

PLANNING PANELS VICTORIA
IN THE MATTER of Amendment C278 to the Melbourne Planning Scheme
AFFECTED LAND: Land excluding the Central City, Southbank, Docklands and
Spring Street South.

PART A SUBMISSION OF THE MELBOURNE CITY COUNCIL

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A. OVERVIEW

1. Melbourne City Council (**Council**) is the Planning Authority for Amendment C278 to the Melbourne Planning Scheme (**Melbourne Planning Scheme**). This Part A submission is made in accordance with the Panel Directions dated 2 March 2020, updated on 23 June 2020 and 2 September 2020.
2. In addition to its Part A, B and C submissions, Council will rely on the following:
 - (a) presentations provided on behalf of Council by:
 - i) Andy Fergus, urban designer, previously of Melbourne City Council;
 - ii) Dan Smith, GIS analyst, previously of Melbourne City Council; and
 - iii) David Callow, Acting Director of City Parks and Greening, Melbourne City Council;
 - (b) expert evidence from:
 - iv) Leanne Hodyl of Hodyl + Co (urban design);
 - v) David Barnes of Hansen Partnership (town planning);
 - vi) Joanne Thompson of Thompson Berrill Landscape Design (open space planning);
 - vii) Beaudene Fulwood of SJB Architects (architectural modelling);
 - viii) Marcus Spiller of SGS Economics and Planning (economics); and
 - ix) Professor Caryl Nowson of Deakin University (health).
3. This Part A submission provides the following information:
 - (a) a chronology of events relevant to Amendment C278;
 - (b) the rationale and strategic context for Amendment C278;
 - (c) a detailed response to the issues raised in the authorisation letter;
 - (d) an explanation of the concepts of ‘existing shadow’ and ‘allowable shadow’ and how they are determined;
 - (e) a summary of the main issues raised in submissions and Council’s responses to these issues;

- (f) an explanation of the post-exhibition changes to the Amendment C278 documentation proposed by Council in response to issues raised in submissions;
 - (g) a list of other strategic material of background relevance;
 - (h) lists of current permit applications and approvals that may be impacted by Amendment C278.
4. On 1 July 2020, Council provided a set of maps and other information in respect of each of the parks that the Panel visited on its unaccompanied site inspection (**see Folder 6**).
 5. In response to Direction 6(e) (a consolidated map), Council has prepared a consolidated map (**see Folder 6**) that provides the following information:
 - (a) the public parks and park types;
 - (b) the location of key urban renewal areas;
 - (c) the location of the National Employment and Innovation Cluster;
 - (d) park-specific supportive submissions (Submission number, and park name);
 - (e) park-specific opposing submissions (Submission number, and park name);
 - (f) precinct-specific opposing submissions (Submission number and precinct).
 6. A set of maps and other information for all parks proposed to be protected by Amendment C278 is provided with this Part A submission (**see Folder 8, Document 7**). For each park, the information includes:
 - (a) a cadastral map identifying the park area and park type;
 - (b) an extract from the City of Melbourne's Development Activity Model;
 - (c) an aerial photograph of each park;
 - (d) zone and built form control information;
 - (e) extracts from the City of Melbourne's CoMPASS internal mapping application showing modelled shadows on each park at 10am, 1pm and 3pm on 21 June 2015;
 - (f) a comparative shadow study for each park showing any change in overshadowing of the park between 2015 and 2020 (based on new 2020 modelling).
 7. Also in **Folder 8**, Council has also provided the following:
 - (a) Document 1: The exhibited map of park types;

- (b) Document 2: The post-exhibition map of park types;
- (c) Document 3: The exhibited DDO8 extent map;
- (d) Document 4: The post-exhibition DDO8 extent map;
- (e) Document 5: A set of 7 spatial modelling maps showing the following:
 - i) Map 1: The area excluded from DDO8;
 - ii) Map 2: Affected public parks and park types;
 - iii) Map 3: An example solar surface detail (Gardiner Reserve);
 - iv) Map 4: The extent of solar surfaces for all parks in the area to which DDO8 would apply;
 - v) Map 5: A map of existing height controls (whether mandatory discretionary, or none);
 - vi) Map 6: Height controls assumptions used to determine the DDO8 area; and
 - vii) Map 7: A map of properties with the potential to overshadow parks, by reference to the solar surface extent.
- (f) Document 6: An online map directory providing an explanation of, and links to, the following online mapping:
 - i) the 2015 Harrison and White Aggregate Shadow Study (red map);
 - ii) the 2017 City of Melbourne Cumulative Shadow Study (blue map);
 - iii) the 2017 City of Melbourne Incremental Shadow Study (grey map);
 - iv) a map showing the extent of existing overshadowing controls;
 - v) a map showing properties with the potential to overshadow public parks;
 - vi) a map allowing a comparison between building heights and the solar airspace of public parks;
 - vii) a cumulative shadow study comparing 2015 overshadowing to 2020 overshadowing; and
 - viii) an incremental shadow study comparing 2015 overshadowing to 2020 overshadowing.

B. CHRONOLOGY

Request for authorisation to prepare Amendment C278 (see Folder 1)

8. On 15 May 2018, the Future Melbourne Committee resolved as follows:

That the Future Melbourne Committee:

- 1.1 Seeks authorisation from the Minister for Planning to prepare and exhibit Melbourne Planning Scheme Amendment C278 (Attachment 2 of the report to Management);*
 - 1.2 Requests that the Minister for Planning prepares Planning Scheme Amendment C340 pursuant to section 20(4) of the Planning and Environment Act 1987 and approve the Amendment to introduce interim overshadowing controls to be introduced by Amendment C278;*
 - 1.3 Endorses the report "Sunlight Access to Public Parks Modelling Analysis Report, February 2018 as a reference document listed in Design and Development Overlay Schedule 8. This report outlines the rationale and evidence which underpins the proposed planning scheme changes;*
 - 1.4 Authorises the Director City Strategy and Place to make minor editorial changes to the amendment documentation and reference document prior to public exhibition if required.*
9. On 23 May 2018, a request for authorisation to prepare Amendment C278 and approval of Amendment C340 pursuant to 20(4) of the Planning and Environment Act 1987 (Act) was submitted to the Minister for Planning.
10. On 18 September 2018, the Director, State Planning Services at the Department of Environment, Land, Water and Planning (**DELWP**) wrote to Council acknowledging the complex nature of Amendment C278 but expressing concern that the proposed controls would be substantially different to the current built form controls in the Melbourne Planning Scheme that seek to manage and control sunlight access and overshadowing.
11. Prior to making a decision on authorisation, by letter dated 18 September 2018, DELWP recommended that Council give consideration to revising the proposed amendment to be consistent with the current sunlight and overshadowing controls in the Melbourne Planning Scheme and sought a specific response from Council on the following matters:
- (a) revision of the proposed DDO8 so that it is not applied to land where it is not required;

- (b) application of overshadowing controls on the basis of a hierarchy of parks and open spaces;
 - (c) use of a mix of mandatory and discretionary controls; and
 - (d) use of a mix of equinox and solstice dates and times.
12. Council's response to the above matters was detailed in a letter sent to DELWP on 26 September 2018. Council reiterated the strategic rationale for Amendment C278 including on the basis of review of existing policy, research into the benefits of sunlight and its impact on well-being and the environment, data on utilisation of parks in the municipality (**City of Melbourne**), VCAT decisions and international and national best practice. In addition, Council noted that it had commissioned cumulative shadow assessment for the City of Melbourne to enable testing of different scenarios, particularly in the growth areas, to ensure the right balance of controls.
13. On 26 October 2018, DELWP, under delegation from the Minister for Planning, granted authorisation to Council to prepare Amendment C278 subject to the following condition:
- Remove the Docklands and Spring Street South areas from the Amendment and review the impact of the controls on other strategic priorities, such as Fishermans Bend Precinct of Excellence (Employment Precinct).*
14. In addition to the condition above, Council was asked to consider and finalise the following:
- Hierarchy of Parks***
- Have regard to the Planning Practice Note 70 Open Space Planning and the City of Melbourne's Open Space Strategy 2012 in finalisation of the amendment for exhibition;*
- Mixture of Mandatory and Discretionary Controls***
- Consider the application of a mixture of mandatory and discretionary controls, based on the importance and significance of the park and open space.*
- Mixture of Equinox and Winter Solstice Controls***
- Consider the application of a mixture of equinox and winter solstice controls based on the importance and significance of the park and open space.*
- Areas of Parks to be Protected***
- Have regard for the proportion of the park that is proposed to be overshadowed.*

15. In the same letter, the Minister for Planning determined to refuse the request from Council for the Minister to prepare, adopt and approve Amendment C340 to introduce the proposed revised sunlight controls on an interim basis.
16. On 21 December 2018, a letter was received from DELWP providing clarity around the condition of authorisation confirming the strategic priorities areas to be considered, specifically Fishermans Bend Employment Precinct and Fishermans Bend Lorimer Precinct, Arden Macaulay and Flinders Street to Richmond Corridor, Docklands, E-gate and Dynon Precincts. The letter also identified by map the exact boundary of the Docklands and Spring Street South areas to be removed from the Amendment C278 area.
17. Following receipt of DELWP's letters dated 26 October 2018 and 21 December 2018, Council complied with the condition of authorisation by specifically excluding the Docklands and Spring Street South areas from the Amendment C278 area.
18. As part of the preparation for the hearing on Amendment C278, including through consultation with relevant Council officers and independent experts and consideration of public submissions, Council has considered the impact of the proposed controls on other strategic priorities. In accordance with the Panel's directions, Part D below provides a detailed response to the issues raised in the authorisation letter.

Copy of Amendment C278 provided to the Minister for Planning prior to exhibition

19. On 17 July 2019, a copy of Amendment C278, including the explanatory report and the amendment documents was provided to the Minister for Planning in accordance with Section 17 of the Act.

Exhibition (see Folder 2)

20. Amendment C278 was exhibited between 1 August 2019 and 5 September 2019.
21. Public notification of Amendment C278 included:
 - (a) mailing out letters with information about Amendment C278 and the amendment process on 30 July 2019 to:
 - (i) owners and occupiers of properties within the amendment area (48,000 letters);
 - (ii) targeted stakeholders;
 - (iii) community groups; and
 - (iv) prescribed Ministers under section 19(1)(c) of the Act;

- (b) publishing a public notice in The Age newspaper on 31 July 2019 and the Government Gazette on 1 August 2019;
 - (c) making printed copies of Amendment C278 and supporting information available for public viewing from 30 July 2019 at the Melbourne Town Hall;
 - (d) making an online electronic copy of Amendment C278 and supporting information available for public viewing from 30 July 2019 at Council's Participate Melbourne website and on the Planning Schemes Online website operated by DELWP; and
 - (e) messaging on social media platforms.
22. A consultation program was conducted during the exhibition period with public information sessions held on Wednesday 14 August 2019 and Saturday 17 August 2019, as well as additional discussions and responses to enquiries with individuals and community groups.
23. A total of 178 submissions have been received for Amendment C278 and all have been referred to the Panel. Of these, 119 were received within the exhibition period (Submissions 1 to 119), and 59 were received after the close of the exhibition period (Submissions 120 to 178).

Post-exhibition and appointment of Panel (see Folder 3)

24. A report on Amendment C278 was prepared for consideration by the Future Melbourne Committee at its 4 February 2020 meeting. However, due to the large number of Councillors declaring conflicts, the quorum for the meeting was lost. Consequentially, the agenda item was dealt with by a Council officer under delegation. The decision made under delegation was in accordance with the management recommendation detailed in the report, as follows:

That the Future Melbourne Committee

- 8.1. *Notes management's assessment of the submissions as set out in Attachments 2 and 3.*
- 8.2. *Requests the Minister for Planning appoint a Panel to consider all submissions received to Melbourne Planning Scheme Amendment C278.*
- 8.3. *Notes that the form of the Amendment to be presented to the Panel will be in accordance with Attachment 4, subject to the inclusion of recommended changes outlined in the report being the removal of the Haymarket Roundabout, designation of Flagstaff Gardens as modified Type 3 park, removal of Royal Society of Victoria property and inclusion of a permit exemption for railway land.*

8.4. Authorises the Acting General Manager Strategy, Planning and Climate Change to make any further changes to the documents if required.

25. On 7 February 2020, following the officer decision made under delegation, a request was made to the Minister for Planning to appoint an independent panel to hear submissions and consider Amendment C278.
26. On 18 February 2020, Council received advice from Planning Panels Victoria that the Minister had appointed a three-person Panel to hear and consider submissions in respect to Amendment C278, and that the following dates had been arranged for the hearing:

Directions Hearing: 10.00am, Thursday 27 February 2020

Panel hearing: Week commencing 13 April 2020.

27. On 27 February 2020, the directions hearing for Amendment C278 was held.
28. On 2 March 2020, a letter was received from the Panel setting out its directions, confirming the distribution list, a list of parks to be visited on an unaccompanied site inspection and the panel hearing timetable (version 1).
29. On 1 April 2020, the Panel hearing listed to commence on 14 April 2020 was vacated. following a request from Council and other parties for the hearing to be adjourned due to interruption from the COVID-19 related shutdown.
30. On 22 June 2020, a further directions hearing for Amendment C278 was held by video conference. The hearing was adjourned to commence on 12 October 2020 by face to face hearing.
31. On 2 September 2020, the Panel directed that the hearing proceed electronically.
32. On 17 September 2020, a further directions hearing for Amendment C278 was held, by video conference, at which Council sought an adjournment of the electronic hearing due to the continuation of Stage 4 restrictions.
33. On 18 September 2020, the Panel adjourned the electronic hearing to dates to be fixed between 1 March and 16 April 2021.
34. On 10 October 2020, the Panel set the matter down for hearing between 9 March 2021 and 30 March 2021.
35. On 26 October 2020, the Panel issued updated directions with changes relating to the timing of procedural steps only.

C. RATIONALE AND STRATEGIC CONTEXT FOR AMENDMENT C278

Changes proposed by Amendment C278

36. Amendment C278 proposes to protect sunlight in parks across the municipality, excluding the Central City.¹ The proposed changes include:
- (a) introducing a winter solstice sunlight protection for all public parks to support healthy living;
 - (b) increasing sunlight protection hours to 10am to 3pm at the winter solstice, from the current 11am to 2pm at the spring and autumn equinoxes, to ensure that people are able to access sunlight in public parks for longer periods throughout the day;
 - (c) introducing a mandatory 'no additional overshadowing' control, with a differential approach taken for different park types;
 - (d) allowing limited additional overshadowing of parks in growth areas to balance sunlight access to parks with the need to support development intensification;
 - (e) modifying the hours of protection for Fawkner Park, the Botanic Gardens and smaller parks on the eastern edge of the Central City to between 10am to 2pm at the winter solstice, recognising that after 2pm, winter shadow from tall city buildings will cast a shadow across these parks.
37. Amendment C278 is informed by the findings of the *Sunlight Access to Public Parks Modelling Analysis Report, February 2018* undertaken by Hodyl + Co on behalf of Council (**Sunlight Access Report**).² The Sunlight Access Report recommended a revised policy approach to sunlight access to provide winter sunlight protection to identified categories of public parks, across a broader range of hours than is currently the case.
38. Amendment C278 proposes to implement this revised approach through an updated Sunlight to Public Spaces Policy and a new Schedule 8 to the Design and Development Overlay (**DDO8**). The proposed new DDO8 categorises all public parks in the affected

¹ For the purpose of this Part A submission, Council defines the “Central City”, to be the land in the Hoddle Grid and Southbank that was affected by Amendment C270 (being land included in DDO2, 10, 40, 60 and 62), and Docklands. Council notes that this description of the Central City differs slightly from how the Central City is depicted in the Growth Area Framework Plan shown in clause 21.04 of the Melbourne Planning Scheme (which includes the Queen Victoria Market precinct but excludes other land eg in Southbank between Grant and Dorcas Streets, and the Jolimont Rail Corridor).

