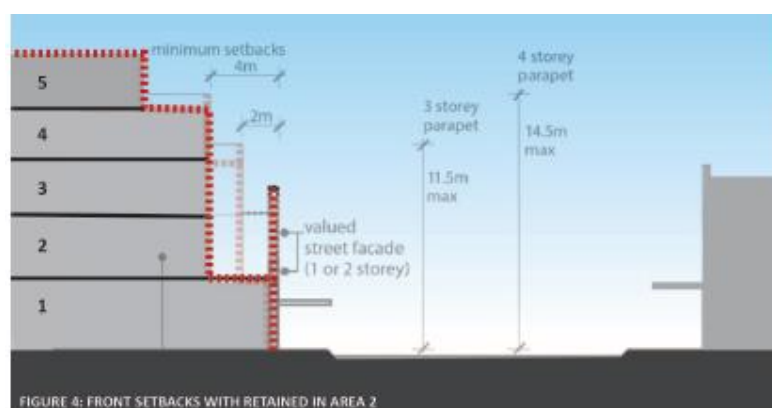
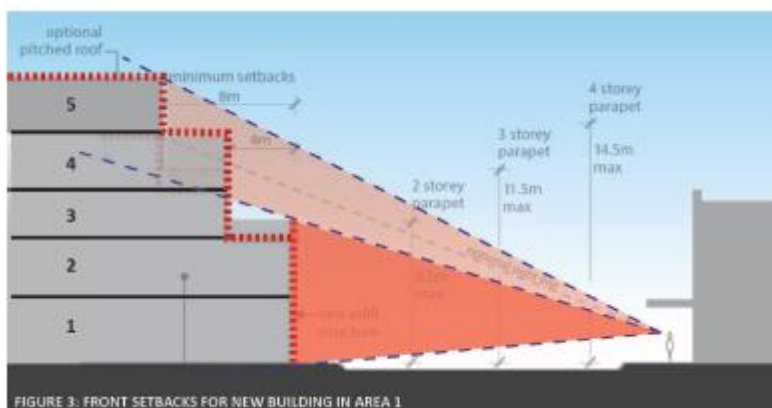
- the different minimum setbacks created unnecessary stepping and complicated building composition
- the upper setback of 8m is unnecessarily large considering the overall modest height and depth of heritage building retention
- upper levels will be visible in oblique views regardless stepping.

Ms Bell recommended changes to the wall height and setback requirements (refer Figure 8):

- for single storey buildings retained in Area 1 - a 4m setback up to the third storey and 8m up to the fifth storey
- for double storey buildings retained in Area 1 - a 4m setback up to the fourth storey and 8m at the fifth storey
- for a new building with a 8.5m street wall in Area 1 - a 4m setback up to the fourth storey and 8m at the fifth storey
- for a building retained in Area 2 - a 4m setback for the second, third and fourth storey and 8m at the fifth storey
- retaining the existing upper level setbacks for new buildings in Area 2.

Figure 8 Bell recommendations for street wall and setbacks





(iii) Discussion

The Panel considers that the DDO provisions relating to street wall height and setbacks are generally appropriate but are overly complicated and require simplification to support interpretation, application and avoid unnecessary built form responses which limit usable floor plate or good design outcomes.

The Panel considers that the street wall heights proposed are an appropriate response to the prevailing, modest built form height within the precinct and will enable the introduction of taller building elements at street level that do not dominate this character.

The Panel considers that a 4.0m setback for upper levels provides a good built form balance that enables the new to not overwhelm the heritage or desired character elements. The Panel considers that Mr Blades' recommended requirements, while achieving simplification, will result in design outcomes that will be severe and dominant of the heritage values of Fairfield Village and Council's built form aspirations for it.

The Panel broadly support Ms Bell's recommendations to replace the Figures 1 to 4 in DDO21 with the those included in her evidence. The Panel notes that the street wall height and setback requirements as proposed in DDO21 can be varied with a permit. This is appropriate to enable a contextual response to site size and location.

The Panel notes that the removal of valued street facades from Area 2 as recommended would result in DDO21 Figure 4 being obsolete.

(iv) Conclusion

The Panel concludes that:

- The street wall height requirements as exhibited are appropriate.
- The front setback requirements as exhibited should be replaced with those included in Ms Bell's evidence.
- Figure 4 for Area 2 should be deleted if the valued street facades sites are removed from Area 2.

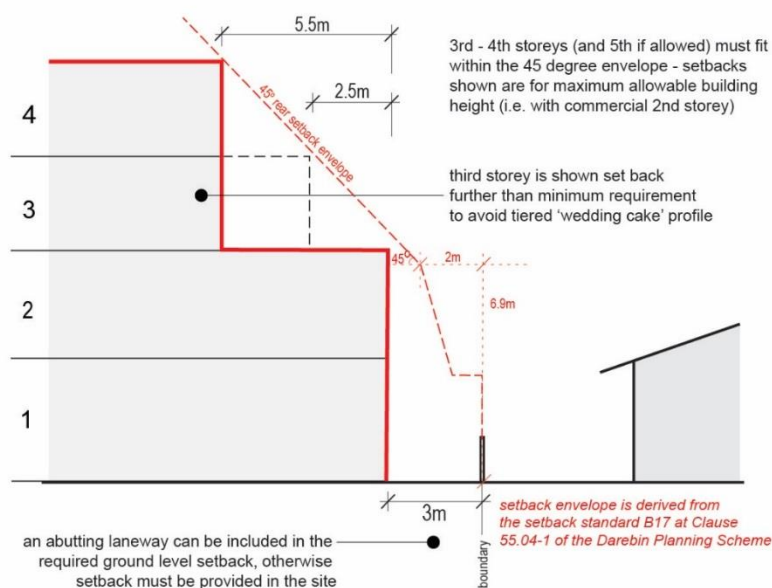
5.8 Side and rear setbacks

(i) What is proposed?

