

INDEPENDENT PLANNING PANEL

APPOINTED BY THE MINISTER FOR PLANNING

PLANNING PANELS VICTORIA

IN THE MATTER of Amendment C307 to the Melbourne Planning Scheme

BETWEEN:

**MELBOURNE CITY COUNCIL**

Planning Authority

-and-

**VARIOUS SUBMITTERS**

**AFFECTED LAND:** All land within the City of Melbourne municipal area

## **PART A SUBMISSION OF THE PLANNING AUTHORITY**

### **I. OVERVIEW**

1. The Melbourne City Council (**Council**) is the Planning Authority for Amendment C307 to the Melbourne Planning Scheme (**Scheme**). This Part A submission is made in accordance with the Panel's Directions dated 20 February 2019.
2. In addition to this Part A submission, Council will on the first day of the hearing:
  - (a) present a Part B submission.
  - (b) call evidence from Bonnie Rosen of Symplan (Social Planner);
3. This Part A submission provides an overview of:
  - (a) the background to Amendment C307;
  - (b) a chronology of events;
  - (c) the strategic context and assessment of Amendment C307;
  - (d) the issues raised in submissions and responses to these issues;
  - (e) the changes to Amendment C307 proposed as a result of the issues raised in submissions;

- (f) the changes to Amendment C307 proposed as a result of Amendment VC148.

In ‘proposing’ changes to Amendment C307 consequent to Amendment VC148, Council is conscious that, technically, it is Amendment C307 as exhibited which is to be referred to the Panel for consideration (together with the submissions received by Council). The Panel is, according to s 25(2) of the *Planning and Environment Act* entitled to “make any recommendation it thinks fit”. As briefly explained below and expanded upon in the Part B Submission, Council submits that it is both appropriate and desirable that a post-VC 148 version of the Amendment be submitted for the Panel to consider and make recommendations on.

## II. AMENDMENT C307

4. Amendment C307 is the first comprehensive review of Council’s gaming policy in the Scheme since the introduction of the new format planning schemes in March 1999. It seeks to implement a robust policy framework to guide future decisions on planning permit applications associated with the installation or use of a gaming machine.
5. There are both concentrations of socio-economic disadvantage and groups at an elevated risk of gambling-related harm throughout the municipality. Amendment C307 acknowledges and responds to these by implementing policy criteria that will ensure that new gaming machines are designed, operated and located in a manner that minimises gambling-related harm.
6. As exhibited, Amendment C307 proposes to make the following changes to the Scheme:
  - (a) Amend *Clause 21.10-6 Cultural/ Arts and Entertainment Facilities (Clause 21.10)*<sup>1</sup>, to introduce the objective of minimising gambling-related harms and an accompanying strategy of ensuring that the location, design and operation of gaming venues achieves this objective.
  - (b) Amend *Clause 21.12 Hoddle Grid (Clause 21.12)*<sup>2</sup>, to introduce a policy objective that discourages the spatial concentration of gaming machines.
  - (c) Introduce a new *Clause 22.12 Gaming (Clause 22.12)*<sup>3</sup>, to replace the existing clause. The proposed Clause 22.12 applies to all planning permit applications to install or use

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<sup>1</sup> Panel Folder, Tab 5(D), link to exhibited [Clause 21.10-6 Cultural Arts and Entertainment Facilities](#)

<sup>2</sup> Panel Folder, Tab 5(E), link to exhibited [Clause 21.12 Hoddle Grid](#)

<sup>3</sup> Panel Folder, Tab 5(F), link to exhibited [Clause 22.12 Gaming](#)

a gaming machine under Clause 52.28 of the Melbourne Planning Scheme, and includes a policy basis, objectives and locational and venue design and operation policies to guide the assessment of planning applications consistent with a harm-minimisation approach. It also includes application requirements and decision guidelines.

As exhibited, Clause 22.12 includes as reference documents, the *City of Melbourne Electronic Gaming Machine Decision-Making Framework 2017*<sup>4</sup>, and the *City of Melbourne Electronic Gaming Machine Review Background Report 2017*<sup>5</sup>.

- (d) Amending the Schedule<sup>6</sup> to *Clause 52.28 Gaming*, to update the list of shopping complexes within which the installation or use of a gaming machine, as specified in Clause 52.28-4, is prohibited.

7. Amendment C307 affects all land within the City of Melbourne municipal area.

### III. BACKGROUND TO AMENDMENT C307

#### A. EXISTING LOCAL PLANNING POLICY

- 8. *Clause 22.12 Gaming Premises*<sup>7</sup>, was introduced with the new format planning schemes (NPS1, 4 March 1999). As gazetted on 4 March 1999, *Clause 22.12 Gaming Premises* applied to applications for gaming premises in a Residential Zone, Mixed Use Zone or Public Use Zone, and included a policy basis, objectives, locational and appearance policies to guide the assessment of a planning permit application. It included two policy reference documents, *City Plan – Municipal Strategic Statement*, and *Gaming Machine Policy, June 1997*<sup>8</sup>.
- 9. The objectives, locational and appearance criteria that appeared in *Clause 22.12 Gaming Premises* (4 March 1999) provided broad direction that ‘gaming premises’ should be ancillary to an existing use or form part of a range of entertainment functions, not be located within established residential areas., and not include dominant advertising signage.

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<sup>4</sup> Panel Folder, Tab 5(H), link to [City of Melbourne Electronic Gaming Decision-Making Framework 2017](#), exhibited with Amendment C307

<sup>5</sup> Panel Folder, Tab 5(I), link to [City of Melbourne Electronic Gaming Machine Review Background Report 2017](#), exhibited with Amendment C307

<sup>6</sup> Panel Folder, Tab 5(G), link to exhibited [Schedule to Clause 52.28 Gaming](#)

<sup>7</sup> [Clause 22.12 Gaming Premises \(NPS1, gazetted 4 March 1999\)](#)

<sup>8</sup> Attempts to locate the *Gaming Machine Policy, June 1997*, referred to in later versions of Clause 22.12 as, *Gaming Machine Policy (1997)*, have been made over the years; however a copy of this document has never been found. This document is not referred to in the new Clause 22.12 proposed by Amendment C307.

10. On 8 December 2005, Amendment C60-part-1A, prepared by Council, was gazetted. Amendment C60-part-1A applied to all areas of the municipality of the City of Melbourne, and made changes to the Local Planning Policy Framework (including *Clause 22.12 Gaming Premises*<sup>9</sup>), including the Municipal Strategic Statement and many of the local policies contained in the Melbourne Planning Scheme.
11. The explanatory report<sup>10</sup> for Amendment C60-part-1A described the purpose of the changes to the existing local planning policies as follows:

*A number of existing Local Policies are proposed to be reviewed and reformatted in accordance with the Victorian Planning Provisions Practice Note Writing Local Planning Policy. These include:*

*Clause 22.01 Urban Design within the Capital City Zone*

*Clause 22.02 Sunlight to Public Spaces*

*Clause 22.07 Advertising Signs*

*Clause 22.10 Amusement Parlours*

*Clause 22.12 Gaming Premises*

*Clause 22.14 Discretionary Uses in the Residential 1 Zone*

*Clause 22.17 Urban Design Outside the Capital City Zone*

12. As gazetted on 8 December 2005, *Clause 22.12 Gaming Premises*, applied to applications for gaming premises in the Mixed Use Zone, Public Use Zone, Public Park and Recreational Zone, Business Zone and Industrial Zones. It included a policy basis, objectives, policies to guide the assessment of a planning permit application, and one policy reference document, *Gaming Machine Policy (1997)*. The *Gaming Machine Policy (1997)* can no longer be located by Council, making its continued acknowledgement in the Scheme problematic.
13. The objectives and assessment criteria of *Clause 22.12 Gaming Premises* (8 December 2005), included similar broad direction to the 4 March 1999 policy, but introduced (amongst other objectives and policies) the following objectives and policies regarding the location of the gaming premises:

*Objectives*

- ...
- *To encourage applicants to submit a social and economic impact assessment with the planning*

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<sup>9</sup> [Clause 22.12 Gaming Premises \(C60-part-1A, gazetted 8 December 2005\)](#)

<sup>10</sup> [Explanatory Report \(Amendment C60-part-1A\)](#)

*application.*

- ...

*Policy*

- ...
- *Whether the social and economic impact assessment supports the location of the gaming premises.*
- *The extent to which electronic gaming machines are located in the subject area.*
- ...

14. The introduction of the above referenced objectives and policy criteria into *Clause 22.12 Gaming Premises* in 8 December 2005, represented an important shift in the operation of the policy that required the Responsible Authority to consider potential social and economic impacts arising from the location of a gaming premises, in addition to any existing spatial concentration of gaming machines surrounding any proposed gaming premises.
15. Following the gazettal of Amendment C60-part-1A, *Clause 22.12 Gaming Premises* was subsequently changed by the following amendments to the Scheme:
  - (a) Amendment C92 prepared by the Minister for Planning and gazetted on 7 April 2008, which translated the existing ‘old format’ Melbourne Docklands Planning Provisions into the Victorian Planning Provision format<sup>11</sup>.
  - (b) Amendment C225 prepared by the Minister for Planning and gazetted on 29 January 2015, to correct technical errors, make grammatical corrections and update references between the Municipal Strategic Statement and local planning policies.
  - (c) Amendment C196 prepared by Council and gazetted on 15 October 2015, to implement the *City North Structure Plan February 2012*, rezoning land within the structure plan area to Schedule 5 to the Capital City Zone<sup>12</sup>.

The extent of changes to *Clause 22.12 Gaming Premises* made by the above amendments was limited to expanding the scope of planning applications to which the policy applies, adding the Docklands Zone on 7 April 2008<sup>13</sup> (Amendment C92), replacing reference to the

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<sup>11</sup> [Panel Report, Melbourne Planning Scheme Amendment C92 Docklands](#)

<sup>12</sup> [Explanatory Report, Melbourne Planning Scheme Amendment C196 City North](#)

<sup>13</sup> [Clause 22.12 Gaming Premises \(C92, gazetted 7 April 2008\)](#)

Business Zone with Commercial Zone on 29 January 2015<sup>14</sup> (Amendment C225), and adding Schedule 5 to the Capital City Zone on 15 October 2015<sup>15</sup> (Amendment C196).

16. With the exception of the minor changes in the scope of *Clause 22.12 Gaming Premises* made by the above planning scheme amendments, the existing local policy has not been altered since the gazettal of Amendment C60-part-1A on 8 December 2005.

## B. EXISTING PARTICULAR PROVISION AND LOCAL SCHEDULE

17. *Clause 52.28 Gaming*<sup>16</sup> and the local Schedule to this clause were introduced with the new format planning schemes (NPS1, 4 March 1999).
18. *Clause 52.28 Gaming*, as gazetted on 4 March 1999, operated in a similar way to the version of the Particular Provision that pre-dated Amendment VC148 (gazetted 31 July 2018), with respect to the following:
  - (a) The provision included a permit requirement for the installation or use of a gaming machine (where specified criteria were met).
  - (b) The provision included a prohibition of the installation or use of a gaming machine in a shopping complex specified in a local Schedule to *Clause 52.28 Gaming*.

It is noted that the list of identified shopping complexes, including their name and land description as specified in the local Schedule<sup>17</sup> to *Clause 52.28 Gaming*, as gazetted on 4 March 1999, have not been altered since the introduction of the new format planning schemes.

- (c) The provision included a general prohibition of the installation or use of a gaming machine in any building on land in a strip shopping centre unless otherwise specified in a local Schedule to the clause.