² Folder 2, Document 9.

area by park type, with each type being subject to a different level of mandatory protection from overshadowing by surrounding new development.

39. Amendment C278 proposes to make the following changes to the Melbourne Planning Scheme:
- (a) amending Clause 22.02 (Sunlight to Public Spaces Policy) to distinguish between parks within and outside the Hoddle Grid and Southbank, and to reflect a shift to protecting winter sunlight access across a broader range of times during the day to all public parks outside the Hoddle Grid and Southbank. This policy does not apply to Docklands;³
 - (b) introducing a new Schedule 8 to the Design and Development Overlay (DDO8). The proposed DDO8 introduces new planning scheme requirements for the protection of sunlight access to all public parks across the municipality (excluding the Central City). The proposed new DDO8 identifies four (4)⁴ park type categories, with each type being subject to a different level of overshadowing protection;⁵
 - (c) amending Clause 21.17 Reference Documents to include “Sunlight Access to Public Spaces Modelling Analysis Report, February 2018, Hodyl +Co”;⁶
 - (d) inserting Maps Nos 1-11 DDO8;⁷ and
 - (e) replacing the schedule to Clause 72.03 with a new schedule to Clause 72.03 to include new maps in the Melbourne Planning Scheme.⁸

History of solar protection to parks policy

40. The current equinox-based overshadowing planning controls were introduced with the new format Melbourne Planning Scheme in 1999. Prior to that time, a winter solstice-based control applied to overshadowing of specified CBD and CBD fringe parks. Relevantly, clause 212-6 of the old format Planning Scheme provided as follows:⁹

212-6 Overshadowing

³ Folder 2, Document 6.

⁴ Known as Park Type 1, Park Type 2, Park Type 3 (East) and Park Type 3 (West).

⁵ Folder 2, Document 7.

⁶ Folder 2, Document 5.

⁷ Folder 2, Documents 10 – 20.

⁸ Folder 2, Document 8.

⁹ Extracted at section 2.7.1 of the Report of the Panel and Advisory Committee, *Melbourne New Format Planning Scheme*, April 1998 (**NFPS Report**).

A building must not be constructed if it would cast a shadow across the northern bank of the Yarra River between 11am and 2pm on 22 June in any year.

For the purposes of this requirement, bank means the relatively steep land which normally confines the water flowing in the river.

A building must not be constructed if it would cast a shadow across any part of the City Square, Flagstaff Gardens, Parliament Gardens, Queen Elizabeth Square, State Library Forecourt, Princes Gate Plaza, Treasury Gardens or Batman park between 11am and 2pm on 22 June in any year except if the responsible authority considers further overshadowing would not prejudice the amenity of the area.

Before deciding on an application involving this requirement the responsible authority must consider any relevant Central City Planning and Design Guidelines.

41. One of the issues addressed by the Panel and Advisory Committee that considered the new format Planning Scheme (**NFPS panel**) was solar access to streets, public places and public parks in the City of Melbourne. Generally, the NFPS panel was critical of Council's proposal to change from a winter solstice protection for the CBD and CBD fringe parks to equinox protection and made a number of comments that are relevant in the context of the policy shift now proposed by Council.
42. The NFPS panel extracted the following quote from an earlier panel report on Amendment L209 (Old Stock Exchange Building – 357 Collins Street), which, while specific to overshadowing of the Yarra River and Southbank, is relevant to shadowing of public parks generally and is consistent with the research that underpins Amendment C278. Council considers that the same comments can be applied to all public parks in the municipality:¹⁰

The overshadowing will occur not just at the winter solstice but will be spread across a three month period at a time of year when sunshine is of greatest value. It is wrong to suggest that people do not take advantage of the outdoors during winter months in Melbourne. Whatever may have been people's habits in the past, the provision of high-quality pedestrian environments served by restaurants, cafes, entertainment and retail facilities, such as Southbank, now attract people all year round. The presence, or lack of sunshine at this time of year, particularly during the critical lunchtime/afternoon period, is arguably of more significance to the patronage and enjoyment of these areas than at any other time of day.

¹⁰ NFPS Report, section 2.7.2.

Sunlight on the water adds sparkle and life to the River. Sunlight on the pedestrian footbridge across the River entices people onto it and encourages them to linger and enjoy the views it offers. The footbridge is vital in linking the central city to Southbank. In addition, its clever distinctive design creates an experience for the pedestrian which transcends its utilitarian purpose. Sunlight on the footbridge, on Southbank, on the promenades and the restaurants, creates an ambience and comfort entirely different to a shadowed environment.

43. In relation to the use of an equinox control, the NFPS panel stated:

The current controls relating to overshadowing of certain public spaces and parks set out in Clause 212–6 use the winter solstice as the benchmark. Policies relating to overshadowing in the new format Planning Scheme propose to use the equinox, although the period of time is extended from 11 a.m. to 3 p.m. The range of places to which this policy applies has also been significantly extended. It now relates to all streets in the retail core of the Capital City Zone, public spaces within the city, a range of parks throughout the municipality, and to streets with high pedestrian use and residential properties in the Mixed Use Zone pursuant to the new Development in the Mixed Use Zone Policy. However, whilst the extent of the ambit of overshadowing policies has been expanded, the level of protection has diminished for some of the places previously protected through the choice of the equinox, rather than the winter solstice, as the benchmark.

The difficulty with using the equinox is that it is uncertain what the worst case scenario will be. All that one can be sure of with respect to the equinox is that for six months of the year, between 22nd March and 22nd September, the overshadowing will be worse.

The Council's justification at the Panel hearing was that spring and autumn are the times of the year when the public spaces in Melbourne are best enjoyed outdoors. It pointed to the very limited number of cloud-free days during winter.

The Panel considers this justification is misleading. It agrees that spring and autumn are pleasant times for being outdoors in Melbourne, but 22nd March is in early autumn. There are over two further autumn months during which a greater level of overshadowing will occur. The justification ignores the fact that it is during this time and during winter that sunlight is most precious and most enjoyed. Using the number of 'cloud-free' days during winter as a criterion also ignores the fact it is hours of sunlight that are important, not entirely cloud-free days, which are comparatively rare. In fact, according to the Weather Bureau, Melbourne enjoys an average of 4.5 hours of bright sunlight per day during the winter months.

The Panel finds it strange that, having emphasised the importance of sunlight in the public realm, particularly in the streets in the Retail Core of the Capital City Zone, the Council's policy is limited

in terms of the time of year when maintaining sunlight will be guaranteed. It may well be that the Council is seeking compromise between amenity in the streets and development expectations, but if it is seeking this sort of balance, then it should be clearly articulated. The Council has provided no justification for moving away from existing standards in respect of the places identified in Clause 212–6 of the existing planning scheme, which are protected from over-shadowing year round.

44. The NFPS panel recommended a winter solstice control be retained for the specified CBD and CBD fringe parks. The new format planning scheme adopted a winter solstice control for the Yarra corridor, Federation Square, City Square, Queensbridge Square and the State Library Forecourt, and an equinox control for the other major parks and gardens.
45. The new format Melbourne Planning Scheme was reviewed in 2004. That review lead to the gazettal of Amendment C60 in December 2005, which introduced a new Municipal Strategic Statement and revised, deleted and added a number of local policies. Relevantly clause 22.02 was only amended to comply with the VPP Practice Note *Writing a Local Planning Policy*.
46. The Panel Report for Amendment C60 considered clause 22.02, particularly in the context of submissions that raised concern about the continued use of an equinox control to protect against overshadowing of Flagstaff Gardens.
47. As was the case in 1999, the C60 panel again queried the shift in approach from a winter solstice-based control to an equinox control of overshadowing of public spaces. The C60 panel referred to the NFPS panel comments extracted above and provided its own view that there was a clear justification for returning to a winter solstice standard, at least for Flagstaff Gardens.¹¹
48. Relevantly, the C60 panel report includes the following extract of the submissions made on behalf of Council:¹²

Whilst winter solstice sunlight protection for some of Melbourne's parks is desirable, it is the Council's position that the current review has not sought to alter existing policy requirements.

No studies have been undertaken regarding the impact on development potential of more onerous shadow standards for some parks and no strategic justification for any policy shift has been developed.

¹¹ Panel Report for Amendment C60(i) - *Replacement Municipal Strategic Statement and Local Planning Policy Review*, (**C60 Panel Report**) pg 100 of 112.

¹² C60 Panel Report, pg 100 of 112.

49. Since 2004, when undertaking reviews of the Melbourne Planning Scheme as required by section 12B of the Act, Council has on three occasions identified the need to review sunlight protection to parks in the City of Melbourne (and specifically clause 22.02): in 2009,¹³ 2014,¹⁴ and 2018.¹⁵

Rationale for Amendment C278

50. Council has prepared Amendment C278 for a number of reasons, as set out below.
51. Recent research indicates that many residents and workers in the City of Melbourne do not get enough sun exposure in winter. This is especially challenging for people living or working in high-density environments with limited access to private space. Many residents and workers in the City of Melbourne rely on parks for all their outdoor needs such as exercise, walking their dog or socialising.
52. It is often very difficult for Council to create new parks, particularly in areas where land values are high. This means that it is important to ensure that all existing parks are able to support the needs of the existing and growing residential and working populations in the municipality, by providing sunny and pleasant parks, close to where people live and work, for a range of activities across the whole year. Protecting access to sunlight in parks in winter is a critical component of this objective. It is also important for public parks to be able to respond to different needs across different areas of the park, as well as cater for future needs as demand on public parks increases with population growth. It is very difficult for Council to ensure that parks can provide this flexibility where part or all of a park is overshadowed.
53. The situation now, and the demand on and need for public parks, is very different from the situation 20 years ago when the new format Melbourne Planning Scheme was introduced. Since 2001, the municipal residential population has more than tripled,¹⁶ with a consequential increase in the use of the City's public parks. Over the same period, the scale and heights

¹³ See *Melbourne Planning Scheme Audit Report 2009*, April 2009, pages 2 and 10 of 19.

¹⁴ See *Melbourne Planning Scheme Review 2014*, July 2014, pages 11 and 31 of 44.

¹⁵ See Report to the Future Melbourne Committee, dated 7 August 2018, and *Melbourne Planning Scheme Review 2018*, June 2018, undertaken by Tract Consultants. At page 130 of 423, Clause 22.02 is noted as "Under review (separate project)". That separate project is the strategic work that underpins Amendment C278.

¹⁶ Based on Census of Land Use and Employment data collected by the City of Melbourne for the years 2001 – 2019. In 2001, the estimated residential population was 55,398. In 2019, the estimated residential population was 178,955.

of buildings in the municipality have also increased. As buildings get taller, the potential for overshadowing of public parks increases.

54. Public parks in the Hoddle Grid and Southbank are now protected from overshadowing as a result of Amendment C270,¹⁷ which adopted a three-tiered approach to the protection of public parks and spaces from overshadowing (see further at paragraphs 81 to 85 below), providing protection for higher order parks at the winter solstice or during the cooler months, with other municipal parks protected only at the equinoxes under the discretionary policy in clause 22.02.
55. By contrast to the position in 1999 and 2006, the research that has been undertaken on behalf of Council, including the Sunlight Access Report, now provides a strategic justification for the shift in policy proposed in Amendment C278. That same research supports a move away from the hierarchical approach currently taken in clause 22.02, to an approach that treats all public parks as being of equal importance. Council notes that this shift in policy reflects the philosophy underpinning the winter solstice-based control for CBD and CBD fringe parks that was in effect prior to the introduction of the new format Planning Scheme, although it has now been expanded to apply to all public parks in the municipality.

Strategic context for Amendment C278

Amendment C278 is consistent with Plan Melbourne

56. Amendment C278 is consistent with the following outcomes and directions sought by Plan Melbourne 2017-2050 (Melbourne Planning Strategy):

Outcome 4 - Melbourne is a distinctive and liveable city with quality design and amenity

Direction 4.1 Create more great public spaces across Melbourne

Outcome 5 - Melbourne is a city of inclusive, vibrant and healthy neighbourhoods.

Direction 5.1 Create a city of 20 minute neighbourhoods which offer high quality public realm and open space.

Direction 5.2 Create neighbourhoods that support safe communities and healthy lifestyles

Direction 5.3 Deliver social infrastructure to support strong communities

¹⁷ Through the introduction of overshadowing requirements in Design and Development Overlay Schedules 2, 10, 40, 60 and 62.

Direction 5.4 Deliver local parks and green neighbourhoods in collaboration with communities by developing networks of accessible, high quality local open spaces.

Outcome 6 Melbourne is a sustainable and resilient city

Direction 6.4 Make Melbourne cooler and greener

Amendment C278 is consistent with the Planning Policy Framework (see Folder 9)

57. Amendment C278 supports *Clause 15 Built Form Environment and Heritage*, the most relevant objectives being:

Planning should promote excellence in the built environment and create places that

- *Are enjoyable, engaging and comfortable to be in.*
- *Accommodate people of all abilities, ages and cultures.*
- *Contribute positively to local character and sense of place.*
- *Reflect the particular characteristics and cultural identity of the community.*
- *Enhance the function, amenity and safety of the public realm.*

58. Amendment C278 is consistent with *Clause 15.01-4S Healthy neighbourhoods*, the relevant objective and strategy of which are:

Objective

To achieve neighbourhoods that foster healthy and active living and community wellbeing

Strategy

Design neighbourhoods that foster community interaction and make it easy for people of all ages and abilities to live healthy lives and engage in regular physical activity by providing:

- *Conveniently located public spaces for active recreation and leisure*

59. Amendment C278 is consistent with *Clause 19 Infrastructure and Clause 19.02-6R*, the relevant objectives and strategies being:

Clause 19.02-6S Open Space

Objective

To establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community.

Strategies

Ensure that land use and development adjoining regional open space networks, national parks and conservation reserves complements the open space in terms of visual and noise impacts, preservation of vegetation and treatment of waste water to reduce turbidity and pollution.

Improve the quality and distribution of open space and ensure long-term protection.

Ensure that urban open space provides for nature conservation, recreation and play, formal and informal sport, social interaction, opportunities to connect with nature and peace and solitude.

Clause 19.02-6R Open Space – Metropolitan Melbourne

Objective

To strengthen the integrated metropolitan open space network.

Strategies

Develop a network of local open spaces that are accessible and of high-quality and include opportunities for new local open spaces through planning for urban redevelopment projects.

Develop open space networks in growth areas and in the surrounding region of Metropolitan Melbourne, where existing open space is limited and demand is growing

Create continuous open space links and trails along the:

- *The Maribyrnong River parklands*
- *Yarra River parklands (extending from Warrandyte to the Port Phillip Bay)*

Amendment 278 is consistent with the Municipal Strategic Statement and the Local Planning Policy Framework

60. Amendment C278 is consistent with the vision for Melbourne in *Clause 21.03 Vision*, which relevantly states:

Environment and Landscape Values

Continued protection of the health of ecological systems and the biodiversity they support continues to be relevant.

Built Environment and Heritage

Protecting existing built form character and heritage, in addition to providing an attractive and liveable built environment in parts of the City where development will intensify is essential. Also important is

minimizing the ecological footprint of the City and managing the City so that it is responsive to climate change.

