

1 February 2005

**MELBOURNE PLANNING SCHEME AMENDMENT C93 – EAST
MELBOURNE BUILT FORM REVIEW**

Division Sustainability & Innovation

Presenter John Noonan, Group Manager Sustainable Regulatory Planning

Purpose

To report to the Committee on the outcomes of the public exhibition of Melbourne Planning Scheme Amendment C93, which reviews height controls on Clarendon Street and Wellington Parade, and to request the Committee to consider the submissions and to refer the Amendment to a Panel hearing.

Time Frame

Following the exhibition of an amendment and receipt of submissions the Council is required to consider all submissions received and in doing so, the Council may either change the amendment in the manner requested, request the Minister for Planning to appoint an Independent Panel to consider the submissions or abandon the amendment. If the Council resolves to proceed to a Panel, it is likely that the Panel hearing will occur in April or May 2005.

Finance

Council will incur the cost of a Panel Hearing. These costs can be met from the Development Planning Branch's 2004/2005 Operating Budget.

Legal

Divisions 1 and 2 of Part 3 of the *Planning & Environment Act 1987* set out the required process for amending a planning scheme.

Sustainability

The amendment will contribute to an inclusive and engaging city through the promotion of high quality development and minimising the impact on heritage built form and character and the quality of the adjoining parks.

Recommendation

That the Planning and Environment Committee:

- consider the submissions and change the amendment as set out in submissions 14 and 15 in Attachment 6;
- request that the Minister for Planning appoint a Panel to consider the submissions to Melbourne Planning Scheme Amendment C93; and
- endorse the response to submissions discussed in the body of the report and Attachments 4 and 5 to this report as Council's submission to the Panel.

Attachments:

1. Current Schedule 21 to the Design and Development Overlay
2. Location plan of key properties in the study area
3. East Melbourne Built Form Review, Stage 1 – Hassell Report August 2004
4. Exhibited Amendment C93
5. Map of Exhibited Amendment C 93
6. Summary of Submissions

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Purpose

1. To report to the Committee on the outcomes of the public exhibition of Melbourne Planning Scheme Amendment C93, which reviews height controls on Clarendon Street and Wellington Parade, and to request the Committee to consider the submissions and to refer the Amendment to a Panel hearing.

Background

2. The Planning, Development and Services Committee at its meeting on 6 February 2003 resolved to initiate a Built Form Review for East Melbourne and Jolimont. Stage 1 is the subject of this report and includes the area bounded by Clarendon Street, Wellington Parade, Simpson Street, George Street, Powlett Street and Albert Street.
3. Key sites within the study area have recently experienced development pressure. These sites include the Freemasons Hospital, the MCG Hotel and the Mosspennoch Building. As part of these processes a range of concerns have been expressed that proposed developments will have adverse effects on the character, heritage values and amenity of East Melbourne.
4. The Melbourne Planning Scheme currently includes Design and Development Overlays (DDO) over part of the subject area providing controls over building heights. DDO 21 covers part of the study area along Wellington Parade and Clarendon Street; however key sites such as the Hilton Hotel, Freemasons Hospital and Mercy Hospital do not currently have any height controls. Current height controls are shown in Attachment 1.
5. Currently, DDO 21 specifies a maximum building height of 24 metres over the frontage along Wellington Parade from Clarendon Street to Hoddle Street, (not including the Hilton Hotel), and specifies a maximum building height of 39 metres on the area fronting Clarendon Street from Wellington Parade to Gipps Street, excluding the Hilton Hotel, Mercy Hospital and Freemasons Hospital sites. There is currently no height controls over the Hilton Hotel, Freemasons Hospital and Mercy Hospital sites. A location plan illustrating a number of key properties within the amendment area is included at Attachment 2.
6. With the exception of the Hilton Hotel, a heritage overlay precinct covers the whole of this area, and a number of specific properties throughout the area are listed on the Victorian Heritage Register.
7. The East Melbourne Built Form Review – Stage 1 has involved a lengthy process. Detailed reports have been presented to Committee on a number of occasions. Specifically the matter was presented to Committee on the 13 November 2003, 4 December 2003, 9 September 2004, 7 October 2004 and 21 October 2004 meetings. Each of these reports discussed the issues raised and presented a Council officer position in response to these issues. This report assumes the Council wishes to move forward with this Amendment as exhibited.

8. This report provides a general summary of the issues discussed at these meetings to inform the next stages in the process.

East Melbourne Built Form Review Report – Stage 1

9. Hassell Pty Ltd was engaged to undertake the East Melbourne Built Form Review – Stage 1 in May 2003. The completed study is in Attachment 3. The objectives of this project were to:
 - 9.1. review the current built form planning scheme controls in East Melbourne and their background;
 - 9.2. review current development pressures in East Melbourne;
 - 9.3. ensure that key stakeholders and the community participate in the development of the outcomes; and
 - 9.4. develop strategically justified planning mechanisms to implement the recommendations.
10. A number of key principles of built form outcomes were developed. These were informed by analysis of the subject area and surrounds, current planning policy and input from stakeholders. The outcomes address issues such as:
 - 10.1. enhancement of boulevards as key gateways;
 - 10.2. recognise and be consistent with existing development rights, existing form and previous decisions;
 - 10.3. protect the parks from overshadowing and visual intrusion;
 - 10.4. minimise overshadowing of residential areas;
 - 10.5. provide opportunities for more households and commercial activities close to public transport and Melbourne CBD;
 - 10.6. provide the opportunity for the growth of commercial and institutional uses;
 - 10.7. conserve the heritage built form of East Melbourne; and
 - 10.8. retain Wellington Parade as a local convenience and service centre.
11. A number of opportunities to contribute and provide feedback during the preparation of the report were provided to the community and interested parties.
12. The study, dated August 2004 (Attachment 3), considered a range of possible built form options, high, medium and low rise. The study recommended to:
 - 12.1. modify the maximum building heights along parts of Wellington Parade between Clarendon and Powlett Streets to a discretionary maximum of 35 metres;
 - 12.2. introduce controls on the Mercy and Freemasons Hospital sites and the Hilton Hotel to a discretionary maximum of 35 metres;
 - 12.3. modify the maximum building heights along parts of Clarendon Street to a discretionary maximum of 12 metres;
 - 12.4. place a discretionary maximum height of 24 metres along Wellington Parade between Powlett and Simpson Streets;

