

PLANNING ASSESSMENT
PROPOSED MELBOURNE
PLANNING SCHEME
AMENDMENT C309 - WEST
MELBOURNE STRUCTURE
PLAN

27 JUNE 2019
P0012903
FINAL
PREPARED FOR PLANNING & PROPERTY PARTNERS

URBIS

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1. INTRODUCTION

1. I have been requested by Planning and Property Partners to provide my expert planning opinion on proposed Melbourne Planning Scheme Amendment C309 and its impact on the following properties:
 - 512-544 Spencer Street, West Melbourne
 - 474-486 Spencer Street, West Melbourne
 - 501-525 King Street, West Melbourne
 - 500 La Trobe Street, West Melbourne
 - 91-99 Dudley Street, West Melbourne
2. Planning Scheme Amendment C309 (the Amendment) has been prepared by the City of Melbourne who is the planning authority. The Amendment proposes to implement the West Melbourne Structure Plan (WMSP) and associated planning controls into the Planning Scheme by:
 - *Amend Clause 21.16 Other Local Areas in the Municipal Strategic Statement (MSS) to insert a new Clause 21.16-6 West Melbourne, to reflect the Structure Plan's vision for the area and update Clause 21.16-5 to only refer to North Melbourne.*
 - *Amend Clause 21.17 Reference Documents to include the West Melbourne Structure Plan 2018.*
 - *Rezone most of the land within the Structure Plan area to a Special Use Zone (SUZ6). The SUZ6 includes provisions to:*
 - *limit the extent or intensity of 'as-of-right' uses by conditioning Section 1 uses such as dwelling and office*
 - *require a minimum proportion of the floor area be allocated to a use other than accommodation;*
 - *provide for 6 per cent affordable housing in most areas; and*
 - *require active ground floor uses along Spencer Street, between Hawke Street and Dudley Street to help deliver a new activity centre.*
 - *Rezone recently expanded and existing new public open spaces to Public Park and Recreation Zone (PPRZ).*
 - *Amend existing Schedules 28, 29 and 33 to the Design and Development Overlay (DDO28, DDO29 and DDO33) and add a new schedule 72 (DDO72) to implement the built form controls and design recommendations in the Structure Plan. The DDOs will include a mandatory Floor Area Ratio (FAR) as well as provisions to encourage the retention of buildings identified as character buildings.*
 - *Apply a new schedule to the Parking Overlay (PO14) to introduce a maximum parking rate of 0.3 spaces per dwelling.*
 - *Apply an Environmental Audit Overlay to the Structure Plan Area to ensure that potentially contaminated land is suitable for a sensitive use.*
 - *Amend the schedule to clause 72.03 to include reference to the new EAO map in the Melbourne Planning Scheme.*

1.1. GUIDE TO EXPERT EVIDENCE

3. I acknowledge that I have read and complied with the Guide to Expert Evidence prepared by Planning Panels Victoria. In accordance with this guide, I provide the following information:

1.1.1. Name and Address

Michael Bruce Barlow
Urbis Pty Ltd

Level 12, 120 Collins Street,
Melbourne VIC 3000

Qualifications and Experience

4. I am a Director of Urbis Pty Ltd. I am a qualified town planner and have practised as a town planner for over 35 years (including 31 as a consultant planner) and hold a Diploma of Applied Science (Town Planning) from Royal Melbourne Institute of Technology for which I qualified in 1981.
5. My experience includes:
 - 2011 to present: Director of Planning, Urbis Pty Ltd
 - 2002 to 2010: Managing Director, Urbis Pty Ltd
 - 1990 – 2001: Director of Urbis Pty Ltd (and its predecessors incl. A.T. Cocks)
 - 1985 – 1990: Senior Planner, A.T. Cocks Consulting
 - 1982 – 1985: Planning Officer and Appeals Officer, City of Melbourne
 - 1981 – 1982: Planning Officer, Shire of Eltham
 - 1977 – 1980: Planning Officer, City of Doncaster and Templestowe
6. I advise on the development of cities; their principal activities and land uses and have extensive experience in strategic development planning. I have been engaged on a wide range of projects throughout Australia, China and the Middle East. I have particular project experience involving major urban development projects across a range of localities and activities including:
 - The analysis of drivers of change in cities and their impacts and influence on industry, employment and economic development, retail and activity centres, residential development strategies and policy, metropolitan growth and urban management.
 - The preparation of master plans for institutional and educational establishments, airports and new urban development.
 - A wide range of international urban development projects including the planning of the new port city serving Shanghai and major city and new town strategies for a number of cities within the Yangtze River corridor, China.
 - Leadership of the development of a comprehensive Framework Plan for the Emirate of Dubai. This project created a Vision to guide the economic development of the Emirate, an Urban Framework Plan and an Urban Management System for the government of Dubai.
 - Advice on new and specialist land uses and development concepts including the ongoing development of major Australian airports, the introduction and impacts of new retail concepts and standalone megaplex cinemas and the introduction of the casino into central Melbourne.
 - Major retail developments comprising central city centres, super-regional centres and mixed use developments.
 - Major commercial and residential developments in the Melbourne central city area including the CBD, Docklands and Southbank and throughout metropolitan Melbourne.
7. I provide expert evidence at various forums including the Supreme Court of Victoria, Federal Court of Australia, Land and Environment Court (NSW), the Victorian Civil and Administrative Tribunal and independent planning panels regarding planning implications and impacts of development.

1.1.2. Expertise to make the report

8. I have advised on and assessed the introduction of new planning controls across Victoria ranging from the introduction of the new format schemes, new urban area development controls to site-specific development controls over the past 30 years.

1.1.3. Instructions

9. On 13 June 2019, I was instructed by Planning & Property Partners to:
 - *Review the material supplied to you in relation to this Panel matter:*
 - *Consider and formulate your own opinions with respect to the following matter, within the limits of your expertise:*
 - *The appropriateness of the proposed Melbourne Planning Scheme Amendment C309 ('Amendment').*
 - *Prepare a report which sets out the conclusions you have reached, and clearly states the basis upon which you have arrived at those conclusion, including any facts you have relied upon or assumptions which you have made which form part of the reasoning by which you reach your conclusions.*
10. The landowners comprise:
 - Spencer Street West Melbourne Pty Ltd – owner of the land at 512-544 Spencer Street, West Melbourne (Spencer Precinct);
 - Fort Knox Self-Storage Pty Ltd – owner of the land at 474-486 Spencer Street, West Melbourne (Spencer Precinct);
 - Holder East Pty Ltd – owner of the land at 501-525 King Street (Spencer Precinct) and 500 La Trobe Street, West Melbourne (Flagstaff Precinct); and
 - Multifield Constructions Pty Ltd – owner of the land at 91-99 Dudley Street, West Melbourne (Flagstaff Precinct).
11. I confirm that I am the author of this report and its contents. I was assisted by Ms Taryn Sobel in undertaking the background research of the Amendment.

1.1.4. The Facts, Matters and Assumptions on which the Opinions are expressed in this Report

12. In undertaking my assessment, I have familiarised myself with the sites and I have had regard to the following documents:
 - Existing planning controls and provisions of the Melbourne Metropolitan Planning Scheme
 - Proposed planning controls and policies associated with the Amendment
 - *West Melbourne Structure Plan 2018*
 - Background reports to the WMSP including:
 - *Background Report City of Melbourne Employment Forecast 2036*
 - *Background Report Understanding West Melbourne Baseline Report December 2016*
 - *Background Report West Melbourne Built Form Control Testing*
 - *Background Report West Melbourne Economic and Employment Study Stage 1*
 - *Background Report West Melbourne Economic and Employment Study Stage 2*
 - *Background Report West Melbourne Transport and Access Study*
 - *Background Report West Melbourne Urban Character Analysis 1*
 - *Small area profiles report - West Melbourne*
 - *West Melbourne Built Form Report 2018*
 - Plan Melbourne 2017-2050
 - The Practice and Advisory Note in relation to the Special Use Zone
 - The following Planning Panel reports:

- Melbourne Planning Scheme Amendment NPS 1, December 1999
- Melbourne Planning Scheme Amendment C20, December 2001
- The former Melbourne Metropolitan Planning Scheme - 1968
- Unlocking Melbourne for a 24/7 Economy, Urbis, November 2018

13. The matters addressed within this report fall within my planning expertise.

1.1.5. Declaration

14. I declare that in preparing the material contained in this report I have made all inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

15. A number of the relevant landowners above at para 10 are clients of Urbis. I note that I stepped in to assist an absent fellow Director of Urbis, Sarah Macklin, at a preapplication meeting in relation to 500 La Trobe Street, West Melbourne. The meeting was held in July 2018.