No side setbacks are required for mid-block developments where adjoining sites can be built to a similar scale. The requirement provides arrangements for mid-block light wells.

The rear setbacks and interface requirements provide for a 3m rear setback at first and second floors and further setback at higher storeys within a 45 degree envelope as shown in Figure 9.

Figure 9 Rear setback requirement



(ii) Submissions and evidence

Mr Blades' evidence in relation to side setbacks supported the proposed setback provisions and focused on the requirements relating to dwelling orientation and outlook. He recommended nuancing the primary dwelling orientation provisions. In this context Mr Blades outlined an equitable development approach whereby the light and separation above the base level is shared between developments as an efficient approach to redevelopment.

Ms Bell recommended the application of a 3m side setback be applied to buildings five storeys and over to:

help retain the openness of the streetscape and moderate scale as viewed from the street. It will provide spacing between the upper levels and therefore views

to the sky. The spacing will also reduce the upper levels potential to dominate the heritage.

Council supported this recommended change.

Ms Bell's evidence supported the rear setback requirement but suggested that Figure 7 of DDO21 identify the fifth floor.

Mr Blades recommended this provision be deleted and replaced with a requirement to respond to the provisions of Standard B17 of Clause 55 on the basis that the interface between the C1Z and GRZ2 should not be treated any differently to other area.

(iii) Discussion

The Panel acknowledges there is merit in Mr Blades' identification of an equitable development response in relation to the arrangement of light wells. The Panel considers however, that this approach should be considered holistically through a consistent municipal approach rather than attempting to massage it into DDO21.

The side setback provisions are not mandatory and can be varied by a permit where a better design outcome can be achieved. This is also the case for Mr Blade's recommendations relating to dwelling orientation. These suggestions have merit and should be considered by Council in any drafting changes to DDO21, however the requirements again can be varied in response to a well-designed and considered proposal.

The Panel supports the application of a 3m side setback at the fifth-floor level. Such a provision would work in tandem with the lot width height trigger and ensure new built form does not dominate the heritage and character values or create a dominating wall of development along the Station Street. The Panel has previously acknowledged Mr Walker's submission that could potentially transform the Amendment, particularly if the provision is expressed as a mandatory one.

The Panel supports the exhibited rear setback provisions as a way of managing the interface between the changing and emerging form of Station Street and the incremental housing role played by the adjoining residential area. Again, the provisions are not mandatory and can be varied with a permit. Clause 55 will be a relevant consideration in any case.

(iv) Conclusion

The Panel concludes that:

- The side setback requirements as proposed are supported.
- The additional requirement of a 3m side setback at and above the fifth-floor level would enhance the control, but potentially represents a transformation of the Amendment where expressed as a mandatory provision.
- The side set back provisions would be enhanced by reviewing the dwelling orientation provisions as identified in Mr Blades' evidence.
- The rear setback requirements as proposed are supported.

5.9 Design detail

(i) What is proposed

DDO21 includes requirements for façade detailing including balustrade treatments, materials and finishes, landscaping and carparking and access.

(ii) Submissions and evidence

Council's amended version of DDO21 included changes recommended by Ms Huddle and Ms Bell to provide acceptable heritage outcomes and reduce the prominence of upper levels.

Mr Blades recommended the deletion of the landscaping requirements and update the balustrade material guidance to:

articulate that glazed balustrades are expressly preferential in situations in which providing a solid balustrade would result in an unnecessary departure from the preferred street wall and maximum height aspirations.

(iii) Discussion

The Panel considers that Council's amended version of DDO21 (Appendix D) provides an appropriate response to the evidence regarding materials and finishes. The Panel accepts that generally a glass balustrade will be preferable to a solid balustrade but considers this to be reasonably accommodated within the existing wording of the schedule without needing to expressly require it.

The Panel considers that the landscaping requirements relate to existing LPPF aspirations, however they would need to be reworded if land area is no longer a basis for height differentiation. It is suggested that building height should be the criteria for differentiating landscaping requirements.

(iv) Conclusion

The Panel concludes that:

- The street façade form and detailing requirements and the materials and finishes requirements proposed in Council's amended version of DDO21 as included in Appendix D are generally supported.

5.10 Will DDO21 appropriately implement the vision for Fairfield Village?

(i) Discussion

The Panel considers that while the DDO21 is an appropriate tool to manage built form outcomes in Fairfield Village and that building height, street wall height and setback requirements are necessary, as constructed it has several failings. In part this is because it is overly complex and has not in the Panel's view, struck the right balance between mandatory and non-mandatory provisions.