It is noted that the definition of ‘strip shopping centre’ provided in *Clause 52.28 Gaming* has remained virtually unaltered since it was first introduced with the new format planning schemes. This extends to the exclusion of land in the Capital City Zone in the Melbourne Planning Scheme from the definition, obviating the operation of the general prohibition of the installation or use of a gaming machine in a strip

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<sup>14</sup> [Clause 22.12 Gaming Premises \(C225, gazetted 29 January 2015\)](#)

<sup>15</sup> [Clause 22.12 Gaming premises \(C196, gazetted 15 October 2015\)](#)

<sup>16</sup> [Clause 52.28 Gaming \(NPS1, gazetted 4 March 1999\)](#)

<sup>17</sup> [Local Schedule to Clause 52.28 Gaming \(NPS1, gazetted 4 March 1999\)](#)

shopping centre on land included in the Capital City Zone.

At no point has a local Schedule to *Clause 52.28 Gaming* existed in the Melbourne Planning Scheme that specifically identified a strip shopping centre within which the installation or use of a gaming machine was prohibited.

19. The exception to the similarity in operation between *Clause 52.28 Gaming*, as gazetted on 4 March 1999, and the version of the Particular Provision that pre-dated Amendment VC148 is that it included a series of facilitative and transitional arrangements for separately defined ‘restricted areas’ and ‘unrestricted areas’ in gaming venues, and for hotels or clubs that existed on 19 December 1997. Notably, *Clause 52.28 Gaming*, as gazetted on 4 March 1999, included a provision that allowed gaming machines to be installed and used in a ‘restricted area’ if that area did not exceed 25% of the gross floor area of the premises where liquor may be consumed, without the need for a planning permit.
20. On 18 October 2006, Amendment VC39, prepared by the Minister for Planning, was gazetted. The explanatory report<sup>18</sup> for Amendment VC39 provided the following explanation of why the amendment was required:

*The amendment is required to implement the Government’s 2002 Election commitment to:*

- *remove the provisions in Clause 52.28 that allowed gaming machines for up to 25% of a premises’ floor space without a permit, and*
- *require that a planning permit be granted for a gaming machine.*

*The amendment is also required to ensure the Victoria Planning Provisions and planning schemes are consistent with the Gambling Regulation Act 2003 and the Liquor Control Reform Act 1998 and to simplify the operation of the gaming provisions.*

21. In addition to removing the provisions in *Clause 52.28 Gaming* that allowed gaming machines to be installed and used in a ‘restricted area’ without a permit, the explanatory report for Amendment VC39 set out the following description of the environmental, social and economic effects of the amendment:

*The amendment will have positive environmental effects. The normal assessment of an application, including the effect on the amenity of the area (and other relevant matters referred to in Clause 65.01-Decision Guidelines of the VPP), will now apply to a permit application for a gaming machine. In many cases, this assessment was not possible under former Clause 52.28.*

*The amendment will have also positive social and economic effects by enabling the responsible authority to consider significant social and economic effects (using section 60(1A)(a) of the Planning and*

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<sup>18</sup> [Explanatory Report, Melbourne Planning Scheme Amendment VC39](#)

*Environment Act 1987) for all gaming machine proposals.*

...

22. *Clause 52.28 Gaming*<sup>19</sup>, as gazetted on 18 October 2006, substantively reflected the version of the Particular Provision that pre-dated Amendment VC148.
23. A discussion of Amendment VC148, including the changes introduced by the Amendment to the Victorian Planning Provisions as they relate to Amendment C307, is set out in Section IV. Council's desire to advance Amendment C307 in response to Amendment VC148 (and its reasons why such modification is appropriate and desirable) is set out in Section X.

#### C. EXISTING MUNICIPAL STRATEGIC STATEMENT

24. On 12 September 2013, Amendment C162, prepared by Council, was gazetted. Amendment C162 replaced the existing Municipal Strategic Statement (MSS) at Clause 21 of the Local Planning Policy Framework in the Melbourne Planning Scheme, with a new MSS, amended to align with the *Council Plan 2009-2013*<sup>20</sup>.
25. Of relevance to Amendment C307, Amendment C162 inserted the following objective and corresponding strategy in *Clause 21.10-6 Cultural/ Arts and Entertainment Facilities* of the MSS:

***Objective 1 To provide a diverse range of leisure, arts, cultural and entertainment facilities.***

*Strategy 1.1 Discourage the concentration of sexually explicit adult entertainment, amusement parlours and gaming venues in the Central City.*

26. At the time Amendment C162 was gazetted, *Clause 22.12 Gaming Premises* did not apply to the Capital City Zone (land within which was exempt from the general prohibition of the installation or use of a gaming machine in a strip shopping centre under *Clause 52.28 Gaming*).
27. The introduction of an objective to provide a diverse range of leisure, arts, cultural and entertainment facilities, and corresponding strategy of discouraging the concentration of gaming venues in the Central City, without an appropriate local policy to provide guidance on how this is to be achieved, was acknowledged in the review of *Clause 22.12 Gaming Premises* carried out by Ratio Consultants Pty Ltd in 2015 (discussed later in this section).

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<sup>19</sup> [Clause 52.28 Gaming \(VC39, gazetted 18 October 2006\)](#)

<sup>20</sup> [Explanatory Report, Melbourne Planning Scheme Amendment C162](#)

## D. EXPANSION OF THE CAPITAL CITY ZONE AND THE REVIEW OF MELBOURNE CITY COUNCIL'S GAMING POLICY

28. Since the introduction of the new format planning schemes in March 1999<sup>21</sup>, there have been three amendments to the Melbourne Planning Scheme that have significantly expanded the Capital City Zone beyond its original area<sup>22</sup> (generally corresponding to the Hoddle Grid (including Queen Victoria Market) and northern Southbank):
- (a) Amendment C170<sup>23</sup>, prepared by the Minister for Planning and gazetted on 5 July 2012, rezoning land within the Fishermans Bend Urban Renewal Area declared to be of State Significance under Section 201(f) of the *Planning and Environment Act 1987*, to Schedule 4 to the Capital City Zone<sup>24</sup>.
  - (b) Amendment C171<sup>25</sup> prepared by Council and gazetted on 20 June 2013, implemented the *Southbank Structure Plan 2010*, rezoning land within the structure plan area to Schedule 3 to the Capital City Zone<sup>26</sup>.
  - (c) Amendment C196<sup>27</sup> prepared by Council and gazetted on 15 October 2015, to implement the *City North Structure Plan February 2012*, rezoning land within the structure plan area to Schedule 5 to the Capital City Zone<sup>28</sup>.
29. The land that has been rezoned Capital City Zone by the planning scheme amendments listed above is depicted in Figure 1.

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<sup>21</sup> [Zone Map 13 \(NPS1, Gazetted 4 March 1999\)](#), shows the extent of CCZ at the time the new format planning schemes were introduced.

<sup>22</sup> The three amendments listed in paragraph 28 do not represent an exhaustive account of all planning scheme amendments that have rezoned land to the Capital City Zone since the introduction of the new format planning schemes in March 1999, and are instead intended to provide a broad account of the expansion of the Capital City Zone over this period.

<sup>23</sup> [Explanatory Report, Melbourne Planning Scheme Amendment C170 Fishermans Bend](#)

<sup>24</sup> [Zone Map 7 \(C170, gazetted 5 July 2012\)](#), shows the extended CCZ (Schedule 4) introduced over Port Melbourne

<sup>25</sup> [Explanatory Report, Melbourne Planning Scheme Amendment C171 Southbank](#)

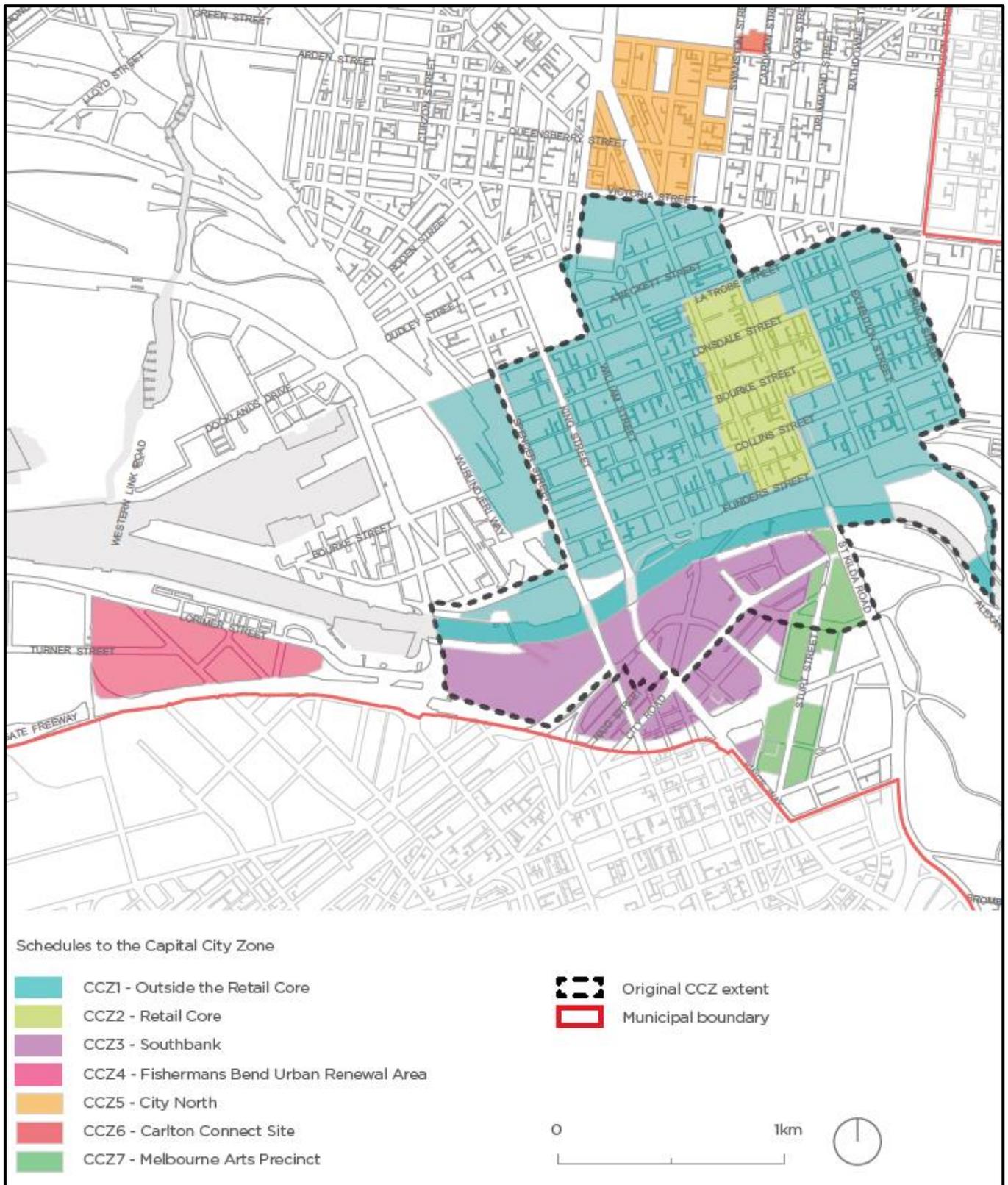
<sup>26</sup> [Zone Map 8 \(C171, gazetted 20 June 2013\)](#), shows the extended CCZ (Schedule 3) introduced over Southbank.

<sup>27</sup> [Explanatory Report, Melbourne Planning Scheme Amendment C196 City North](#)

<sup>28</sup> [Zone Map 5 \(C196, gazetted 15 October 2015\)](#), shows the extended CCZ (Schedule 5) introduced over parts of North Melbourne, Carlton, and Melbourne.

Figure 1: Map of land in the City of Melbourne municipal area, showing the original extent of the Capital City Zone (black dotted line), and land rezoned to Capital City Zone by:

- Amendment C170 (CCZ4, Fishermans Bend);
- Amendment C171 (CCZ3 (part rezoned to CCZ7 on 7 March 2018 by Amendment C330), Southbank); and
- Amendment C196 (CCZ5, City North).