- 12.5. modify the design outcomes to ensure that existing built form and scale and heritage significance are considered in the assessment of new proposals; and
 - 12.6. align overlays with the appropriate property boundaries, to ensure that the controls apply to the appropriate land.
13. The matter was reported to the Planning and Development Committee in December 2003, with a recommendation to place the consultant's report on exhibition and to consult with stakeholders. The report was placed on exhibition during January/February 2004 and a number of comments being received from key stakeholders.
 14. In general, the comments expressed support for the intent and level of detail included in the built form outcomes. Many felt that they addressed the important issues relating to new development respecting the existing heritage building stock and streetscapes, overshadowing and the impact on the adjacent gardens. The major difference in opinion was the nominated heights for each of the areas.
 15. The Planning and Development Committee on 9 September 2004, 7 October 2004 and 21 October 2004 considered reports recommending that a planning scheme amendment proceed to formal exhibition based on the recommendations of the East Melbourne Built Form Review – Stage 1 (Please refer to page 46 of the study in Attachment 3).
 16. The Committee heard presentations from a number of interested parties including the East Melbourne Group and representatives of the owners of the Mercy Hospital, Mosslenoch, the Hilton Hotel and the MCG Hotel at these meetings.
 17. A range of issues were discussed and the Committee resolved to make a number of modifications to the proposed planning scheme amendment including most height limits being lowered from those recommended and all proposed height controls being expressed as mandatory. The changes made have adopted a lower rise response to reflect the number of individual important heritage buildings in the study area, and more broadly the heritage qualities of the East Melbourne residential precinct.
 18. A special Council meeting on 21 October 2004 approved the modified Amendment C93 for formal exhibition. (See Attachments 4 and 5)

Melbourne Planning Scheme Amendment C93

19. The Amendment proposes to revise in part the current Design and Development Overlay Schedule 21 by:
 - 19.1. introducing height controls on the Mercy and Freemasons Hospital sites and the Hilton Hotel;
 - 19.2. modifying the preferred maximum building heights along parts of Wellington Parade and Clarendon Street;
 - 19.3. modifying the design outcomes to ensure that the existing built form and heritage significance is considered in the assessment of new proposals;
 - 19.4. aligning the overlays with the appropriate property boundaries, to ensure that the controls apply to the appropriate land; and
 - 19.5. making all existing and proposed height controls mandatory.

20. In general the proposed heights and design objectives and outcomes seek to:
 - 20.1. respect the predominantly low scale and character of heritage building stock in the area;
 - 20.2. ensure that new development is not visually dominant within streetscapes;
 - 20.3. ensure that new development provides a transition in scale between existing higher buildings and lower scale buildings in the area;
 - 20.4. enhance pedestrian and street amenity;
 - 20.5. protect the Gardens from visually intrusive development and additional overshadowing; and
 - 20.6. protect the amenity of adjacent residential properties.
21. A copy of the exhibited Schedule 21 to the Design and Development Overlay expressed as mandatory height controls is in Attachment 4 and 5.

Consultation

22. The Amendment was publicly exhibited between 11 November and 17 December 2004, pursuant to section 19(1) of the *Planning and Environment Act 1987*. As part of the exhibition process, public notices were placed in the Melbourne Times, Government Gazette and the Melbourne Leader. The Amendment and supporting documentation were also made available at Council Offices, the Department of Sustainability and Environment, the East Melbourne Library and on Council's website. A public notice was also sent to relevant State Government Ministers, the Department of Sustainability and Environment as well as other key stakeholders. Notices were also sent directly to owners and occupiers of properties affected by the amendment.
23. As a result of this process, 26 submissions were received. A summary and response to these submissions are outlined in Attachment 6.

Issues

Process

24. The *Planning and Environment Act 1987* sets out the process to be followed and requires the Council to consider the submissions and then:
 - 24.1. change the amendment in the manner requested; or
 - 24.2. refer the submissions to a Panel; or
 - 24.3. abandon the Amendment.
25. The next step is for Council to request that the Minister for Planning appoint an Independent Panel to consider the strategic basis of the amendment and to consider submissions. The Council's response to submissions which will be put to the Panel will be informed by this report and any associated Committee resolution.

Submissions

26. Submissions were received from key stakeholders including the East Melbourne Group, a number of East Melbourne residents and specific property owners directly affected by the amendment, the Freemasons Hospital, Freemasons Victoria, SJB Planning representing the Mercy Hospital, National Trust of Australia (Victoria), Catholic Development Fund, PCH Melbourne Pty Ltd (owner of the land occupied by the Hilton Hotel), MCG Hotel and Mosspennoch House. A summary and response of the submissions are in Attachment 6.

27. A number of submissions in support of the amendment were received which include submissions from the East Melbourne Group Inc, The National Trust of Australia (Victoria) and a number of individual residents who also expressed strong support for the amendment.

Area 1, 2 & 3 - Freemasons and Mercy Hospitals

28. The exhibited amendment in relation to the Freemasons Hospital exhibited a mandatory height limit of 17 metres within 39 metres of Clarendon Street and 14 metres elsewhere.
29. The exhibited amendment in relation to the Mercy Hospital exhibited a number of mandatory building heights, including a mandatory height limit of 17 metres along the Clarendon Street frontage, a 22 metre height limit over the building listed on the Victorian Heritage Register on Grey Street and a 14 metre height limit for the remainder of the area.
30. Currently in the Melbourne Planning Scheme the Hospitals are within a Public Use Zone 3 and no height controls currently exist over these sites. The Built Form Review recommended a maximum discretionary building height of 35 metres and 12 metres to the rear of the major hospital buildings. Council officers supported this recommendation.
31. The Freemasons Hospital and Freemasons Victoria (Submission 16 and 17 in Attachment 5) have expressed concern that the amendment will have significant adverse impact on the future of the Hospital in that it places severe and unworkable constraints on any possible future development and also threatens works planned to refurbish and upgrade operating theatres. Works are needed to keep Freemasons Hospital relevant and in a competitive private hospital market. The subdivision states that this proposal places the Hospital in a position of not being able to plan any development for the site. In addition, Freemasons Victoria suggest that the introduction of mandatory building heights is unnecessary and will unreasonably impede the potential use and development of the land for either a hospital or other purposes in the future.
32. SJB Planning acting on behalf of the Mercy Hospital (Submission 18) opposes the amendment in its current form and advises that the amendment is unnecessary, having regard to the Heritage Overlay and planning policies that already apply. It considers the proposed height control and design objectives would unreasonably affect the future development potential for the hospital and fail to have regard to the existing buildings that occupy the land and to the important planning policies that seek to promote sustainable development, including the retention and/or recycling of existing buildings.
33. The Freemasons Hospital and Mercy Hospital are currently in a Public Use Zone and are not subject to a Design and Development Overlay. The Built Form Review considered a number of possible height options. Council officers recommended a discretionary height limit of 35 metres over the main Hospital buildings fronting Clarendon Street and a discretionary 12 metre height limit to the rear to allow for building height transition sympathetic to the low scale nature of the remainder of East Melbourne.
34. In summary the Hospitals are effectively requesting that there be no height limits applicable on their land, as is the case currently.