The Panel has identified several recommended changes to the requirements of the DDO21 that will require significant redrafting and consideration.

The Panel considers that DDO21 has not been constructed in a manner that meets the Ministerial Direction on the *Form and Content of Planning Schemes* or the *Practitioner's Guide to the Victorian Planning Schemes*. In part this to be expected with an Amendment that has been in development for some time and in the context of significant changes to the format of schemes and provisions during this time. Council have also had the advantage of engaging additional urban design advice in the lead up to the Panel Hearing. The Panel acknowledges this was a risk for Council but considers that it has provided the benefit of developing a tighter and more effective set of controls.

The Panel considers that the required document changes cannot be readily fixed by providing a tracked changes version. Considerable changes are required, and Council should take the time to recraft the schedule and consider what next steps it takes in relation to this aspect of the Amendment.

Some of the key issues with the current DDO21 (including the revised version) include:

- grammatical styles and use of linking words, commas and semi colons between provisions
- definitions – terms already defined should not be used or re-expressed. Terms used such as valued street façade and street wall should be defined. All proposed definitions should be reviewed, and the language improved as some of them simply don't make sense or aren't easily interpreted
- the need to remove unnecessary words. For example, the phrase 'The overall height of any new building must not exceed the maximum height ...' is better expressed as 'A building must not exceed the maximum height ...'
- requirement provisions must start with a capital. Where there is a list of things a requirement must demonstrate, the lead in provision should seek to demonstrate how the development 'achieves all the following' things
- Expression of height in both metres and storeys does not make it clear what the primary measure is
- Table 1 includes reference to a 'visual study' but this is not included in the application requirements. The reference to front façade is not clear, nor is it defined
- the content of Table 2 is difficult to determine what applies, and is open to interpretation. It may be represented in separate tables for street wall and front setbacks
- any text in figures should be expressed in the requirements
- not using parallel language for example in the street façade and detailing requirements. The word 'should' is appropriate – 'Should use', 'Should avoid', 'Should maintain' and so on
- use of conflicting words. For example, 'materials and finishes must maintain and enhance' (Panel's emphasis).
- including provisions which have no head of power under the DDO such as alternative arrangements for car parking requirements that cannot be met
- referencing external documents in decision guidelines
- referring to matters 'prescribed in this schedule' when they are not.

The Panel considers that the DDO21 intent is largely clear but requires a major edit and review. The DDO would benefit from a professional edit and redrafting. To this end a comparison with

other DDO's that apply to similar neighbourhood activity centres would be beneficial as would an analysis of the *Practitioner's Guide to the Victorian Planning Schemes*. The Panel suggests that Chapter 16 Structure and language of the *Fishermans Bend Planning Review Panel Report No.1 – Volume 1 Overview, 19 July 2018* provides useful instruction on the drafting principles which could apply to this Amendment.

The Panel notes that the Built Form Guidelines are proposed to be introduced as a background document (reference document), which will provide minimal value to the interpretation of the proposed DDO. However they will provide useful additional guidance around building design response elements such as street facade form and detailing, materials and finishes and landscaping.

The Built Form Guidelines reflect the exhibited DDO21 and require significant alterations to align with the final version of DDO21.

The Panel acknowledges that the redrafting of DDO21 as recommended will potentially transform the Amendment. As identified elsewhere in this Report, Council will need to consider how best to proceed with this element of the Amendment.

(ii) Conclusions

The Panel concludes that:

- Council's amended version of DDO21 included in Appendix D contains the core elements of an appropriate tool.
- DDO21 in its current form however is not supported for the reasons identified in this Report.
- DDO21 requires substantial redrafting to respond to the Panel's suggested changes and to meet Ministerial Direction and Practice Note provisions.
- The *Fairfield Village Built Form Design Guidelines, 2017* are an appropriate document to identify in the Darebin Planning Scheme as a background document but require substantial alteration to align with the final content of DDO21.

(iii) Recommendations

The Panel recommends:

- 3. Substantial redraft DDO21 based on the version in Appendix D and the Panel's suggested changes identified in Chapter 5.**
- 4. Amend the *Fairfield Village Built Form Design Guidelines, 2017* to align with the final form and content of DDO21.**

5.11 How to take this Amendment forward

The Panel recognises the strategic work undertaken and time invested by Council through community engagement to develop the proposed planning tools to guide the future development of Fairfield Village. If Council accepts the Panel's recommendations to redraft DDO21, the question arises as to how Council maintains the momentum of the Amendment and avoids undertaking a further Amendment process.

The Panel considers there are several approaches open to Council:

- progress the Amendment to the approval stage with an amended DDO21 based on the Appendix D version and other formatting changes identified in Chapter 5.11
- proceed with the HO component of the Amendment only and further develop DDO21 as identified in this Report through a Part 2 amendment process
- undertake the further review of the DDO21 as identified in this Report and bring the matter back to the Panel to consider further submissions on the amended DDO.