30. As the Capital City Zone has expanded, so too by de facto has the extent of land within the City of Melbourne municipal area that is exempt from the general prohibition of the installation or use of a gaming machine in a strip shopping centre.
31. The relationship between the continued expansion of the Capital City Zone, and the corresponding increase in the area of land that was exempt from the general prohibition described in *Clause 52.28 Gaming*, prompted Council to make a commitment at Goal 1 of the *Council Plan 2013-2017*<sup>29</sup>, to:

*Develop an electronic gaming machine policy for the municipality.*

32. The *2015-2016 Council Annual Plan and Budget*<sup>30</sup> set out the following initiative in service of Goal 1 of the Council Plan 2013-2017:

*Review Melbourne Planning Scheme clause 22.12 (gaming premises) in light of the continued Capital City Zone expansion.*

33. To implement the above initiative of the *2015-2016 Council Annual Plan and Budget*, the Council commenced a review of *Clause 22.12 Gaming Premises* in 2015.
34. The findings of the completed review, the *Melbourne City Council Gaming Policy Review April 2015 (the Ratio Review)* prepared by Ratio Consultants Pty Ltd for Council, was reported to Council's Future Melbourne Committee on 19 July 2016<sup>31</sup>.
35. Broadly, the Ratio Review recommended that a new local policy be developed to apply to all areas of the municipality, including the Capital City Zone, noting that the existing policy was written at a time when gaming as a planning issue was in its infancy, and prior to the *Clause 52.28 Gaming* being amended to include a significantly stronger focus on the social and economic impact of the location of gaming machines. The following key issues were highlighted in the Ratio Review on the basis of an investigation of VCAT decisions on related applications in the City of Melbourne:

- *Opportunities for convenience gambling*

*Whilst the Capital City Zone is exempt from the restrictions on strip shopping under Clause 52.28 consideration should still be given to the issues surrounding convenience in the central city zone as well as other areas of the City.*

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<sup>29</sup> [Council Plan 2013-2017, p.17](#)

<sup>30</sup> [2015-2016 Council Annual Plan and Budget, p.26](#)

<sup>31</sup> Panel Folder, Tab1(B), link to [Agenda Item 6.3 Review of Melbourne Planning Scheme Clause 22.12 \(Gaming Premises\) in light of the continued Capital City Zone expansion](#), Future Melbourne Committee Meeting No. 86, 19 July 2016

- *Clustering of gaming venues*

*Under the existing local policy, a similar consideration is set out i.e. the extent to which electronic gaming machines are located in the subject area. Whilst the existing policy does not apply to the Central City, there is reference to ‘clustering’ within the MSS. The Francis Hotel decision also raised this as an issue to consider. As the Central City is exempt from any restrictions on the number of EGMs, it is not possible to put a limit on density and nor should it be applied at a micro-level. However, some guidance on what a concentration or cluster of gaming machines would be helpful in assessing the impacts of new gaming machines.*

- *Location of machines*

*Locational criteria should be established that set out where gaming venues should and should not be located, with particular reference to vulnerable groups. The SEIFA Index of Disadvantage provides a useful tool to help Council determine the likely impact of gaming machines.*

*There is research available that specifically sets out characteristics of those persons who would be more vulnerable to gambling and this could be applied to a local policy context.*

36. On 19 July 2016 Council’s Future Melbourne Committee resolved<sup>32</sup> the following:

1. *That the Future Melbourne Committee:*

1.1 *Endorses the Melbourne City Council Gaming Policy Review.*

1.2 *Requests management to commission consultants to begin implementation of the review in 2016-17 in order to progress Annual Plan action 1.6.1 ‘Begin implementing the outcomes of the gaming policy review’, with a view to Council being in a position to consider progression of a planning scheme amendment as part of the 2017-18 Annual Plan.*

E. PREPARATION OF THE REVISED CLAUSE 22.12 FOR AMENDMENT C307

37. In April 2017, Symplan consulting was engaged to prepare a revised Clause 22.12 for the Melbourne Planning Scheme, as well as a decision making framework to articulate a Council position regarding gaming machines for use as a basis to inform submissions to the Victorian Commission for Gambling and Liquor Regulation.

38. Symplan subsequently prepared the *City of Melbourne Electronic Gaming Machine Review Draft Background Report October 2017 (the Background Report)*, which sets out the evidence base that informed the preparation of the revised Clause 22.12 and the *City of Melbourne Draft Electronic Gaming Machine Decision-making Framework October 2017*.

39. The Background Report provides, at *Chapter 9 Framework for the revised Local Planning Policy for Gaming*, a summary of the key features of extant local planning policies within other municipalities. The key findings of this section of the Background Report are set out below:

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<sup>32</sup> Panel Folder, Tab 1(A), link to [Confirmed Minutes from Future Melbourne Committee Meeting Number 86 \(19 July 2016\)](#)

## ***Key findings***

*The municipal strategic statements and local planning policies for gaming in Victorian planning schemes include strategies and policies that seek to prevent convenience gambling and protect those most at risk of gambling-related harms.*

*The key objectives included in the local planning policies focus on:*

- minimising gambling-related harms to individuals and the community*
- ensuring that gaming machines are situated in appropriate locations and premises to prevent convenience gambling*
- ensuring that where gaming machines operate, they do so as part of the overall range of social, leisure, entertainment and recreation activities and facilities*
- reducing the concentration of gaming machines and gaming venues*
- ensuring that gaming venues do not detract from the amenity of surrounding uses*
- ensuring that the location and operation of gaming machines achieves net community benefit*
- discouraging the proliferation of gaming premises in locations where the predominant use is residential.*

*The local planning policies require the planning permit application to provide a suite of information relating to the proposal, the land use and zoning of the area surrounding the proposal site, the location of gambling-sensitive uses and uses that could contribute to convenience gambling, a community survey and a detailed socio-economic impact assessment.*

*Decision guidelines included in local planning policies relate to:*

- Whether the proposal will achieve the objectives and outcomes of this policy*
- Whether the proposal will increase gambling-related harm*
- Whether the proposal can demonstrate that there is to be a net community benefit beyond any statutory community contributions scheme*
- Whether the proposal will contribute to the levels of socio-economic disadvantage or have any other adverse impacts on vulnerable communities*
- Whether the location of the gaming machines would result in convenience gaming*
- Whether patrons will have access to non-gambling entertainment and recreation facilities in the surrounding area and in the gaming venue that operate at the same time as the gaming machines*
- The impact of the proposal on the safety, amenity, character, tourism and cultural assets of the surrounding land area and municipality*

40. The revised Clause 22.12 prepared by Symplan for Council, including the policy basis, objectives, policies, application requirements and decision guidelines, with the exception of minor changes to comply with a request from the Department of Environment, Land, Water and Planning (**DELWP**) to address form and content requirements (documented in Section V), is consistent with the exhibited form of Clause 22.12 under Amendment C307.

#### IV. AMENDMENT VC148 INTERACTION WITH AMENDMENT C307

41. Amendment C307 was prepared and exhibited prior to the gazettal of Amendment VC148, which has since come into effect.
42. Amendment VC148 was prepared by the Minister for Planning (**Minister**) and gazetted on 31 July 2018. Amendment VC148 introduced changes to the Victorian Planning Provisions in all planning schemes across Victoria.
43. The explanatory report<sup>33</sup> for Amendment VC148 outlines the following description of why the amendment was required:

*The Victoria Planning Provisions have served Victoria well for a long time. However, increasing demands on the planning system and successive reforms have resulted in planning schemes that have grown considerably in size and complexity. The growth in complexity of planning schemes not only affects their efficiency and effectiveness, it also acts as a barrier to long-term change and the benefits that technology can deliver through more responsive and accessible planning services.*

*The amendment implements part of the Victorian Government's Smart Planning program reforms to simplify and modernise Victoria's planning policy and rules. The 2017 Smart Planning discussion paper, Reforming the Victoria Planning Provisions included proposals to simplify and realign the VPP using the six principles of a modern planning scheme – digital first, user focused, consistent, proportional, land use focused and policy and outcome focused.*

44. Amendment VC148 made the following changes to the Scheme of relevance to Amendment C307:
- (a) Deleting the State Planning Policy Framework (SPPF) and replacing it with a new integrated Planning Policy Framework (**PPF**) in Clauses 10 to 19. It is noted that the strategic basis for Amendment C307 set out in Section VI has had regard to the current form of the State policies in the PPF.
  - (b) Amending *Clause 52.28 Gaming* to introduce the following new clauses:
    - (i) *Clause 52.28-2 Gaming objectives*, which provides that a schedule to this clause may

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<sup>33</sup> [Explanatory Report, Melbourne Planning Scheme Amendment VC148](#)

specify objectives to be achieved in relation to the installation or use of a gaming machine;

- (ii) *Clause 52.28-6 Locations for gaming machines*, which provides that a schedule to this clause may specify guidelines relating to locations for gaming venues and machines.
  - (iii) *Clause 52.28-7 Venues for gaming machines*, which provides that a schedule to this clause may specify guidelines relating to venues for gaming machines.
  - (iv) *Clause 52.28-8 Application requirements*, which provides that an application must be accompanied by any information specified in a schedule to this overlay<sup>34</sup>.
- (c) Introducing the following new decision guideline at *Clause 52.28-9 Decision Guidelines* (renumbered from Clause 52.28-5):
- *Any other matters specified in the schedule to this clause.*

## V. CHRONOLOGY OF EVENTS

### A. REQUEST FOR AUTHORISATION TO PREPARE AMENDMENT C307

45. On 17 October 2017, Council's Future Melbourne Committee resolved<sup>35</sup> the following:

1. *That the Future Melbourne Committee:*

1.1 *Seeks authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C307.*

1.2 *Endorses the draft decision making framework for consultation.*

1.3 *Authorises the Director City Strategy and Place to make any further minor editorial changes to the policy, decision making framework and background report if required.*

46. On 19 December 2017, a request for authorisation to prepare Amendment C307 was submitted to the Minister for Planning.

47. On 21 December 2017, DELWP, under delegation from the Minister, granted authorisation to Council to prepare Amendment C307, subject to the following condition:<sup>36</sup>

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<sup>34</sup> [Clause 52.28-8 Application requirements](#), as it currently appears in the Melbourne Planning Scheme refers to 'overlay', although it is noted that there is no Planning Overlay associated with *Clause 52.28 Gaming*, and the most likely explanation for the use of this term is that it is a clerical error.

<sup>35</sup> Panel Folder Tab 2(A), link to [Confirmed Minutes from Future Melbourne Committee Meeting No. 23 \(17 October 2017\)](#)

<sup>36</sup> DM11297980: Email and Authorisation letter from DELWP (21 December 2017), DM#12285944: Email with attachment to authorisation letter from DELWP (21 December 2017)

1. *That the exhibited version of Clause 22.12 Gaming generally accord with that attached to this letter, as revised by Council in response to comments from the Department of Environment, Land, Water and Planning.*

48. The attachment referred to in Condition 1 of the authorisation letter for Amendment C307 was a track changes version of Clause 22.12 with a small number of refinements, as recommended by DELWP, including:

- (a) At Clause 22.12-3 Application Requirements, under the subheading 'Location assessment', deletion of the requirement to provide a description of the zoning of the proposed venue with an application.
- (b) At Clause 22.12-3 Application Requirements, under the subheading 'Social and economic benefits', deletion of a requirement to detail, "the site from which the gaming machines are to be transferred", as part of the assessment provided to comply with the second dot point.

49. Following receipt of DELWP's letter of 21 December 2017, Council implemented the suggested refinements by DELWP to Clause 22.12 when preparing Amendment C307 for exhibition.

## B. COPY OF AMENDMENT PROVIDED TO MINISTER FOR PLANNING PRIOR TO EXHIBITION

50. On 7 May 2018, a copy of Amendment C307, including the amendment documentation and explanatory report, was provided to the Minister for Planning in accordance with Section 17 of the *Planning and Environment Act 1987*.