1.2. FINDINGS

16. My findings are:

- The attribute of the West Melbourne area include:
 - The area enjoys excellent public transport accessibility including:
 - The North Melbourne Station (to be renamed West Melbourne), which is a major interchange station connection for six train lines.
 - The Flagstaff Station provides direct connection to the CBD loop and all train lines.
 - The current tram services along Latrobe and Spencer Streets providing access into the heart of the CBD
 - By virtue of the high accessibility afforded to the West Melbourne area it is attractive to a large range of employers who require access to a broad employment pool (e.g. knowledge workers etc.)
 - The area has high accessibility to a broad range of recreational, social and service facilities within West Melbourne and the nearby precincts such as the CBD, North Melbourne and Parkville.
 - The area is 'centrally' located between the western part of the Hoddle Street Grid / Docklands and the urban renewal areas of Arden Central and E-Gate.
 - The area has a number of larger sites capable of accommodating a range of employment activities such as institutional (e.g. health, education and research) that often require larger floorplates.
 - The area also has smaller sites and buildings that can accommodate a wide range of support services and businesses that require CBD accessibility but cannot afford CBD rents.
- The West Melbourne area forms part of the central city and is strategically positioned at the edge of the Melbourne's CBD, bordering Docklands, City North, the Aden-Urban Renewal Areas, the Parkville National Employment and Innovation Cluster, and E-Gate. While West Melbourne has long been an important and well-connected inner-city area, the location is now of even greater regional significance.
- West Melbourne therefore has an important metropolitan role to play in delivering employment opportunities in a highly accessible area, close to amenities and facilities, and to assist in accommodating both employment and forecast population growth.
- Whilst the WMSP identifies the locational attributes of West Melbourne and encourages employment generating uses, it does not do so to a degree that is truly reflective of the important

role West Melbourne plays within the broader central region or responds to future growth forecasts (as opposed to targets).

- Ultimately the WMSP has ignored the strategic importance of West Melbourne and preferred to establish fixed employment and population targets and then established a series of built form controls, including a floor area ratio control, to accommodate the target numbers. This is a flawed approach and potentially a significant underestimation of the employment opportunities that could be accommodated in this area.
- The Mixed Use Zone is no longer appropriate in certain locations within the West Melbourne area, in light of focus on facilitation of employment uses.
- The proposed Special Use Zone is an inappropriate control for the West Melbourne area as it is a Mixed Use zone by another name and will unnecessarily restrict the opportunity to establish employment activities in those parts of West Melbourne capable of accommodating these uses.
- The proposed Special Use zone does not satisfy the requirements of *Planning Practice Note 3 Applying the Special Use Zone, May 2017*.
- The better suite of controls for the West Melbourne area includes:
 - A new Schedule to the Capital City Zone for the Flagstaff, Spencer and Station Precincts and that part of the Adderley Precinct outside the existing Heritage Overlay
 - The Mixed Use zone for the Hilltop Precinct and part of the Adderley Precinct (that part contained within the existing Heritage Overlay)
 - A redrafted Local Policy for each part of the West Melbourne area
- The proposed Amendment seeks to require affordable housing without the benefit of having undertaken sufficient strategic work to identify accompanying work on housing supply, public subsidies, an understanding of how the housing is to be delivered and by who, and without adequate guidance on how the financial viability assessment is to be prepared and determined.
- I understand that the City of Melbourne are currently investigating the demand for affordable housing but to date there is no public document available for stakeholder comment and input. It is recommended that the Affordable Housing component of the Amendment be deleted and that any future affordable housing requirement await the finalisation of the current studies and review process.
- The proposed Floor Area Ratio controls have the potential to:
 - Prevent the delivery of employment accommodation at the required rate or with suitable floorplates.
 - Favour residential based developments with limited employment accommodation that in turn will only appeal to a limited market.
 - Cap the future development potential of West Melbourne beyond the achievement of the population and employment targets and impede future changes as the city evolves.
- I consider that the FAR is an inappropriate tool to control built form outcomes for the area and that the proposed FARs be abandoned in their entirety.
- Many of the mandatory built form outcomes within the proposed DDOS lack strategic justification, are contradictory, are at risk repeating past mistakes and will fail in effectively and efficiently guiding the future growth and development of West Melbourne.
- In this regard I note that the suite of planning controls proposed are fundamentally flawed and do not recognise the unique circumstances described above and have failed to recognise the metropolitan significance of West Melbourne.
- Given the above concerns I recommend that the Amendment C309 be abandoned to enable the above matters to be addressed.

2. WHAT IS THE FUTURE ROLE OF WEST MELBOURNE?

2.1. INTRODUCTION

17. The role of planning is to provide processes and structures (such as Structure Plans) to guide development and use to achieve key aspirations (e.g. a new residential community or industrial estate). Generally, the resultant controls seek to accept and facilitate change, although in certain instances restrictive controls may be appropriate (e.g. heritage and environmentally sensitive areas).
18. In the case of West Melbourne (which has evolved through multiple generations of change and redevelopment in response to economic and population change) great care must be taken in understanding the future context and guiding further change. I am concerned that the proposed development framework of the *West Melbourne Structure Plan 2018* has ignored the broader context of the area (that is being part of central Melbourne) and the likely demand for both employment and residential accommodation over the next 30 plus years.
19. The Structure Plan (at page 24) provides a description of the study area and acknowledges the range of activities found within West Melbourne and its adjacency to several key areas including the CBD, E-Gate and Arden-Macaulay. The Structure Plan also provides forecasts for the possible future growth of the area in both employment and additional population, acknowledging that the area has undergone continual change since the 1850s (with the opening of the North Melbourne station).
20. Yet the Structure Plan and its associated controls now seek to impose a 'character approach' to the future planning and facilitation of future development in the West Melbourne area based on an idealisation of a particular character. Of greater concern is that the Structure Plan acknowledges many of the key drivers and influences on the future including population growth and change, improved accessibility through major transport projects and the extraordinary growth of nearby parts of central Melbourne yet plans to unnecessarily and severely constrict future growth options.
21. It appears to have done so on the basis that the demand for employment and residential accommodation will be relatively limited (when compared to the remaining precincts of central Melbourne) and that the future demand beyond 2036 is a matter for another day. Unfortunately, this approach has the very real prospect of enabling change over the next 15 plus years to effectively consume the remaining development sites at a sub-optimal intensity. This is not to suggest that West Melbourne is another CBD but, in my view, the proposed level of permitted development intensity has ignored the realities of the metropolis' current and future growth and the attributes of the West Melbourne area.
22. The following sections of this chapter examine:
 - The development of West Melbourne since the 1950s and the planning policies and controls that have guided that development.
 - The key attributes of the West Melbourne area.
 - The growth of metropolitan Melbourne and the City of Melbourne which is likely to create significant additional demand for residential and employment accommodation in the central city.
 - The future role of the West Melbourne area given these factors.

2.2. A BRIEF HISTORY OF PLANNING FOR WEST MELBOURNE

23. West Melbourne is an established, inner urban neighbourhood that has a long history as a mixed-use precinct, with a mix of industrial, commercial and residential uses operating together. From the early 1940s to 1990s the area saw a significant increase in employment activities creating commercial and industrial premises and the replacement of some residential uses.
24. In the 1990s onwards with the renaissance of residential living in central Melbourne has led to an extraordinary demand for residential accommodation in central Melbourne as the metropolis itself grew at historically high levels. This demand was first seen in the CBD and has since expanded to

include the Docklands and Southbank precincts. Since the early 2000s there has also been an increase in new residential developments within the West Melbourne area. The West Melbourne Structure Plan acknowledges some of this history and notes that in recent time employment uses have declined whilst the residential population has increased.