To assist Council, the Panel is prepared to keep the matter open and allow parties to make further submissions on DDO21 only for an additional Hearing Day(s).

If Council elect to pursue this option, once the revised DDO21 has been prepared it should renotify submitters to the Amendment and any other parties Council sees as appropriate. If Council seeks to extend Area 1, those land owners should be notified.

Appendix A Submitters to the Amendment

No.	Submitter
1	Daniel Pongrac
2	Transport for Victoria
3	Joseph and Kay De Petro, De Petro Trading Company P/L
4	George Vlahogiannis
5	Paul Mariager
6	Council of St Andrews Unity Church of Fairfield
7	Thomas Pateras
8	Level Crossing Removal Authority
9	Banyule City Council
10	Theo Krambias, Floyd (Vic) P/L
11	Domenic Biviano (late submission)

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Darebin City Council	Mr Darren Wong, who called the following expert witnesses: <ul style="list-style-type: none">- Lorraine Huddle, Heritage, Heritage Intelligence Pty Ltd- Julia Bell, Urban Design, David Lock & Associates
Thomas Pateras Joseph De Petro (De Petro Trading Co P/L) Domenic Biviano	Mr Andrew Walker, instructed by Paul Dellios of Dellios, West and Co Solicitors who called the following expert witness: <ul style="list-style-type: none">- Brodie Blades of SJB Urban Pty Ltd on Urban Design

Appendix C Document list

No.	Date	Description	Provided by
1	15/10/18	List of properties in Biviano trust	Mr Walker
2	15/10/18	Council Part B Submission	Council
3	15/10/18	Location of submitters	Council
4	16/10/18	Revised DDO21 schedule	Council
5	16/10/18	DDO6 Schedule, Stonnington Planning Scheme	Council
6	16/10/18	Plan showing clients properties	Mr Walker
7	16/10/18	Photos of Station Street (1)	Mr Walker
8	16/10/18	Photos of Station Street (2)	Mr Walker
9	16/10/18	Photo of High Street and Westgarth	Mr Walker
10	16/10/18	Northcote Rickers Hill Heritage Review map	Mr Walker
11	16/10/18	Northcote-Westgarth Heritage Review map	Mr Walker
12	16/10/18	Design Guidelines Station Street, Fairfield	Council
13	16/10/18	Urban Design evidence PowerPoint slides Julie Bell	Council
14	17/10/18	Urban Design evidence PowerPoint slides Brodie Blade	Mr Walker
15	17/10/18	DDO18 Moreland Planning Scheme	Council
16	17/10/18	Mr Walker submission	Mr Walker
17	17/10/18	VCAT P1228/2016	Mr Walker
18	17/10/18	VCAT P782/2017	Mr Walker
19	17/10/18	Panel Report C37 and 38	Mr Walker
20	17/10/18	Appendix 2B to Design Guide	Mr Walker
21	17/10/18	Dwelling capacity analysis 17.10.2018	Council
22	17/10/18	Photos of Station Street (3)	Council

Appendix D Council version of Design and Development Overlay Schedule 21

--/--/20--
Proposed
C161

SCHEDULE 21 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO21**.

FAIRFIELD VILLAGE NEIGHBOURHOOD CENTRE

1.0

Design objectives

--/--/20--
Proposed
C161

- To encourage high quality urban development that achieves moderate intensification while being responsive to the valued character and amenity of the centre.
- To ensure development complements the established traditional streetscape of the centre by contributing to consistency of form, scale and facade articulation.
- To ensure development respects and enhances identified heritage buildings and precincts.
- To ensure development makes a positive contribution to the public realm.
- To ensure development provides an appropriate transition to and limits adverse amenity impacts on residential zoned properties.

2.0

Buildings and works

--/--/20--
Proposed
C161

A permit is not required to:

- Install an automatic teller machine.
- Alter an existing building facade provided that:
 - The alteration does not include the installation of an external roller shutter; and
 - At least 80 per cent of the building facade at ground floor level is maintained as an entry or window with clear glazing for development in the Commercial 1 Zone.

Definitions

- If the land is in a Special Building Overlay, the maximum building height is the vertical distance from the minimum floor level determined by the relevant drainage authority to the roof or parapet at any point.
- A basement, attic or a mezzanine is not a storey for the purposes of calculating the number of storeys contained in a building.
- The street wall is the front facade of a building along all street frontages.
- Street wall height is measured from natural ground level to the top of the parapet, unless the land is in a Special Building Overlay or is land liable to inundation, where the maximum height is the vertical distance from the minimum floor level determined by the relevant drainage authority to top of the parapet.
- Front setback is measured from the boundary of the land with the street and applies to both front and side street boundaries of corner sites.

Building Height Requirements

The overall height of any new building must not exceed the maximum height limit and must meet built form objectives specified in Table 1 to this schedule. The maximum height limit cannot be varied with a permit.

The maximum building height does not include:

- lifts, stairs, rooftop plant, solar panels designed to the satisfaction of the responsible authority
- structures and equipment associated with communal or green roof areas that occupy 50% or less of the roof area, and are designed to minimise views to any adjacent residential zoned property, to the satisfaction of the responsible authority
- a hip or gabled pitched roof within Area 1 (Fairfield Village Heritage Precinct) as shown on Map 1 at Subclause 7.0 of this schedule.