## C. EXHIBITION

51. The Amendment was exhibited between 24 May and 29 June 2018.

52. Public notification of the Amendment included:

- (a) Mailing out by post the statutory notice and a letter with information about Amendment C307 and the amendment process on 18 May 2018 to:
  - (i) Prescribed Ministers under Section 19(1)(c) of the *Planning and Environment Act 1987*.

- (b) Mailing out by email the statutory notice and a letter with information about Amendment C307, and an invitation to attend an information session, on 22 May 2018 to:
    - (i) government authorities;
    - (ii) residents associations;
    - (iii) service providers; and
    - (iv) gaming venue operators.
  - (c) Publishing a public notice in *The Age* and the *Government Gazette* on 24 May 2018.
  - (d) Making a printed copy of Amendment C307 available for public viewing from 24 May to 29 June 2018 at the Melbourne Town Hall.
  - (e) Making an online electronic copy of Amendment C307 available for public viewing from 21 May 2018 at the Participate Melbourne website and on Planning Schemes Online (DELWP's website).
  - (f) Messaging on social media platforms.
53. Two public information sessions were held at Melbourne Town Hall during the public exhibition of Amendment C307, and included a presentation of the amendment as well as an opportunity to ask questions. Invitations to the first information session, which was held on 6 June 2018, were provided in the notice letters sent to government authorities, residents associations and service providers, and open to all interested members of the community. Invitations to the second information session, which was held on 7 June 2018, were sent to venue operators only.
54. Amendment VC148 was gazetted on 31 July 2018, approximately one month after public exhibition of Amendment C307 formally concluded.
55. In response to the exhibition of Amendment C307, Council received eight submissions,<sup>37</sup> with submissions broadly supportive of Council's role in addressing gambling-related harm.

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<sup>37</sup> Panel Folder, Tab 4  
[7565113: 23561179\_1]

#### D. POST-EXHIBITION AND APPOINTMENT OF PANEL

56. On 20 November 2018, management prepared its summary of, and response to, submissions received during the public exhibition of Amendment C307. The report recommended that a request be submitted to the Minister for Planning to appoint an independent Panel to consider the submissions, with the intention to present this to Council's Future Melbourne Committee as Agenda Item 6.1<sup>38</sup>.
57. All submitters to Amendment C307 were notified on 13 November 2018 of management's intention to report its recommendation regarding the submissions received during the public exhibition of Amendment C307 to Council's Future Melbourne Committee. Submitters were invited to attend and advised they could make a verbal submission or written statement if they wished to. Further notification was given to all submitters on 20 November 2018 advising that a loss of quorum might result from a majority of Councillors indicating they had a conflict of interest, with the subsequent loss of an opportunity to make verbal submissions.
58. Due to a number of Councillors declaring conflicts of interest for the agenda item, the quorum for the meeting was lost, and the agenda item was dealt with by an officer under delegation substantially in accordance with the management recommendation<sup>39</sup>.
59. It is noted that management, in preparing the version of Amendment C307 for Council's Future Melbourne Committee on 20 November 2018, elected to make changes to the amendment documents for consistency with Amendment VC148. Two versions of the amendment documents were prepared, representing a 'Pre-VC148' and 'Post-VC148' version of the amendment documents.
60. On 12 December 2018, City of Melbourne, under delegation, requested that the Minister for Planning appoint an independent panel to hear submissions regarding Amendment C307<sup>40</sup>, and notified Planning Panels Victoria of this request. All eight submissions received for Amendment C307 were referred to Planning Panels Victoria as part of process.
61. On 17 December 2018, Council received advice from Planning Panels Victoria that the Minister had appointed a Panel to hear and consider submissions in respect of Amendment

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<sup>38</sup> Panel Folder, Tab 3(B), link to [Agenda Item 6.1 Planning Scheme Amendment C307 Gaming Policy](#), Future Melbourne Committee Meeting No.46 (20 November 2018)

<sup>39</sup> Panel Folder, Tab 3(A), link to [Confirmed Minutes of Future Melbourne Committee Meeting No.46 \(20 November 2018\)](#)

<sup>40</sup> DM#12138005: Letter to Minister for Planning requesting appointment of a Panel

C307, and that the following dates had been arranged for its hearings:

*Directions Hearing:                      Within the week commencing Monday 11 February 2019*

*Panel Hearings                              Commencing in the week of Monday 11 March 2019*

62. On 18 December 2018, Council received further advice from Planning Panels Victoria confirming that a Directions Hearing would be held at 10.00am on Thursday 14 February 2019.
63. On 14 February 2019, the Directions Hearing for Amendment C307 was held.
64. No late submissions have been received since the conclusion of the exhibition period.
65. A total of eight submissions have therefore been received for Amendment C307, and have been referred to the Panel.

## **VI. STRATEGIC BASIS FOR AMENDMENT C307**

66. At the time Amendment C307 was prepared and exhibited, the strategic basis for the Amendment set out in the Explanatory Report<sup>41</sup> reflected the State Planning Policy Framework as it then existed in the Scheme.
67. As documented in Section IV, Amendment VC148 came into effect after Amendment C307 had been exhibited and made changes to the Victorian Planning Provisions. These changes included a reconfiguring of the *State Planning Policy Framework* into a new Planning Policy Framework, which is intended to capture all layers of policy; State, Regional and Local, in the near future.
68. Amendment C307 remains consistent with State policy in the Planning Policy Framework. The strategic basis for Amendment C307, reflecting the current form of the Scheme, is set out in this section of Council's submission.

### **A. AMENDMENT C307 SUPPORTS PLAN MELBOURNE**

69. Amendment C307 is consistent with the following specific outcomes and directions sought by *Plan Melbourne*<sup>42</sup>:

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

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<sup>41</sup> Panel Folder, Tab 5(B), link to exhibited [Explanatory Report](#)

<sup>42</sup> [Plan Melbourne 2017-2050 Strategy](#) (p.100)

*Direction 5.2 – Create neighbourhoods that support safe communities and healthy lifestyles.*

## B. AMENDMENT C307 SUPPORTS STATE POLICY

70. Amendment C307 supports *Clause 11 Settlement*<sup>43</sup>, the relevant objectives of which include:

*Planning is to recognise the need for, and as far as practicable contribute towards, amongst other things:*

- *Health, wellbeing and safety.*
- *Diversity of choice.*
- *Adaptation in response to changing technology.*
- *Economic viability.*
- *A high standard of urban design and amenity.*
- *Accessibility.*

*Planning is to prevent environmental and amenity problems created by siting incompatible land uses close together.*

71. Amendment C307 supports *Clause 11 Settlement* by improving certainty about likely land use outcomes across the municipality through implementing a policy that provides guidance on the appropriate location for the installation or use of gaming machines in new or existing gaming venues. Where gaming machines operate, they do so as part of the overall range of social, leisure, entertainment and reaction activities and facilities provided.

72. Amendment C307 supports *Clause 11.03-1S Activity Centres*<sup>44</sup>, the relevant strategies of which include:

### ***Strategies***

*Improve the social, economic and environmental performance and amenity of activity centres.*

73. Amendment C307 supports *Clause 11.03-1S Activity Centres*, by implementing a policy that will facilitate improved social, economic and amenity outcomes for users of the Central City, by minimising gambling-related harms, managing the spatial concentration of gaming machines and gaming venues, and ensuring that gaming venues do not detract from the amenity of surrounding uses.

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<sup>43</sup> [Clause 11 Settlement](#) (VC148, gazetted 31 July 2018)

<sup>44</sup> [Clause 11.03-1S Activity Centres](#) (VC148, gazetted 31 July 2018)

74. Amendment C307 supports *Clause 13.07-1S Land use Compatibility*<sup>45</sup>, the relevant objectives and strategies of which include:

***Objective***

*To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

***Strategies***

*Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:*

- *Directing land uses to appropriate locations.*
- *Using a range of building design, urban design, operational and land use separation measures.*

75. Amendment C307 supports *Clause 13.07-1S Land use Compatibility*, by elevating consideration of the social and economic impacts that may result from the inappropriate location of gaming machines and gaming venues. The proposed policy will guide the decision-maker in safeguarding individuals and the community from gambling-related harms when deciding on planning applications for gaming machines.
76. Amendment C307 supports *Clause 15.01-4S Healthy Neighbourhoods*<sup>46</sup>, the relevant objective of which includes:

***Objective***

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

77. Amendment C307 supports *Clause 15.01-4S Healthy Neighbourhoods* by facilitating the growth, and maintenance, of neighbourhoods within the City of Melbourne municipal area that foster healthy and active living and community wellbeing by discouraging the proliferation of gaming premises in locations where the predominant use is residential through the proposed policy.
78. Amendment C307 supports *Clause 17.02-1S Business*<sup>47</sup>, the relevant objectives and strategies of which include:

***Objective***

*To encourage development that meets the community's needs for retail, entertainment, office and other*

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<sup>45</sup> [Clause 13.07-1S Land Use Compatibility](#) (VC148, gazetted 31 July 2018)

<sup>46</sup> [Clause 15.01-4S Healthy Neighbourhoods](#) (VC148, gazetted 31 July 2018)

<sup>47</sup> [Clause 17.02-1S Business](#) (VC148, gazetted 31 July 2018)

*commercial services.*

### ***Strategies***

*Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.*

79. Amendment C307 supports *Clause 17.02-1S Business*, by requiring applications seeking permission to install or use gaming machines in gaming venues to demonstrate how the proposal will achieve net community benefit through the location or operation of gaming machines.

### C. AMENDMENT C307 SUPPORTS THE MUNICIPAL STRATEGIC STATEMENT AND LOCAL PLANNING POLICY FRAMEWORK

80. Amendment C307 supports *Clause 21.10-6 Cultural/ Arts and Entertainment Facilities*<sup>48</sup>, the relevant objectives and strategies of which include:

***Objective 1: To provide a diverse range of leisure, arts, cultural and entertainment facilities.***

*Strategy 1.1 Discourage the concentration of sexually explicit adult entertainment, amusement parlours and gaming venues in the Central City.*

81. Amendment C307 supports *Clause 21.10-6 Cultural/ Arts and Entertainment Facilities* by implementing a proposed policy to regulate the concentration of gaming machines and gaming venues, which applies to the entire municipal area, including the Central City and all land within the Capital City Zone.

## **VII. MINISTER'S DIRECTIONS**

82. Amendment C307 complies with the requirements of the following Minister's 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 the Planning Scheme Amendment Process.

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<sup>48</sup> [Clause 21.10 Infrastructure](#) (C162, gazetted 12 September 2013)

## VIII. IDENTIFICATION OF AND RESPONSE TO ISSUES RAISED IN SUBMISSIONS

### A. SUMMARY OF SUBMISSIONS

83. A detailed summary of, and response to, the eight submissions received in response to the exhibition of Amendment C307, was included in Attachment 2<sup>49</sup> of management's report to Council's Future Melbourne Committee of 20 November 2018.
84. The concerns identified in these submissions broadly include:
- (a) The changes proposed by Amendment C307 are not prohibitive enough.
  - (b) The changes proposed by Amendment C307 are too prohibitive (particularly in relation to the Central City and location criteria).
  - (c) Domain Village should be listed as a strip shopping centre in the Schedule to Clause 52.28.
  - (d) The proposed local planning policy seeks to regulate matters outside its scope.
  - (e) The proposed local planning policy should include special recognition of, or exempt from its requirements, the Central City.
  - (f) The proposed local planning policy should distinguish between, and treat differently, existing and new gaming venues.
  - (g) The evidence base in the Background Report.
85. The issues raised in the eight submissions received in response to the exhibition of Amendment C307, and Council's response to them, have been divided by the broad themes identified above and summarised below.
86. Further submissions will be made in Council's Part B Submission. This will allow Council to respond to matters raised in evidence by some of the submitters.