Part Area 4 & Area 6 - MCG Hotel, Hilton Hotel & Mosspennoch House

35. The exhibited amendment proposes a mandatory height limit of 24 metres for the area along Wellington Parade between Clarendon Street and Powlett Street including the Hilton Hotel and the MCG Hotel. Mosspennoch House was exhibited with a mandatory height limit of 12 metres. This building is listed on the Victorian Heritage Register.

36. The area including the Hilton Hotel and MCG Hotel along Wellington Parade between Clarendon Street and Powlett Street is currently within a Business 1 Zone, with a 24 metre discretionary height control. This height control excludes the Hilton Hotel site. The Built Form Review recommended a maximum discretionary building height of 35 metres for this area. Council officers supported this recommendation.
37. PCH Melbourne Pty Ltd, the owner of land occupied by the Hilton Hotel, MCG Hotel (Area 6), and Mosspennoch House (Part Area 4) oppose the amendment (Submission 21). These submitters considers that the Council has ignored the recommendations of the Hassell report in that the maximum height limits proposed to be introduced do not provide flexibility to facilitate creative design solutions. The maximum height limits do not give due regard to the importance of the land along Wellington Parade as part of the boulevard entry to the Melbourne CBD.
38. Under the current DDO, the area along Wellington Parade is within a 24 metre discretionary height control, however this DDO does not include the land occupied by the Hilton Hotel. Mosspennoch House is currently included in the 39 metre DDO which includes land along part of Clarendon Street.
39. The Built Form Review considered a number of possible height options and recommended a maximum building height of 35 metres for the area including the Hilton Hotel and MCG Hotel. Council officers recommended a discretionary height limit of 35 metres.
40. Further to this, the Minister for Planning approved Melbourne Planning Scheme Amendment C101 on 16 December 2004. This allows for the comprehensive redevelopment of the whole of the submitters land holding. Specifically, a 45 metre building over the MCG Hotel site and a 22 metre building on the Mosspennoch site. The Minister for Planning is the also the responsible authority for administering and enforcing the scheme over this area. Essentially the approval overrides the existing height controls of the current planning scheme and any proposed height controls.

Area 7 – Wellington Parade between Powlett & Simpson Street

41. The Built Form Review recommended the retention of the 24 metre height control and included built form outcomes that seek building spacing to allow sunlight penetration to the street, consideration of overshadowing of Yarra Park and minimising visibility of new development from heritage streetscapes. Council officers supported this recommendation.
42. The exhibited amendment proposes a mandatory height control of 14 metres.
43. The owner of 126 Wellington Parade (Submission 22), which is included in Area 7, objects to the amendment for a number of reasons including it having a severely detrimental effect on the value of 126 Wellington Parade, a reduction in value of property due to the new proposed height and that the existing buildings surpass the proposed height.
44. The height of the existing building at 126 Wellington Parade is 22 metres (with a permit for additional levels to the building to bring it to a height of approx 26 metres), and 100 Wellington Parade has a building height of 25 metres.
45. The owners of 135 George Street (Submission 23) agree with the stated objectives of the review. Their property lies in close proximity to the north of Area 7. In relation to 126 Wellington Parade, they advise that the Coach House Area to the rear of 126 Wellington Parade has been excluded from the review. This area should be redesignated to ‘any development is consistent with the prevailing 1-2 storey residential and heritage buildings in the area. The boundary of the proposed DDO 21 is consistent with the existing height control boundary and the boundary of the Business 1 Zone. 135 George Street is within the Residential 1 Zone. In the context of the Coach House site this is also located in the Residential 1 Zone and the Heritage Overlay in the Melbourne Planning Scheme. In light of this it is unlikely that any development would be approved contrary to the relevant Heritage Overlay provisions and ResCode guidelines.

46. A submitter making specific reference to the north east corner of Powlett Street and Wellington Parade (Submission 24) considers that any amendment should seek consistency in building heights that approximately relate to the existing scale of buildings along Wellington Parade and that the exhibited amendment does not accurately record the existing streetscape profile of Wellington Parade.
47. Melbourne Water (Submission 25) has no objection to the amendment.
48. The Catholic Development Fund (Submission 26) is the owner and occupier of 96 Wellington Parade and objects to the proposed amendment. The submitter considers that 24 metres is the appropriate height for this site as the existing buildings are not excessive in scale in relationship to Wellington Parade.

Balance of Area 4 – Properties listed on the Victorian Heritage Register

49. The balance of Area 4 are the individually listed buildings on the Victorian Heritage Register. The maximum building heights reflect the heights of the existing historic buildings, these include Elizabeth House at 86-92 Wellington Parade with a proposed mandatory building height of 11 metres, Virginia at 116 Wellington Parade with a proposed mandatory building height of 11 metres and Bishopscourt at 84-122 Clarendon Street with a proposed mandatory building height of 12.5 metres.
50. The submissions received in relation to this area have been supportive.

Other issues

51. The National Trust of Australia (Victoria) (Submission 14) have indicated that it is pleased that the City of Melbourne has prepared the amendment, and strongly support the intentions of all the Built Form Outcomes, but note that they are somewhat confusing and inconsistent and suggest that some simplification would be beneficial.
52. Submissions have been received in relation to 58 Clarendon Street, Clarendon Towers (Submissions 19 & 20), which is within Area 5 with a proposed mandatory maximum building height of 12 metres. The submitters have raised that the existing building was constructed in 1973 and has a height of approximately 40 metres. They consider that, the proposed amendment would prohibit all buildings and works at or to the existing building above a height of 12 metres. The submitters raise the issue that the amendment makes illegal a number of activities which are currently legal and which property owners have a reasonable expectation of engaging in. In response, the proposed DDO includes a paragraph which may address the concerns of the submitters. This states:

“A permit may be granted to replace or alter a building or works existing at the approval date but which do not comply with the Maximum Building Height, only if the responsible authority is satisfied an increased height improves the amenity and enhances the urban character of the area.”