Table 1: Building height

Area	Maximum height limit	Built form objectives <u>outcome</u>
Land under 1000sqm	14.5m and 4 storeys	
Land 1000sqm or greater (may comprise multiple consolidated lots)	17.5m and 5 storeys	<p>Additional height is sufficiently recessed to be unobtrusive from surrounding streets and adjacent residential zoned properties, as evidenced by a visual study.</p> <p>Overall building form is designed to integrate with the streetscape and will not detract from the prominence and character of the existing street wall.</p> <p>Where an existing front facade is removed, the replacement building is articulated to respect the fine grain character of the street.</p> <p>There is an appropriate transition in form to lower rise adjacent buildings.</p>

Valued Street Facade Requirements

Development ~~should~~must retain and incorporate Valued Street Facades shown in Map 1 at Subclause 7.0 to this schedule, ~~with new building components set behind and above the retained facade in accordance with the requirements of this schedule.~~

Street Wall and Front Setback Requirements

The street wall of any development must not exceed the maximum height specified in Table 2 and ~~should~~ be constructed to the boundary along all street frontages to maintain a consistent street edge. The maximum street wall height limit cannot be varied with a permit.

Development must comply with the minimum front setbacks specified in Table 2.

Table 2: Street Wall and Front Setback Requirements

Area (refer to Map 1 in Subclause 7.0 of this schedule)	Maximum Street Wall Height	Minimum Front Setbacks
1	8.5m, or height of adjacent street wall, whichever is greater.	<p>Where development retains a single storey building (or part thereof), set back upper storey additions a minimum of 4 metres at the second storey and 8 metres at the third and fourth storeys, as shown in Figure 1.</p> <p>Where development retains a double storey building (or part thereof), set back upper storey additions a minimum of 4 metres at the third storey and 8 metres at the fourth storey, as shown in Figure 2.</p> <p>Where a new building is proposed, 0m front setback up to the maximum street wall height (two storeys), with minimum setbacks of 4 metres at the third storey and 8 metres at the fourth storey, as shown in Figure 3.</p> <p>Corner sites abutting Duncan Street, may have a reduced setback to Duncan Street of 2 metres at the third storey and 4 metres at the fourth storey.</p> <p>Development on the north east corner of Station Street and Wingrove Street (85 Station Street) may adopt a 'bookend' form incorporating the existing heritage building with consolidated minimum 4 metre front setbacks at the second and third storeys. In addition, a single storey parapet should be extended along Wingrove Street to a length of approximately 13 metres to match the width of the existing single storey Station Street frontage, as per the <i>Fairfield Village Built Form Guidelines, 2017</i></p>
2	11.5m	<p>Where development retains a Valued Street Facade (single or double storey) set back upper storey additions a minimum of 2 metres up to the third storey, and 4 metres to the fourth storey, as shown in Figure 4.</p> <p>Where a new building is proposed, 0m front setback is required up to the maximum street wall height (containing no more than 3 storeys) with the fourth storey set back a minimum of 4 metres, as shown in Figure 5.</p> <p>Corner sites abutting Duncan Street may have a reduced setback to Duncan Street of 2 metres at the 4th storey.</p>

The front setback of a fifth storey, where permitted, ~~should~~must satisfy the requirements for exceeding the maximum building height requirements as specified in this schedule.

An application to reduce the minimum front setback requirements must demonstrate how the development:

- meets the design objectives of this schedule;
- achieves a consistent building form and scale to the street;
- integrates with the streetscape and does not detract from the prominence of the street wall;
- respects and emphasises heritage places and other retained Valued Street Facades; and
- limits new built form in oblique views along the street.

Front setback areas behind the street wall may be encroached by the following built form elements:

- a balcony or terrace that does not project forward of the level below, as shown in Figures 1-5.
- by minor projections of functional or design elements including:
- awnings or sunshades projecting up to 1.5 metres forward;
- architectural detailing or artworks projecting up to 300mm forward; and
- vertical screens between balconies or terraces up to 1.7 metres high.

Balustrades to balconies or terraces which are visible behind retained historic street parapets from the street ~~should~~ must be of clear glass, as shown in Figure 1.