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<sup>49</sup> Panel Folder, Tab 3(B)(I), link to [Agenda Item 6.1 Planning Scheme Amendment C307 Gaming Policy](#), Future Melbourne Committee Meeting No.46 (20 November 2018).

B. AMENDMENT C307 IS NOT PROHIBITIVE ENOUGH

87. Submissions stated that gaming machines and gaming venues should be prohibited by any proposed amendment.

88. Council's response to the above concern is as follows:

Gambling as a legal activity within the State of Victoria, which cannot be outright prohibited under the *Planning and Environment Act 1987*.

C. AMENDMENT C307 IS TOO PROHIBITIVE

89. Submissions raised the following issues in relation to operation of the proposed local planning policy:

(a) Use of the word, "reduce", in relation to the objective of the proposed local planning policy regarding the concentration of gaming machines.

(b) That the location criteria in the proposed local planning policy will effectively prohibit new gaming machines in the municipality (in particular in the Central City).

90. Council's summary response to the above issues is as follows:

(a) Appropriate changes have been made to the objective of the proposed local planning policy identified in submissions that included the term, "reduce", acknowledging that the objective, "to reduce the concentration of gaming machines", could be misinterpreted as being prohibitive, or contrary to the scope of the local planning policy and its intended operation. Replacing the word, "reduce", with the word, "manage", and adding the words, "in order to redistribute gaming machines and gaming venues away from areas vulnerable to gambling-related harms", is considered to provide greater clarity around the outcome sought by this objective.

(b) A local planning policy cannot prohibit a use permissible under a zone, or the installation or use of a gaming machine that is permissible under *Clause 52.28 Gaming*. It is the role of local planning policies to provide guidance around how discretion is likely to be exercised. The manner in which the policy will apply as an integration of relevant policies will be expanded upon in Council's Part B Submission.

D. DOMAIN VILLAGE SHOULD BE LISTED AS A STRIP SHOPPING CENTRE IN THE SCHEDULE TO CLAUSE 52.28 GAMING

91. A submission stated that Domain Village should be listed as a strip shopping centre in the Schedule to *Clause 52.28 Gaming*, as Domain Village could have its status challenged as a ‘strip shopping centre’ within the meaning provided by *Clause 52.28-5 Prohibition of a gaming machine in a strip shopping centre*.
92. Council’s summary response to the above concern is as follows:

It is Council’s expectation that the prohibition against new gaming machines at Clause 52.28-5 applies to all strip shopping centres within the City of Melbourne (outside the Capital City Zone), and that Domain Village is a strip shopping centre that is afforded protection by this prohibition<sup>50</sup>. It will continue to be afforded protection by this prohibition even as existing shops transition from selling goods and services to food and drink. There is no evidence that the existing prohibition is failing to deliver these outcomes. That said, it needs to be acknowledged that a planning scheme cannot designate a strip of land to be a strip shopping centre just by naming it so. The strip needs to meet the criteria set out in Clause 52.28.

E. THE PROPOSED LOCAL PLANNING POLICY SEEKS TO REGULATE MATTERS OUTSIDE ITS SCOPE

93. Submissions stated that net community benefit is not a relevant ‘test’, and that the proposed local planning policy, which includes objectives and policy criteria relating to net community benefit, therefore sought to regulate matters outside its legal remit.
94. Council’s summary response to the above concern is as follows:

The proposed local planning policy addresses matters that fall within the scope of the *Planning and Environment Act 1987* and Melbourne Planning Scheme. While net community benefit is not specifically referred to in the head provision of *Clause 52.28 Gaming*, it is a relevant planning consideration in the Planning Policy Framework (*Clause 17.02-1S Business*), which the decision guidelines of *Clause 52.28 Gaming* direct the Responsible Authority to have regard to. It is also the stated purpose of the Planning Policy Framework (*Clause*

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<sup>50</sup> In forming this view, City of Melbourne had regard to [Melkat Pty Ltd v Campaspe SC \(Red Dot\) \[2012\] VCAT 657 \(23 May 2012\)](#), where the Tribunal held that the land use definition of ‘Shop’ provided in the planning scheme does not determine the question of whether the following criteria is met to satisfy the definition of a ‘strip shopping centre’ in Clause 52.28-5, ‘it is an area in which a significant proportion of the buildings are shops’.

71.02-1 Purpose of the Planning Policy Framework) and the guiding principle of integrated decision making (Clause 71.02-3 Integrated Decision Making).

95. Council understands entirely that this policy cannot be elevated to a ‘test’ or ‘threshold’ of acceptability. None of the other policies can be so elevated. But to include achievement of net community benefit is, in Council’s view, an entirely appropriate objective.

F. THE PROPOSED LOCAL PLANNING POLICY SHOULD INCLUDE SPECIAL RECOGNITION OF, OR EXEMPT FROM ITS REQUIREMENTS, THE CENTRAL CITY

96. Submissions raised the following issues in relation to the operation of the proposed local planning policy and the Central City:

(a) That the Central City deserves special recognition, or an exemption from the requirements of the proposed local planning policy.

(b) That the proposed changes to the Municipal Strategic Statement are unbalanced, or contradictory with other aspirations within the MSS relating to the economic development of the city.

97. Council’s summary response to the above concern is as follows:

(a) The Central City (Hoddle Grid, Southbank and Docklands) is a state significant retail and entertainment area. It would not be appropriate to exclude the Central City from the application of the proposed local planning policy as the principle of minimising gambling-related harm is as relevant to the Central City as it is to the rest of the municipality. With respect to the distance threshold of 400 metres, this threshold is discussed in research as being a typical walking distance, and has therefore been adopted as a catchment area for assessing convenience gambling. It is appropriate that the same catchment for convenience gambling applies to the Central City as it does to the rest of the municipality, particularly given the intensive population growth and changing demographics in the Central City, which contributed to the need to update the local planning policy relating to gaming.

(b) Given the broad nature of objectives within the Planning Scheme, decision makers are able to balance the requirements of differing policies and provisions within the Planning Scheme through integrated decision making. Council submits that the

proposed changes to the Municipal Strategic Statement, which seek to enhance the City as Victoria's pre-eminent cultural and entertainment location by minimising gambling-related harm, and support the continued economic development of the Hoddle Grid while not supporting the spatial concentration of gaming venues, do not introduce policy conflicts or tension within the Planning Scheme which cannot be balanced against other policies.

G. THE PROPOSED LOCAL PLANNING POLICY SHOULD DISTINGUISH BETWEEN, AND TREAT DIFFERENTLY, EXISTING AND NEW GAMING VENUES

98. Submissions raised concerns that there was no distinction between the assessment criteria in the proposed local planning policy, as bearing on existing or proposed gaming venues, and requested that the proposed local planning policy be amended to encourage additional machines in existing gaming venues.

99. Council's summary response to the above concern is as follows:

An increase in the number of gaming machines within a gaming venue could potentially increase gambling-related harm. It is appropriate that consistent assessment criteria be applied to both planning permit applications seeking permission to increase the number of gaming machines within an existing gaming venue, and planning permit applications seeking to install gaming machines in a new gaming venue.

H. THE EVIDENCE BASE IN THE BACKGROUND REPORT

100. Submissions stated that there is no evidence linking students and gambling-related harms and that the evidence base underpinning Amendment C307 is unsound.

101. Council's summary response to the above concern is as follows:

The link between students and gambling-related harms, and the harms associated with the installation and use of gaming machines, are documented in the Background Report, and are considered to provide an appropriate basis for the proposed local planning policy.

## **IX. CHANGES TO AMENDMENT C307 DOCUMENTATION PROPOSED AS A RESULT OF THE ISSUES RAISED IN SUBMISSIONS**

102. The proposed changes to Amendment C307 in response to the issues raised in submissions are set out in Attachment 3 and Attachment 4<sup>51</sup> of management’s report to Council’s Future Melbourne Committee on 20 November 2018.

103. In response to submissions, the following changes have been made to the proposed local planning policy, *Clause 22.12 Gaming*:

- (a) Altering the objective relating to the concentration of gaming machines from:

*To reduce the concentration of gaming machines and gaming venues.*

To

*To manage the concentration of gaming machines and gaming venues in order to redistribute gaming machines and gaming venues away from areas vulnerable to gambling-related harm.*

- (b) Adding the following sentence to the policy basis:

*The Municipal Strategic Statement identifies the Central City (Hoddle Grid, Southbank and Docklands) as a state significant retail and entertainment area. Nine of the municipality’s gaming venues are located in the Hoddle Grid. Crown Casino is located in Southbank.*

- (c) Adding the words, “where applicable” to the preamble to the application requirements.

## **X. CHANGES TO AMENDMENT C307 DOCUMENTATION PROPOSED IN RESPONSE TO AMENDMENT VC148**

104. Council has prepared a ‘City of Melbourne – Panel Preferred (25 February 2019)’ version of the amendment documentation, which is provided in **ATTACHMENT 1** to this Part A Submission.

105. The ‘City of Melbourne – Panel Preferred (25 February 2019)’ amendment documents provided in **ATTACHMENT 1**:

- (a) Are consistent with the post-VC148 translated version of the exhibited *Clause 22.12*

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<sup>51</sup> Panel Folder, Tab 3(B)(II)&(III), link to [Agenda Item 6.1 Planning Scheme Amendment C307 Gaming Policy](#), Future Melbourne Committee Meeting No.46 (20 November 2018).

*Gaming* (which included changes in response to submissions, and policy-neutral structural changes to reconcile the content of the exhibited *Clause 22.12 Gaming* into the post-VC148 format of the local Schedule to *Clause 52.28 Gaming*), provided in Attachment 4<sup>52</sup> to management’s report to Council’s Future Melbourne Committee on 20 November 2018, with the exception of the further changes listed below.

- (b) Incorporate the further changes foreshadowed at the Directions Hearing for Amendment C307 on 14 February 2019, which included:
- (i) Relocation of relevant text in the policy basis to *Clause 21.02-3 People City* of the Municipal Strategic Statement.
  - (ii) Deletion of the *Clause 22.12 Gaming* local planning policy ‘shell’.
  - (iii) Deletion of the words, “where applicable”, where they appear in Clause 6.0 Application requirements in the local Schedule to *Clause 52.28 Gaming*.
  - (iv) Deletion of the following proposed decision guideline in the local Schedule to *Clause 52.28 Gaming*:
    - *Whether the proposal is consistent with the City of Melbourne Electronic Gaming Machine Decision-Making Framework, 2017 and the City of Melbourne Electronic Gaming Machine Review Background Report, 2017.*

106. The decision to translate the exhibited *Clause 22.12 Gaming* into the post-VC148 format of the local Schedule to *Clause 52.28 Gaming*, and progress Amendment C307 on this basis, has general support from DELWP<sup>53</sup>. It is submitted that this is City of Melbourne’s preferred option and most expedient way forward.

107. Council invites the Panel to make a recommendation to that effect.

108. Council contends that the post-VC148 version of Amendment C307 is not materially different from the exhibited Amendment when one considers the substance of the two versions. Council is conscious of the need to faithfully translate the Clause 22.12 version to a local schedule to Clause 52.28. Council’s intention to proceed in this manner has been publicly known since 20 November 2018.

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<sup>52</sup> Panel Folder, Tab 3(B)(III), link to [Agenda Item 6.1 Planning Scheme Amendment C307 Gaming Policy](#), Future Melbourne Committee Meeting No.46 (20 November 2018).

<sup>53</sup> DM#12282952: Email from DELWP confirming preference to translate *Clause 22.12 Gaming* into post-VC148 local Schedule to *Clause 52.28 Gaming* for purpose of progressing Amendment C307.