61. Amendment C278 is consistent with *Clause 21.05 Environment and Landscape Values* which relevantly states:

Land use and development activities in the municipality can undermine the health and biodiversity of its flora and fauna ecologies. Protect the open spaces and the waterways that support those systems.

The quality of the city's waterways is vitally important to the municipality's recreational attractiveness and the health of its aquatic life. The city's parks, gardens, and aquatic environments have several sites with important indigenous flora and fauna habitat.

62. Amendment C278 is consistent with *Clause 21.06 Built Environment and Heritage*, which relevantly states:

21.06 Built Environment and Heritage

Public and private open spaces should be able to support a range of uses including physical movement, communal exercising, social interaction, quiet enjoyment and connections to the natural environment.

Climate change is predicted to deliver reduced rainfall, rising sea level and more extreme flooding, intense storms, and heatwaves. The built environment must be designed to moderate and provide protection from these disruptive climate impacts. This must be done in ways that do not exacerbate the problem.

21.06-1 Urban Design

Objective 1 To reinforce the City's overall urban structure

Strategy 1.1 Protect Melbourne's distinctive physical character and in particular, maintain the importance of:

- *identified places and precincts of heritage significance*
- *the World Heritage Listed Royal Exhibition Building and Carlton Gardens*
- *The Shrine of Remembrance*
- *the Hoddle Grid*
- *the Yarra River Corridor, Victoria Harbour and waterways*
- *the network of parks and gardens*
- *the Hoddle Grid's retail core*

- *the network of lanes and arcades*
- *Boulevards*
- *the sense of place and identity in different areas of Melbourne.*

Strategy 1.5 Promote development that is compatible with the scale, character and amenity of public open spaces, and the environs of the Yarra River.

Objective 4 To ensure that the height and scale of development is appropriate to the identified preferred built form character of an area.

Strategy 4.5 In the Hoddle Grid and Urban Renewal areas ensure occupancies in new tower buildings are well spaced and offset to provide good access to an outlook, daylight, sunlight and to minimise direct overlooking between habitable room windows.

Objective 5 To increase the vitality, amenity, comfort, safety and distinctive City experience of the public realm

Strategy 5.2 Ensure that the scale, bulk and quality of new development supports a high quality public realm.

Strategy 5.6 Create diverse public spaces to serve the needs of the City's diverse communities, including children, youth, residents, workers and visitors.

Strategy 5.9

Ensure that development maximises solar access in public open spaces, and creates microclimatic conditions for a high level of pedestrian comfort.

Objective 6 To improve public realm permeability, legibility, and flexibility.

Strategy 6.2 Ensure the design of buildings and public spaces enhances the public realm and the pedestrian environment.

21.06-3 Sustainable development

Objective 2 To make the built environment resilient to heatwaves, water shortages, extreme storm events and sea level rise.

Strategy 2.1 Design new buildings, streets and public open spaces to minimise their contribution to the urban heat island effect and to contribute to urban cooling.

Strategy 2.3 Ensure that flood risk by stormwater surges, waterway flooding and sea level rise is mitigated and managed.

63. Amendment C278 gives effect to Strategy 5.9 by introducing DDO8 to ensure that “development maximises solar access in public open spaces”.
64. Amendment C278 is consistent with *Clause 21.10 Infrastructure*, which relevantly states:

21.10 Infrastructure

Growth and development in the municipality will require a matching provision of infrastructure. The expansion and upgrading of roads, utilities, community facilities and public open space will be required to service the growth of resident, worker and visitor populations. Key to this planning is to facilitate the efficient use of existing infrastructure, reinforce those key elements and plan for future needs and requirements.

21.10-2 Open Space

Objective 1: To maintain, enhance and increase Melbourne’s public open space network and promote greening of the City.

Strategy 1.2 Ensure parks, gardens, waterways and open spaces remain a prominent element of the City’s structure and character.

Strategy 1.4 Support the maintenance and creation of a variety of public open space to meet the needs of the growing population for formal and informal outdoor recreation.

Strategy 1.5 Ensure that development in and surrounding the City’s parks and gardens does not adversely impact on the solar access, recreational, cultural heritage, environmental and aesthetic values, or amenity, of the open space.

Strategy 1.6 Protect heritage significant trees and landscapes in parks and heritage areas.

Objective 2 To provide a diversity of uses in parks where consistent with Park Master plans.

Strategy 2.2 Protect and enhance the biodiversity and habitat value of the City’s parks, gardens, open space and waterways.

Strategy 2.4 Discourage activities, buildings and works that are not specifically related to the park and its use and that lead to the alienation of the park.

65. Amendment C278 gives effect to Strategy 1.5 by introducing DDO8 to ensure “development in and surrounding the City’s parks and gardens does not adversely impact on solar access” to the parks and gardens.

66. Amendment C278 is consistent with *Clause 21.15 Proposed Urban Renewal Areas*, which relevantly provides:

21.15-1 Dynon

Built Environment and Heritage

- *Ensure new development along the Maribyrnong River and Moonee Ponds Creek enhances the recreational and environmental amenity of these waterway corridors and has appropriate setbacks.*
- *Enhance open space and recreational opportunities along the Maribyrnong River and Moonee Ponds creek.*

21.15-2 Flemington and Kensington

Economic Development

- *Strengthen the recreational role of Holland Park and the Maribyrnong River.*

21.15-3 Sports and Entertainment Area

Built Environment and Heritage

- *Maintain the beauty, cultural values and functionality of the Royal Botanic Gardens and Domain Parklands and the institutions within them.*
- *Support the maintenance of the natural state of Yarra Park by retaining and enhancing its native vegetation.*

67. Amendment C278 is consistent with *Clause 21.16 Other Local Areas*, which relevantly provides:

21.16-1 St Kilda Road and South Yarra

Built Environment and Heritage

- *Protect the Royal Botanic Gardens by limiting the height of developments around the Gardens.*
- *Ensure that development around Fawcner Park protects the visual amenity of the park and avoids overshadowing.*

Infrastructure

- *Preserve and enhance the landscape qualities and recreational role of Fawcner Park.*

21.16-2 East Melbourne and Jolimont

Built Environment and Heritage

- *Ensure that development does not adversely affect Fitzroy Gardens, Treasury Gardens or Yarra Park by minimising the visual impact of buildings and overshadowing of the parks.*

21.06-3 Carlton

Infrastructure

Open Space

- *Ensure the retention of all parkland and protect Carlton Gardens, and the Carlton squares (Macarthur, Murchison and Argyle) from uses that would reduce their landscape character and recreational role.*

21.16-4 Parkville

Built Environment and Heritage

- *Ensure that Royal Park remains the defining feature of Parkville by protecting the landscape character of the Park, preserving the recreational role of the Park and maintaining the open skyline from inside the Park.*

Infrastructure

- *Ensure the retention of all parkland and protect Royal Park and Princes Park from uses that would reduce its landscape character and recreational role.*

Rationale for changes to clause 22.02

68. Amendment C278 proposes to amend *Clause 22.02 Sunlight to Public Spaces Policy* so that there is an alignment between the policy and the proposed new DDO8. Clause 22.02 applies to public spaces throughout the municipality including parks and gardens, squares, streets and lanes, and privately owned publicly accessible spaces within developments, including building forecourts, atria and plazas. The changes proposed are specifically addressed to public parks outside the Hoddle Grid and Southbank and create a distinction (in accordance with the new DDO8) between public parks and other public spaces in the municipality.
69. Clause 22.02 generally recognises that sunlight contributes to the amenity of public spaces, aids public health and well-being, supports trees and other plants. The clause provides guidance for the consideration of the impact of additional overshadowing on the amenity, quality and usability of public spaces.

70. However, the existing policy for public parks reflects a strategic position taken by Council in the late 1990s to adopt a hierarchical approach to protection of parks and open spaces, based on different levels of perceived significance and more intensive use at different times of year.
71. The strategic work and research that underpins Amendment C278 does not support the continuation of that hierarchical or differentiated approach to public parks. The proposed amendments to clause 22.02 treat all public parks as being of equal importance, given the intensification of use experienced across the municipality resulting from population growth. The proposed amendments also support solar protection throughout the year, rather than focusing on periods when parks are thought to be more popular for visitation.
72. The existing policy does not apply to land within the Docklands Zone and Schedule 5 to the Capital City Zone (City North) (**CCZ5**). One of the changes proposed by Council is for clause 22.02 to be extended to land that is subject to CCZ5. When DDO61 for City North was introduced, it was intended to provide a ‘one-stop shop’ for the design and built form objectives for City North (including overshadowing). However, DDO61 is reflective of the policy intent in the current form of clause 22.02. That policy intent has now altered as a result of the strategic work undertaken by Council that underpins Amendment C278 and is reflected in the application of DDO8 to land in City North. The extension of clause 22.02 to City North ensures consistency between DDO8 and clause 22.02 and reflects the intended uniformity of approach to the protection of public parks throughout the municipality (outside the Central City and Docklands). Council, therefore, considers it appropriate for the amended clause 22.02 to apply to City North.

Amendment C278 is consistent with Council’s Open Space Strategy

73. Council’s Open Space Strategy (**Strategy**) was adopted in July 2012. It provides the overarching framework and strategic directions for open space planning across the municipality over a period of 15 years. A key objective of the Strategy is to provide open space within walking distance to the community, particularly in areas of forecast population growth.
74. The Strategy sets out a number of key directions that are supported by Amendment C278:
- (a) maintaining and expanding a quality open space network;
 - (b) providing distributed open space within easy walking distance;
 - (c) improving community health and wellbeing;

- (d) mitigating the urban heat island effect and environmental improvements.
75. The Strategy recognises the need for additional open space to be provided across the municipality, particularly in areas that are likely to have more intensive development. However, the Strategy also notes the need to upgrade and maintain existing open space, to ensure the quality of the open space network can be maintained. This is acknowledged as important for each of the precincts in the City.
76. The Strategy also identifies the need for open space to be distributed around the municipality, and within walking distance of the majority of residents and workers; and reflects research that confirms the health and wellbeing benefits associated with access to open space.
77. Finally, the Strategy acknowledges the benefits of healthy green spaces in mitigating the urban heat island effect, increasing biodiversity, and improving the quality of stormwater runoff.
78. Amendment C278 directly responds to these directions by seeking to maximise the availability of sunlight to public parks throughout the year. The use of a mandatory winter solstice control will, consistent with the research and policy work that underpins Amendment C278, promote the use of public parks by residents and workers by making them more attractive spaces to use, in turn delivering the health and wellbeing benefits identified in the Strategy.
79. Protecting sunlight access in the winter months will also promote the health and resilience of the vegetation in the parks, with the consequential benefit that the parks will be better able to provide the environmental benefits identified in the Strategy, and better able to withstand the other environmental impacts associated with climate change, in the warmer months of the year.

Amendment C278 complies with relevant Ministerial Directions

80. Amendment C278 complies with the requirements of the following Ministerial Directions:
- (a) The Ministerial Direction on the Form and Content of Planning Schemes;
 - (b) Ministerial Direction 9 Metropolitan Strategy, which requires that the amendment support the provisions of Plan Melbourne;
 - (c) Ministerial Direction 11 on the Strategic Assessment of Planning Scheme Amendments; and

- (d) Ministerial Direction 15 on the Planning Scheme Amendment Process.

Relevant Planning Scheme Amendments

Amendment C270 – Central City Built Form Review

81. Amendment C270 was prepared by the Minister for Planning and applies to land generally within the Hoddle Grid and Southbank. Amendment C270 introduced permanent built form provisions following the introduction of interim controls in September 2015.
82. The explanatory report for Amendment C270 stated:

In recent years there has been a dramatic increase in the quantity, density and scale of development proposed, and approved, within the Central City. Cumulatively, this increase in density has created poor amenity outcomes that have the potential to damage the investment attraction to the Central City and the renowned liveability of Melbourne, generally. The current planning scheme provisions are not responding to the emerging development challenges. As a result development is starting to have adverse impacts on the amenity of residents, workers and visitors to the Central City. These impacts include:

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

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

The Melbourne Planning Scheme currently favours discretionary, performance-based controls to enable individual context responsive built form responses. There has been no

significant update of the planning controls guiding development in the Central City since 1999, with most controls based on even earlier work. As a result some of the requirements are now outdated and there is inconsistency in the use of discretion, which affects the achievement of certainty and overall consistency of outcomes.

...

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

- The protection of key public open spaces from overshadowing at defined times, including the *introduction of new spaces and extended dates and times of protection.*

83. Relevantly, Amendment C270 replaced interim Design and Development Overlay Schedule 10 (**DDO10**) with a new Schedule 10 that applied street wall height, setbacks, tower separation, overshadowing and wind impact requirements.
84. Specifically, the permanent DDO10 applied a tiered system of winter mandatory 'no additional overshadowing' controls. For identified first tier public parks and spaces, DDO10 applies mandatory 'no additional overshadowing' at either 22 June or from 22 April to 22 September, depending on the park or space, between specified times. The second tier of protection includes mandatory 'no additional overshadowing' controls for specified public spaces between 22 April and 22 September, other than for Flagstaff Gardens and the proposed open space at the Queen Victoria Market where a 22 June control is applied, unless the overshadowing will not unreasonably prejudice the amenity of the space. A third tier of protection is provided by clause 22.02 for all remaining parks and public spaces which are protected at the September equinox between 11am and 2pm.
85. Following a public hearing, Amendment C270 was approved on 23 November 2016.

Amendment C245 - Queen Victoria Market Precinct

86. Amendment C245 was prepared by Council and introduced a revised framework of planning controls which implement the principles of the Master Plan for the future of the Queen Victoria Market and its surrounds.
87. Amendment C245 rezoned land to the south of the main market building, between Peel Street and Queen Street, to a Public Park and Recreation Zone. The rezoning implemented the Master Plan proposal to relocate the existing market car park to other Council owned site(s) and reuse the existing carpark land as a new public open space. A new Development Plan Overlay (Schedule 11) was applied to the existing car park land, to existing store buildings south of the existing carpark land and to land opposite the market in Therry Street, Queen Street and Franklin Street. The new DPO11 applies new use and development requirements to facilitate the Master Plan principles and the Built Form Review.
88. Relevantly, in granting authorisation, the Minister for Planning required the inclusion of policies to consider overshadowing of Flagstaff Gardens within DPO11. Clause 3 of DPO11 applies the following discretionary overshadowing controls:

New development should not cast a shadow across the Flagstaff Gardens or the proposed public open space in Figure 1 between 11.00 am and 2.00 pm on 22 June, unless the Responsible Authority considers the overshadowing will not significantly prejudice the amenity of the open space.

89. Amendment C245 was approved on 31 August 2017.

Amendment GC81: Fishermans Bend - Lorimer Precinct

90. Amendment GC81 was prepared by the Minister for Planning. Amendment GC81 applies to land within the Lorimer, Wirraway, Sandridge and Montague precincts of Fishermans Bend.
91. Amendment GC81 implemented the Fishermans Bend Vision, September 2016 and the Fishermans Bend Framework, September 2018 by introducing new planning controls into the Melbourne and Port Phillip Planning Schemes for the four Capital City zoned precincts. The controls guide the urban renewal of Fishermans Bend and its transition to a mixed-use area.
92. Amendment GC81 introduced a revised Design and Development Overlay 67 (**DDO67**) to the Melbourne Planning Scheme for the Lorimer Precinct with the following design objective relating to the protection of sunlight to parks:

To ensure built form protects sunlight penetration to the Lorimer Parkway and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

93. Most relevantly, the key built form controls in DDO67 in relation to overshadowing are set out in Clause 2.6. This clause applies a mandatory control of ‘no additional shadow’ over existing or proposed public open spaces or streets for specified hours and dates above the shadow that would be cast by hypothetical buildings built to the maximum street wall height or shadow cast by existing buildings. The specified days are either 21 June or 22 September depending on the area.¹⁸ The requirements do not apply to buildings and works constructed within the open space.
94. Following a Ministerial Advisory Committee Hearing held in the first half of 2018, Amendment GC81 was subsequently approved on 5 October 2018.