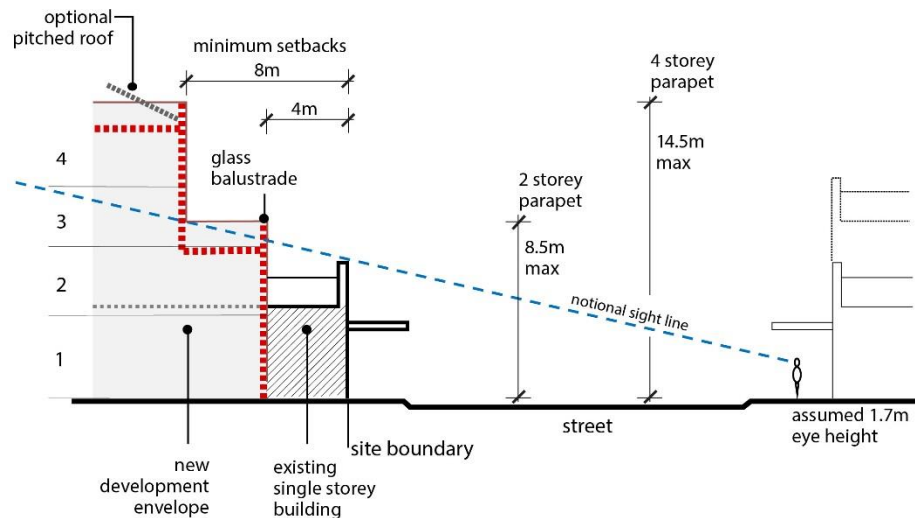


Figure 1: Front setbacks with retained single storey building in Area 1

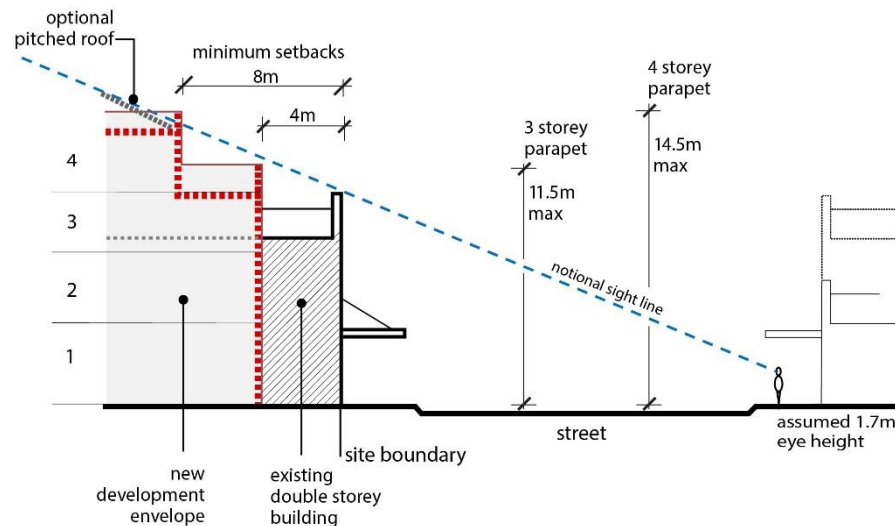


Figure 2: Front setbacks with retained double storey building in Area 1

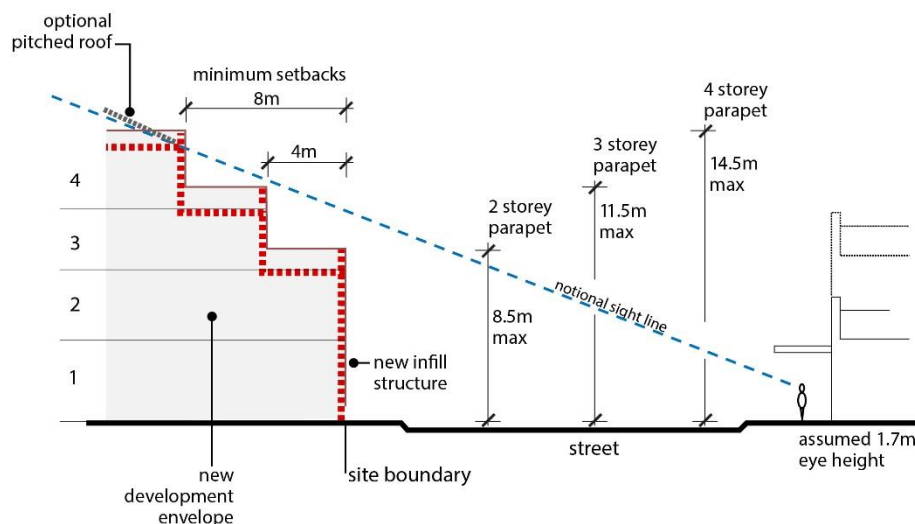


Figure 3: Front setbacks for new building in Area 1

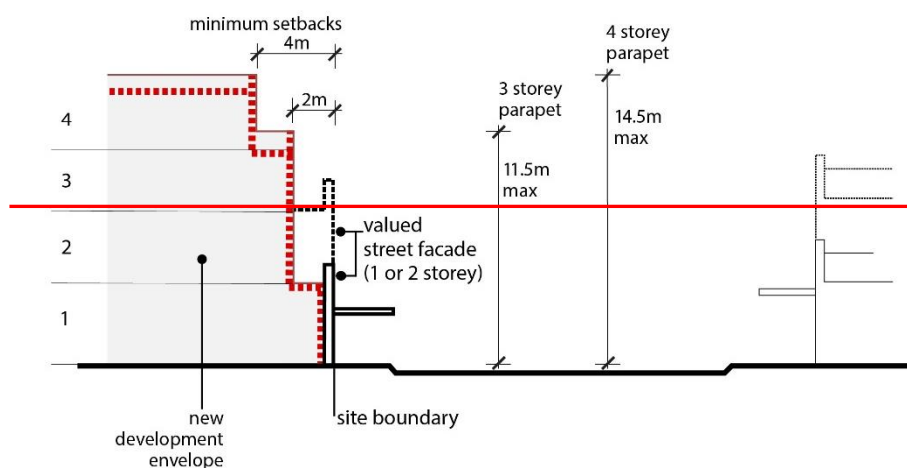


Figure 4 to be updated to Julia Bell's recommendation

Figure 4: Front setbacks with retained valued street facade in Area 2

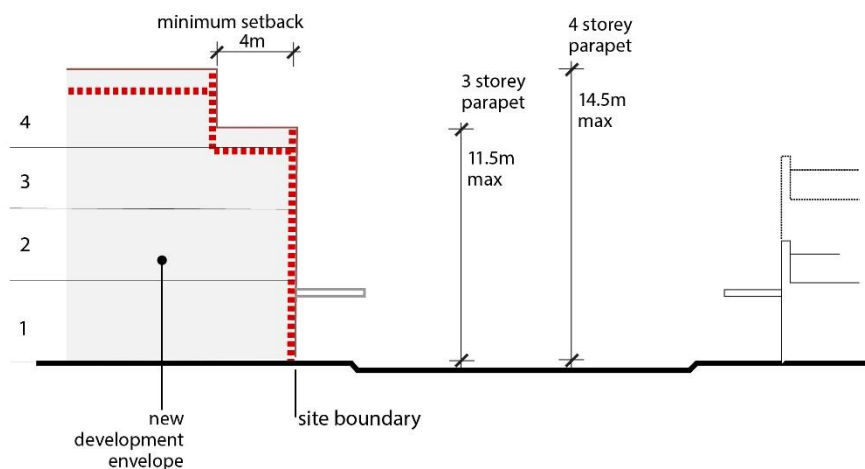


Figure 5: Front setbacks for new building in Area 2

Side Setback Requirements

No side setbacks are required in mid-block developments where adjoining sites to both sides can be built to similar scale.

Any part of a building that exceeds 4 storeys, must be setback a minimum of 3 metres from the side boundaries. This requirement cannot be varied with a permit.

Mid-block light wells ~~should~~must provide solar access, daylight and ventilation to buildings, as shown in Figure 6. A mid-block light well ~~should~~must have a minimum width of 1.5 metres at its base (or larger as required to create a usable courtyard) and gradually widen at upper levels to provide sufficient light and ventilation.

Side setbacks ~~should~~must not be relied upon to provide the primary outlook for a dwelling in a mid-block development. The primary outlook of dwellings ~~should~~must be to the front and rear site boundaries, with side setbacks providing opportunity for additional daylight access and amenity. Where orientation to side boundaries cannot be avoided, increased side setbacks ~~should~~must be provided for adequate daylight access and outlook for residential amenity.