**Melbourne City Council**

**The Planning Authority**

**25 February 2019**

**ATTACHMENT 1: CITY OF MELBOURNE – PANEL PREFERRED (25 FEBRUARY 2019) AMENDMENT DOCUMENTS**

*Planning and Environment Act 1987*

**MELBOURNE PLANNING SCHEME**

**AMENDMENT C307**

**INSTRUCTION SHEET**

The planning authority for this amendment is the City of Melbourne.

The Melbourne Planning Scheme is amended as follows:

**Planning Scheme Ordinance**

The Planning Scheme Ordinance is amended as follows:

1. In Local Planning Policy Framework – replace Clause 21.02 with a new Clause 21.02 in the form of the attached document.

**Comment [CC1]:** Change made in Panel Preferred Version.

~~2.~~ In Local Planning Policy Framework – replace Clause 21.10 with a new Clause 21.10 in the form of the attached document.

Paragraph from *Clause 22.12 Gaming Policy Basis* inserted at *Clause 21.02-3 People City*.

~~2.~~ 3. In Local Planning Policy Framework – replace Clause 21.12 with a new Clause 21.12 in the form of the attached document.

~~3.~~ 4. In Local Planning Policy Framework – ~~replace delete~~ Clause 22.12 Gaming ~~with a new Clause 22.12 Gaming in the form of the attached document.~~

**Comment [CC2]:**  
Change made in Panel Preferred Version.

~~4.~~ 5. In Particular Provisions – Clause 52.28 Gaming, replace the Schedule with a new Schedule in the form of the attached document.

*Clause 22.12 Gaming* deleted, part of Policy Basis relocated to *Clause 21.02 Municipal Profile*.

End of document

TRACK CHANGES KEY:

~~Deletions to comply with VC148 form and content~~ | Insertions to comply with VC148 form and content



## 21.02 MUNICIPAL PROFILE

05/10/2018  
GC81

### 21.02-1 Context and history

12/09/2013  
C162  
Proposed  
C307

Melbourne is Victoria's capital city and at its heart is the City of Melbourne. The Municipality is the location for many of the State's premier economic and cultural infrastructure and for a wide diversity of uses 24 hours a day, 7 days a week including office and commercial, cultural, leisure, entertainment, research, educational and residential uses. The City is the venue for many major events and festivals attracting visitors from the metropolitan area, Victoria, interstate and globally.

The City of Melbourne is on the Yarra River Estuary where the Yarra and Maribyrnong Rivers and Moonee Ponds Creek meet Port Phillip Bay. Five inner city municipalities and the Port of Melbourne surround the municipality. The Port is under the planning jurisdiction of the Port of Melbourne Corporation. Places Victoria administers the Docklands development area.

For 30,000 to 40,000 years before the arrival of European settlers, the indigenous peoples occupied the area. For the hunter-gatherers from the Wurundjeri, Boonwurrung and Wathaurong tribes of the Kulin nation alliance it was an important meeting place and source of food and water.

Permanent European settlement began in 1835. The surveyor Robert Hoddle laid out the City of Melbourne between 1837 and 1851. Over the next 20 years, the early city developed its key features: the orderly grid and hierarchy of streets, lanes and arcades (the Hoddle Grid); the intricate subdivision pattern; the main boulevards radiating to the northwest, north, east and south; the parks and gardens that ring the City; and the government and public buildings.

The Hoddle Grid developed as a dense and heterogeneous cityscape with a regular and legible pattern of streets and public spaces. On the hills at the east and west ends of the grid there are high-rise commercial precincts. The gully spanning Swanston and Elizabeth Streets has a lower building scale. It has predominantly retail, cafes, restaurants, and professional services, and attracts very high pedestrian activity. In the 1980s, the central city development expanded across the river into Southbank's redundant industrial precincts and made the Yarra River an important focus of the Central City.

In the 1990s, apartment developments in the Hoddle Grid and Southbank began the Central City's revival as a place to live as well as work. About 83 per cent of municipality's housing stock is now units or apartments compared to detached houses and townhouses.

Around 2000 the Central City expanded again with the urban renewal of redundant port land in Docklands. Around this harbour setting high-density commercial and residential buildings were developed. This significantly expanded the Central City's waterfront aspect. Today the Central City encompasses the Hoddle Grid, Southbank and Docklands.

The City's assets include its historic precincts, streetscapes and buildings, the public spaces and activities along the Yarra River corridor including the Sports and Entertainment Precinct, Southbank cultural precinct and river promenade, its ring of parks and gardens, well established, diverse and easily accessible business districts, and its attractive residential areas. The City's laneways and arcades are one of the most iconic elements of the City's character, its social and cultural life and local economy.

One of the great Victorian-era cities in the world, the City contains many precincts, intact streetscapes and buildings recognised for their cultural heritage significance. While mostly known for its Victorian and Edwardian streetscapes, there are many examples of outstanding interwar, post war and contemporary architecture in the municipality.

### 21.02-2 Melbourne's growth

12/09/2013  
C162

The MSS envisages the continued intensive growth in the municipality. The residential population of 53,200 in 2001 has grown by 85 per cent to 98,200 in 2011. By 2030, this could reach 177,000 people. (ABS and COM City User forecasts)

The daily visitor population is also growing with the 705,000 workers, students and visitors now coming into the Municipality each day, expected to exceed one million by 2030. (COM City User forecasts)

The City is a national and international tourist destination and the State's entertainment and celebration capital, regularly drawing crowds from metropolitan Melbourne, regional Victoria and beyond. In 2011, there were approximately 73,000 daily tourist visitors to the municipality. By 2020, around 84,000 national and international visitors are expected. (COM City User forecasts) The numerous large sports and entertainment venues, convention facilities and cultural facilities draw visitors to the city.

### 21.02-3 People City

12/09/2013  
C162

The City of Melbourne has a young population with the median age of residents being 33 years. There is a much greater proportion of people aged 12-25, and a smaller proportion of children under 12 years compared to the metropolitan region. (ID Consulting 2011)

The City has a smaller population of older residents. By 2030 however, the number of city residents aged over 55 years could increase by 90 per cent to over 25,000. Couple households without children have increased 63 per cent from 4,400 to 7,200 between 2001 and 2006. (ID Consulting 2011)

The City is ethnically and culturally diverse. This diversity is made up of people from 140 different ethnic communities. Approximately 57 per cent of the population were born overseas and about 48 per cent of households speak a language other than English compared to 36 per cent and 32 per cent respectively for the rest of Melbourne. (ID Consulting 2011)

There are both concentrations of socio-economic disadvantage, and groups at an elevated risk of gambling-related harm throughout the municipality. The municipality is expected to experience a growth in population, potentially increasing the demand for gaming machines in the future.

Comment [CC1]: Change made in Panel Preferred Version.

Relocated from *Clause 22.12 Gaming* Policy Basis.

### 21.02-4 Creative City

12/09/2013  
C162

Melbourne is a national and international leader in creative endeavours such as music, performing and visual arts; film, television and radio; writing, publishing and print media; design and architecture; software and electronic gaming, web and multimedia development; and advertising and marketing.

Along the Sturt Street spine there is a cluster of many of Australia's premier cultural institutions extending from Federation Square to the Arts Centre to the Malthouse Theatre. The North Melbourne Arts precinct is the other main arts cluster. The municipality's rich cultural life contributes to the City's liveability, capacity for innovation, competitiveness and reputation as a creative city. The City has also expanded rapidly as an entertainment and cultural centre with over 1,100 cafés and restaurants in the central business district area alone and a multitude of entertainment, cultural and dining venues in its inner suburbs. (CLUE 2010 Small Area Report: Melbourne (CBD))

Other City cultural assets include the Shrine of Remembrance and Royal Botanic Gardens, the Royal Exhibition Building and the surrounding Carlton Gardens, the Melbourne General Cemetery, the Melbourne Zoological Gardens and Sidney Myer Music Bowl.

### 21.02-5 Prosperous City

05/10/2018  
GC81

Metropolitan Melbourne is a global city. Along with Sydney and Brisbane, it is a key hub in Australia's eastern seaboard economic region and gateway of trade, commerce and culture linking into the world economy.

In 2011 there were over 461,000 people employed in the municipality. Employment has grown at 3.5 per cent per year since 2002, faster than the state average of 2.4 per cent. The Central City has grown at 3.7 per cent since 2001 and by 2011, 319,000 workers were employed there. (SGS 2011, Employment Forecasts)

With Greater Melbourne's largest concentration of government and advanced business services, the City makes a substantial contribution to Victoria's prosperity. In 2008 the City of Melbourne occupied 0.4 per cent of the land area in the Melbourne Statistical Division but its gross local product (GSP), at an estimated at \$56,824 million, was approximately 20.5% of Victoria's GSP and 25.8% of the GSP of the Melbourne Statistical Division. Melbourne's community also extends overseas with a large ex-pat community based overseas further extending the global business connection. (Economy ID 2012, Economic Profile)

The Central City is the State's main retail centre. The Retail Core in the Hoddle Grid's is Victoria's largest retail centre with about 526,000 square metres of retail floor space and an annual turnover of around \$2.18 billion. (City Research, CLUE 2010)

The City has a traditional manufacturing and industry base with over 5,990,000 square metres of floor space in the municipality used for industrial purposes. (City Research, CLUE 2010) In recent times, there has been substantial change in the manufacturing sector with many manufacturing uses in the inner City areas relocating to areas on the periphery of Melbourne or offshore. In the Fishermans Bend Employment Precinct which is one of Victoria's National Employment and Innovation Clusters (NEIC), the City has a vibrant industrial area with head offices of leading manufacturers and nationally important clusters in aviation and aerospace and defence. There is also an ongoing need for industrial uses that service the other activities in the City, the construction sector and for management of waste.

#### 21.02-6 Knowledge City

12/09/2013  
C162

Melbourne is home to the University of Melbourne and RMIT University, the city campuses of four other universities, TAFE institutes and colleges as well as a number of private institutions. The linkages of these tertiary institutions with industry, business and hospitals provide a strong foundation for Melbourne's future growth and success in the global economy. Research and learning institutions in the City are crucial to the State's education and innovation economy and the global standing of metropolitan Melbourne as a knowledge city.

Melbourne hosts excellent research institutions in Bioscience and one of Victoria's greatest strengths is the co-location of key education, hospitals, research institutes and industry in the Parkville and Alfred Hospital precincts.

Melbourne is one of the world's leading student cities. The municipality's student population increased 41 per cent from 22,005 to 30,937 between 2001 and 2006. Students now comprise 38 per cent of the resident population and about half are enrolled from overseas. (City Research (2008) ABS Census 2001 to 2006)

#### 21.02-7 Eco-City

12/09/2013  
C162

Metropolitan Melbourne has a far-reaching ecological footprint reflecting increasingly unsustainable trends of resources consumption, waste generation and greenhouse gas emissions.

The City of Melbourne is one of the most compact, dense and mixed use part of the metropolitan area with the richest network of public transport services and generous reservations of public open space. These characteristics have intrinsic efficiencies and synergies and offer significant potential to drive down per capita energy use for building and transport services, to make the City robust against the predicted impacts of climate change particularly water scarcity and heatwaves.

#### 21.02-8 Connected City

12/09/2013  
C162

The Sydney-Melbourne air route is the fourth busiest in the world. Fast daily passenger transport between the capital city centres is essential for Melbourne's business and tourist connections globally and regionally.

The municipality is the hub of the state, regional and metropolitan road, rail, bus, and tram networks. Effective and efficient mobility is essential for the liveability, creativity,

prosperity, innovation and environmental sustainability of the metropolitan region and the municipality. The private car is reaching its limits as an effective mode of mass transit for commuting and reliance on rail, tram and bus is increasing for this task.

Bicycle and motorised bikes/scooter have been growing as a mode. They are efficient users of road space and competitive with cars for trips times. These modes can replace some trips within 10km of the city centre currently taken by car and public transport.