Amendment C385: West Melbourne Structure Plan

95. Amendment C385 (formerly Amendment C309) was prepared by Council and implements the land use and built form design recommendations in the West Melbourne Structure Plan 2018 by amending and introducing various provisions in the Melbourne Planning Scheme. No changes were proposed to the policy at Clause 22.02 or to the existing overshadowing controls.
96. Amendment C385 (then Amendment C309) was exhibited between 22 November and 4 February 2019. A panel hearing was held in July 2019 and the Panel delivered its report on 11 October 2019.
97. Due to a loss of quorum of Council in respect of considering adoption of Amendment C309, the Amendment was referred to the Minister for Planning by resolution of special committee to prepare and approve Amendment C385 under section 20(4) of the Act on 11 May 2020. The section 20(4) request is currently with the Minister for Planning.

¹⁸ Council notes that in its submissions made to the Advisory Committee Review Panel considering Amendment GC81, Council generally supported the overshadowing controls in DDO67, which provide a hierarchy of protection for parks in Fishermans Bend (which was supported by the strategic work undertaken by Hodyl & Co in respect of that Precinct). Council endorsed the submission on Amendment GC81 in December 2017, before the strategic work that underpins Amendment C278 was considered by Council. Amendment C278 was presented to Council in May 2018, at which time Council passed the motion to request authorisation to prepare Amendment C278 and endorsed the Sunlight Access Report. As noted in this Part A submission, the Sunlight Access Report supports the uniform approach Council is now taking to protection of parks across the municipality.

D. RESPONSE TO ISSUES RAISED IN THE AUTHORISATION LETTER

Hierarchy of Parks

98. Underpinning Council's approach to Amendment C278 is that all public parks are equally important, and it is essential to provide access to sunlight in parks within walking distance of all residents and workers in the municipality and not limit solar protection to the major municipal parks.
99. This approach is supported by the community consultation undertaken by the City of Melbourne in the early stages of the process,¹⁹ which found that an overwhelming number of participants consider sunlight in public spaces to be very important. The community also wants access to sunlight irrespective of the time of day or year. The approach is also supported by the Sunlight Access Report, which made recommendations aimed at maximising winter sun access across all public parks in the municipality, in order to, among other things, protect the health and well-being of the community, and ecological health.²⁰
100. The only provision in the Melbourne Planning Scheme that refers to a hierarchy of public parks or protection at the time of most intensive use is clause 22.02. The balance of the Melbourne Planning Scheme provides general support for the protection of solar access to public parks and spaces without nominating a time of year.
101. Public parks are a limited resource and Council considers that a new approach to protection of parks is warranted. Treating all parks as equal, rather than ranking parks based on their significance and intensity of use, as clause 22.02 in its present form does, recognises that often it will be the park that is closest to a person's home or workplace that will be the most important to them in terms of frequency or duration of use.
102. Accordingly, Council maintains that the approach taken for Amendment C278, namely, to provide equal winter sunlight protection for all public parks in the Amendment C278 area (depending on park type), has a strong justification, as opposed to the current approach taken in the Melbourne Planning Scheme, whereby parks and open space that are regarded as more significant are afforded a greater level of protection.

¹⁹ See Sunlight to Public Spaces Policy Review Community Engagement Report, June 2016 and Councillor Briefing Paper dated 28 June 2016.

²⁰ Sunlight Access Report, pg 89 (**Folder 2, Document 9**).

Mixture of Mandatory and Discretionary Controls

103. As detailed above, the increased scale and height of new development make all public parks vulnerable to overshadowing.
104. The existing local policy and discretionary DDO controls in the Melbourne Planning Scheme have had limited effectiveness in protecting sunlight to parks in growth areas, with increasing encroachment of shadow into parks. Discretionary controls are inadequate to deal with the incremental but cumulative impacts of shadow to parks. Examples of parks where there has been additional encroachment between 2015 and 220 include: Gardiner Reserve, the Maribyrnong River Bike Trail, Hawke and Curzon Street Reserve, Galada Avenue Reserve, and the Fitzroy Gardens.²¹ Examples of parks where there are developments under construction or which have been approved and that are anticipated to cause additional overshadowing at the winter solstice include: Argyle Square, Lincoln Square, University Square, and Weedon Reserve.²²
105. Solar access to public parks is a finite and highly valued resource and irreplaceable once lost. It is very vulnerable to cumulative impact where site specific planning applications are decided on an individual basis and any one proposal may only result in a small amount of additional shadow. Unless one applies the “first in best dressed” principle and only the first few applications are permitted to cast shadow, solar access to public parks is very vulnerable to “death by a thousand cuts”. There is no objective threshold at which a tipping point is reached and the quantum of shadow which was deemed acceptable in a previous application is regarded as unacceptable in a subsequent application.
106. Accordingly, it is Council’s view that a mixture of mandatory and discretionary controls, based on the importance and significance of the park and open space, does not achieve good planning outcomes in terms of the use, quality, function and amenity of public parks.

²¹ See Folder 8, Document 7, Panel Map Book: Gardiner Reserve (pg 142), the Maribyrnong River Bike Trail (pg 22), Hawke and Curzon Street Reserve (pg 198), Galada Avenue Reserve (pg 241), and the Fitzroy Gardens (pg 348).

²² See Folder 8, Document 7, Panel Map Book: Argyle Square (pg 281); Lincoln Square (pg 313); University Square (pg 340); Weedon Reserve, (pg 376);

Mixture of Equinox and Winter Solstice Controls

107. From early community engagement,²³ Council found that people place great value on sunlight access in public parks, and people use parks at all times of the day and throughout the year for a range of uses. Sunlight access is particularly valued in winter.
108. The benefits of protecting sunlight to public parks is clear. Council's research demonstrates that access to winter sunlight is critical to human well-being and to a healthy ecology. Equinox controls alone are insufficient to ensure access to winter sunlight.

Areas of park to be protected

109. In accordance with the rationale for Amendment C278, and specifically the principle that all parks are equally important, Council does not consider that there is any proper basis for limiting the area of each public park to which the proposed overshadowing controls should apply.
110. It is important to note that the rationale for Amendment C278 includes future proofing, and preserving the ability for a public park to be adapted to changing patterns of use, for example through expanding the park to absorb adjacent land that is no longer needed for its current use (eg roads that are closed in the future); or adding park infrastructure such as new or additional playground or exercise equipment around the edges of a park.
111. Council also notes that while areas within some public parks may be subject to overshadowing from trees, and it may be argued that additional shadow from buildings should be allowed within that footprint, there is a qualitative difference between the dappled shadow from trees, and the complete overshadowing that results from buildings.

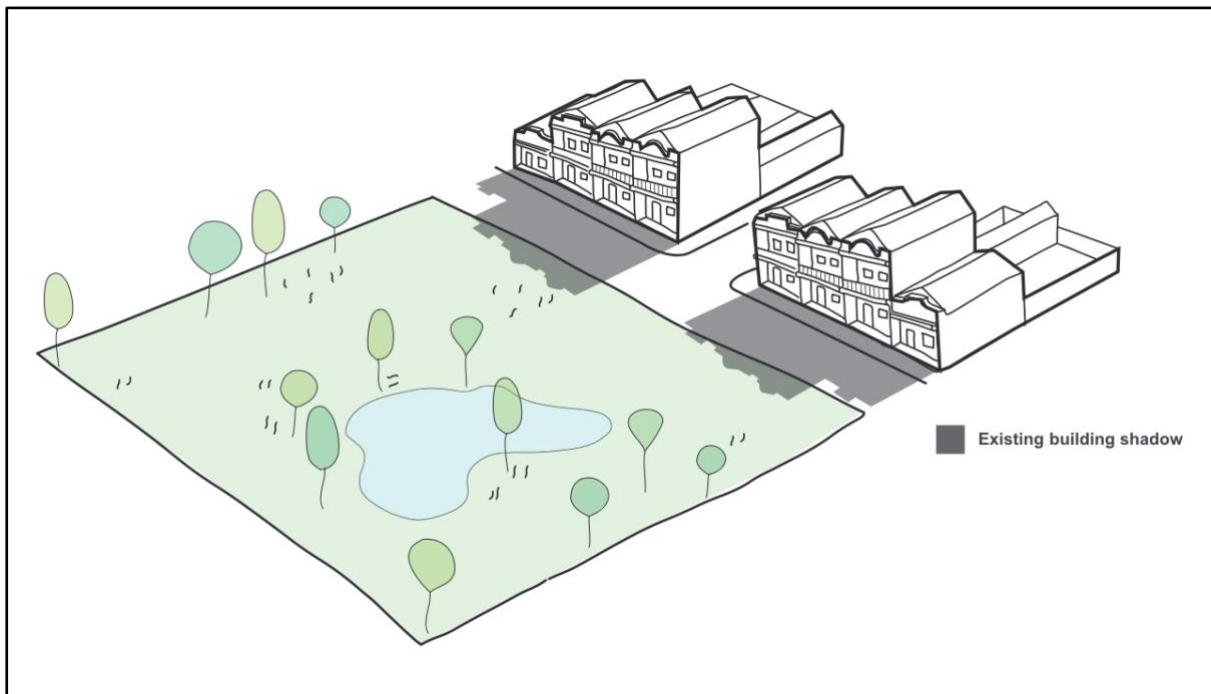
E. EXPLANATION OF 'EXISTING SHADOW' AND 'ALLOWABLE SHADOW'

112. Amendment C278 proposes to control overshadowing in different ways for each of the identified Park Types.
113. In relation to Park Type 1:

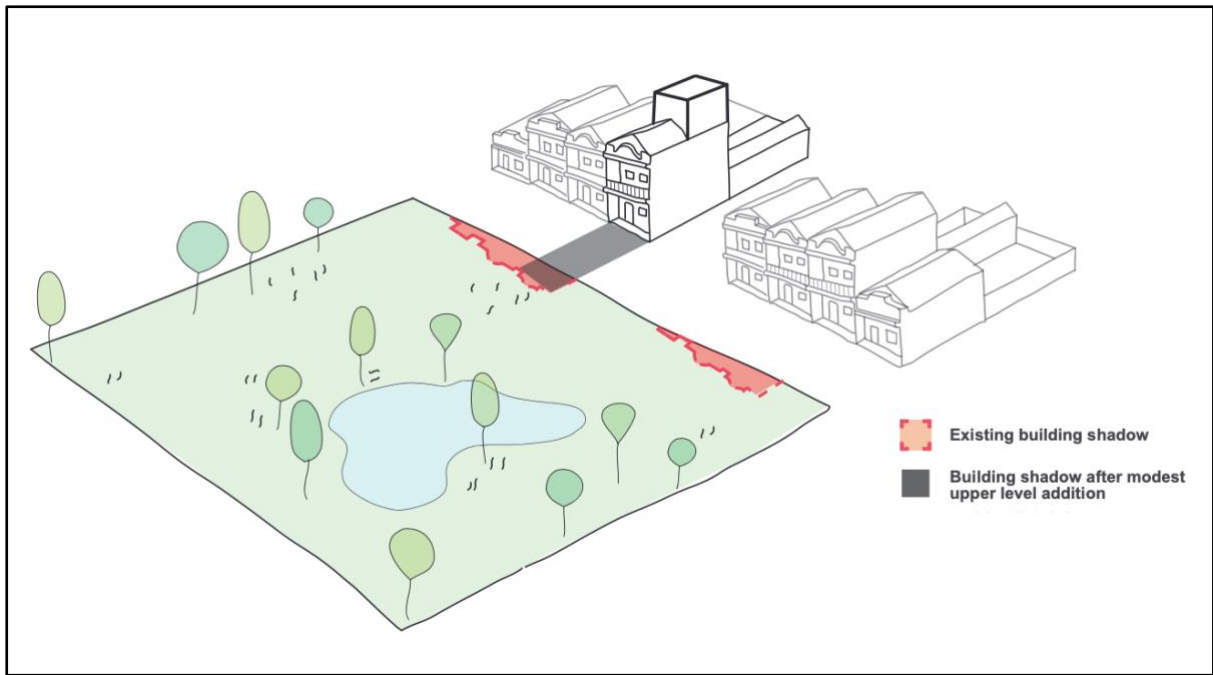
²³ Ibid, n 19.

- (a) These parks are predominantly in low rise areas and generally have good access to sunlight.²⁴ The aim of Amendment C278 is to maintain existing levels of sunlight for these parks.
- (b) For these parks, the approach is for no additional shadow to be allowed on the park beyond the existing shadow cast over the park between 10am and 3pm on 21 June. Existing shadow means the shadow currently cast on the park by existing buildings and works.

114. The images below illustrate how the proposed DDO8 control will operate in respect of Type 1 parks.



²⁴ The exceptions to this are Gardiner Reserve, and the Haymarket roundabout. Haymarket roundabout is now proposed by Council to be excluded from Amendment C278. Gardiner Reserve is included as a Type 1 Park as it is significantly impacted by existing and approved developments, and Council considers it necessary to preserve all remaining sunlight in that park.