Where a side boundary is shared with a property in a residential zone, a 2 storey (maximum 8.5 metre) wall is generally permissible on the side boundary. The extent of boundary wall and layout must have regard to the location, scale and amenity of adjacent dwellings, particularly the location of secluded private open spaces and proximity of habitable room windows. Upper levels ~~should~~must be set back from the common side boundary as appropriate to address unreasonable visual bulk impacts and if applicable, overshadowing. Development ~~should~~must be designed to limit views to the residential zoned property.

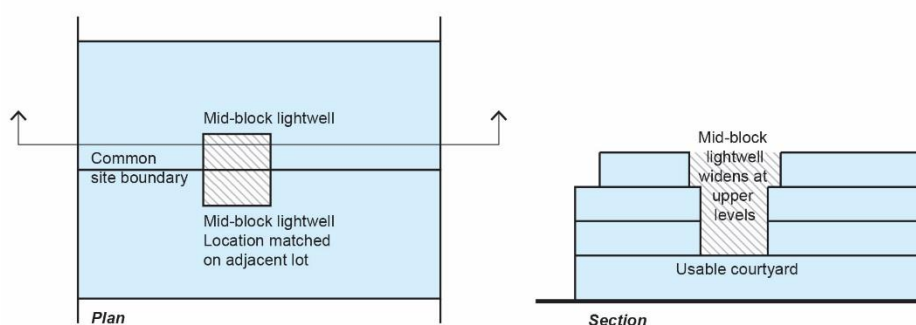


Figure 6: Mid-block light wells

Rear Setbacks and Interface Requirements

Development ~~should~~must be set back from the rear boundary, where adjoining a residential zoned property, a minimum of 3 metres at the first (i.e. ground level) and second storeys, and within the 45 degree rear setback envelope thereafter as shown in Figure 7.

Where a laneway separates a rear boundary from a property in a residential zone, the rear setback requirement is measured from the boundary of the adjoining residential property.

Consolidate rear setbacks to avoid ‘wedding cake’ profiles as shown in Figure 7.

Balconies and terraces must not extend outside the rear setback envelope; however balustrades and screens to these spaces can extend vertically outside the envelope by up to 1 metre, provided the space is not enclosed via side walls and/or solid roof fixtures.

Sunshading devices may extend outside the rear setback envelope.