A high quality and comprehensive pedestrian network underpins an effective public transport services. It gathers and distributes passengers, safely and conveniently to their final destinations.

The Port of Melbourne is a key hub for Australia's international trade and freight. The Port handled \$58 billion of trade in 2008-2009 with a direct contribution to the Victorian economy of \$2.7 billion. It is the largest container, and one of the largest general cargo ports in Australia, handling 36 per cent of the nation's container trade. (PWC 2010, Economic Impact of PoM) Container freight will grow in the next two decades and the Melbourne International Freight Terminal is being developed in the Dynon Road Precinct to meet the growth and ensure efficient freight transfer and distribution by road and rail.

## **21.10 INFRASTRUCTURE**

12/09/013  
C162

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 – 1 Renewable energy and efficient water use**

12/09/013  
C162

**Objective 1 To develop integrated precinct utilities to reduce greenhouse gas emissions and increase resilience to climate change.**

Strategy 1.1 Encourage precinct wide integrated water management systems including water sourced from tri-generation power systems.

Strategy 1.2 Encourage precinct wide integrated tri-generation systems to distribute power, heating, cooling and water.

### **21.10 – 2 Open Space**

12/09/013  
C162

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

Strategy 1.1 Support the development and implementation of Park Master plans.

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

Strategy 1.3 Ensure there is no net loss of the area of public open space and secure new public open space where opportunities arise.

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.

Strategy 1.7 Provide an integrated network of public open spaces in Urban Renewal areas.

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

Strategy 2.1 Ensure parks are safe and accessible.

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

Strategy 2.3 Ensure that activities, buildings and works in the City’s parks and gardens are consistent with Parks Master plans.

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.

### **21.10 – 3 Education facilities**

12/09/013  
C162

**Objective 1 To support education activities.**

Strategy 1.1 Support primary, secondary and tertiary education facilities, whilst protecting the amenity of Residential and Mixed Use zoned areas and the heritage values of areas with cultural heritage significance, consistent with the local amenity.

Strategy 1.2 Support interaction and collaboration between education institutions, and business and industry by promoting their co-location compatible with the amenity of existing residential uses and areas of heritage significance.

**Objective 2 To ensure a high standard of ‘soft infrastructure’ to support innovative activity and education.**

Strategy 2.1 Support accommodation, services and facilities, which serve and attract a highly skilled labour pool.

Strategy 2.2 Support the provision of facilities and services for students and researchers.

Strategy 2.3 Support affordable accommodation options for students.

#### 21.10-4

#### Health Facilities

12/09/013  
C162

**Objective 1 To support medical, and research activities.**

Strategy 1.1 Support the operation of the City’s hospitals and their intensive care–trauma facilities and capacity.

Strategy 1.2 Support the clustering of hospitals and their continued operation and development in their current locations.

Strategy 1.3 Support interaction and collaboration between medical and research institutions, and business and industry by promoting their co-location compatible with the amenity of existing residential uses and areas of heritage significance.

Strategy 1.4 Discourage uses or development near hospitals that prejudice public safety or risk reducing the efficiency or safe delivery of acute health care, trauma and emergency services (including 24 hour emergency helicopter access).

Strategy 1.6 Ensure that all new knowledge and innovation uses manage off site impacts such as noise, traffic generation and parking.

**Objective 2 To encourage research and development uses throughout the City.**

Strategy 2.1 Encourage research and development uses throughout the municipality.

Strategy 2.2 Encourage research and development activity clusters, including biotechnology uses, throughout the municipality.

#### 21.10-5

#### Community Facilities

12/09/013  
C162

**Objective 1 To provide facilities which meet the needs of the community.**

Strategy 1.1 Provide new community facilities, where needed, in strategic re-development sites and in areas of population growth and development.

Strategy 1.2 Integrate new community facilities or renewed community facilities with residential developments in order to provide the appropriate balance and mix of facilities.

Strategy 1.3 Encourage co-location of complementary facilities.

Strategy 1.4 Ensure all future community facilities can accommodate multipurpose uses where appropriate and can be adapted to suit the needs of the community.

**21.10-6**

**Cultural/Arts and Entertainment Facilities**

12/09/013  
C162  
Proposed  
C307

**Objective 1 To provide a diverse range of leisure, arts, cultural and entertainment facilities.**

Strategy 1.1 Discourage the concentration of sexually explicit adult entertainment, amusement parlours and gaming venues in the Central City.

Strategy 1.2 Support quality public institutions, including art galleries, libraries and museums, throughout the municipality, where consistent with the local amenity.

Strategy 1.3 Support entertainment, music and cultural attractions in Commercial and Mixed Use Zones, where consistent with the local amenity.

**Objective 2 Enhance the City as Victoria’s pre-eminent cultural and entertainment location.**

Strategy 2.1 Support and encourage the growth of a vibrant cultural environment in the Hoddle Grid, Southbank and Docklands, by supporting entertainment uses, music and the arts.

Strategy 2.2 Support the City’s major sports facilities and parks in recognition of their national significance.

Strategy 2.3 Promote the Docklands waterfront as a tourism and leisure destination of State significance.

**Objective 3 To minimise gaming-related harms**

**Strategy 3.1 Ensure that the location, design and operation of gaming venues across the City minimises gaming related harms to the individual and the community.**

**21.10-7**

**Communications infrastructure**

12/09/013  
C162

**Objective 1 To ensure that Melbourne has the infrastructure and capacity to meet anticipated information, communication and technology (ICT) needs.**

Strategy 1.1 Encourage the incorporation of information, technology and communication infrastructure in new developments.

Strategy 1.2 Encourage co-location of communications infrastructure.

**Objective 2 To minimise the visual impact of communications infrastructure and other utilities infrastructure.**

Strategy 2.1 Ensure that the presence and visibility of communications infrastructure and utilities in heritage areas or upon parkland does not unreasonably impact on the heritage place or precinct, or on parkland values.



## 21.12 HODDLE GRID

30/07/2015

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Proposed

C307

### Housing

- Support permanent and short term residential development in the Hoddle Grid that accommodates a diverse population.

### Economic development

- Encourage the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities.
- Discourage the spatial concentration of gaming machines.
- Encourage the retention and enhancement of specialised shopping and entertainment precincts within the Hoddle Grid, particularly, Hardware Lane, Chinatown, Collins Street and Little Collins Street.
- Support entertainment, bars, eating and other evening uses throughout the Hoddle Grid.
- Support the Retail Core as a compact, high-density retail precinct and facilitate easy pedestrian access.
- Support the consolidation of education clusters on the northern and western edges of the Hoddle Grid and in Flinders Street.
- Ensure the Northbank of the Yarra River has increased open space opportunities.
- Support the Queen Victoria Market as a retail and tourist facility, and as a heritage asset of State significance.
- Ensure the form and use of development around the Queen Victoria Market does not detract from its amenity nor compromise its 24 hour function.

### Built Environment and Heritage

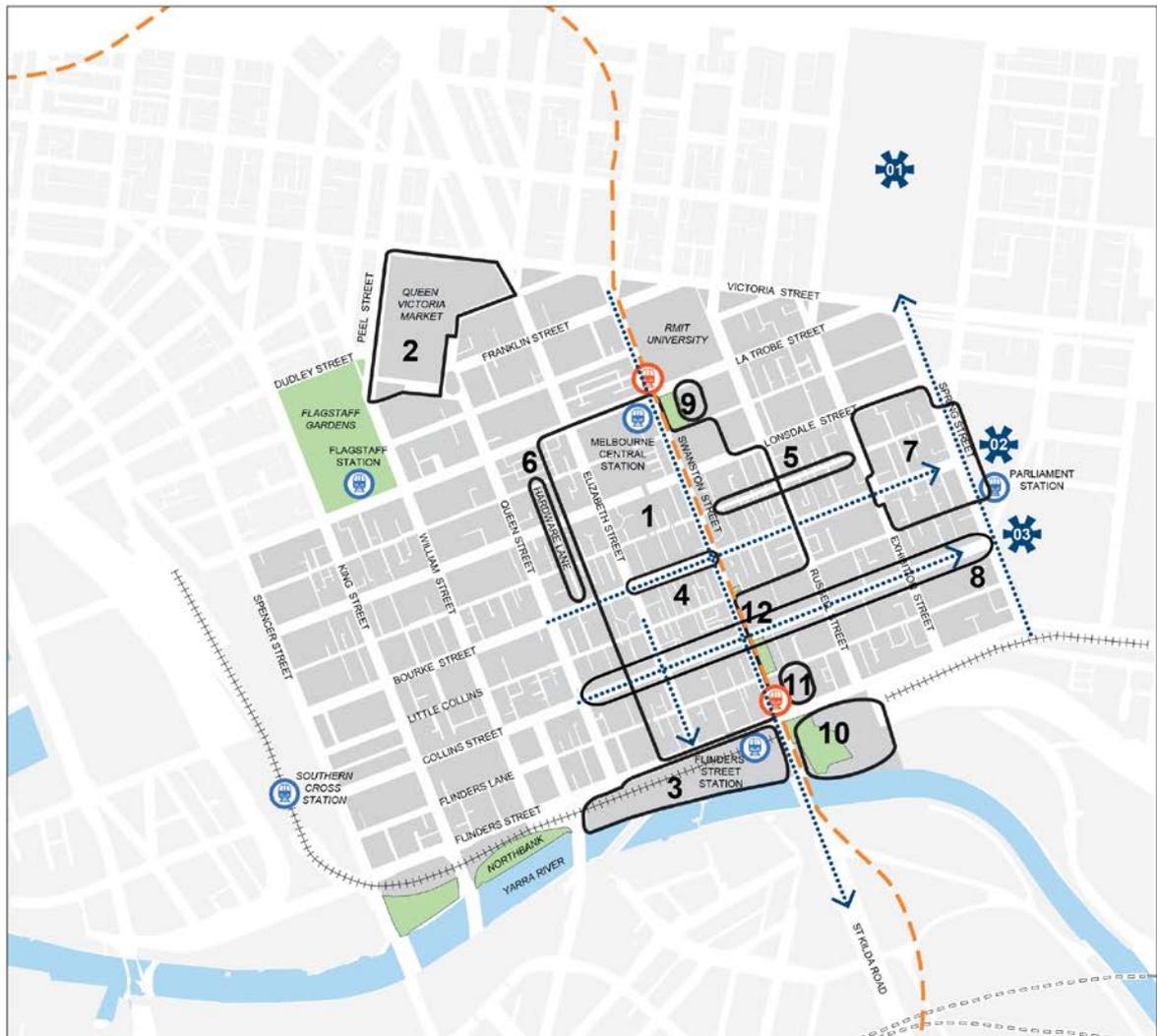
- Protect the regular grid layout, laneways, tree-lined boulevards and identified significant public open spaces.
- Protect the scale of important heritage precincts, boulevards and other unique precincts that rely on a consistency of scale for their image, including the Retail Core, Chinatown, Hardware Lane, Flinders Lane, Bourke Hill, Parliament, the Melbourne Town Hall, and the churches on Flinders and Collins Streets.
- Facilitate the civic and ceremonial function of Swanston Street.
- Enhance Swanston Street as part of a boulevard axis which runs from Princes Park to St Kilda Road.
- Maintain a low rise form and streetscapes in the Retail Core and along key views to ensure an intimate pedestrian scale and views to key buildings are maintained.
- Ensure a clear edge between the taller built form of the Capital City Zone and the Docklands Zone and the lower form of the surrounding areas.
- Ensure a strong contrast in scale of development along Elizabeth Street from the lower scale areas to the north of Victoria Street and the higher scale of the Capital City Zone.
- Ensure the area bounded by Latrobe and Victoria Streets and Elizabeth/Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.
- Ensure that the design of tall buildings in the Hoddle Grid promote a human scale at street level especially in narrow lanes, respects the street pattern and provides a context for heritage buildings.