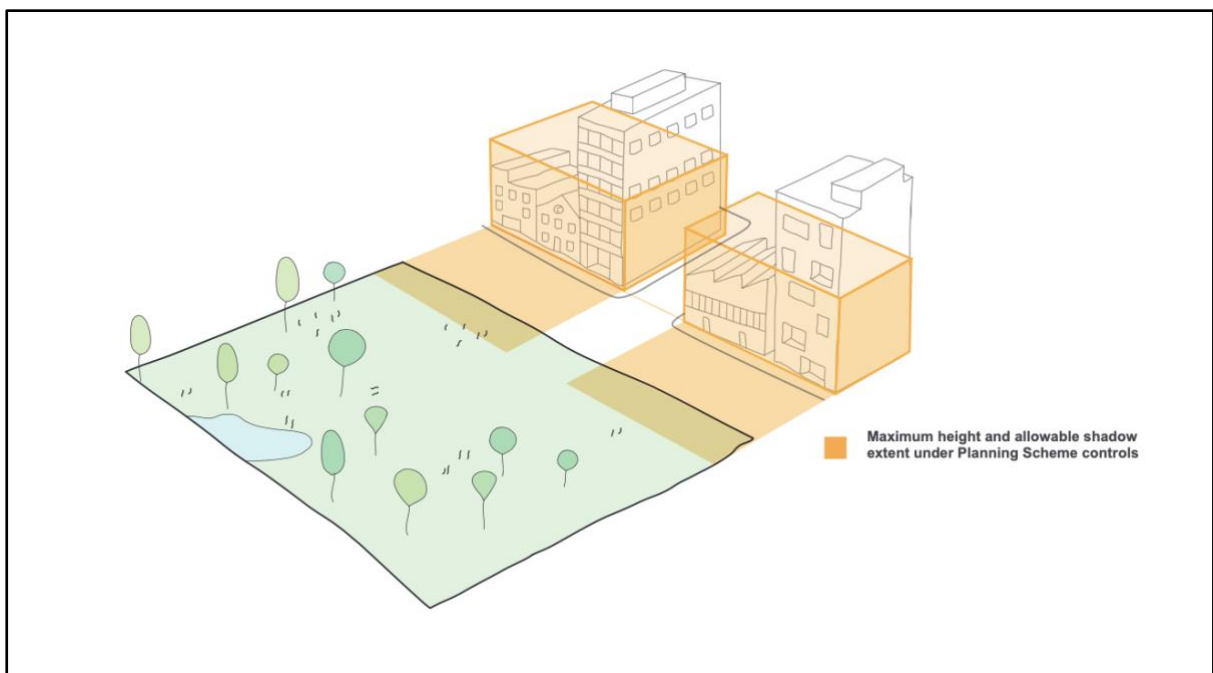
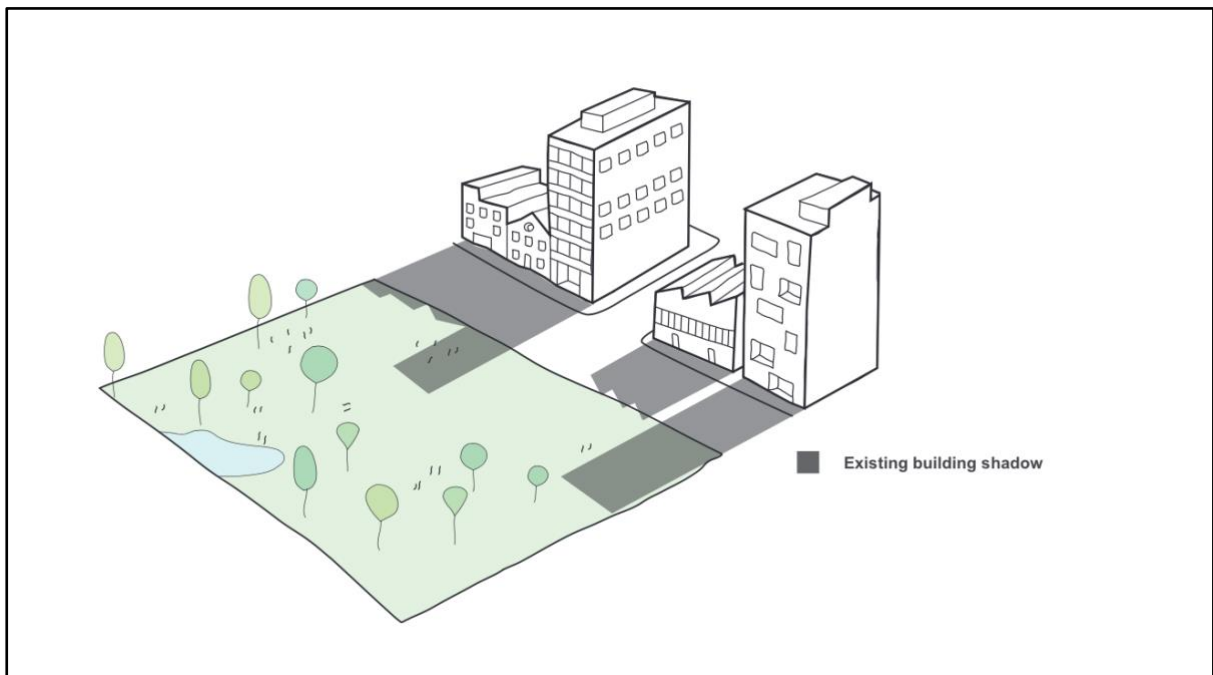
115. In relation to Park Type 2:

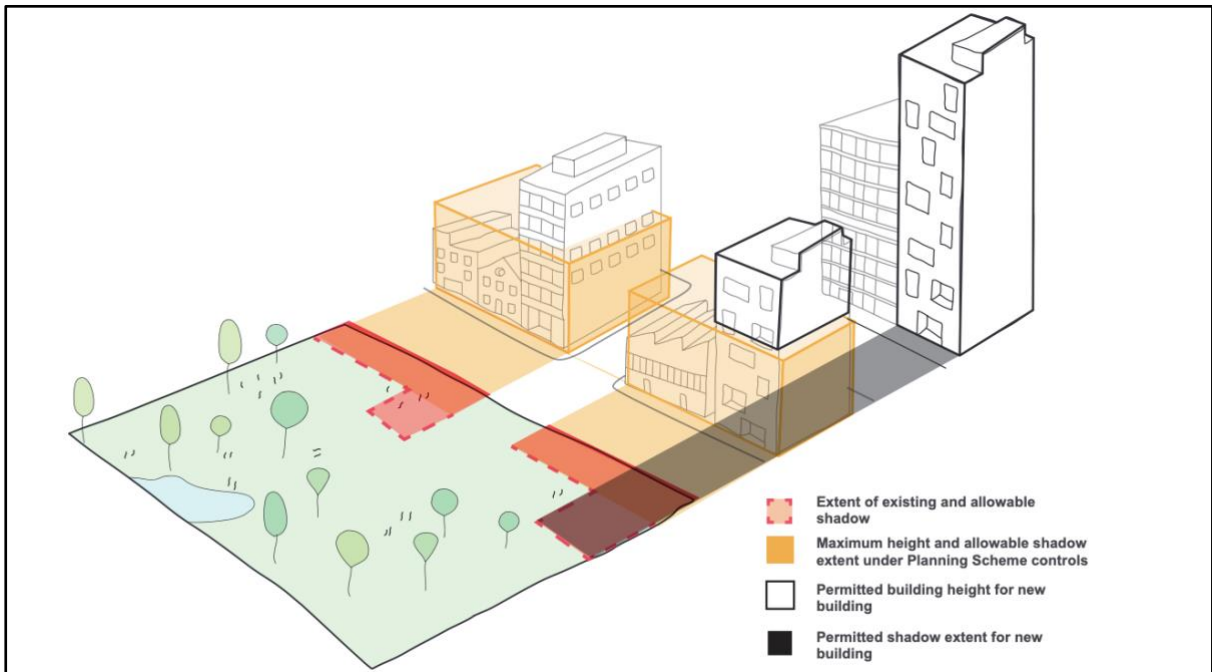
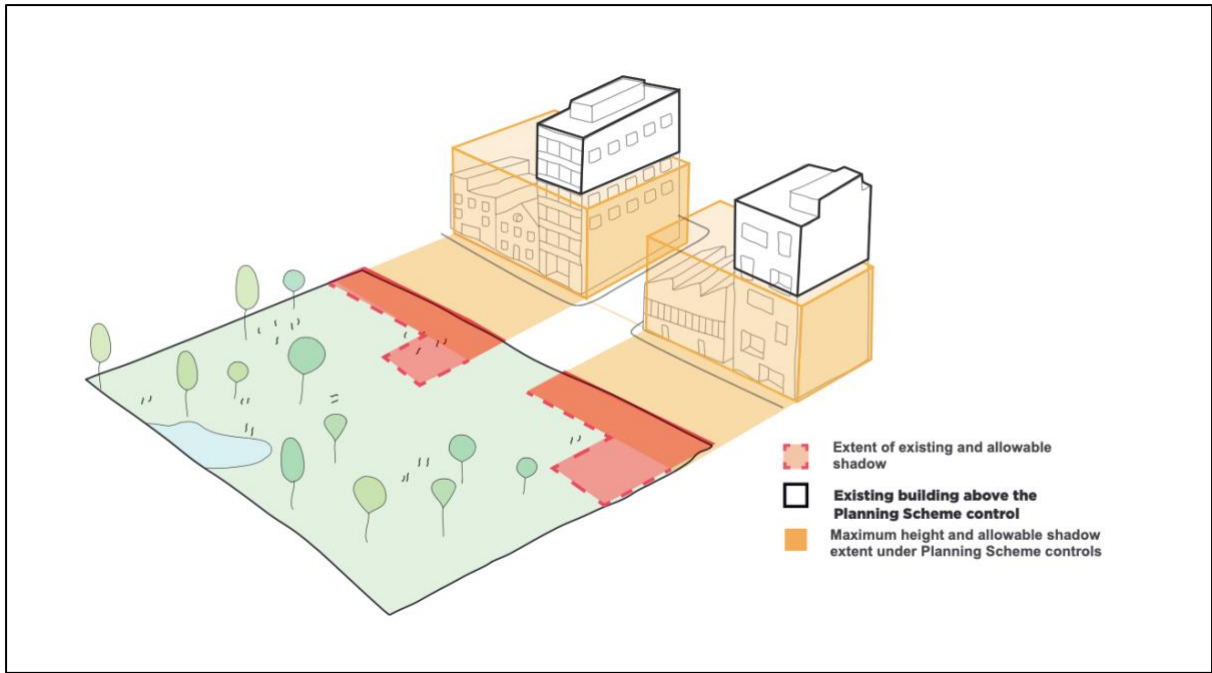
- (a) These parks are predominantly in areas with height limits allowing development over 4 storeys.²⁵ No additional overshadowing is allowed between 10am and 3pm on 21 June beyond the existing shadow (from existing buildings and works) or an allowable shadow (whichever of the existing or allowable shadow is greater). Where the combination of existing and allowable shadow is greater in aggregate than either in isolation, the intention is to allow additional shadow within the footprint which is the combination of existing and allowable shadow. This may require minor adjustment to the drafting in Table 1 of DDO8.
- (b) The allowable shadow is the shadow from a building on land abutting a park that would be cast by a street wall built:
 - to the street wall height nominated in the Melbourne Planning Scheme; or

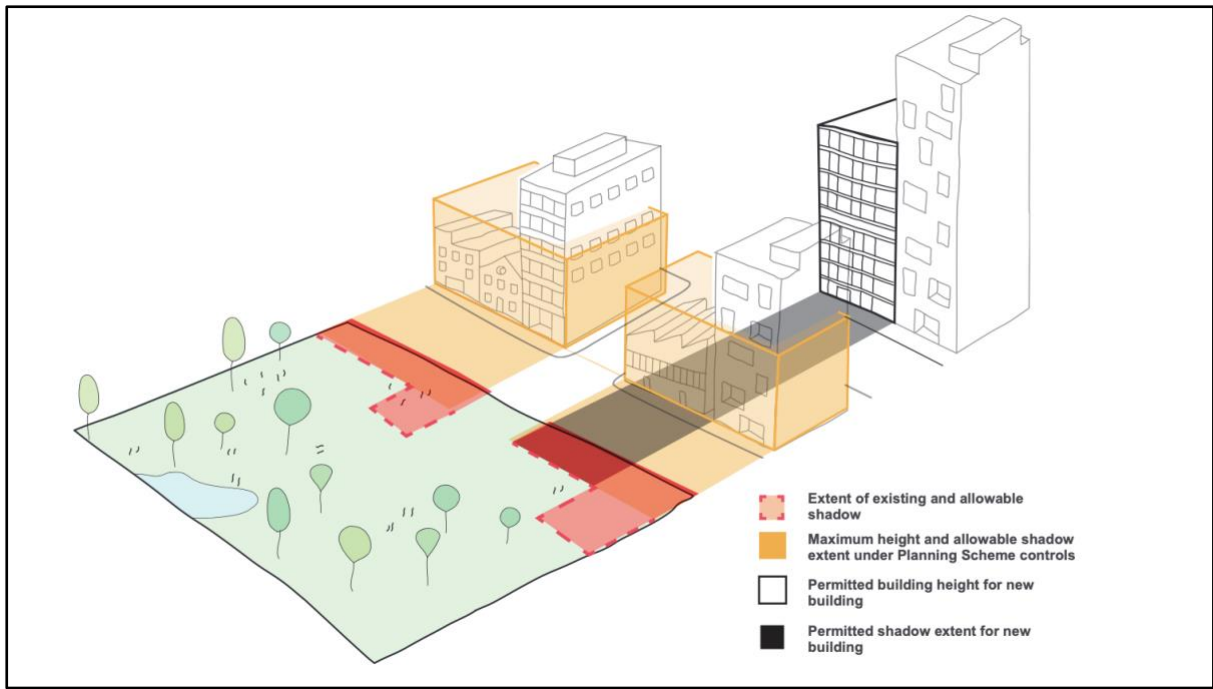
²⁵ There are a number of areas where there are not currently any height controls, for example, the industrial area in North Melbourne, the Melbourne University main campus, and the Parkville Health and Justice Precinct. A map showing the locations that are not subject to height controls is included in Folder 8, Document 5, Map 5. At the point that DDO8 is adopted, the existing shadow will dictate the developable footprint in those areas; however, if and when specific DDO controls are adopted for those areas (which will have regard to DDO8 and the revised clause 22.02), those controls will then dictate the allowable shadow (which may exceed the existing shadow).

- if no street wall height is nominated, the overall building height nominated in the Melbourne Planning Scheme. Although allowable shadow is calculated by reference to the height of development on land abutting a park, the extent of overshadowing permitted by the 'allowable shadow' test applies for all sites, whether or not they abut a park.