25. During this time the West Melbourne area has been subject to planning policies and controls which have generally recognised a broader role than being a 'local neighbourhood'. An examination of the history of these controls highlights that the role of West Melbourne has remained relatively constant notwithstanding the varying nature of some of the planning controls.
26. The first planning control map (1954) shows the area bounded by Latrobe, King, Batman and Spencer zoned Central Business C (the same as the area further south located between King and Spencer Streets). The areas immediately to the north were included within a Special Industrial A zone and the residential areas near Victoria Street in the north were located within a Residential B zone.
27. A review of the adopted planning controls introduced in 1968 reveals that the West Melbourne area was considered to form several roles, including:
 - An industrial precinct located between Adderley/Dryburgh Streets and the rail corridor to the west.
 - The area located between Spencer, Dudley and King Streets formed part of the CBD (zoned Central Business).
 - The northern parts of the area were a discrete residential area (excepting properties fronting Victoria Street).
 - The remainder of the area fell within an early version of a mixed-use zone (Commercial and Industrial Zone) with a strong bias to employment activities and limited opportunities for residential development.
28. In summary the planning controls recognised that the West Melbourne area had a number of characters and the southern sector formed part of the CBD due to its attributes (that I discuss later).
29. In 1981 the State imposed a new planning control on the CBD being the *City of Melbourne (Melbourne Local Development Scheme No.1)*, often referred to as the Central City Local Development Scheme. The control introduced a number of specialised controls including heritage protection for key buildings and precincts, development controls and plot ratio controls and bonuses. The area bounded by King, Dudley, Latrobe and Spencer Streets (now included in West Melbourne area) formed part of the Central City Scheme and was referred to as the St. James Precinct (No.1). Notably the area was considered to form part of the CBD.
30. The objectives for this precinct were:
 - a) *To give special encouragement to the establishment of residential accommodation*
 - b) *To encourage the spacing of high buildings in a manner that facilitates the retention of views from Flagstaff Gardens towards the docks and West Gate Bridge.*
 - c) *To ensure that new development fronting King Street has regard toward the amenity of Flagstaff Gardens.*
31. The precinct controls allowed for an 'as-of-right' plot ratio of 6:1 and a maximum of 12:1 subject to achieving certain development outcomes (e.g. residential accommodation or retention of a heritage building). It is also interesting to note that the City of Melbourne Strategy developed in 1985 considered all of that part of West Melbourne located south of Dudley Street as part of the central city.
32. Areas further north remained in either the *Commercial and Industrial* or *Industrial* zones. At the time the City of Melbourne had a local policy that sought to protect the remaining residences in the area from conversion to employment uses or redevelopment, but was not always successful in achieving its aim.

33. With the introduction of the local planning schemes in the mid-1980s the St James precinct was not included within the ongoing controls for the CBD and instead was treated as a peripheral area similar to the areas to the north of Dudley Street. Most of the West Melbourne area was placed within the *Central Melbourne - Residential and Service* zone. The key purposes of the zone include:
- *To provide for a mix of commercial, light industrial and residential development which complements the function of Central Melbourne*
 - *To encourage high density housing, particularly in multi-use buildings to assist the retailing and entertainment functions of Central Melbourne.*
 - *To encourage both existing and new small office and industrial activities which service Central Melbourne*

34. The northern residential area was placed in a *Residential C* zone.

35. The introduction of the New Format Planning Scheme in March 1999 saw the introduction of the *Mixed Use* zone in place of the *Central Melbourne - Residential and Service* zone. The *Mixed Use* zone unlike its predecessors is principally a residential zone with some employment and service uses permitted.

36. The introduction of the *Mixed Use* zone represented a significant change from the existing controls and attracted detailed commentary from the Panel appointed to review the new format planning scheme. The Panel (at page 9) observed:

...However, cumulatively, the Panel is concerned that there are implications within City Plan '97, particularly with respect to the fringe areas of the CBD, that are not clearly articulated but which may have significant consequences for stakeholders in these areas.

In the new format Melbourne Planning Scheme, the Mixed Use Zone has been applied extensively throughout North and West Melbourne, Carlton, parts of Southbank and South Melbourne. Yet, whilst the purpose of the Mixed Use Zone is to provide for a range of residential, commercial, industrial and other uses which complement the mixed use function of the locality, the emphasis in City Plan '97 is on the residential use of these areas. This is made much more explicit in two new policies the Council wishes to introduce into the Planning Scheme (but which were not exhibited) relating to development and use in the Mixed Use Zone. The Panel is concerned about the effect this shift in emphasis will have on the business needs of the city and its impact on the capital city role of Melbourne. The Panel is also concerned that even if it is appropriate to give preference in these areas to their residential use as a means of promoting urban consolidation and housing choice, insufficient advantage is being taken of the opportunity which these areas present through an over-concern with localised issues relating to existing residential amenity and existing character.

(my underlining)

37. The Panel further commented on the role of locations close to the CBD stating (at page 12):

The edge areas of the CBD have traditionally been attractive to a range of businesses which, for various reasons, do not wish to locate in the CBD but which derive benefits from their proximity to it. The proximity and accessibility of the Mixed Use Zones in North and West Melbourne, Carlton and South Melbourne cannot be matched. It is therefore a significant policy step for the Council to move away from an existing planning position which recognises an equality in the commercial and light industrial potential of these areas to service central Melbourne with their residential role, to a position which sees their primary function as residential areas, and where commercial uses are seen as only servicing the local community.

In this respect, the Panel notes that the area specific land use objectives for North and West Melbourne state that:

*Scattered throughout North and West Melbourne are small to medium sized industrial uses mixed in among residential areas. These mixed uses provide services and employment **for the local community**, but can sometimes detrimentally impact on or conflict with residential characteristics.*

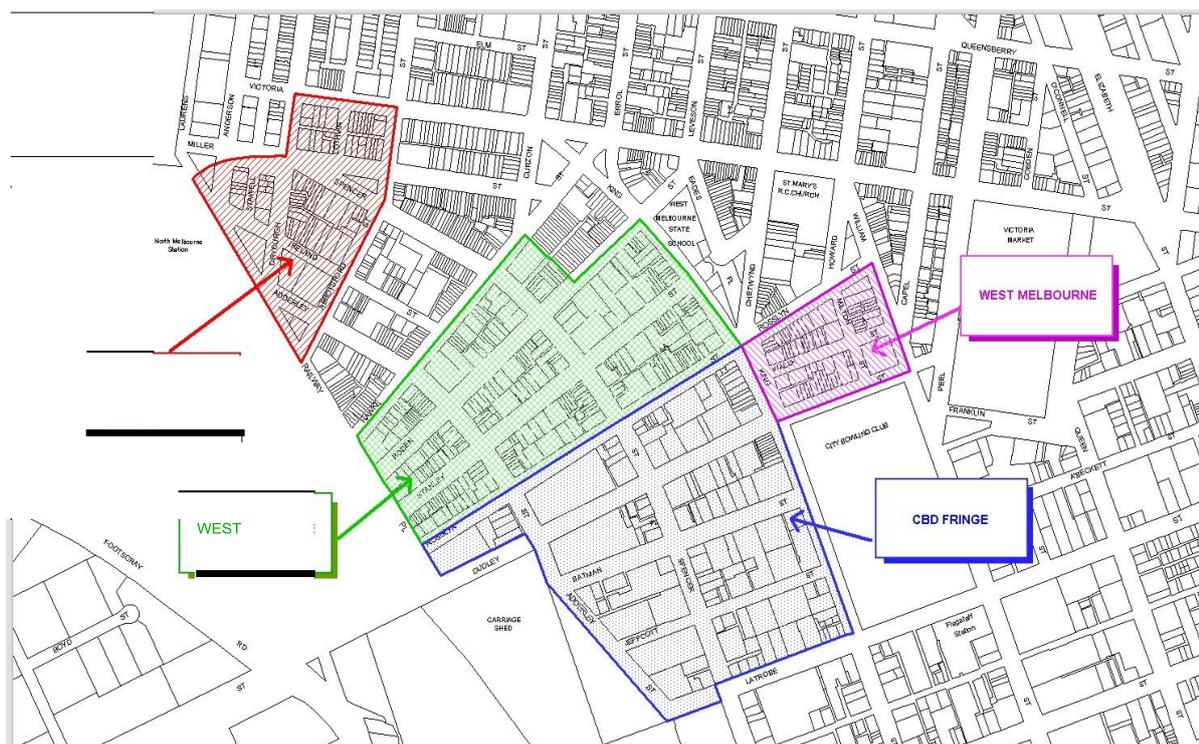
The Panel questions the accuracy of this description insofar as the mixed uses provide services and employment 'for the local community'. This is not the traditional role of business or industry in this area nor the purpose of the Central Melbourne — Residential and Service Zone, which covers the majority of this area and which refers to office and industrial activities 'which service central Melbourne' or 'which complements the function of central Melbourne.' This shift in emphasis in City Plan '97 creates potential for many uses to be opposed because they do not serve the local community but a much wider area.