53. Further to this, another submitter (Submission 15) has raised some concern with the wording of the above, in that the responsible authority is conferred with discretion as to whether or not to grant a permit. He considers that in this respect, the responsible authority is bound to consider whether the increased height improves the amenity and enhances the urban character of the area which may be difficult to discharge in East Melbourne given its heritage characteristics.

Relation to Council Policy

Municipal Strategic Statement – City Plan 99

54. The existing *Municipal Strategic Statement* (MSS) states that the Council’s strategic objectives for the East Melbourne and Jolimont area are:

“To support the residential community and the government precinct on either side of the Fitzroy Gardens, which are contained by commercial and institutional uses located along the major boulevards on its edges.”

55. In addition, the MSS supports the existing hospital services, support for the local retailing on Wellington Parade, maintaining residential amenity. The MSS also recognises that the area is one of the most intact 19th century areas in the City and of national importance and as such the conservation of heritage is the primary development consideration.

Amendment C60

56. The Council adopted MSS for East Melbourne and Jolimont and includes the following strategies on built form:
- 56.1. ensure development in the residential areas of East Melbourne and Jolimont is sensitively designed so that it maintains the generally low scale nature of heritage streetscapes and buildings;
 - 56.2. support future residential development on the Mercy and Freemasons Hospital sites in Clarendon Street. Ensure any redevelopment of the sites respects the scale of the surrounding residential area, heritage buildings and Fitzroy Gardens;
 - 56.3. ensure that development does not adversely affect Fitzroy Gardens, Treasury Gardens or Yarra Park by minimising the visual impact of buildings and overshadowing of the parks; and
 - 56.4. ensure that development along Wellington Parade and Albert Street enhance these roads as key entrances to the Central City.

Conclusion

57. In summary, East Melbourne is recognised for its predominately low scale residential characteristics, significant heritage and built form, the role of Wellington Parade as a boulevard and entrance to the CBD, and as a local activity centre serving the local community. It is also recognised for the institutional role of Clarendon Street with its prominent heritage buildings and important park edge interface. It is accepted that East Melbourne will experience only limited change. New development should be respectful of both the adjacent gardens and the heritage built form and any new development should provide the opportunity for enhancing the area’s key qualities and support the vision of the MSS.
58. As a result of the exhibition of Amendment C93, 26 submissions were received.
59. Each submission has been detailed in Attachment 6 together with a recommendation as to whether the requested change to the amendment should be accepted or not. The approach taken is to maintain the Council position as formally adopted on 21st October 2004. As a result the only changes supported are submissions 14 and 15 as they are considered to be consistent with the intent of the amendment as adopted by Council.
60. The Committee should note that it will have a further opportunity, following receipt of the Panel report, to modify the amendment prior to submission to the Minister for Planning or to abandon the Amendment.

Recommendation

61. That the Planning and Environment Committee:
 - 61.1. consider the submissions and change the amendment as set out in submissions 14 and 15 in Attachment 6;
 - 61.2. request that the Minister for Planning appoint a Panel to consider all the submissions to Melbourne Planning Scheme Amendment C93; and
 - 61.3. endorse the response to submissions discussed in the body of the report and Attachments 4 and 5 to this report as Council's submission to the Panel.

SCHEDULE 21 TO THE DESIGN AND DEVELOPMENT OVERLAY

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

WELLINGTON PARADE AREA**1.0 Design objectives**

- To minimise the visual impact of buildings on the Fitzroy Gardens and Yarra Park and to preserve the landscape qualities and amenity of the gardens.
- To ensure that the enjoyment of the Fitzroy Gardens and Yarra Park is not excessively diminished by overshadowing from any new building or works.
- To ensure that any new development or redevelopment is compatible with the scale and character of adjoining buildings in the area.
- To encourage development of Wellington Parade as a major city boulevard with consistent building height and form.

2.0 Requirements**2.1 Building height**

Buildings or works should not exceed the maximum building height specified in the table to this schedule.

An application to exceed the maximum building height must be accompanied by a site analysis plan and a written urban context report documenting how the development will achieve the specific design objectives and outcomes of this schedule.

The height of a building or works is the height of its highest point above the permanent footpath at the centre of the site frontage. If there is no footpath, the natural surface level at the centre of the site frontage is the base level.

Table to Schedule 21

AREA	MAXIMUM BUILDING HEIGHT	OUTCOMES
20	24 metres	Buildings are developed to a consistent scale along the Wellington Parade entry to the CBD but are spaced to allow sunlight to penetrate to the street and to avoid creating a wall of buildings. Additional overshadowing of Yarra Park between 11.00 am and 2.00 pm on 22 March and 22 September is avoided.
44	39 metres	Development does not diminish the amenity of Fitzroy Gardens by the visual impact of new buildings or works or cause additional overshadowing of the Gardens between 11.00 am and 2.00 pm on 22 March and 22 September.

East Melbourne Built Form Review - Stage 1 Current Design and Development Overlay





Title
**PLANNING SCHEME AMENDMENT C93
 EAST MELBOURNE
 BUILT FORM REVIEW
 LOCATION PLAN**

Date 17-01-2005

Scale 1: 3000



Drawn by
 GIS Team
 Rates & Valuations

**DUE TO THE LARGE SIZE OF
DOCUMENTATION IN RELATION
TO
ATTACHMENT 3,
A COPY CAN BE OBTAINED BY
CONTACTING
SHERIDEN TAYLOR
ON 9658 9867**

SCHEDULE 21 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO21

WELLINGTON PARADE AND CLARENDON STREET

1.0 Design objectives

- To ensure that any new development or redevelopment is compatible with the scale, character and important heritage significance of East Melbourne.
- To ensure that the scale and character of development of land abutting Wellington Parade and Clarendon Street is consistent with the intact residential precinct.
- Enhance of the importance of Wellington Parade as an entrance boulevard through quality building design and street amenity.
- To minimise the visual impact of buildings on the Fitzroy Gardens and Yarra Park and to preserve the landscape qualities and amenity of the gardens.
- To ensure that the sustainability and enjoyment of Fitzroy Gardens and Yarra Park are not diminished by overshadowing from any new buildings or works.