116. The images below illustrate how the proposed DDO8 control will operate in respect of 'Type 2 parks.



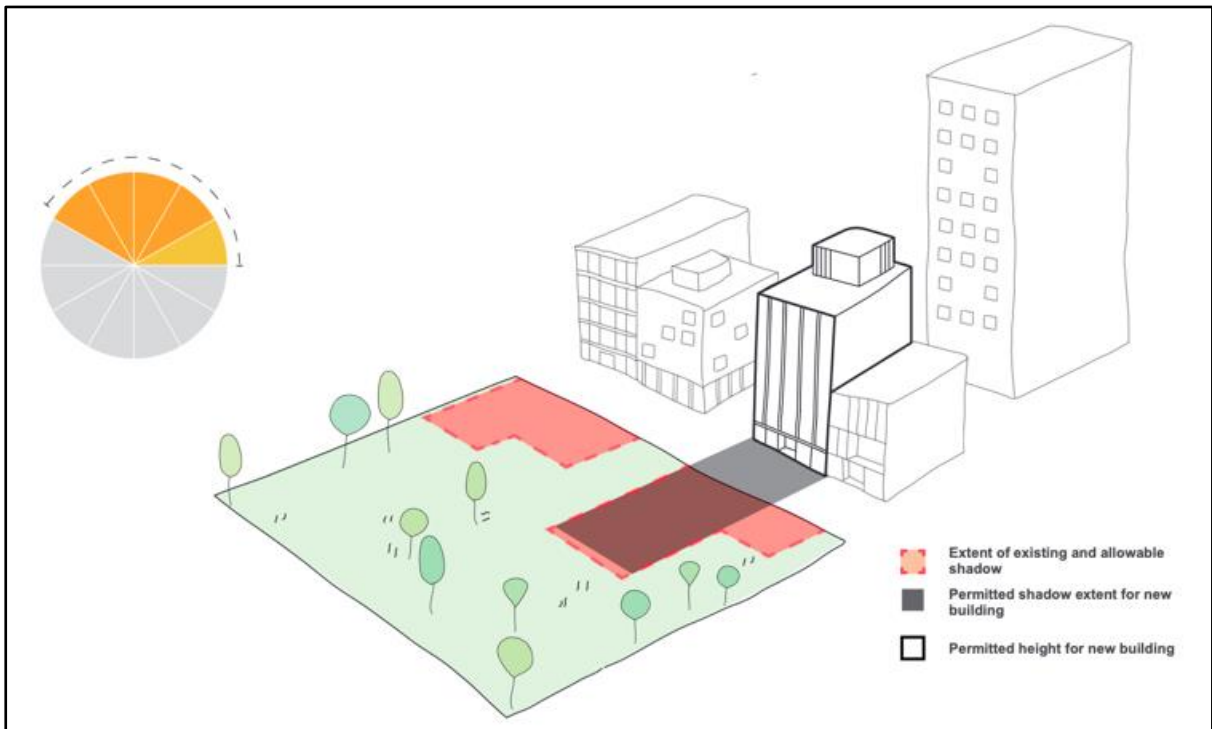
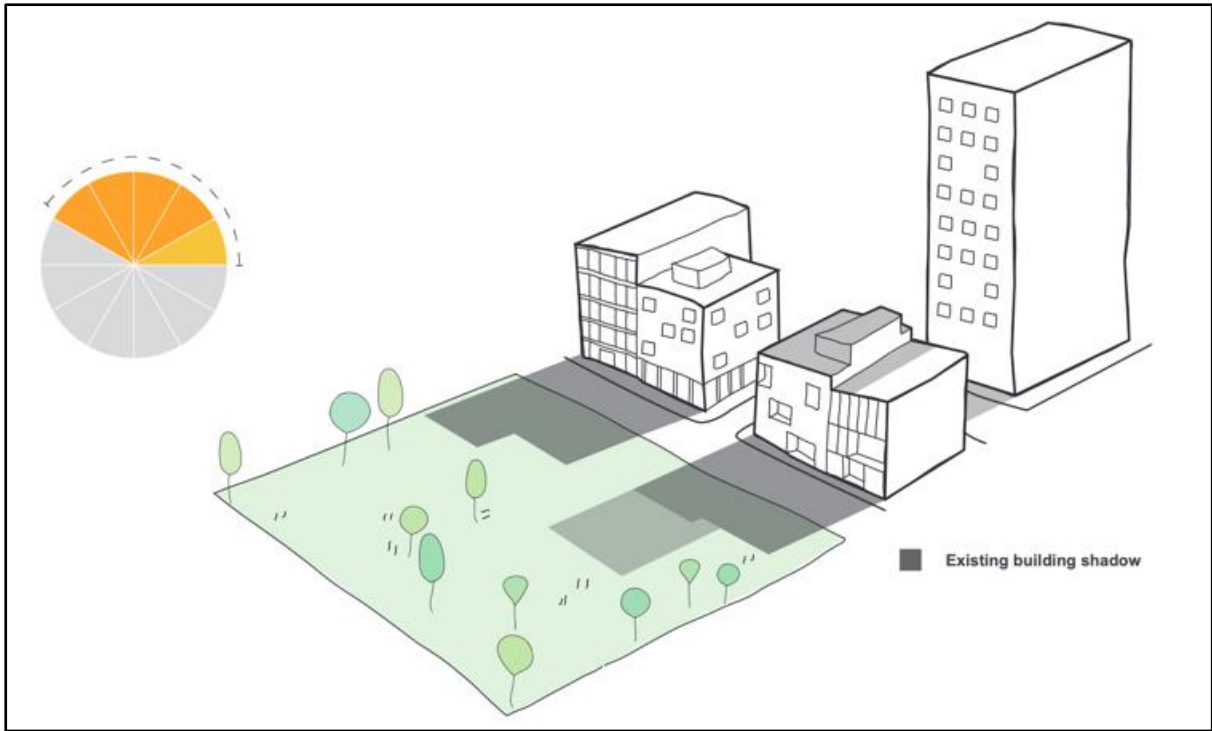




117. In relation to Park Type 3 (East), and Park Type 3 (West):

- (a) These parks are on the periphery of the Capital City and are already surrounded by tall buildings. Examples include Domain Parklands, Fawkner Park, and those along Victoria and Spring Street.
- (b) No additional shadowing is allowed, beyond the existing shadows cast between:
 - 10am and 2pm on 21 June, for Park Type 3 (East); and
 - 11am and 3pm on 21 June, for Park Type 3 (West).

118. The images below illustrate how the proposed DDO8 control will operate in respect of Type 3 parks.



F. SUMMARY OF MAIN ISSUES RAISED IN SUBMISSIONS AND COUNCIL RESPONSES

Summary of Submissions

119. In response to the exhibition of Amendment C278, Council received 119 submissions during the exhibition period (Submissions 1 – 119). These were summarised and discussed in Attachments 2 and 3 to the 4 February 2020 Future Melbourne Committee Report. Eighty-nine submissions supported the shift to a winter protection for all parks across a broader range of hours. Thirty submissions did not support and/or raised concerns about Amendment C278.
120. Concerns raised in the submissions included:
- (a) the impact of the controls on the development potential of specific sites and growth precincts;
 - (b) the increased hours of protection;
 - (c) the shift from the equinox to the winter solstice controls; and
 - (d) the mandatory approach to the controls and the application of the controls on developments within parks.
121. An additional 49 submissions (Submissions 120 – 168) were received immediately prior to the 4 February 2020 Future Melbourne Committee meeting but were received too late to be assessed by management and discussed in the Council report. All of these submissions, with the exception of submission made by Urbis on behalf of RMIT University which opposes Amendment C278 (Submission 120), relate to the overshadowing to Royal Park from the proposed development at 699 Park Street Brunswick (City of Moreland).
122. An additional 9 late submissions (Submissions 169 – 178) have been received and forwarded to the Panel for its consideration:
- (a) Submissions 169 – 172 relate to the 699 Park Street development (in the City of Moreland);
 - (b) Submission 173 (MAB) and Submission 174 (Development Victoria) both seek confirmation that Docklands is not included in Amendment C278.
 - (c) Submission 175 is from Human Habitats on behalf of the owner of 96 Wellington Parade East Melbourne;

- (d) Submission 176 and Submission 177 are from Urbis on behalf of the Victoria Racing Club and Royal Agricultural Society of Victoria, respectively; and
 - (e) Submissions 178 is from the Moreland City Council.
123. The issues raised in the submissions that opposed or raised concerns about Amendment C278, and Council's response to them, have been classified by broad themes and are addressed in greater detail below.

General issues relating to winter sun protection

124. Submissions raised issues relating to the shift from protecting sunlight access at the equinox to protecting winter sunlight access to all parks across the municipality. The main concern raised was that the proposed controls introduce a more onerous mandatory winter shadow test than the current performance-based equinox approach.
125. Some submissions queried why there was a need to introduce winter sunlight protection as they consider that there is already strong protection for overshadowing within the Melbourne Planning Scheme. Some submissions considered that the controls protecting equinox shadows are in line with best practice in Victoria and suggested that the winter shadow controls exceed other national and international examples such as New York, Sydney and London.
126. Some submissions recommended a revised approach which would identify a hierarchy of parks with winter controls applied to the most important metropolitan parks and equinox sunlight controls retained for local parks.
127. Council's response to the above matters includes the following:
- (a) Enabling people to access sunlight each day throughout the year is critical to their overall physical and mental health.
 - (b) Vitamin D needs are greatest in winter and the presence of sun in parks is a key contribution to the ability to access Vitamin D in a densifying city.
 - (c) The presence of sunlight in parks in winter is an important influence on park attractiveness and utilisation due to the impact on thermal comfort in a temperate city.
 - (d) The equinox provision does not guarantee protection of sunlight access in winter.

- (e) The increased scale and density of new development makes all parks vulnerable to overshadowing. The vulnerability of parks to discretionary controls is evidence by the impact on some parks in growth areas, such as Gardiner Reserve.
- (f) It is difficult to create new parks as land values are high. Public parks must be able to support the growing population and remain enjoyable places to be. The proposed planning controls are the appropriate way to future-proof all parks for generations to come.
- (g) Applying a hierarchy of importance to public parks is inconsistent with the principle that all residential communities should have access to parks with adequate sun levels throughout the year within walking distance, and that local parks are very important to their communities. Consequently, access to sunlight is essential in smaller parks as well as the major municipal parks. Treating all parks as equal rather than ranking parks based on their perceived intensity of use recognises that often the most important park is the one closest to where someone lives or works.
- (h) The logic of winter solar protection which currently applies in the Capital City is just as applicable to other parks, in light of population increases which have increased demand for open space access throughout the municipality.

General issues relating to mandatory controls

- 128. Submissions raised concerns about the mandatory nature of the controls, with the main concerns relating to a loss of flexibility and the stifling of innovative design responses.
- 129. Several submissions suggested that the controls are insufficiently flexible to allow a performance-based approach that takes into account the role and dimensions of open spaces and the need to balance sunlight with other planning outcomes.
- 130. Other submissions noted that the mandatory provisions provide no opportunity for unique architectural solutions that satisfy the built form envisaged by areas within existing DDOs, citing DDO61 as an example. Concern was expressed that a new building will likely to be forced to adopt a 'wedding cake' form, stifling the opportunity to deliver a site responsive and innovative design.
- 131. Some submissions expressed concern that Amendment C278 will not allow for sufficiently diverse built form outcomes in the urban renewal precincts which may limit innovative and contextually driven design responses while maximising built form envelopes.

132. A few submissions requested that the proposed controls should be discretionary to allow for some overshadowing to the edges of the park.
133. Council's response to the above matters includes the following:
- (a) The existing discretionary controls in growth areas have not protected winter sunlight to Melbourne's parks in those areas, such as Gardiner's Reserve. The modelling of cumulative overshadowing impacts in June has demonstrated that within low scale areas (4 storeys and below), high levels of winter sunlight access are already present. However, within the growth areas, the existing condition of parks varies from high levels of winter sunlight access to significant overshadowing.
 - (b) Examples where parks are overshadowed in winter by existing buildings include Gardiner Reserve in North Melbourne; University Square and Lincoln Square in Carlton; Canning Street and Macaulay Road Reserve, and Railway Place and Miller Street Park in West Melbourne.
 - (c) Design innovation is an important ambition. There is no reason why mandatory controls should limit creativity.
 - (d) The shaping of building envelopes in accordance with planning provisions including shadow criteria is an established planning principle in areas of Melbourne, Sydney and international examples such as New York.
 - (e) The notion of protecting some parts of parks does not have regard to the utilisation of different areas across a park and how this may change over time. For example, in West and North Melbourne, over a short period of time a number of parks have expanded and transformed and these perimeter areas of the park have become more intensively programmed with active uses.²⁶

Issues relating to times of day for sunlight protection

134. Submissions raised issues relating to the increase to sunlight protection hours. Some submissions supported Council increasing the time window to allow longer sunlight hours in public parks, noting that with technological change, people are more likely to work from

²⁶ These parks include Hawke and Adderley Street Park (expansion using road reserve), Gardiner Reserve (extensive improvements), Railway Place and Miller Street Park (expansion using road reserve), Eastwood and Rankins Road Reserve (expansion using road reserve), Errol Street Reserve (expansion using road reserve), and Riverside Park (flood plain converted to retarding basin and oval in Kensington Banks).

home and will therefore use the parks at different times across the day. Others consider that the current hours of protection from 11am - 2pm at the equinox gives ample opportunity for people to access sunlight throughout the day and that lunch hour protection should be preferred.

135. Several submissions opposed the extension to 10am - 3pm at the winter solstice stating that it will result in adverse consequences for the development potential of sites located east or west of public open spaces.
136. Council's response to the above matters includes the following:
 - (a) The proposed park protection times maximise opportunities for people to access and enjoy sunlight throughout the day for a variety of uses.
 - (b) The preference for reduction in the hours of protection does not accord with research underpinning the project, which shows that due to changing demographic needs, less regular working hours and work options, increased casualization of the workforce, and the growing presence of families and residential park users, increased hours for sunlight access in parks are required.
 - (c) The prospect of lasting work-from-home arrangements introduced during stay-at-home restrictions in the COVID19 response reinforces the importance of solar access to parks for a longer period across the working day at all times of the year.

Issues relating to the balanced approach (Park Type 2)

137. Submissions raised issues relating to the use of street wall height to determine allowable shadow and allowing limited shadow to parks in designated growth areas.
138. The main concern was the use of street wall and building heights to determine allowable shadow given that generally these requirements are not mandatory. Specifically, submissions sought clarification as to whether the maximum street wall and overall height in the Melbourne Planning Scheme become mandatory under DDO8. They considered this to be unclear in the DDO8 controls.
139. Several submissions supported the notion that discretionary controls used in determining allowable shadow become mandatory.
140. Some submissions queried how allowable shadow is to be determined in the absence of street wall or overall height limits.

141. Conflicting submissions highlighted the tension between maintaining current amenity and absorbing growth and high-rise accommodation. Some submissions opposed allowing limited additional overshadowing of growth area parks on the basis that no further overshadowing should be allowed. Other submissions opposed the proposed approach for Type 2 parks as it would limit development opportunities. Some submissions stated that sunlight is more important in city neighbourhoods where sunlight is already (and increasingly) reduced by high-rise buildings.
142. Council's response to the above matters includes the following:
- (a) The premise of Amendment C278 is to protect all parks across the City but to apply a balanced approach. This means that where Council policy allows growth and more intense development, the proposed controls provide a balance between permitted development and the need to protect a park. In the case of identified urban renewal and growth areas, DDO8 includes the concept of an 'allowable shadow'. The balanced approach has the effect of allowing limited additional overshadowing to the edges of Type 2 parks. While not ideal from a park usability perspective, this is considered a balanced approach to allow for development as envisaged in Council's Municipal Strategic Statement. In the case of Fawkner Park and the parklands on the eastern side of St Kilda Road which are subject to overshadowing from existing development in Southbank, Amendment C278 acknowledges existing circumstances by protecting these parklands for a reduced period to 2pm and not 3pm.
 - (b) Access to winter sunlight in parks within growth areas is at the greatest risk. In these areas, significant population growth is supported. As development intensification occurs, overshadowing of existing parks increases at the same time as more people, particularly those living in high density developments, are using public parks. This raises a tension between supporting growth and maintaining winter sunlight access to parks. The balanced approach moderates the impact of the 'no additional overshadowing' protection for public parks by allowing additional overshadowing within limited parameters, thereby supporting intensification within a scale of development already contemplated by existing planning controls.
 - (c) The intention in DDO8 is that the allowable shadow is set by a street wall on the boundary of the park built to the lower of any discretionary or mandatory height limit or in the absence of a street wall height, a wall on the boundary of the park built to the lower of any discretionary or mandatory height limit.

- (d) The integration of the allowable shadow extent with existing discretionary street walls is intended to ensure a precinct specific approach that maintains the intent of the applicable controls for street definition and enclosure.
- (e) Areas currently lacking street wall or overall building height provisions such as the industrial areas adjacent to the North Melbourne Recreational Reserve are limited in geographic coverage in the municipality and will be subject to further precinct planning prior to substantive regeneration. When structure plans are prepared for these areas, the new street wall heights will be calibrated in order to integrate with the new control in order to protect parks. For example, within Arden the definition of new street walls relative to adjacent parks will need to have regard to both the acceptable extent of allowable overshadowing from the street wall and the resultant level of upper form above the street wall.

Issues relating to modified protection times (Park Types 3 East and West)

- 143. The submissions raised issues relating to the reduced park protection times from 3pm to 2pm for parks on the eastern side of St Kilda Road. The main concern was that Fawkner Park and the Botanic Gardens are highly valued Melbourne heritage parks and require more (not less) protection for winter sun.
- 144. Other submissions raised concern in relation to the restrictive Park Type 1 for Flagstaff Gardens with a request for less stringent controls to apply.
- 145. Council's response to the above matters includes the following:
 - (a) From the research and modelling undertaken, the areas with a Park Type 3 (East) classification are located and oriented in a way that because of existing overshadowing from tall buildings to the west in Southbank, protection of an additional hour between 2pm and 3pm would have limited benefit. Within Southbank, the cluster of tall buildings already casts a relatively continuous shadow in the afternoon between 2pm and 3pm and further protection at this time would have a negligible benefit to sunlight access within the park.
 - (b) Accordingly, in the case of Fawkner Park and the parklands on the eastern side of St Kilda Road, which are, and will be, subject to overshadowing from existing and future permitted development in Southbank and along St Kilda Road, Amendment C278 acknowledges existing circumstances by protecting these parklands for a reduced period of four hours rather than five hours, revising the time to 2pm from 3pm.