(my underlining)

38. In summary the Panel were concerned with the direction of the local policies to favour residential activities over established business and service industries that relied on the accessibility and flexibility provided by areas such as West Melbourne. The Panel also saw a 'regional' role for places such as West Melbourne to accommodate a greater range of activity and residential growth to relieve pressure from areas of stability (e.g. East or North Melbourne heritage areas). The Mixed Use zone was introduced but without the proposed local policies.
39. In 2002 Amendment C20 to the Melbourne Planning Scheme was prepared to refine the built form controls (including height controls) over various part of the City of Melbourne, including West Melbourne. The exhibited controls proposed to limit development heights to 28 metres for the area south of Dudley Street and impose height controls of 10.5 metres and 14 metres in the area north of Dudley Street.
40. The Panel report significantly criticises many aspects of the then proposed controls for West Melbourne stating (at page 138):

It appears to the Panel that the analysis for Amendment C20 has been carried out without any rigour. However, as a result of considering submissions to Amendment C20 and its own inspections, the Panel has reached the conclusion that there is justification for protecting the heritage significance of North Melbourne Central as a place for the reasons and in the manner described above. However, the same considerations do not extend to the whole of North and West Melbourne. The CBD Fringe, West Melbourne and the area round the North Melbourne Station remain as areas where opportunities to cater for inner city housing demand and commercial uses looking for proximity to the CBD should be provided for. The support that these areas offer to the capital city role of Melbourne should take precedence over other factors mentioned in the Built Form Review, such as reflecting existing building heights. It should be acknowledged that these are areas in transition and where substantial change may be expected.

41. The Panel reviewed the various proposed development controls and made a series of recommendations regarding the West Melbourne area (see Figure 1) including:
 - The creation of a city-fringe precinct bounded by Roslyn Street at its northern extent.
 - The rejection of a 28 metre height control on the basis that the city fringe area will be adjacent to localities that featured buildings of more than 100 - 140 metres. (see page 140)
 - The imposition of interim height controls whilst more appropriate controls were prepared.
 - The introduction of a recommended 24 metre height limit for the area of West Melbourne between Roslyn and Hawke Streets
 - That no DDO control be introduced around the North Melbourne Station to enable the development of new taller buildings that would capitalise on the views overlooking Docklands.



Map produced by Business Systems, Planning Heritage and Building Division.

Sc3 1e0 f



Figure 1 – Extract from Amendment C20 Panel Report – Map 4 Panel Recommendations

2.3. ATTRIBUTES OF WEST MELBOURNE

42. The West Melbourne area is strategically positioned at the edge of the Melbourne's CBD and forms part of central Melbourne and possesses several key attributes that confirm its significance in continuing to accommodate change as part of the ongoing growth of central Melbourne.
43. These attributes are:
 - The area enjoys excellent public transport accessibility including:
 - The North Melbourne Station (to be renamed West Melbourne), which is a major interchange station connection for six train lines.
 - The Flagstaff Station provides direct connection to the CBD loop and all train lines.
 - The current tram services along Latrobe and Spencer Streets providing access into the heart of the CBD
 - By virtue of the high accessibility afforded to the West Melbourne area it is attractive to a large range of employers who require access to a broad employment pool (e.g. knowledge workers etc.)
 - The area has high accessibility to a broad range of recreational, social and service facilities within West Melbourne and the nearby precincts such as the CBD, North Melbourne and Parkville.
 - The area is 'centrally' located between the western part of the Hoddle Street Grid / Docklands and the urban renewal areas of Arden Central and E-Gate.
 - The area has a number of larger sites capable of accommodating a range of employment activities such as institutional (e.g. health, education and research) that often require larger floorplates.
 - The area also has smaller sites and buildings that can accommodate a wide range of support services and businesses that require CBD accessibility but cannot afford CBD rents.
44. Simply put West Melbourne has a location that is unmatched except by other immediate city fringe locations (e.g. Southbank, the City North precinct and Docklands).

45. It is recognised that not all parts of the West Melbourne area (as defined by the Structure Plan) enjoy all of these attributes or are available for significant new development or renewal. This includes the Hilltops area that has been long recognised as principally as defined character area established by the high consistency of small lot sizes and heritage.
46. However, the remainder of the West Melbourne area has the potential to accommodate change given the aforementioned attributes.

2.4. MELBOURNE'S GROWTH

47. Currently metropolitan Melbourne is growing very rapidly and experiencing its third wave of rapid growth, indeed at rates not contemplated even 5 years ago.
48. In 2001 metropolitan Melbourne had a population of approx. 3.5 million people. By 2016 the population had grown by a third to sit at 4.6 million¹. Based on the latest ABS figures for Melbourne it reached an estimated resident population (ERP) of 4.936 million in June 2018. The population is now well past 5 million people.
49. Whilst Melbourne has experienced higher growth rates in the past (due to a lower population base) this is the largest addition of people to the existing population in its history. The scale of this growth is matched or bettered by very few first-world cities – in other words Melbourne's growth is very significant.
50. It is noteworthy that the various metropolitan planning authorities when seeking to plan for Melbourne have been continually challenged by population growth. Most, if not all, projections over the past 60 years have underestimated growth rates and overall growth.
51. By way of illustration, I refer to the Melbourne Metropolitan Planning Scheme Report of 1954² (the 1954 Plan). It anticipated a future metropolitan population for Melbourne of 2.5 million people by 2000. This was actually reached between the census period 1966 and 1971; far in advance of the projections anticipated by the original 1954 Plan.
52. More recently the analysis underlying the metropolitan strategy Melbourne 2030 (released in 2002) planned for an additional one million people (based on a high growth scenario) over the period 2002 to 2030 with metropolitan population of Melbourne growing to 4.6 million people. Metropolitan Melbourne reached this figure in mid-2016. In effect the population that Melbourne 2030 planned for by that date arrived 15 years ahead of schedule.
53. Melbourne @5 Million (Melbourne 2030: a planning update) was released by the State Government in December 2008 in response to significantly revised Victoria in Future (VIF) population projections. VIF anticipated Melbourne would reach a population of 5 million by 2036. This consequently led to a reconsideration of where urban growth should occur and led to the expansion of the growth corridors.
54. Plan Melbourne, at the time it was released by the State Government in May 2014, adopted a metropolitan population figure of 7.7 million by 2051. Plan Melbourne itself was subject to significantly revised population figures during its drafting, whereby the draft released for public comment (9 October 2013) was based on a population of 6.5 million by 2051. This forecast was subsequently revised upwards by 1.2 million people to the projected metropolitan population of 7.7 million by the final version following the release of revised ABS population projection in late October 2013.
55. The current Plan Melbourne 2017-2050 now anticipates an overall metropolitan population of 7.9 million people by 2051³. Recent informal estimates now expect the population to be in excess of 8.5 million people by that time.

¹ Victoria in Future 2016

² Melbourne *Metropolitan Planning Scheme 1954 – Survey and Analysis* report, Part 4 (The People of the Planning Area) by the Melbourne and Metropolitan Board of Works

³ Plan Melbourne 2017-2050 p. 7

56. As the overall population forecasts for the metropolis have grown so too have the estimates for the various municipalities forming the overall city. Set out in the table below are the changing forecasts for the metropolis and the City of Melbourne that reflect the impact of Melbourne's population surge.