2.0 Requirements

2.1 Building height

An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed building or works achieve each of the Design Objectives and Built Form Outcomes of this schedule, and any local planning policy requirements.

A permit cannot be granted to vary the *Maximum Building Height* specified in Table 1 to this schedule.

A permit may be granted to replace or alter a building or works existing at the approval date but which do not comply with the *Maximum Building Height* specified in Table 1, only if the responsible authority is satisfied an increased height improves the amenity and enhances the urban character of the area.

Buildings or works should not exceed the *Maximum Building Height* specified in Table 2 to this schedule. An application to exceed the *Maximum Building Height* specified in Table 2 to this schedule must demonstrate how the development will continue to achieve the Design Objectives and Built Form Outcomes of this schedule and any local planning policy requirements.

Building height is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of architectural features and building services.

Table 1 to Schedule 21

AREA	MAXIMUM BUILDING HEIGHT	BUILT FORM OUTCOMES
1	<p>17 metres within 39 metres of Clarendon Street</p> <p>14 metres elsewhere</p>	<p>Development that does not overshadow Fitzroy Gardens between 11am and 2pm on 22 September and 22 March.</p> <p>Development that respects the scale of adjoining and nearby lower scale heritage buildings in Albert Street, Grey Street, Gipps Street and Powlett Street.</p> <p>Development that has regard to design and scale when viewed from Fitzroy Gardens.</p> <p>New development does not impact upon the visual attractiveness of Fitzroy Gardens.</p> <p>New development that provides a transition in scale and form between any existing higher buildings on site and the predominantly lower scale buildings in the area.</p> <p>Development on prominent sites that is of quality building design.</p> <p>Visibility of upper levels of new development from heritage streetscapes is minimised.</p> <p>New development has regard to the form and scale of buildings in Clarendon Street, Albert Street Grey Street and Gipps Street.</p> <p>Fronts and backs of buildings are encouraged to be developed in ways that connect with, and acknowledge, the prevailing structure of neighbouring public and private space.</p> <p>New development respects and is consistent with the built form especially low scale of the existing heritage building stock on the site and in the neighbourhood.</p>
2	<p>17 metres within 39 metres of Clarendon Street</p> <p>14 metres elsewhere</p>	<p>Development that does not overshadow Fitzroy Gardens between 11am and 2pm on 22 September and 22 March.</p> <p>Development that respects the scale of adjoining and nearby lower scale heritage buildings in Albert Street, Grey Street, Gipps Street and Powlett Street.</p> <p>Development that has regard to design and scale when viewed from Fitzroy Gardens.</p> <p>New development does not impact upon the visual attractiveness of Fitzroy Gardens.</p> <p>New development that provides a transition in scale and form between any existing higher buildings on site and the predominantly lower scale buildings in the area.</p> <p>Development on prominent sites that is of quality building design.</p> <p>Visibility of upper levels of new development from heritage streetscapes is minimised.</p>

		<p>New development has regard to the form and scale of buildings in Clarendon Street, Albert Street Grey Street and Gipps Street.</p> <p>Fronts and backs of buildings are encouraged to be developed in ways that connect with, and acknowledge, the prevailing structure of neighbouring public and private space.</p> <p>New development respects and is consistent with the built form especially low scale of the existing heritage building stock on the site and in the neighbourhood.</p>
3	<p>On the south side of Grey Street, a distance of 39 metres from Clarendon Street, a height of 22 metres for a width along Grey Street of 63 metres and a depth of 60 metres into the site</p>	<p>Development that does not overshadow Fitzroy Gardens between 11am and 2pm on 22 September and 22 March.</p> <p>Development that respects the scale of adjoining and nearby lower scale heritage buildings in Albert Street, Grey Street, Gipps Street and Powlett Street.</p> <p>Development that has regard to design and scale when viewed from Fitzroy Gardens.</p> <p>New development does not impact upon the visual attractiveness of Fitzroy Gardens.</p> <p>New development that provides a transition in scale and form between any existing higher buildings on site and the predominantly lower scale buildings in the area.</p> <p>Development on prominent sites that is of quality building design.</p> <p>Visibility of upper levels of new development from heritage streetscapes is minimised.</p> <p>New development has regard to the form and scale of buildings in Clarendon Street, Albert Street Grey Street and Gipps Street.</p> <p>Fronts and backs of buildings are encouraged to be developed in ways that connect with, and acknowledge, the prevailing structure of neighbouring public and private space.</p>
4	<p>86-92 Wellington Parade 11 metres</p> <p>116 Wellington Parade 11 metres</p> <p>22-40 Clarendon Street 12 metres</p>	<p>New development respects and is consistent with the built form especially low scale of the existing heritage building stock on the site and in the neighbourhood.</p> <p>Existing low scale built form is maintained</p> <p>Development is consistent with the prevailing 1-3 storey heritage buildings in the area.</p> <p>Where current landscape setbacks exist these should be maintained.</p> <p>Landscaped frontages on Wellington Parade and Clarendon Street are maintained.</p>