Overlooking from the rear of developments ~~should~~must be limited through design techniques which provide outlook from the new development but block downward views into secluded private open spaces and habitable rooms, such as:

- setbacks which use the building edge below to block downward views;
- permanent, fixed elements such as planter boxes; and/or
- horizontal louvre screens that block view down but allows longer range vistas.



Development ~~should~~must reflect the proportions and features of existing Valued Street Facades, maintain the prominence of the street wall and achieve a degree of complexity in new building forms which provide a modern interpretation of traditional design. ~~This should be achieved~~ by, as appropriate:

- Page 62 of 65

- Use of clear glass balustrades behind retained historical street parapets to enclose a terrace space to building regulation height requirements without compromising the design of the parapet.

~~Development in Area 1 (Fairfield Village Heritage Precinct) as shown on Map 1 at Subclause 7.0 of this schedule may incorporate a light grey coloured hipped or gabled roof if the top of the building will be visible from across the street.~~

Development ~~should~~ must enhance pedestrian amenity and street safety through design techniques as follows:

- ~~Providing~~ provision of a minimum of 65% clear glazing to ground floor frontages.
- Providing visually transparent w ~~indows, entry points and balconies which facing the street to provide a high degree of visibility and passive surveillance of the street.~~
- Limiting r ~~esidential entries should not exceed to no more than~~ 2 metres of the ~~frontage width~~ to ensure they do not dominate the frontages of buildings.
- ~~Providing~~ sion of cantilevered verandahs and awnings for weather protection, subject to heritage considerations. These should, as far as practicable, match the underside height and fascia height of adjoining verandahs and extend over the footpath up to 750mm from the kerb.

Materials and Finishes Requirements

The materials and finishes must maintain and enhance the character of the area.

Subject to heritage considerations, d ~~Development must~~ should:

- ~~m~~ Maintain and enhance the character of the area through the innovative use of materials and finishes.
- Use durable, traditional materials such as brick, ~~painted brickwork~~, timber and transparent glass for the main body of a building and ~~Render and metal~~ other materials should only be used as secondary or highlight finishes.
- Use m ~~aterials should be selected~~ to suit their application on the building (for example, street wall or recessed upper levels) and provide ~~an appropriate level of~~ detailing and visual interest.
- Use ~~contrasting~~ materials to distinguish between retained street facades and new building additions.
- Incorporate b ~~uilding features and details that are should be~~ highlighted and enhanced through the use of materials (for example, metal and timber sun-shading devices and architectural features).

Landscaping Requirements

Development ~~should~~ must provide a minimum level of landscaping as follows:

- Where the area of a development site is less than 1000 square metres, provide planter boxes to balconies and terraces, which may also include climbing plants to create a green facade. Alternatively, provide a green roof to the development.
- Where the area of a development site is 1000sqm or greater, provide landscaping as per requirements for sites less than 1000sqm, plus roof top landscaping, which may include a green roof, or communal roof top garden area, or a combination of both.

On corner sites, use landscaping features (green facade, green wall or other suitable techniques) on the secondary street facade to enhance visual amenity and thermal efficiency of the building.

Ensure landscaping features, including selection of plants, are fit for purpose, with consideration to access, cost and overall practicality for upkeep and long term maintenance.

Car Parking and Vehicular Access Requirements

Vehicle access and parking to a development must meet the following requirements:

- Locate car parking access points to the side or rear of sites where possible, utilising a side or rear street, lane or right-of-way.
- Avoid any vehicle access via frontages to Station Street, Railway Place and Wingrove Street within Area 1 (~~Fairfield Village Heritage Precinct~~) as shown on Map 1 at Subclause 7.0 of this schedule. In these areas, retention of heritage buildings, active frontages and pedestrian amenity are prioritised.
- In other locations where access to car parking from the street frontage is unavoidable, limit the width of the access point to a maximum of 5.5 metres and no more than a third of the ~~overall~~ site's frontage ~~width~~.

Where site conditions do not allow for any car parking to be provided on site, it must be demonstrated that the likely demand for car parking to be generated by the proposed development will not have an adverse impact on the locality. Alternative arrangements such as provision of parking spaces on another site, and initiatives which will reliably achieve a low rate of private vehicle ownership in the development may be considered in an application.

3.0

Subdivision

--/--/20--
Proposed
C161

None specified

4.0

Advertising signs

--/--/20--
Proposed
C161

None specified

5.0

Decision guidelines

--/--/20--
Proposed
C161

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:

- The extent to which the development achieves the design objectives at Subclause 1.0 and requirements of Subclause 2.0 of this schedule.
- Whether the development is consistent with the *Fairfield Village Built Form Guidelines, 2017*, *Fairfield Heritage Assessment, 2017* and any other policy or planning provision applying to the area.
- Whether the development is of high architectural quality and makes a positive contribution to the streetscape and pedestrian environment as prescribed in this schedule.
- Whether the development provides an appropriate transition to properties in an adjoining zone and limits adverse amenity impacts on residential zoned properties.

6.0

References

--/--/20--
Proposed
C161

Fairfield Village Built Form Guidelines, 2017
Fairfield Village Heritage Assessment, 2017

7.0

Map (Amend Area 1 as per Julia Bell's recommendation)



Map 1: Fairfield Village Neighbourhood Centre