Table 1 - Comparison of Population Projections for Metro Melbourne and the City of Melbourne

	Actual	Melbourne 2030	Melbourne @ 5 million	VIF 2012	VIF 2014	VIF 2016	Plan Melbourne
Release Date	2001	2002	Oct. 2008	Apr. 2012	July 2014	July 2016	2017
Forecast Date	2001	2031	2036	2031	2031	2031	2051
Metro Melbourne	3.47 million	4.53 million	5.45 million	5.41 million	5.83 million	5.94 million	7.9 million
Melbourne	50,673	145,138	N/A	189,004	218,291	229,765	N/A

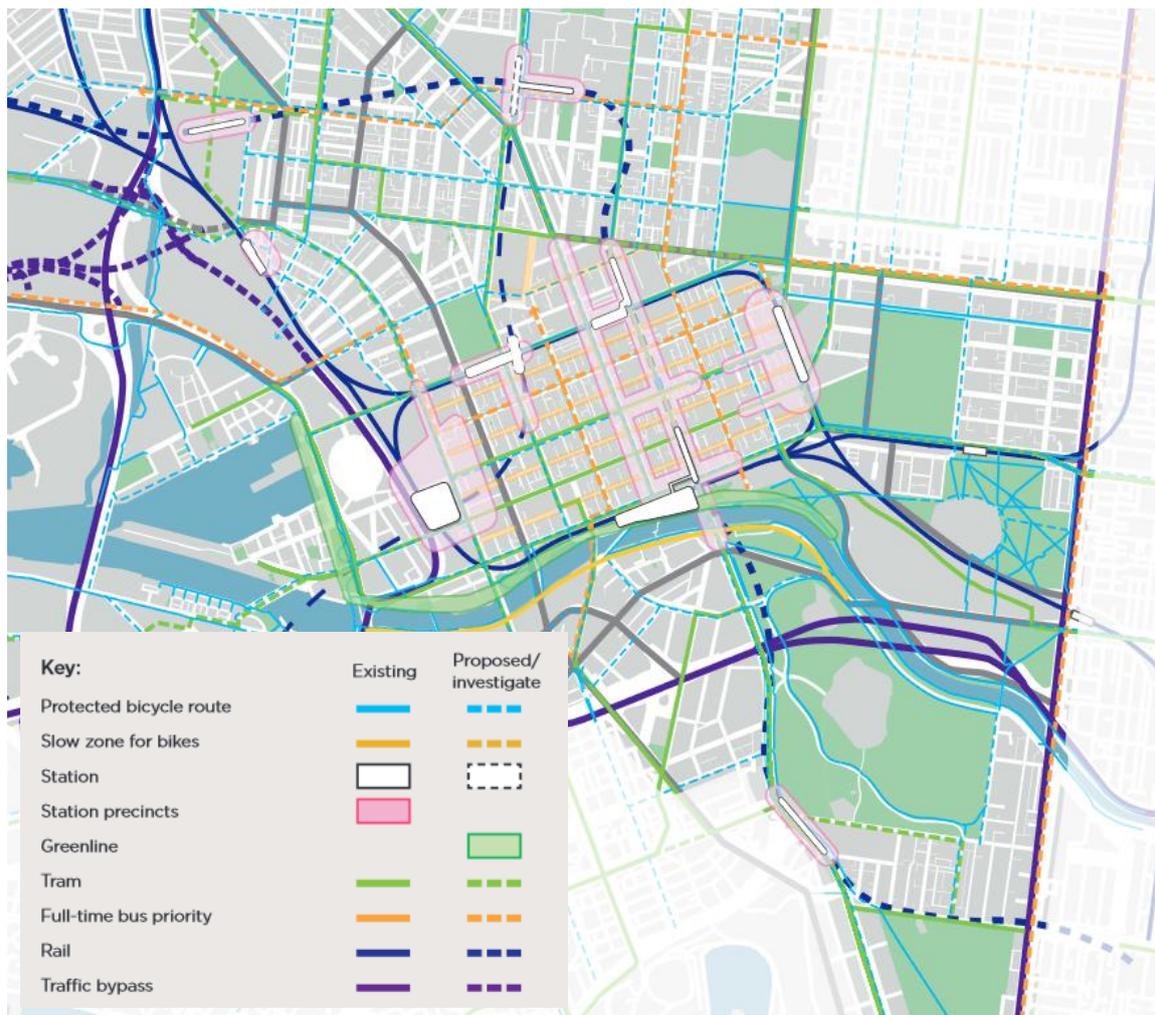
57. I note that the most recent forecasts prepared on behalf of the City of Melbourne (by id Consulting) estimate that the population for the municipality will grow to 384,024 people by 2041 and West Melbourne's population will grow from 5,809 people (in 2016) to 21,498 in 2041.
58. With the growth in population is a commensurate increase in employment. The central city has always been the single largest concentration of employment notwithstanding the suburbanisation of jobs that occurred from the 1950s onwards. The 2006 census revealed that an increasing share of jobs were occurring in central Melbourne. This trend has continued and is likely to do so into the future due to the changing nature of work and the key attributes of the central city.

2.5. THE ROLE OF WEST MELBOURNE

59. Having regard to the abundance of existing and future (both committed and planned) public transport and its ability to provide connections to new urban regeneration precincts, West Melbourne is of vital importance is for its strategic potential to deliver employment land. The forecast growth in population and employment within the central city over the next 15 - 30 years is very significant and in part based on the enhanced accessibility of central Melbourne (both within the central area as well as to the central area).
60. The role of West Melbourne as a connection and link between existing and future employment areas is proposed to be further amplified with the possible development of Metro 2 that would run through Flagstaff Station and a proposed tram connection along Spencer Street. The City of Melbourne Draft Transport Strategy 2030 recognises the current and future accessibility of the precinct (see Figure 2).
61. From a planning perspective, West Melbourne has a critical role to play in supporting Melbourne's employment function, particularly having regard to the following points:
- The Melbourne CBD is the engine room of the Victorian economy, contributing \$67 B in economic output, and providing over 317,500 jobs.
 - There is a projected employment floorspace demand for around 30 million sq.m by 2050, which will provide for 650,000 jobs⁴.

⁴ Unlocking Melbourne for a 24/7 Economy, Urbis - November 2018

Figure 2 - City of Melbourne's 2030 Proposed Transport Network



Source: Draft Transport Strategy 2030, page 20-21

- However, the Hoddle Street Grid, Dockland and Southbank are unable to deliver the required employment floorspace beyond 2036 where opportunities to deliver employment space have been impacted by significant residential development in the last decade, along with changes to the built form controls. Within the Hoddle Street Grid, remaining sites are either heavily constrained or unable to accommodate the larger floor plates required by commercial land uses. Areas such as Southbank and Docklands, which initially emerged as 'spill over' extensions to the CBD, are also nearing employment development capacity. Further, limited office development has occurred in Southbank over recent years, largely due to its distance away from key train stations.
 - The Parkville NEIC is exhibiting similar trends, with very few large development sites available.
 - Arden Central is expected to accommodate 34,000 new jobs and 15,000 residents, both within the Government and private land holdings.
 - Whilst Fisherman's Bend is recognised as a location that will accommodate 80,000 forecast jobs, it requires significant (and unfunded) infrastructure works to unlock this forecast employment growth. In any case, the provision of 80,000 jobs is insufficient to accommodate but a share of the current employment forecasts for central Melbourne.
62. I note that the role of nearby City North has been reviewed strategically over the last 5-10 years, where it was identified as an important connection for knowledge and innovation, linking the area between the Central City and Parkville NEIC. I consider that West Melbourne will play a similar role and provide an important commercial and creative connection between the employment functions of Capital City and Arden-Macaulay Urban Renewal Precinct. This can be achieved whilst still

having regard to the characteristics of the area and while complementing the role of the adjacent areas.

2.6. SUMMARY

63. West Melbourne has long been an important and well-connected inner-city area serving to support the functions of the CBD through supporting industry and services. More recently the location has taken on an even greater significance. It is considered that the strategic position of the area obliges the planning authority to understand the opportunity to contribute to forecast growth and development, particularly with respect to employment.
64. It is noteworthy that the existing controls have served to constrain the opportunity for West Melbourne to accommodate the demand that has already arisen with Melbourne's surge in population, with many development applications seeking to exceed the prescribed maximums. This is not to suggest that development should be a free for all, rather to highlight that the role for West Melbourne's identified by the two Panel reports in the early 2000s was correct. People and jobs have sought to respond to the area attributes and locate in a highly accessible/high amenity location.
65. I recognise that the long-term direction for growth and development of the area has been explored through the structure planning process with the community. However, the process, in my view, has started from a localised perspective rather than an understanding of what is the regional role of West Melbourne. Whilst nearly 20 years has elapsed since the introduction of the Mixed Use zone and associated development controls it appears that the West Melbourne Structure Plan has made similar mis-steps to that of City Plan '97.
66. Whilst the WMSP identifies the locational attributes of West Melbourne and encourages employment generating uses, it does not do so to a degree that is truly reflective of the important role West Melbourne plays within the broader central region or responds to future growth forecasts (as opposed to targets).
67. Ultimately the City of Melbourne has ignored the strategic importance of West Melbourne and preferred to establish a fixed employment and population target and then established a series of built form controls, including a floor area ratio control, to accommodate the target numbers.
68. My fundamental criticism of this approach is the failure to properly consider the regional significance of West Melbourne and a future beyond the target numbers.