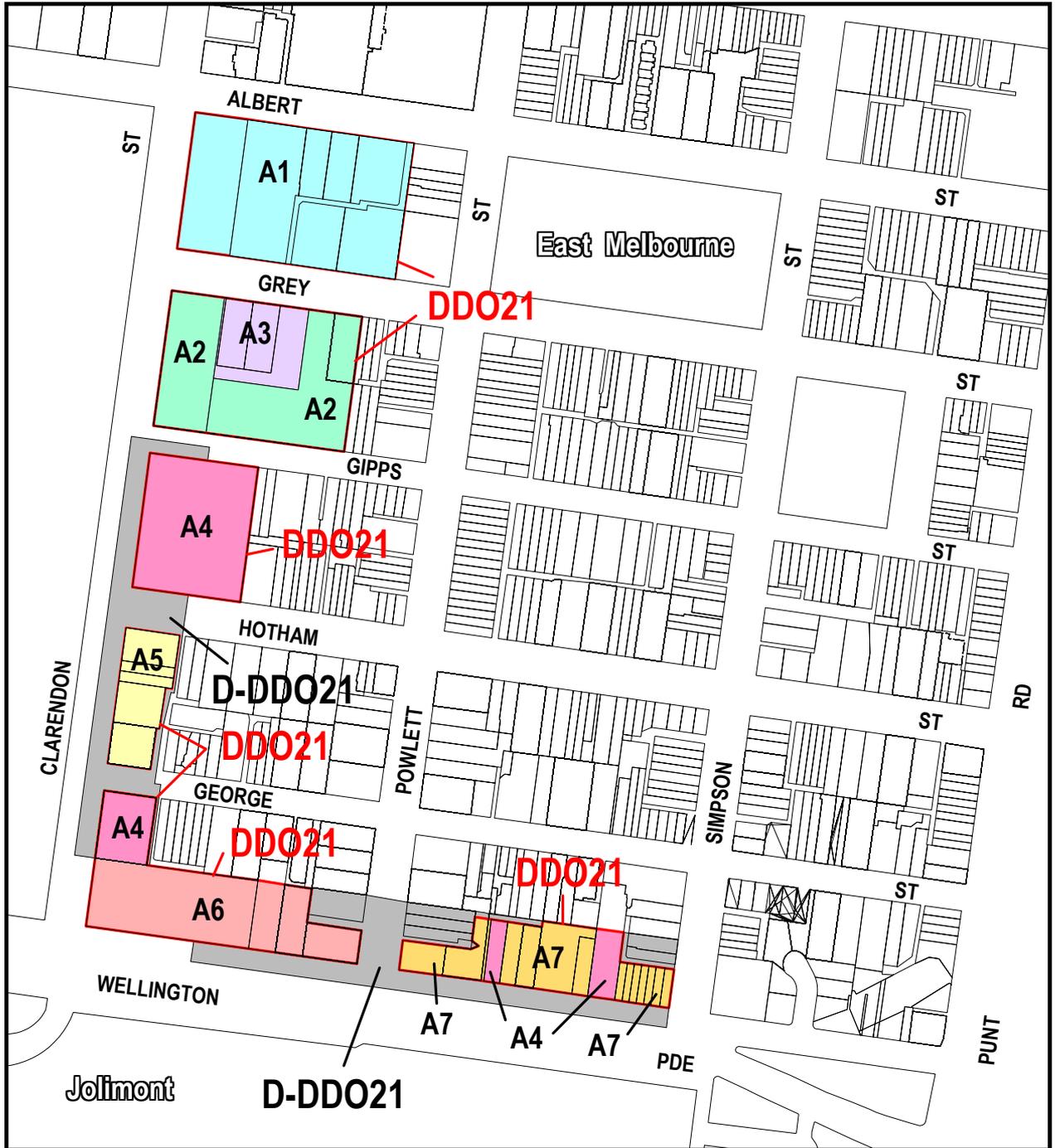
	84-122 Clarendon Street 12.5 metres	
5	12 metres	<p>New development respects and is consistent with the built form especially low scale of the existing heritage building stock in the neighbourhood.</p> <p>Existing low scale built form is maintained</p> <p>Development is consistent with the prevailing 1-3 storey heritage buildings in the area.</p> <p>A consistent built form and strong urban edge with zero front set back.</p> <p>Development that does not overshadow Fitzroy Gardens between 11am and 2pm on 22 September and 22 March.</p> <p>Development that has regard to design and scale when viewed from Fitzroy Gardens.</p> <p>New development does not impact upon the visual attractiveness of Fitzroy Gardens.</p>
6	24 metres	<p>New development respects and is consistent with the built form especially low scale of the existing heritage building stock in the neighbourhood.</p> <p>The existing low scale built form is maintained</p> <p>Development is consistent with the prevailing 1-3 storey heritage buildings in the area.</p> <p>Development that respects the scale of adjoining and nearby lower scale heritage buildings in George Street.</p> <p>Visibility of upper levels of new development from heritage streetscapes is minimised.</p> <p>Buildings do not visually intrude into the skyline viewed from the northern side of George Street.</p> <p>Development that does not overshadow Fitzroy Gardens and Yarra Park between 11am and 2pm on 22 September and 22 March.</p> <p>New development does not impact upon the visual attractiveness of Fitzroy Gardens.</p> <p>Development steps down to the rear with higher parts of new development setback from the rear boundary to protect the amenity of adjacent residential properties.</p> <p>Development reflects the importance of Wellington Parade as a boulevard entrance into the City.</p> <p>Development that creates an environment with high pedestrian amenity along Wellington Parade.</p> <p>Buildings are spaced to allow sunlight to penetrate the</p>

		street, and avoid creating a wall of buildings.
7	14 metres	<p>New development respects and is consistent with the built form especially low scale of the existing heritage building stock in the neighbourhood.</p> <p>Existing low scale built form is maintained</p> <p>Development is consistent with the prevailing 1-3 storey heritage buildings in the area.</p> <p>Development does not visually dominate the area to the north and east.</p> <p>Visibility of upper levels of new development from heritage streetscapes is minimised.</p> <p>Development that creates an environment with high pedestrian amenity along Wellington Parade.</p> <p>Buildings are spaced to allow sunlight to penetrate the street, and avoid creating a wall of buildings.</p> <p>Development that does not overshadow Yarra Park between 11am and 2pm on 22 September and 22 March.</p> <p>Development reflects the importance of Wellington Parade as a boulevard entrance into the City.</p>

Table 2 to Schedule 21

AREA	MAXIMUM BUILDING HEIGHT	BUILT FORM OUTCOMES
20	24 metres	<p>Buildings are developed to a consistent scale along the Wellington Parade entry to the CBD but are spaced to allow sunlight to penetrate to the street and to avoid creating a wall of buildings.</p> <p>Additional overshadowing of Yarra Park between 11.00 am and 2.00 pm on 22 March and 22 September is avoided.</p>

MELBOURNE PLANNING SCHEME LOCAL PROVISION



Part of Planning Scheme Maps 7DDOPT1 & 11DDOPT1

LEGEND

D-DDO21	AREA TO BE DELETED FROM A DESIGN AND DEVELOPMENT OVERLAY
A1	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 21 (AREA 1)
DDO21	DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 21

AMENDMENT C93



Title
PLANNING SCHEME AMENDMENT C93
SCHEDULE 21 TO THE DESIGN
AND DEVELOPMENT OVERLAY
EXHIBITED AMENDMENT

Date 17-01-2005

Scale 1: 3000



Drawn by
 GIS Team
 Rates & Valuations

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 1

<i>Submitter:</i>	Paul Jarman Regional Manager Department of Sustainability and Environment – Port Phillip Region Locked Bag 3000 Box Hill Victoria 3128
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<i>Location that Submission relates to:</i>	Not specific
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Summary of Submission:

The Department has considered the amendment and has no objection to the proposal.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 2

Submitter:	Nkechi Ogbonnaya Planning Engineer Land Use & Traffic Management VicRoads Metropolitan North West Region 499 Ballarat Road SUNSHINE VIC 3020
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Location that Submission relates to:	Not specific
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Summary of Submission:

VicRoads has no objection or comment regarding the proposed Amendment.
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What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 3

Submitter:	Margaret Wood President The East Melbourne Group Inc PO Box 7 EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not specific
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Summary of Submission:

<ul style="list-style-type: none">• The amendment is fully supported by the East Melbourne Group.• The Group believes the amendment is supported by the broader community• The EMG expressed how heartened it was by council's rejection of the Hassell report and moreover that the Group 'welcomed council's commitment to protect the heritage precinct of East Melbourne'.• A copy of the C93 Fact Sheet and map was mailed to all members of the East Melbourne Group, members of the Group were reminded that there was an opportunity to submit individual submissions if they so wished.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 4

Submitter:	Dr Natteri V. Chandran 'Treasury Gardens' Apartment 703/30 St Andrews Place EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not specific
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Summary of Submission:

Wishes to convey support for Amendment C93.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 5

<i>Submitter:</i>	John & Val Walker 40 Berry Street EAST MELBOURNE VIC 3002
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<i>Location that Submission relates to:</i>	Not specific
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Summary of Submission:

Support the proposed amendment.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 6

<i>Submitter:</i>	Joan and Tony Tehan 29/22 Agnes Street EAST MELBOURNE VIC 3002
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<i>Location that Submission relates to:</i>	Not specified
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Summary of Submission:

- Support the amendment.
- This action is long overdue and is essential to preserve the character and amenity of this historic precinct.
- Will also provide more stability and consistency to the planning process for this area.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 7

Submitter:	Dr GJ Cocks Mrs JE Cocks Mr BJ Cocks 53 Berry Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not specific
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Summary of Submission:

<ul style="list-style-type: none">• Strongly support Amendment C93.• Believe it will prevent bulk and dominant new buildings from being erected in this critical residential area.• Any additional height will detract in a major way from the heritage character and treasures of East Melbourne.
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What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 8

Submitter:	Dr Lotte Mulligan 80 Hotham Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not specific
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Summary of Submission:

<ul style="list-style-type: none">• Support the action of Council with proposed amendment.• The City of Melbourne along with the East Melbourne Group has fought against inappropriate development at VCAT and at Heritage Victoria.• Entirely appropriate to ensure that these battles do not have to be fought endlessly as new proposals present themselves for inappropriate and intrusive structures.• Reasons for low height limit include the protection of low scale heritage places from overlooking and overshadowing, Fitzroy Gardens need to be protected from overshadowing, protection if neighbourhood character.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 9

Submitter:	Karen A Grimwade GPO Box 1014 MELBOURNE VIC 3001
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Location that Submission relates to:	Not specific
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Summary of Submission:

- Support Amendment C93.
- With it's proximity to the CBD, East Melbourne is always under threat from over-development.
- The amendment goes some way to protecting the area and allowing it to remain a community rather than a developer's paradise.
- Clarendon Street and Wellington Parade are the boundaries of the community, if developed to the extreme they will become 'walls' cutting off the community from the surrounding parks and city.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 10

<i>Submitter:</i>	Gillian & Warren Johnson 61 Grey Street EAST MELBOURNE VIC 3002
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<i>Location that Submission relates to:</i>	Not specific
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What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 11

Submitter:	Professor John Coghlan Executive Director The Menzies Foundation 210 Clarendon Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not specific
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Summary of Submission:

<ul style="list-style-type: none">• Support the amendment.• The Menzies Foundation's headquarters are situated in Clarendon Terrace, by agreement with the National Trust in 1980, the foundation has a 45 year lease at peppercorn rent and is responsible for the buildings refurbishment and ongoing maintenance.• In the late 1970's the National Trust, the State Government and the East Melbourne Group combined to save this building from demolition and in so doing helped to retain one of East Melbourne's heritage streetscapes.• Height limits in Clarendon Street will help maintain their historic significance and the character of East Melbourne.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 12

Submitter:	Mr & Mrs John Kovac Unit 3, 35 Powlett Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not Specific
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Summary of Submission:

<ul style="list-style-type: none">• Support Amendment C93.• The number of recently erected high rise apartments are a classic example of the wrong building in the wrong location, these buildings have added nothing to the area but have resulted in a loss of amenity to the local residents.• Still sufficient land in Southbank and Docklands where such high rise buildings can be erected rather than being imposed upon residents in East Melbourne by developers who have no other motive except that of quick and easy profit at the expense of the character of the area.• The heritage aspect of East Melbourne has managed to withstand various waves of development mania that ran rampant at various periods since the 1950's, it would be a shame to see this destroyed by poor development policies and developers who constantly push development boundaries.
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What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 13

Submitter:	Harry & Rita Perelberg 14 Powlett Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not specific
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Summary of Submission:

<ul style="list-style-type: none">• Support the principles of Amendment C93.• The height limits in the amendment should be inclusive of all lift overruns and building infrastructure.• The addition of these can be effectively increasing the building heights by many metres, this will increase the bulk of the buildings and increase the spread of noise from machinery.
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What changes, if any, has the submitter requested?

That buildings heights be inclusive of architectural features and lift overruns.
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Is the planning authority willing to make the changes requested?