- (c) Flagstaff Gardens was not assessed as part of the Sunlight Access Report given that winter sunlight protection controls were recently applied through Amendment C245 – Queen Victoria Market and Amendment C270 – Central City Built Form Review. Council subsequently nominated Flagstaff Gardens as a Park Type 1 to ensure that the park was protected from shadows cast from areas surrounding the park.
- (d) Following Council officers' review of park types, it is proposed that a modified Park Type 3 West is applied to Flagstaff Gardens (from 11am to 3pm). This is consistent with other parks at the edge of the Central City, such as Fawkner Park and Domain Parklands. It reflects the use of the winter solstice established through Amendment C245, although extending the protected time period by one hour and making the control mandatory. It should be noted that this change to the morning park protection time has no impact on sites to the north and west of Flagstaff Gardens.
- (e) Based on Council's role and potential conflict in relation to the Queen Victoria Market project adjacent to Flagstaff Gardens, Council seeks specific direction from the Panel on the proposed revised park type for Flagstaff Gardens.

Issues relating to loss of development potential

- 146. These submissions raised issues relating to the loss of development potential on individual sites, particularly in identified growth areas.
- 147. A few submissions specifically referred to the Macaulay Precinct (Amendment C190 (Part 1)) and the City North Precinct (Amendment C196) overshadowing controls. They considered that a more onerous municipality-wide mandatory winter solstice control with extended hours is unreasonable in the context of the strategic work for these precincts (which was only gazetted in the last six years) and will unreasonably constrain a substantial proportion of development.
- 148. Several submissions stated that to completely avoid overshadowing of a park in accordance with Amendment C278 would require such significant setbacks and/or reduction in height so as to render any future redevelopment unviable.
- 149. Many submitters supported the current discretionary shadow controls which they believe adequately protect sunlight to parks and requested that their sites be allowed to be developed in accordance with current built form controls.
- 150. Council's response to the above matters includes the following:

- (a) Council has responsibility for protecting the amenity of parks for existing and future users. In a rapidly growing municipality, the number of new parks created for future residents will be significantly lower than those provided in the past, and as a result existing parks will need to “work harder” to provide an acceptable level of amenity. This will make the protection of sunlight to these parks in winter more and more important.
- (b) Modelling shows that the loss of development potential across the municipality is not substantial and that the City can still expect substantial growth and development. The benefit of Amendment C278 to the broader community is evident in the positive response to Amendment C278.
- (c) The strategic work for urban renewal areas was undertaken in the context of the existing settings for solar access protection to parks, rather than adopting precinct specific approaches to solar access. In circumstances where a municipality-wide shift in policy and practice is proposed, it is appropriate to treat these urban renewal areas consistently.

Issues relating to the impact on growth areas/key development sites

- 151. Submissions raised issues relating to inhibiting growth areas to reach their projected capacity.
- 152. The main concern was that Amendment C278 would inhibit growth of key suburbs surrounding the Central City (for example Arden Macaulay, Parkville and East Melbourne).
- 153. Some submissions raised concerns with the potential loss of housing and commercial floor area from unplanned mandatory height controls around parks, given ongoing population growth pressures throughout metropolitan Melbourne. It was suggested that Amendment C278 was contrary to broader policies for areas expected to accommodate growth.
- 154. Some submissions considered that because city shaping urban renewal precincts such as Arden, the Parkville National Employment and Innovation Cluster (NEIC) and Dynon are subject to the same planning considerations as other high density areas of the Central City, such as the Hoddle Grid and Southbank, they should be excluded from DDO8 to allow specific solutions to be developed.
- 155. Council’s response to the above matters includes the following:
 - (a) The risks of retaining discretionary controls in growth areas are illustrated in the significant increase in shadow between 2015 and 2020 on Gardiner Reserve. The

current discretionary provisions in the Melbourne Planning Scheme have not been effective in protecting sunlight to this park. If discretionary controls are retained, incremental loss of solar access to other parks in growth areas will be unavoidable.

- (b) Growth areas within the City are the most under-served by parks. As a result, the protection of sunlight within existing parks is critical to ensuring the usability and quality of these parks for the growing communities.
- (c) Given the growth levels around these precincts and limited opportunities for new open space, the protection of existing open space is critical to maintain the appeal and attractiveness of the areas for residents, workers and visitors.
- (d) If Melbourne's renewal areas are to remain competitive in the pursuit of knowledge workers, then the expectations of quality living environments, including sunlight within public space will be critical.

Issues relating to development within parks

- 156. A key concern of many submissions was whether the proposed mandatory controls under DDO8 would apply to development *within* parks.
- 157. Many submissions indicated that whilst DDO8 appears intended not to apply to development within parks, the changes to Clause 22.02 did not provide sufficient clarity in this regard. A number of submissions from major sporting venues located in parks requested that Clause 22.02 be amended to specify that developments within parks are excluded, listing those parks to which this exclusion applies.
- 158. Other submissions raised concerns regarding exclusion of development within parks, due to the detrimental impact overshadowing could have on biodiversity, habitat and park amenity. These submissions considered that it is imperative to protect parks from intrusion by buildings or other developments within the park boundaries such as the State Netball and Hockey Centre, the Zoo and the Royal Children's Hospital as well as development adjacent to Royal Park such as the multistorey apartments in Parkville Gardens, CSL and the Orygen Youth Mental Health Centre.
- 159. Council's response to the above matters includes the following:
 - (a) Sites within parks will not be governed by the mandatory provisions of proposed DDO8 but will continue to be subject to the discretionary policy considerations of

Clause 22.02. If mandatory additional overshadowing controls were to be applied, it would have the effect of preventing any development in parks.

- (b) Major sporting venues, many of which are located in public parks, play a significant role in the vibrancy, attractiveness and appeal of the City. The application of Clause 22.02 is appropriate as it means that relevant principles relating to overshadowing will be considered in the assessment of applications for development of major sporting venues when considered by Council or the Minister for Planning.

Issues relating to the absence of transitional provisions

- 160. Submissions raised concerns regarding the absence of transitional provisions in DDO8 and requested that applications which have been lodged but are yet to be determined should be assessed under the Melbourne Planning Scheme at the time of lodgement.
- 161. Council considers that transitional provisions are not appropriate or required, for the following reasons:
 - (a) In the absence of interim planning controls, applicants have had ample opportunity for their development proposal to be considered under the current policy position and applicable discretionary planning controls.
 - (b) Delay in applying the Amendment C278 planning controls due to the inclusion of transitional provisions, has the potential to undermine the purpose of Amendment C278 in protecting winter sun access to parks, and could have significant implications for parks that are already subject to winter overshadowing.
 - (c) There is potential complexity in how the DDO8 will operate in conjunction with the revised clause 22.02 and adding transitional provisions could lead to unnecessary complication.²⁷
 - (d) Transitional provisions may be appropriate in the context of interim controls introduced without notice, but here, the request for interim controls was refused, and

²⁷ An example of the difficulties faced in this regard can be found in the Tribunal decision in *63 Exhibition Street Pty Ltd v Minister for Planning* [2020] VCAT 498. In its reasons for decision, the Tribunal found that the inclusion of transitional provisions in DDO10 meant that the DDO10 was not relevant to consideration of an application for a development that would result in overshadowing of Birrarung Marr at the winter solstice, despite acknowledging that the extent of overshadowing was “unfortunate and not ideal”: [115].

Amendment C278 has been subject to a lengthy assessment process that includes public consultation.

G. CHANGES TO AMENDMENT C278 DOCUMENTATION PROPOSED AS A RESULT OF ISSUES RAISED IN SUBMISSIONS

162. The proposed changes to Amendment C278 in response to issues raised in submissions are set out in the report to the Future Melbourne Committee on 4 February 2020.
163. A summary of the changes to Amendment C278 that are now proposed by Council are as follows:
- (a) the removal of Haymarket roundabout due to its primary traffic function;
 - (b) the categorisation of Flagstaff Gardens as a Park Type 3 (West) park (from 11am to 3pm), consistent with other parks at the edge of the Central City, such as Fawkner Park and Domain Parklands; and
 - (c) the removal of the Royal Society of Victoria property due to its private ownership.
164. In relation to a permit exemption for minor rail works along transport zoned rail corridors, Council has not proposed any further amendments to DDO8. This is because DDO8 already includes an exemption for “buildings and works where the overall building height is 9 metres or less”. It is Council’s position that this exemption is sufficient to cover minor rail works. Further, it is Council’s position that any rail works that would exceed 9 metres in height should be subject to the mandatory controls in the proposed DDO8.
165. In response to Direction 6(g), a tracked changes version of Amendment C278 documents (Council’s preferred version) has been prepared (**see Folder 4, Document 1**).

H. ADDITIONAL INFORMATION

166. In response to Direction 6(h), a summary of relevant strategic documents adopted by Council is included as **Annexure 1** to this Part A submission (**see also Folder 5**).
167. In response to the Direction 6(i), the following are provided:
- (a) in **Annexure 2**, a list of current permit applications relating to major developments that may be impacted by Amendment C278;
 - (b) in **Annexure 3**, a list of sites covered by development plan overlays that may be impacted by Amendment C278; and

- (c) in **Annexure 4**, a list of approved developments in the Amendment C278 area that are yet to be constructed, but which could potentially overshadow a public park on 21 June.

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17 February 2021

ANNEXURE 1

RELEVANT COUNCIL STRATEGIC DOCUMENTS

	Title	Description	Status
1	Open Space Strategy City of Melbourne	<p>The City of Melbourne's Open Space Strategy provides the overarching framework and strategic directions for open space planning across the municipality for the next 15 years. A key objective of the Strategy is to be within walking distance to the community, particularly in areas of forecasted population growth.</p> <p>The Strategy provides direction on:</p> <ul style="list-style-type: none"> • The unprecedented demand for open space as Melbourne's population continues to grow; • Climate change – a decade of drought, water restrictions and extreme weather and the predicted impacts of climate change provide additional challenges in the management of parks and reserves and the role they can play in climate change adaption. 	Endorsed on 10 July 2012

	Title	Description	Status
		<ul style="list-style-type: none"> Ensuring open spaces can provide for and adapt to differing needs and uses, providing people with the opportunity to connect with nature. <p>Amendment C209 Public Space Contributions introduced the public open space contributions rates of five and eight per cent. The highest rate applies in precincts where higher growth and consequently a greater need for open space will occur. Amendment C209 also introduced a local policy which states that a land contribution rather than a monetary contribution is preferred. Amendment C209 was gazetted in February 2016.</p>	
2	Open Space Technical Report June 2012	The Open Space Technical Report provides the technical research, analysis, definitions, analysis and recommendations in the City of Melbourne Open Space Strategy 2012.	Endorsed on 10 July 2012
3	Urban Forest Strategy 2012-2032	The City of Melbourne is facing the significant challenges of climate change, population growth and urban heating, placing pressure on the built fabric, services and people of	Endorsed on 4 September 2012

	Title	Description	Status
		<p>the city. A healthy urban forest will play a critical role in maintaining the health and liveability of Melbourne.</p> <p>The Urban Forest Strategy seeks to manage this change and protect against future vulnerability by providing a robust strategic framework for the evolution and longevity of Melbourne's urban forest.</p> <p>The Strategy aims to:</p> <ul style="list-style-type: none"> • adapt our city to climate change • mitigate the urban heat island effect by bringing our inner-city temperatures down • create healthier ecosystems • become a water-sensitive city <p>This will be achieved by:</p> <ul style="list-style-type: none"> • increasing canopy cover from 22 per cent to 40 per cent by 2040 • increasing forest diversity with no more than five per cent of one tree species, no more than ten per cent 	

	Title	Description	Status
		<p>of one genus and no more than 20 per cent of any one family</p> <ul style="list-style-type: none"> • improving vegetation health • improving soil moisture • improving biodiversity 	
4	Nature in the City Strategy, 2017	<p>This strategy considers how to build and shape the City of Melbourne into the future in order to maintain or increase biodiversity to create a healthy and liveable urban form whilst contending with the challenges of rapid population growth, urban densification, an increase in invasive species and climate change. This will be achieved by the implementation of three priorities:</p> <ul style="list-style-type: none"> • improve ecosystem health and biodiversity • develop a more ecologically connected urban landscape 	Endorsed on 28 April 2017

	Title	Description	Status
		<ul style="list-style-type: none"> increase the contribution of the private realm in supporting biodiversity conservation and ecosystem health within the municipality. 	
5	City North Structure Plan 2012	<p>Council has identified City North as an urban renewal area that will accommodate significantly more residents and employment growth over the next 30 years. The City North Structure Plan 2012 provides a 30 year vision to guide the renewal of the area and to fulfil the precinct's potential as an extension of the Central City.</p> <p>City North covers an area of 130 hectares taking in Grattan, Swanston, Victoria, Peel, Capel, Courtney and Harcourt Streets. The area has a diverse mix of industrial, commercial, retail and residential uses and is home to major health, education and research institutions and the Queen Victoria Market.</p> <p>Key directions include:</p> <ul style="list-style-type: none"> integrate the knowledge cluster in the central city of Melbourne 	<p>Endorsed by Council</p> <p>28 February 2012</p>

	Title	Description	Status
		<ul style="list-style-type: none"> • boost transport infrastructure • create a compact, liveable precinct that builds on the existing urban heritage qualities • develop four new major civic places • make City North an energy, water and waste efficient precinct <p>Amendment C196, approved on 29 April 2014 implements the City North land use and development recommendations.</p>	
6	Arden Macaulay Structure Plan 2012	<p>The Arden Macaulay Structure Plan anticipates substantial population and job increases inside the study area by 2040, and proposes 5 key directions for a mid-rise mixed use urban renewal of the area:</p> <ul style="list-style-type: none"> • Develop Arden Central as a new extension of Melbourne's Central City • Develop three new local centres within a mixed use neighbourhood 	<p>Endorsed by Council</p> <p>28 February 2012</p>

	Title	Description	Status
		<ul style="list-style-type: none"> • Expand transport connectivity to and within Arden-Macaulay • Upgrade the Moonee Ponds Creek parkland corridor and establish five new parks • Make Arden-Macaulay energy, water and waste efficient <p>Amendment C190 implements the Arden-Macaulay Structure Plan's Stage 1 land use and development recommendations.</p> <p>Amendment C190 (Part 1) was gazetted on 23 October 2017 and Amendment C190 (Part 2) was gazetted on 5 July 2018.</p> <p>In conjunction with the approval of Amendment C190 (Part 1), Ministerial Amendment C295, which introduced an interim Development Contributions Plan Overlay over the area affected by Amendment C190 (Parts 1 and 2), was approved (Gazetted on 23 October 2017).</p>	
7	Macaulay Refresh	In 2012 the Arden/ Macaulay Structure Plan 2012 was released by Council, identifying areas that will transition into	

	Title	Description	Status
		<p>sustainable living and working environments over the next 30 years. In 2016, Arden and Macaulay were separated into two projects, due to changes in the planning context. Those changes include the following:</p> <ul style="list-style-type: none"> • identified opportunity to review and improve built form controls (identified in the Minister's Direction letter); • Metro Tunnel is under construction; • revised population forecasts; • new approaches to flood mitigation; • development contributions (expiry of the DCPO introduced through Amendment C295 and the need to progress a DCP). <p>Council is leading the planning of Macaulay. The Macaulay Structure Plan Refresh has been developed with significant input from the community, businesses, landowners, government stakeholders and built environment</p>	

	Title	Description	Status
		<p>professionals. Consultation on the refresh plan closed on 15 September 2020.</p> <p>The Macaulay Structure Plan is anticipated to be considered by Council in May 2021 and June/July 2021 together with planning scheme amendment controls and development contributions plan. The following extract from page 23 of the draft Macaulay Structure Plan shows the current key design recommendation relevant to the principles of Amendment C278, currently being worked through by Council:</p> <ul style="list-style-type: none"> · To ensure that new development does not cast any additional shadow over Buncle Street Reserve, Canning Street and Macaulay Road Reserve, North Melbourne Recreation Reserve, Gardiner Reserve and Robertson Street Reserve from 10:00am to 3:00pm on 21 June, from buildings built to the maximum street wall height, as per the Sunlight Access to Public Parks requirements. 	