3. IS THE AMENDMENT APPROPRIATE?

3.1. OVERVIEW

69. It is apparent that the existing strategies and planning controls affecting West Melbourne are at odds with its strategic and locational attributes outlined above and do not properly guide or facilitate future development. The WMSP whilst acknowledging some of the drivers of change has not created a structure that responds to these drivers or facilitates the outcomes it seeks (e.g. increasing employment uses).
70. It is my view that the proposed WMSP and controls, whilst seeking to encourage a true mix of uses and generate employment, instead proposes contradictory built form controls and objectives which will serve to inhibit rather than facilitate employment growth.
71. The modified Design and Development Overlays appropriately seek to provide for greater height of development than the existing mandatory or preferred height limits for the southern and western parts of the area. Yet it also proposes to introduce intensity controls via a floor area ratio that will significantly limit the opportunity to attain such heights.
72. The WMSP posits that the use of floor area ratios is common throughout cities and the ratios developed for West Melbourne are similar to other world cities exhibiting similar characteristics to that of West Melbourne. Yet there is no evidence that the proposed FARs have been developed to facilitate ongoing development beyond the population and employment targets.
73. In summary the WMSP and its associated controls will artificially constrain future development outcomes without regard to the long-term future beyond the target employment and population numbers that are anticipated to be achieved in 2036 or earlier.

3.2. THE FOLLOWING SECTIONS OF THIS CHAPTER EXAMINE:THE SPECIAL USE ZONE SCHEDULE 6

3.2.1. Introduction

74. The proposed amendment seeks to rezone land within the Flagstaff, Spencer and Station Precincts from Mixed Use Zone to Special Use Zone (SUZ) and apply Schedule 6. As set out in the following sections of my report, I consider that:
- The use of the SUZ for an area with a range of characters and varied outcomes in the overall West Melbourne is not appropriate.
 - The drafting of the Schedule results in a control that overly restricts, rather than facilitates, development in accordance with the role of the West Melbourne area.
 - The use of the control to require affordable housing is poorly conceived and requires further strategic work.
75. It is my view that these issues cannot be rectified through a redrafting exercise, rather a fundamental review of the Zone selection and schedule preparation is required.

3.2.2. The Selection of the SUZ

76. The explanatory report sets out the City of Melbourne's rationale for the selection of the SUZ.

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

The amendment makes appropriate use of the various zoning and overlay tools available under the Victorian Planning Provisions to achieve the strategic objective of the Scheme.

Currently, other than the Capital City Zone which is not appropriate for this area, there is no zone in the VPP which provides for a genuine mix of uses. The Mixed Use Zone is a residential zone in which other uses can be permitted. To implement the Structure Plan, a

zone that does not preference residential uses was required. For this reason the City of Melbourne prepared a SUZ by adapting the provisions of the Mixed Use Zone.

77. Having regard to the current suite of Zones available, I agree with Council that the Mixed Use Zone is not appropriate for all of the West Melbourne area. The unsuitability of the zone is further highlighted by the refocus on the facilitation of employment uses and need for West Melbourne to accommodate a greater proportion of jobs in the future.
78. In my view the proposed Special Use Zone is unnecessary and an incorrect use of the Victorian Planning Provisions. The *Planning Practice Note 3 Applying the Special Use Zone May 2017*, prepared by the Department of Environment, Land Water and Planning, sets out (on page 1):

Where should the Special Use Zone be applied?

A Special Use Zone can be considered when either:

- an appropriate combination of the other available zones, overlays and local policies cannot give effect to the desired objectives or requirements*
- the site adjoins more than one zone and the strategic intent of the site, if it was to be redeveloped, is not known and it is therefore not possible to determine which zone is appropriate.*

Application of the Special Use Zone is not appropriate when an alternative zone can achieve a similar outcome, with appropriate support from local policies and overlays

(my underlining).

79. The Note further advises that Local policies should be used to guide or promote decisions about specific uses or locations without the need to apply the Special Use Zone (page 2).
80. I note that the Explanatory Statement for Amendment C309 simply dismisses the use of the Capital City zone without further explanation. It appears that the desire to use a Special Use zone has arisen from the desire to create a single control to manage a series of precincts with different and distinctive characteristics rather than use a selection of controls.
81. I do not see that there is any particular driver or need to create a single control for the following reasons:
- The WMSP recognises that the area is comprised of a number of distinctive areas that have been placed in precincts with varied controls and required development outcomes. It is possible to place each of the precincts within a zone that best responds to the existing and future character and use spectrum.
 - The Hilltop Precinct could easily be accommodated within either a Mixed Use Zone or a combination of a residential zone with a commercial zone applying to the properties along Victoria and Peel Streets, with a local policy (if required). The character of the area is already recognised by the North and West Melbourne Heritage Overlay (HO 3) that also effectively guides new development.
 - The Station Precinct and northern parts of Adderley could also be placed in a Mixed Use zone with a local policy and an updated DDO control to achieve the required outcomes. A different DDO control for each area can guide the preferred development outcome.
 - The areas of West Melbourne which the WMSP recognise as being capable of accommodating a range of uses with commercial opportunities, being Flagstaff and Spencer (with parts of Adderley), can be located within a zone already created to guide the development of the central city - being the Capital City zone.
82. It is my view that the Capital City Zone is highly suitable to be applied to the Flagstaff, Spencer and part of the Adderley Precincts of West Melbourne. The Capital City Zone allows for a tailored schedule that has been adapted for many other parts of the municipality of Melbourne outside the CBD including:
- Schedule 3 – Southbank
 - Schedule 4 – Fisherman’s Bend Urban Renewal Area

- Schedule 5 – City North
- Schedule 6 – Carlton Connect Site
- Schedule 7 – Melbourne Arts Precinct

83. Within these schedules, there is a high degree of flexibility to:
- Customise the purpose of the Zone to include specific local matters (e.g. see Melbourne Arts Precinct) and can address matters such as preferred locations for particular uses (e.g. no residential on certain streets at ground level).
 - Modify the table of uses by way of conditions (for example, CCZ 7 applies conditions to accommodation and office uses)
 - Implement specialist policy, such as development density in Fishermans Bend, and FAR and public benefits related to DDO10 in Southbank and Central City
84. It is my view that Capital City Zone, through tailored schedules, and the Mixed Use Zone provide ample opportunity for differentiation to reflect the particular requirements for West Melbourne.

3.2.3. Does the SUZ Schedule facilitate key employment uses?

85. It is apparent that the proposed SUZ schedule is based on the Mixed Use zone with some minor variations within the use tables. The use of this structure is somewhat perplexing given the stated purpose includes:
- *To implement the West Melbourne Structure Plan 2018 and support the development of West Melbourne as a vibrant, mixed use inner city neighbourhood with a genuine mix of retail, commercial and residential uses and affordable housing.*
 - *To retain and increase local employment and facilitate an increase in jobs in West Melbourne.*
(my underlining)
86. The SGS report, *City of Melbourne Employment Forecast 2036*, that was used to derive the future employment targets found that the likely employment sectors that would be attracted to West Melbourne included health and research functions and administrative support and back of house functions for the CBD. Each of these types of uses are highly likely to require floor areas greater than 250 sq. m which is the 'as-of-right' floor area for an office use both in the Mixed Use zone and the proposed Special Use zone.
87. If the use is best described as an *Education Centre* there is no 'as-of-right' option with the use requiring Council's consent before it can be established.
88. The use of the Mixed Use zone as the base for the proposed SUZ Schedule 6 further demonstrates the inappropriateness of the SUZ for key parts of West Melbourne. The WMSP and its supporting documents have identified that the area has been under pressure from residential development and there is a preference to right the balance and encourage employment activities yet the proposed planning control merely replicates a zone that falls within the Residential suite of zones rather than an employment zone
89. Another example is the way retail premises are proposed to be treated. A *Shop and Food and Drink Premises* can be established without the need for a permit provided it is not located in a property fronting or Spencer Street between Hawke and Dudley Streets and not having a leasable floor area of greater than 150 sq.m. Retail outlets such as a larger stationers store, mini-supermarket and the like will all require a permit.
90. The WMSP and the associated background documents do not make out any reason as to why such restrictions should apply to a locality such as West Melbourne. Given the attributes of the location there is no reason to apply such a restriction. To do so simply works against Council's aspirations to enliven the streets and encourage employment uses.
91. I note that DELWP have recently undertaken a process to reform the VPPs as part of smart planning. The discussion paper on this matter (October 2017) includes a proposal to (Proposal 5.1) to improve specific provisions. A key principle of this aim was to:

- *make more permit-required land uses 'as of right' where the use is consistent with the purpose of the zone (in combination with increased use of conditions, where appropriate)*

92. It is considered that this principle should be applied to the Capital City Zone for West Melbourne, to enable the establishment of a greater range of land uses that are consistent with the purpose of the Zone and in particular support a wider range of employment generating land uses. It is noted that this approach would be consistent with the general approach adopted by the earlier zones that applied to West Melbourne.