- Ensure that new tall buildings add architectural interest to the city's sky line.
- Ensure tower buildings are well spaced and sited to provide equitable access to an outlook and sunlight for all towers.
- Ensure high quality and robust public space design in arcade and laneway upgrades.
- Link arcades and laneways in the Hoddle Grid.
- Encourage arcade and laneway links between streets and public spaces.
- Ensure development fronting streets creates a continuous building edge and integrated streetscape.
- Ensure that security treatments for shop fronts allow for views into the premises at night and positively contribute to the streetscape.
- Ensure the ground level design of shop fronts on Swanston Street contribute to its role as a pre-eminent retail and lifestyle avenue and entry axis to the Retail Core.
- Ensure sunlight penetration in the middle of the day to key public spaces, appropriate to their role and function.
- Protect the Yarra River and its south bank from overshadowing throughout the year.

### **Transport**

- Ensure that pedestrian use is given priority in the Hoddle Grid.
- Facilitate the development of the Bourke Street Mall as a high quality pedestrian and retail space.
- Ensure that developments provide weather protection along key pedestrian routes and areas, where this does not conflict with building or streetscape integrity.
- Ensure that the design of buildings and public realm in the Hoddle Grid enhances the safety of pedestrians, visitors and occupants of buildings.
- Ensure streets and open space are physically and visually linked to the waterfront, where practicable.
- Develop better links between the south western edge of the Hoddle Grid and the Yarra River.
- Develop better links between the water side entertainment and recreational attractions of the north and south banks of the Yarra.
- Encourage the provision of pedestrian links to the Queen Victoria Market from surrounding areas.

Figure 6: Hoddle Grid



- Local Area Boundary
- Rail Station
- Rail Network
- Proposed Melbourne Metro Rail Station
- Proposed Melbourne Metro Rail Alignment
- Freeway Tunnel
- Public Open Space
- Waterways
- Key Views
- Landmarks
  - Royal Exhibition Building
  - Parliament Building
  - Treasury Building

- Precincts**
- Retail Core
- Queen Victoria Market
- Flinders Street Station
- Bourke Street Mall
- Chinatown
- Hardware Lane
- Bourke Hill
- Collins Street
- State Library of Victoria
- Federation Square
- St Pauls Cathedral
- Melbourne Town Hall





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1.0

**SCHEDULE TO CLAUSE 52.28 GAMING**

**Objectives**

–/–/20–  
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C307

- To minimise gambling-related harms to individuals and the community and ensure that gaming machines are situated in appropriate locations and premises to prevent convenience gambling.
- ~~▪ To ensure that gaming machines are situated in appropriate locations and premises to prevent convenience gambling.~~
- To ensure that where gaming machines operate, they do so as part of the overall range of social, leisure, entertainment and recreation activities and facilities.
- To ~~reduce~~manage the concentration of gaming machines and gaming venues in order to redistribute gaming machines and gaming venues away from areas vulnerable to gambling related harms.
- To discourage the proliferation of gaming premises in locations where the predominant use is residential. ~~To ensure that gaming venues do not detract from the amenity of surrounding uses.~~
- To ensure that the location and operation of gaming machines achieves net community benefit.
- ~~▪ To discourage the proliferation of gaming premises in locations where the predominant use is residential.~~

2.0

**Prohibition of a gaming machine in a shopping complex**

–/–/20–  
Proposed  
C307

Installation or use of a gaming machine as specified in Clause 52.28-4 is prohibited on land described in Table 1 below.

**Table 1**

Name of shopping complex and locality	Land description
<del>Australia on Collins</del> <u>St Collins Lane</u> , Melbourne	258-274 Collins Street, Melbourne, also described in C/T Vol. 10117 Fol. 813
The Sportsgirl Centre, Melbourne	234-250 Collins Street, Melbourne, also described in C/T Vol. 9894 Fol. 335
The Southern Cross, Melbourne	113-149 Exhibition Street, Melbourne, being land on the west side of Exhibition Street, Melbourne between Bourke Street and Little Collins Street
Melbourne Central Shopping Centre, <u>Melbourne</u>	Land between La Trobe Street and Lonsdale Street, Melbourne, also described in C/T Vol. 10038 Fol. 995 and C/T Vol. 10070 Fol. 149
Southgate Plaza, Southbank	Part of the Southgate Complex, Southbank Promenade, Southbank
<u>QV, Melbourne</u>	<u>278-300 Swanston Street, Melbourne</u>
<u>Emporium Melbourne</u>	<u>269-321 Lonsdale Street, Melbourne</u>
<u>Harbour Town, Docklands</u>	<u>420-454 Docklands Drive, Docklands</u>

<a href="#">South Wharf Retail</a>	<a href="#">20-30 Convention Centre Place, South Wharf</a>
<a href="#">Spencer Outlet Centre, Docklands</a>	<a href="#">163-261 Spencer Street, Docklands</a>

### 3.0 Prohibition of a gaming machine in a strip shopping centre

—/—/20—  
Proposed  
C307

A gaming machine as specified in Clause 52.28-5 is prohibited in all strip shopping centres on land covered by this planning scheme.

### 4.0 Locations for gaming machines

—/—/20—  
Proposed  
C307

Gaming venues and machines should be located:

- Where the community has convenient access to a choice of non-gaming entertainment, leisure, social and recreation uses that operate at the same time as the gaming venue in the surrounding area such as hotels, clubs, cinemas, restaurants, bars, theatres, galleries, exhibition centres, sporting venues and indoor recreation facilities.
- Where they would make a positive contribution to the redistribution of gaming machines away from relatively disadvantaged areas, as defined by the latest SEIFA Index of Relative Socio-economic Disadvantage.

Gaming venues and machines should not be located:

- In buildings used for residential purposes
- Within locations where the predominant surrounding land use is residential.
- Within 400m walking distance or clear line of site of:
  - an existing or approved gaming venue
  - shopping complexes and strip shopping centres
  - public transport interchanges
  - concentrations of social housing (housing for people on lower incomes that is owned or leased by the Department of Health and Human Services, registered housing associations or not-for-profit housing organisations)
  - student accommodation
  - a gambling sensitive service or facility that is used by people experiencing or vulnerable to gambling-related harms such as the offices of specific problem gambling services, financial counselling services and material and financial aid services.

### 5.0 Venues for gaming machines

—/—/20—  
Proposed  
C307

Gaming machines should ~~operate in venues that~~ be located:

- ~~In venues that~~ Offer alternative forms of non-gambling activities, such as social, leisure, entertainment and recreation activities during gaming hours
- ~~In venues W~~where the gaming area is physically, visually and functionally separated from non-gambling facilities, passersby, pedestrian and vehicular access and car parking
- ~~In venues that H~~have signage that is of high quality design and does not detract from the visual appearance and amenity of the surrounding area.

Gaming machines should not be located ~~in venues~~:

- ~~In venues T~~that operate for 24 hours per day
- ~~In venues W~~where the gaming area is more than 25 per cent of the total leasable floor area that is open to the public.

## 6.0 Application requirements

—/—/20—  
Proposed  
C307

~~An application for a new gaming venue or the addition of gaming machines to an existing gaming venue must be accompanied by the following information to the satisfaction of the responsible authority:~~

The following application requirements apply to an application for a permit under Clause 52.28, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

### Proposal details

- A description of the proposal including the following ~~where applicable~~:
  - how the application is consistent with the State and Local Planning Policy Framework
  - existing and proposed number of gaming machines at a venue and within the municipality
  - details regarding the transfer of gaming machines, including number of gaming machines to be transferred, potential changes to the density of gaming machines per 1,000 adults in the municipality and local areas, and potential changes to the number of venues in the municipality
  - details regarding changes to gaming machine expenditure (at a municipal and venue level, per gaming machine and per adult)
  - existing and proposed number of people employed as a direct result of the proposal
  - pedestrian counts outside the venue on different days and at a variety of times
  - range and operating hours of non-gaming facilities and activities within the venue, including areas licensed to serve and consume alcohol
  - extent of the community contributions and their beneficiaries.

#### Comment [CC1]:

Change made in Panel Preferred Version.

The preamble to the application requirements set out in the Ministerial Direction – The Form and Content of Planning Schemes specifies that the application requirement must be provided, “as appropriate, to the satisfaction of the responsible authority”.

Including the text “where applicable” is considered unnecessary repetition.

### Location assessment

- A description of the location of the venue, including the following:
  - land uses within 400m of the proposed venue, including facilities associated with day to day activities, such as shops, major community facilities and public transport networks and hubs that would contribute to convenience gambling
  - location of social support services within 400m of the proposed venue including problem gambling services, financial counselling services and material and financial aid services
  - location of, distance to and operating hours of gaming venues within 400m of the proposal site
  - location and operating hours of alternative non-gaming social, leisure, entertainment and recreation uses, both within the gaming venue and within 400m of the venue.

### Venue design and operations:

- Detailed plans of the design and layout of the venue, including the location of all existing ~~(where applicable)~~ and proposed gaming machines, location of existing ~~(where applicable)~~ and proposed gambling and non-gambling facilities, entrances and exits to the gaming lounge, screening, façade treatment, external signage, external lighting, pedestrian and vehicle access and car parking.
- Details of the venue’s non-statutory harm minimisation and responsible gambling practices.
- Details demonstrating how the proposal will achieve net community benefit in addition to any statutory community contributions scheme.

#### Comment [CC2]:

Change made in Panel Preferred Version.

As above.

#### Comment [CC3]:

Change made in Panel Preferred Version.

As above.

*Social and economic benefits*

- The findings from an academically rigorous representative survey of residents, businesses, community organisations, agencies and service providers within a 400m radius of the proposed venue. The survey should measure current and anticipated levels of community satisfaction (i.e. happiness, contentment, wellbeing) from living, working and recreating in the local area, and the potential impact of the proposal on current and anticipated levels of community satisfaction.
- A robust assessment, prepared by a suitably qualified person, that details the following, ~~where applicable:~~
  - SEIFA Index of Relative Socio-economic Disadvantage of the SA1 within which the venue is located, and adjoining SA1's
  - the impact of the proposal on groups vulnerable to gambling-related harms as a result of their socio-economic and health profile within 400m of the proposal site.
  - the impact of the proposal on venues from which gaming machines are to be transferred
  - the impact of the proposal on employment in the municipality
  - the potential for the proposal to contribute to the local economy
  - the impact of the proposal on the health and wellbeing of the community, including a discussion on the potential net community benefit associated with the proposal.

**Comment [CC4]:**  
Change made in Panel Preferred Version.  
As above.

**7.0**

–/–/20–  
Proposed  
C307

**Decision guidelines**

~~Before deciding on an application the responsible authority will consider, as appropriate:~~

~~The following decision guidelines apply to an application for a permit under Clause 52.28, in addition to those specified in Clause 52.28 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:~~

- Whether the proposal will achieve the objectives and outcomes of this ~~policy~~ schedule to Clause 52.28.
- Whether the proposal will increase gambling-related harm.
- Whether the proposal can demonstrate that there is to be a net community benefit beyond any statutory community contributions scheme.
- Whether the proposal will contribute to the levels of socio- economic disadvantage and/or have any other adverse impacts on vulnerable communities.
- Whether the location of the gaming machines would result in convenience gaming.
- Whether the proposal would create, or contribute to an existing, spatial concentration of gaming venues.
- Whether patrons will have access to non-gaming entertainment and recreation facilities in the surrounding area and in the gaming venue that operate at the same time as the gaming machines.
- The impact of the proposal on the safety, amenity, character, tourism and cultural assets of the surrounding land area and municipality.
- ~~Whether the proposal is consistent with the City of Melbourne Electronic Gaming Machine Decision Making Framework, 2017 and the City of Melbourne Electronic Gaming Machine Review Background Report, 2017.~~

**Comment [CC5]:**  
Change made in Panel Preferred Version.