	Title	Description	Status
		<p>In terms of built form controls, the major change is moving to a density control (Floor Area Ratio) with the opportunity to review and strengthen built form controls. This is set out in the Minister's Direction letter and Council is working through each of the recommendations. Council is not proposing any fundamental change to the 2012 Vision for Macaulay (also linked to the first design objective of DDO63) – it will be a mixed use, mid-rise urban renewal area which has a different role and scale to Arden. This Vision was supported by the C190 Panel and Council's capacity testing has revealed that the revised population forecasts can be accommodated by mid-rise development. Building heights will likely range from 4-12 storeys although there may be consideration of some taller built form on the larger land holdings between Boundary Road and Citylink / Moonee Ponds Creek.</p> <p>All the testing and built form modelling has been based on the proposed Amendment C278 controls.</p>	

	Title	Description	Status
8	Arden Urban Renewal Precinct Structure Plan	<p>Council's Arden Macaulay Structure Plan 2012 identifies urban renewal areas in and around North Melbourne that will accommodate residential and economic growth over the next 30 years. In 2016, Arden and Macaulay were separated into two distinct, yet neighbouring precincts.</p> <p>The Victorian Planning Authority and Council are co-leading the planning for the Arden Urban Renewal Precinct between North Melbourne and the Moonee Ponds Creek in partnership with other government departments and agencies to produce a refreshed structure plan for the Arden area.</p> <p>Submissions on the Plan closed on 23 August 2020.</p> <p>The Arden Structure Plan is anticipated to be considered by Council in April 2021 and June 2021 together with planning scheme amendment controls and development contributions plan. The following extract from page 45 of the draft Arden Structure Plan shows the current key design recommendations relevant to the principles of Amendment</p>	

	Title	Description	Status
		<p>C278, currently being worked through by Council in partnership with the Victorian Planning Authority:</p> <ul style="list-style-type: none"> · Ensure new development does not cast any additional shadow to that cast by buildings built to the maximum street wall to the new neighbourhood park in Arden Central from 11:00am to 2:00pm from 21 June to 22 September. · Ensure new development does not cast any additional shadow to that cast by buildings built to the maximum street wall to Clayton Reserve, North Melbourne Recreation Reserve and the new open space park in Arden North from 11:00am to 2:00pm on 22 September. <p>All the testing and built form modelling has been based on the Amendment C278 controls.</p> <p>The structure plan will align with other planning projects including planning for Macaulay, West Melbourne, the Moonee Ponds Creek and the West Gate Tunnel Project.</p>	

	Title	Description	Status
		The final Structure Plan will be implemented through a planning scheme amendment, providing new planning controls to enable quality development	

ANNEXURE 2

CURRENT PERMIT APPLICATIONS (YET TO BE APPROVED) FOR MAJOR DEVELOPMENTS* THAT MAY BE IMPACTED BY AMENDMENT C278

	Application received	Application Number	Property Address	Description	Affected Park	Status
1.	16/01/2018	TP-2018-80	122-130 Wellington Parade, East Melbourne	Change use from office to residential, renovation to external facade and multi storey car parking addition to rear of building 12 dwellings, 28 car parks	Yarra Park	Under assessment
2.	26/06/2018	TP-2018-512	207 & 209-213 Kensington Road, West Melbourne	Use and development of land for seafood markets, shops, convenience shop, food and drink premises, tavern, restaurant, office and car parking. Development cost of \$40 million for an integrated 11 level mixed use commercial development 422 car parks, 3,237 sqm retail, 987 sqm office, 146 bike spaces	Maribyrnong River Bike Trail	Application on hold at applicant's request

	Application received	Application Number	Property Address	Description	Affected Park	Status
3.	17/09/2018	TP-2018-801	204-208 Albert Street, East Melbourne, 3002	Partial demolition of existing building and construction of a multi-storey commercial office development including a reduction of car parking requirements 4,104 sqm office, 27 car parks, 28 bike spaces, 20 sqm retail	Fitzroy Gardens	Appeal in progress
4.	7/01/2019	TP-2019-22	501-509, 511-521 & 523-527 King Street, West Melbourne	Buildings and works comprising construction of an eight-storey building with two basement levels, use of the land as an office, medical centre, education centre, retail premises including restricted retail, food and drink premises, a reduction of the car parking requirement and alteration of access to a road in a Road Zone, Category 1. 145 car parks, 629 sqm hospital, 138 bike spaces	Eades Park	Further information requested

	Application received	Application Number	Property Address	Description	Affected Park	Status
5.	25/06/2019	PA1900614 (Ministerial permit) TPM-2019-19	150-154 & 164-170 Pelham Street, Carlton 183-195 Bouverie Street Carlton 168-172, 174 & 176-180 Leicester Street Carlton	Use and development of the land for an education centre (the Melbourne Business School), including partial demolition, construction of a multi-level building, and use of land for leisure and recreation (gymnasium) operating between 6.00am-11.00pm seven days a week. 18,266 sqm education, 7,050 sqm retail, 78 student accommodation, 961 sqm recreation, 164 bike spaces, 4 car parks	University Square & Lincoln Square	Under Assessment
6.	5/09/2019	TP-2019-707	187-189 Peel Street, North Melbourne	Buildings and works to construct an additional four storeys to the existing building, including external alterations to a building within the Heritage Overlay and reduction in the statutory car parking requirement. 593 sqm office, 90 sqm retail	Flagstaff Gardens	Under Assessment

	Application received	Application Number	Property Address	Description	Affected Park	Status
7.	17/10/2019	TP-2019-835	364-366 & 368-370 Albert Street East Melbourne	Partial demolition and building and works for the use and development of a multi-level mixed use development. 24 dwellings, 886 sqm office, 72 car parks, 159 sqm retail, 62 bike spaces	Fitzroy Gardens	Appeal in progress
8.	18/10/2019	TP-2019-834	357-367 King Street West Melbourne	Partial demolition, alterations, construction of a multi-level office building and reduction in car parking requirements Office (7799 sq.m), Retail (235 sq.m)	Flagstaff Gardens	Under Assessment
9.	21/12/2019	PA1900753 TPM 2020-2	139-149 Boundary Road North Melbourne	Use and development of the land for the purposes of 'retail premises' within the Mixed Use Zone; - Construct two or more dwelling on a lot in the MUZ; - Construct a building and carry out works in DDO26 and DDO63; and - Alteration of access to a RDZ1	North Melbourne Community Centre	Under assessment

	Application received	Application Number	Property Address	Description	Affected Park	Status
10.	27/04/2020	TP-2020-299	701-713 Swanston Street, Carlton	Demolition of the existing building and construction of a multi-storey building to be used for accommodation. 169 hotel rooms, 52 dwellings.	Lincoln Square	Application lapsed
11.	24/06/2020	PA2000896 TPM 2020-55	509-515 St Kilda Road, Melbourne	Construction of a building, reduction of the car parking requirements and alter access to a road in a Road Zone, Category 1 (Multi storey office building)	Fawkner Park	Under consideration
12.	28/07/2020	TP-2020-502	1071-1081 Hoddle Street East Melbourne 10 & 12 Wellington Parade, East Melbourne	Multi-storey apartment building and multi storey mixed use building	Weedon Reserve	Under assessment
13.	3/8/2020	TP 2020-518	94-96 Wellington Parade East Melbourne	Construction of a multi store residential building	Yarra Park	Under consideration

	Application received	Application Number	Property Address	Description	Affected Park	Status
14.	20/8/2020	TP 2020-57	250-260 Albert Street East Melbourne	Construction of a multi store residential building	Fitzroy Gardens	Under appeal

Note: This data set uses City of Melbourne data sources, current as of 16 February 2021.

* Criteria to be classed as a major development- needs to meet one of the following conditions to be included:

- 10 or more residential dwellings;
- 10 or more student apartments;
- 10 or more student beds;
- 10 or more institutional accommodation beds
- 10 or more serviced apartments;
- 10 or more hotel rooms;
- 10 or more hostel rooms;
- 10 or more child care centre places;
- At least 500m2 of net lettable office floor space;
- At least 500m2 of net lettable retail floor space;
- At least 500m2 m of net lettable industrial floor space;
- At least 500m2 of net lettable storage floor space;
- At least 500m2 of net lettable educational floor space;
- At least 500m2 m of net lettable hospital/ clinic floor space;
- At least 500m2 m of net lettable indoor entertainment/ recreational floor space;
- At least 500m2 of net lettable public display floor space; and
- At least 500m2 of net lettable community use floor space

ANNEXURE 3

SITES COVERED BY DEVELOPMENT PLAN OVERLAYS THAT MAY BE IMPACTED BY AMENDMENT C278

	DPO	Site	Introduced by	Affected Park
1.	DPO8	Carlton Housing Precinct	Am C117	Neil Street Reserve, Carlton
2.	DPO11	Queen Victoria Market Precinct	Am C245	Flagstaff Gardens
3.	DPO12	Public Housing Renewal- Abbotsford Street, North Melbourne.	Am C306	Curzon Street Reserve
4.	DPO13	West Melbourne Waterfront	Am C221	Maribyrnong River Bike Trail
5.	DPO14	Inclusionary Housing Pilot- 87-103 Manningham Street Parkville	Am C332	Yarra Park

ANNEXURE 4

APPROVED DEVELOPMENTS IN C278 AREA YET TO BE CONSTRUCTED WHICH COULD POTENTIALLY OVERSHADOW A PARK ON 21 JUNE

	Permit issue date	Permit/Application Number	Property Address	Description	Affected Park
1.	26/10/2015 (VCAT) 8/03/2018 (Amended permit)	TP-2014-419 TP-2014-419/A	114-116 Haines Street, North Melbourne	Buildings and works to construct a ten-storey building comprising dwellings. [Note: The permit expired on 19 October 2020, as construction was not commenced by that date.]	Gardiner Reserve
2.	28/11/2015 (VCAT) 21/05/2018 (Amended permit, VCAT)	TP-2014-1068	3, 5-15 Shiel Street North Melbourne	Proposed construction of a multi-storey residential development and reduction in car parking requirement.	Gardiner Reserve

	Permit issue date	Permit/Application Number	Property Address	Description	Affected Park
3.	7/08/2017	TP-2015-56	502-506 Albert Street, East Melbourne	Part demolition of existing buildings and the construction of a mixed use (residential and retail premises) building, change of use to accommodation and variation of the car parking requirements	Parliament Reserve
4.	16/01/2018	TP-2017-446	18-20 Lincoln Square North, Carlton	Demolition of the existing building and construction of a fifteen-storey building plus one level of basement, comprising dwellings and a retail premise (other than adult sex bookshop, hotel and tavern.	Lincoln Square
5.	19/01/2018	TP-2018-88	164-170 & 172-184 Roden Street West Melbourne	Part demolition of the building in the northern portion of the site; the partial demolition of the existing warehouse in the southern portion of the site, the construction of a seven storey, mixed use building comprising retail uses on	Hawk & Adderley Street Park

	Permit issue date	Permit/Application Number	Property Address	Description	Affected Park
				the ground floor and residential dwellings above, constructed over two levels of basement car parking. 104 dwellings, 63 carparks	
6.	29/05/2018	PA170253 TPM-2017-14	200-222 Victoria Parade, East Melbourne	Construction of a multi storey office building, use of a restricted recreation facility, alteration of access to a road in the RDZ1, and parking reduction pursuant to Clause 52.06.	Fitzroy Gardens
7.	31/07/2018	TP-2016-798	Graduate House, 220-234 Leicester Street, Carlton	Partial demolition to existing building and buildings and works to construct a residential building and business identification signage.	University Square
8.	7/08/2018	TP-2018-75	197-235 Bouverie Street, Carlton	Buildings and works to construct a two-storey addition to the existing building and minor ground floor works.	Lincoln Square

	Permit issue date	Permit/Application Number	Property Address	Description	Affected Park
9.	27 January 2017	ID1600118 TPM-2016-18	11-49 Galada Ave, Parkville	Melbourne planning Scheme consent request under incorporated document 'The Games Village Project, Parkville September 2006' Stage 12 freeway apartments precinct, Commonwealth Games Village.	Royal Park
10.	19/08/2019 (VCAT)	PA1600174 TPM-2016-29	493-495 St Kilda Road, Melbourne	Use and development of a multi-level residential building with basement car parking.	Fawkner Park
11.	21/08/2019	TP-2015-533	36-58 Macaulay Road, North Melbourne	Partial demolition, construction of two apartment buildings including ground floor retail use, use of the omnibus building as a cafe (food and drink premises) and a reduction in the standard car parking rate.	Gardiner Reserve
12.	25/03/2020 (VCAT)	TP-2017-812	409-413 St Kilda Road, Melbourne	Use and development of the site including demolition of the existing	Fawkner Park

	Permit issue date	Permit/Application Number	Property Address	Description	Affected Park
				building; construction of a multi-storey building for use as dwellings; and create and alter access to a road in a Road Zone Category 1.	
13.	7/09/2020 (VCAT)	PA1800377 TPM-2018-16	500 Epsom Road, Kensington	To construct a building or construct or carry out works pursuant to Clause 37.02-4 of Schedule 4 to the Comprehensive Development Zone; to use land for a food and drink premises (restaurant) pursuant to Clause 37.02-2 of Schedule 4 to the Comprehensive Development Zone; to reduce the car parking requirement pursuant to Clause 52.06-3; and to create or alter access to a Road in a Road Zone, Category 1 pursuant to Clause 52.29, in accordance with the endorsed plans.	Newmarket Reserve

	Permit issue date	Permit/Application Number	Property Address	Description	Affected Park
14.	23/12/2020 (VCAT)	PA1900705	59 – 101 Alfred Street, North Melbourne	Stage 2 of a Multi-Staged Master Planned Redevelopment comprising three (3) buildings (Buildings C-E), which include Residential Apartments, Residential Hotel, Place of Assembly (Theatre), Retirement Village, Retail Premises, Education Centre (School), Office and Food & Drink Premises. Buildings form a consolidated development linked by shared basement and building services, which are utilised at 103-117 Boundary Road, North Melbourne, and a carparking dispensation under Clause 52.06.	North Melbourne Community Centre
15.	4/01/2021	TP-2020-346	372-376 Albert Street, East Melbourne	Demolition of the existing building and subsequent construction of a mixed use retail food and drink and accommodation building and associated	Fitzroy Gardens

	Permit issue date	Permit/Application Number	Property Address	Description	Affected Park
				reduction in car parking spaces on a lot in a Commercial 1 Zone, Heritage Overlay and Design and Development Overlay	

Note: This data set uses City of Melbourne data sources, current as of 16 February 2021.