3.2.4. How does the SUZ address mixed use?

93. The SUZ6 proposes, at Clause 1 Table of Uses, that dwellings with a total of more than 9 require a permit for the use of land. At Clause 2.0 Use of land, under the heading *Use of Accommodation – Minimum Floor Area Requirement for Use Other than Accommodation* a permit cannot be granted to use land for Accommodation unless:

For land located in the Spencer Precinct as shown on Figure 1:

- *A minimum of 25 per cent of the gross floor area of a development is allocated to a use other than Accommodation (excluding carparking, bicycle and loading and unloading facilities, and any bonus floor area under an applicable Design and Development Overlay).*

*For land located in the **Flagstaff and Adderley Precincts** as shown on Figure 1:*

- *A minimum of 16.6 per cent of the gross floor area of a development is allocated to a use other than Accommodation (excluding carparking, bicycle and loading and unloading facilities, and any bonus floor area under an applicable Design and Development Overlay).*

*For land located in the **Station Precinct** as shown on Figure 1:*

- *A minimum of 20 per cent of the gross floor area of a development is allocated to a use other than Accommodation (excluding carparking, bicycle and loading and unloading facilities, and any bonus floor area under an applicable Design and Development Overlay).*

The above requirement does not apply to:

- *An application that seeks to increase the gross floor area of an existing development that is to be allocated to a use other than Accommodation, which does not increase the gross floor area of any existing Accommodation land use (excluding carparking, bicycle and loading and unloading facilities).*

94. The proposed planning controls is seeking to deliver a mixed use precinct through the requirement for a mixture of uses within each building. The drafting of the Zone controls (when considered along with the DDO requirements), seeks to facilitate mixed use buildings, but fails to adequately enable buildings that accommodate only employment-based land uses.

95. It is my concern that there are unintended consequences that may result from this approach, being:

- The design requirements of mixed-use buildings can be complex, for example, often separate pedestrian and vehicular entries are preferable for employment and residential land uses. This can be especially difficult to achieve on smaller sites.
- The report prepared by SGS sets out that the potential opportunities for economic growth include tourism arts and culture, health and research, and administration support and new business. While some of these uses may be suitable for co-location with residential development, others are best delivered in a stand-alone development. The result is that there is a risk that the employment space provided may not be fit for purpose and market requirements. A similar example might be likened to the planning policy requirements for active ground floor uses, which in some locations has led to the proliferation of vacant shops for which there is limited market demand.

96. It is my view that rather than minimum requirements for employment uses within individual buildings, planning controls should be recast to facilitate employment generating land uses by:

- Reducing the permit requirements for employment generating land uses. That is provide for more unrestricted 'as-of-right' uses.
- Deleting the requirement for FAR, as set out later in my evidence statement
- Refine the DDOs, as set out in later section of my report, to encouraging consolidation of lots in the Spencer precincts, rather than seeking large sites to be broken up into a series of smaller buildings (as required by the Design and Development Overlays for the Adderley, Station and Spencer precincts), and
- Redrafting the DDOs to support built form that facilitates employment generating land uses (i.e. enable the opportunity for larger floor plates).

3.2.5. Is it Appropriate to Control Affordable Housing Through Use of the SUZ?

97. *Victoria's 30 Year Infrastructure Strategy (December 2016)* identifies investment in social and affordable housing as a key policy priority for Victoria.
98. The introduction of the Housing Affordability legislation and Amendment VC139 includes amendments to the Planning and Environment Act 1987 to add a new objective to the Act and to allow for use of Section 173 Agreements for voluntary affordable housing agreements associated with development of land.
99. As a result, affordable housing is beginning to emerge as a key planning policy area.
100. As part of this amendment, the City of Melbourne has prepared the Special Use Zone Schedule 6 to require the provision of affordable housing. Amendment C309 seeks to achieve this outcome in the following ways:
- Clause 21.16 Local Areas, West Melbourne, under the heading Housing
Encourage the provision of affordable housing in the Flagstaff, Spencer, and Station Precincts.
 - Proposed SUZ Schedule 6 West Melbourne, includes the following purpose:
To implement the West Melbourne Structure Plan 2018 and support the development of West Melbourne as a vibrant, mixed-use inner-city neighbourhood with a genuine mix of retail, commercial and residential uses and affordable housing (my underlining)
101. At SUZ6, at Clause 1.0 Table of uses, for dwellings, there is a condition that a use with more than 9 dwellings requires a planning permit.
102. At SUZ6 Clause 2.0 Use of Land, the following requirement applies
- For land located in the Flagstaff, Spencer and Station Precincts, as shown on Figure 1, where a permit is required to use land for Dwellings, one in sixteen dwellings within the development (at least 6%) should be an affordable housing dwelling unless otherwise agreed to by the Responsible Authority.*
- This should be provided to a Housing Provider at no cost or to be held in an affordable housing Trust and managed for the sole purpose of affordable housing, unless otherwise agreed to by the Responsible Authority.*
- If in calculating the affordable housing requirement the result is not a whole number, the affordable housing requirement is to be rounded up to the nearest whole number.*
103. In SUZ6, at the heading Application Requirements
- *An application to use land for Dwellings must be accompanied by a report which addresses how the proposal contributes to the goal of delivering 6% of housing as affordable housing in West Melbourne.*
 - *An application to use land for a Dwelling that does not achieve at least 6% affordable housing, must be accompanied by a detailed report prepared by a Quantity Surveyor or other suitably qualified professional to the satisfaction of the Responsible Authority. The*

report must set out indicative profit margins for the project, and substantiated findings demonstrating why the proposed number of affordable housing dwellings within the development, to satisfy the applicable requirement, cannot be delivered without rendering the project economically non-viable. The Responsible Authority may require this report to be analysed by a suitably qualified independent third party at the applicant's cost.

104. Having regard to the proposed Amendment, I consider that the proposed approach to affordable housing is inadequate. The amendment seeks to require a contribution to affordable housing in one Zone and three precincts in the absence of a whole-of-Government approach (or indeed a tested approach developed by Council). At this time, there is no broad policy requirement for all new development in Melbourne to provide affordable housing. In fact, the opportunity is voluntary and is currently proving to be extremely difficult to implement given the lack of funding for Housing Associations to purchase the units.
105. Further, I consider the drafting of SUZ6 fails to properly consider a number of matters, including:
- **The process by which the affordable housing is to be delivered**, for instance, which organisations will take the affordable housing and what is to occur if no suitable organisations wish to take up the offer of a one or more units within a development.
 - **The requirement for the gifting of affordable housing and the impact this has on project feasibility**. While the application requirements require a detailed report to be provided setting out project feasibility if the 6% cannot be met, the control fails to set out what reasonable assumptions might be made with regard to developer risk and profit allowance on projects and other relevant influences on the project feasibility.
106. In the United Kingdom, there is a similar model, where Planning Policy Statement 3 (PPS3) requires local authorities to bring forward a suitable, balanced housing mix, including affordable housing. It is noted that PPS3 is primarily framed at delivering a *step-change in housing delivery*, through a new, more responsive approach to *land supply at the local level* (page 5). This is fulfilled by local authorities through the requirement to identify and maintain a five-year rolling supply of deliverable land for housing, particularly in connection with making planning decisions. In relation to affordable housing, it requires local planning authorities to establish a target for the amount of affordable housing to be provided. The PPS states (page 10) that the target should reflect *an assessment of the likely economic viability of land for housing within the area, taking account of risks to delivery and drawing on informed assessment of the likely level of finance available for affordable housing, including public subsidy and the level of developer contribution that can reasonably be secured*.
107. The UK Ministry of Housing, Communities & Local Government, published guidance on establishing *Viability*⁵ 6 March 2014 and updated 9 May 2019, which sets out guidance for consideration of contributions, including affordable housing. While it is not relevant to go into all the details of the guidance, it is appropriate to identify that any similar policy approach in Melbourne must also be accompanied by a Practice Note or guidance to establish the obligations on all parties with regard to delivering affordable housing. This would include how the project viability is calculated, methodologies, and a market based understanding around an appropriate developer return.
108. It is my view that the proposed Amendment seeks to require affordable housing, without the benefit of having undertaken sufficient strategic work to identify accompanying work on housing supply, public subsidies, an understanding of how the housing is to be delivered and by who, and without adequate guidance on how the financial viability assessment is to be prepared and determined.
109. I understand that the City of Melbourne are currently investigating the demand for affordable housing but to date there is no public document available for stakeholder comment and input. It is recommended that the Affordable Housing component of the Amendment **be deleted** and that any future affordable housing requirement await the finalisation of the current studies and review process.
110. If the Panel is convinced that the affordable housing policy should apply, it is my view that the implementation of the control must be revised to:

⁵ See <https://www.gov.uk/guidance/viability>

- Prepare a Housing Strategy for West Melbourne that considers housing supply and targets for affordable housing based on local requirements.
- Recast the affordable housing as a voluntary requirement, achieved via an incentive arrangement including development uplift.
- Require the preparation of a guidance note by City of Melbourne to guide the preparation and assessment of the viability report, including the establishment an acceptable level of developer risk and return.

3.3. DESIGN AND DEVELOPMENT OVERLAYS

3.3.1. Is the Floor Area Ratio Appropriate for West Melbourne?

111. The key part of the Amendment is the view that a diversity of building typologies is the desirable, and necessary to respond to the local characteristics of West Melbourne and transform West Melbourne into a truly mixed use precinct. The Structure Plan set this out at page 38, stating:

The proposed built form controls allow development to respond to, reinforce and strengthen this character [of West Melbourne], while providing opportunities for innovation and great design on a site-by-site basis.

112. One of the key mechanisms proposed to achieve this is a Floor Area Ratio (FAR) control. Council outlines the benefits of this approach at page 39 of the Structure Plan, which include a range of different typologies.

113. I have two primary concerns with the use of the FAR approach. The first relates to the delivery of employment space in West Melbourne and the second to the 'emphatic' limitation that will be placed on the West Melbourne area.

114. As set out earlier in my report the West Melbourne area is one that possesses rare attributes of high accessibility and land capable of accommodating new development in a location that is expected to experience very high growth over the future years - certainly well beyond the 2036 timeframe of the WMSP.

115. The use of Floor Area Ratios (FAR) to accommodate the adopted population and employment targets (that are less than a range of forecasts for the locality) with a small allowance beyond those numbers has the potential to defeat the aims of the WMSP.

116. Firstly, the WMSP sets out that the FAR have been tested for Flagstaff, Spencer, Adderley and Station Precincts, through an iterative process of commercial and architectural testing (p39):

Independent feasibility testing by SGS Economics and Planning has identified that, based on average land values in the area, development is likely to be feasible using the proposed floor area ratios for each area.

117. However, the SGS report, West Melbourne Economic and Employment Study Stage 2 June 2017, states (page 26) that:

Analysis by character areas also finds that new stand-alone commercial developments are unlikely to be feasible in West Melbourne

118. The report tests a range of FARs and seeks to test many variations of land value decrease and rental yield increase, but concludes that commercial standalone development is unlikely to be feasible in West Melbourne.

119. Rather, the SGS report sets out that the FAR control that may be feasible for mixed use buildings, that are clearly dependant on the assumed higher returns generated by the residential component of the development. This if a mixed use development were brought forward it is likely to contain employment space that will have limited appeal and is unlikely to accommodate key uses such as education, research or larger health activities (e.g. Red Cross Blood Bank).

120. Having regard to the objectives of the West Melbourne Structure Plan to encourage local jobs, and the objective to accommodate at least 7,000 – 10,000 jobs, I am perplexed as to why the City of

Melbourne are proposing a control that is likely to impede the development of appropriate accommodation for those future jobs.

121. It is highly likely that as the residential development market improves over future years the returns on residential development will enable developers to focus on delivering residential accommodation with the minimum possible 'employment' space - thus defeating the entire premise of the new strategy and proposed SUZ control.
122. In my view, the proposed FARs for West Melbourne are an inefficient and contradicting planning control which will inevitably constrain development for employment uses in the area identified by the City of Melbourne to provide the employment such opportunities.
123. My second concern regarding the FAR model lies with the longer term outcome that once those sites that can be developed have done so in accordance with the FARs the area effectively has no additional capacity to deal with the future growth that will continue on. It may be remarked that this is the inevitable outcome for many localities and the growth will be accommodated elsewhere.
124. However, West Melbourne, for the reasons previously mentioned, is not 'another' locality - it is a valuable part of central Melbourne that will need to be responsive to future change. The FAR is likely to lead to the highest and best use (residential) being the preferred form of development. This land use will 'lock up' sites for many decades, whereas commercial site will generally be redeveloped every 40 to 50 years (subject to capital value and ongoing utility of the space).
125. Lastly, I am concerned with planning controls (including the FARs) that purport to be able to deliver 'precise outcomes' involving quality design, particular building typologies along with a preferred character. The FAR is seen to play a fundamental role in the development controls by, on the one hand constraining density, and then encouraging building variation through height controls beyond the FAR 'limit'. As already mentioned, this approach will undoubtedly favour residential building typologies over commercial and employment typologies
126. In summary the FAR has the potential to:
 - Prevent the delivery of employment accommodation at the required rate or with suitable floorplates.
 - Favour residential based developments with limited employment accommodation that in turn will only appeal to a limited market.
 - Cap the future development potential of West Melbourne beyond the achievement of the population and employment targets and impede future changes as the city evolves.
127. Having regard to the above, I consider that the FAR is an inappropriate tool to control built form outcomes for the area and it is my view that the proposed FARs be abandoned in their entirety.

3.3.2. Impacts of Built Form Outcomes and Requirements

128. At Clause 2.0 of the DDOs, there is a requirement that buildings and works must meet the built form outcomes in Table 1 to the Schedule, which forms a mandatory requirement. Having regard to the Built Form Outcomes, I am concerned about the specific drafting of these.
129. For example, all the proposed DDOs (except for DDO33 – Flagstaff) contain the following mandatory built form outcome:

Larger sites are broken up into a series of smaller building forms to ensure they relate and contribute positively to their context and their historic urban grain.
130. This built form outcome contradicts aspirations to attract employment uses to the area by creating smaller buildings that are not necessarily suited to larger commercial operations. In fact, in order to deliver employment uses, generally there is a requirement for lot consolidation in order to provide for the larger floor plate requirements.
131. Equally concerning is the implication that a large site is 'wrong' or the area when there are many large sites scattered through out West Melbourne (with the exception of the Hilltop precinct). Which history is supposed to be reflected in this endeavour to 'break up' large sites? Clearly it is different to the one that saw the sites created and developed - with some buildings dating back to the early 20th century.

132. Equally, other built form outcomes, such as those within Spencer, include mandatory outcomes that *“building heights, including street wall heights, are variable to ensure a positive contribution to the specific character of the street”*. This outcome is, in my view, too broad to provide clear strategic guidance to land owners and decision makers around the kind of built form outcome to be expected, when the street wall height may vary between heights between 3-8 storeys. This is exacerbated by the fact that this height range has no apparent preferred height, and little guidance is provided around what might determine the preferred height of future development.
133. This clumsiness is repeated throughout the DDO controls. I note the following examples:
- Another mandatory requirement in all DDO precincts, including Flagstaff which has been identified for up to 16 storeys preferred height, is the Built Form Outcomes as follows:
 - *Development respects the scale of adjoining residential and heritage buildings; and*
 - *Development does not unreasonably reduce solar access to adjacent solar panels.*
 - Further, *fine grain adaptable tenancies within the lower levels of buildings* are required in all precincts
134. These mandatory outcomes offer little guidance as to how they are to be achieved, and how they might be reasonably applied by the Responsible Authority when assessing applications.
135. It is recommendation that the DDOs be redrafted to:
- Remove the FAR controls that apply to the Flagstaff, Spencer and Station Precincts
 - Provide more performance type design directions - for example does an unreasonable impact on solar panels occur in winter, or for 30% of the year etc.?
 - Provide clearer expectations as to the relationship between sites and the impact that existing building forms will have on the development of a site.
136. In summary, having regard to the foregoing assessment it is concluded that the Amendment will fail to achieve the goal of increasing the share of employment within the West Melbourne area. Given the significant matters raised it will be necessary to undertake a fundamental review and redrafting of the Amendment including the use of different zone provisions, the deletion of the affordable housing and FAR provisions and redrafting of the DDO provisions to provide greater clarity as to how various requirements will be implemented and assessed.
137. Given the significance of the changes it is recommended that the current Amendment be abandoned.