<p>No.</p> <p>The exclusion of architectural features and building services is standard to all height controls within the Melbourne Planning Scheme and the height controls of most other municipalities.</p> <p>Height controls are derived from the preferred scale relationship between new buildings and those already existing in an area. Buildings of a variety of scales and styles within East Melbourne have been measured for this purpose and in all cases existing buildings have been measured exclusive of architectural features or building services and proposed building heights have been derived from this baseline.</p> <p>There is existing guidance within the Melbourne Planning Scheme relating to the appearance of building services. The Urban Design Outside the Capital City Zone local policy at Clause 22, as well as Design and Built Form state policies at Clause 19.03, encourage the integration of plant, lift over-runs and other roof top services with the overall building form and roof design.</p> <p>Noise from building services is regulated in State Environment Protection Policy (SEPP N1) and additional guidance is provided by the Australian Institute of Refrigeration, Air Conditioning & Heating's Air Conditioning Best Practice Guidelines.</p>

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 14

Submitter:	Rohan Storey Architectural Historian National Trust of Australia (Victoria) Tasma Terrace 4 Parliament Place EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Various
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Summary of Submission:

<ul style="list-style-type: none">• The National Trust of Australia (Victoria) is very pleased that the City of Melbourne has now prepared an amendment to implement the findings of the East Melbourne Built Form Review.• The use of a number of different areas with different height limits and ‘Built Form Outcomes’ properly reflects the differing conditions in each area and is far superior to the blanket height limits of the current controls.• Pleased to see that the heights proposed for each area are consistently low, reflecting the importance of maintaining a low scale for development on the edge of the highly important East Melbourne area.• Pleased to see that the proposed height limit for the Freemasons Hospital site reflects the actual height of the building and therefore is lower than even the “low-rise” option provided in the study.• Suggest a further dot point that mentions the heritage buildings within the control area, for example: ‘to respect the scale and significance of heritage buildings on the site or an adjacent site.’• Since the DDO controls are in addition to HO controls on many sites an objective should be added that the height limit provided should not be considered as-of-right, if heritage considerations on a site also covered by an HO require a lower height for any part of any development, then the lower height should apply.• Strongly support the intentions of all the outcomes presented, but note that they are confusing and inconsistent.• Area 4 and its outcomes appear to be tailored for heritage buildings, but it only covers some of the buildings that are individually significant.• The front portion of Area 1 along with Area 3 also cover individually significant heritage buildings, namely the two 1930’s hospitals now on the VHR, yet are written as if extensive new development could occur on the sites.• The grand terrace at 128-132 Grey Street isolated within the Freemasons Hospital should also be covered by an Area 4 control.• The outcome ‘development is consistent with the prevailing 1-3 storey heritage buildings in the area’ is confusing as the area is not defined. Suggested wording change to: ‘new development respects and is consistent with the built form especially the low scale of the existing heritage stock in the neighbourhood.’• Areas 1 & 2 have exactly the same description of the relevant height limits and outcomes, they could be both area 1.
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What changes, if any, has the submitter requested?

1. Addition of an objective which states 'to respect the scale and significance of heritage buildings on the site or an adjacent site'.
2. Addition of an objective that the height limit provided should not be considered as-of-right, if heritage considerations on a site also covered by an HO require a lower height for any part of any development, then the lower height should apply.
3. 128-132 Grey should be in Area 4.
4. The outcome 'development is consistent with the prevailing 1-3 storey heritage buildings in the area' be reworded to: 'new development respects and is consistent with the built form especially the low scale of the existing heritage stock in the neighbourhood.'
5. Areas 1 & 2 have exactly the same description of the relevant height limits and outcomes, they could be both Area 1.

Is the planning authority willing to make the changes requested?

1. Yes. An additional heritage objective could be added.
2. No. This statement is not consistent with Victoria Planning Provisions scheme format, where a decision maker is required to consider all relevant requirements and decide how much weight to give different factors in the circumstances of the case and it is considered that the height limits proposed are consistent with the heritage qualities of the area.
3. Yes. The buildings in Area 4 are all on the Victorian Heritage Register. Given that 128-132 Grey Street is also on the VHR the inclusion of this site in Area 4 would be consistent with the approach that the planning authority has taken in this amendment. The approach that has been taken has been to express building height consistent with the measured heights of buildings on the VHR. The height of the building at 128-132 Grey Street is 8.5 metres.
4. No. The wording proposed is quite specific and accurately describes the outcome sought.
5. No. Any changes to area boundaries will be considered following receipt of a Panel report and its recommendations.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 15

Submitter:	Roger Rush Apartment 1108 166 Wellington Parade EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Not specific
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Summary of Submission:

- Concerned with the paragraph relating to ‘a permit can be granted to replace or alter a building...’
- The responsible authority is conferred with discretion as to whether or not to grant a permit.
- In the exercise of that discretion the responsible authority is bound to consider whether the increased height improves the amenity and enhances the urban character of the area, an onus which in East Melbourne may be difficult to discharge.
- The proposed amendment suggests that a property could be destroyed without it appears compensation if it became necessary to replace the existing building without any alteration or amendment and a permit was refused.
- Clause 2.1 of the new schedule should be redrafted to provide that the Maximum Building Height specified in Table 1 would not apply to the replacement of a building existing at the approval date provided that the height of the replacement building is not greater than the height of the existing building.

What changes, if any, has the submitter requested?

Redrafting of Clause 2.1 of the DDO’s to provide that the Maximum Building Height specified in Table 1 would not apply to the replacement of a building existing at the approval date provided that the height of the replacement building is not greater than the height of the existing building.

Is the planning authority willing to make the changes requested?

Yes.

It is agreed that the wording as drafted does not fulfil its intention, which is to unconditionally allow for replacement of buildings at their existing height (say in the situation where the building was destroyed by fire) and conditionally allow for alterations and additions to an existing higher building.

Suggested alternate wording:

A permit may be granted to replace a building or works existing at the approval date but which do not comply with the Maximum Building Height specified in the table.

A permit may be granted to alter or add to a building or works existing at the approval date but which do not comply with the Maximum Building Height specified in the table only if the responsible authority is satisfied an increased height or works above the specified Maximum Building Height improves the amenity and enhances the urban character of the area.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 16

<i>Submitter:</i>	Jim Swinden Chief Executive Officer Freemasons Hospital 166 Clarendon Street EAST MELBOURNE VIC 3002
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<i>Location that Submission relates to:</i>	Freemasons Hospital Clarendon Street DDO21 Area 1
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Summary of Submission:

- Proposed amendment will have a significant adverse impact on the future of Freemasons Hospital.
- Places severe and unworkable constraints on any possible future development and also threatens works planned to refurbish and upgrade operating theatres.
- The amendment proposes height restrictions of 17 metres and 14 metres, hospital which was opened in 1937 already has a height of 25 metres.
- Hassell report considered the views of local residents and organisations and recommended a height of 35 metres, thought this was restrictive, it was well in excess of the 17 metre and 14 metre limits now proposed.
- Freemasons Hospital is an important not-for-profit Public Benevolent Institution providing healthcare to the Victorian community.
- Services at the hospital include radiotherapy, surgery and a 24 hour Emergency Department.
- It is important to achieve an appropriate balance between residential requirements and services for the broader community, however this proposal will strangle any future development of health services on the Clarendon Street site.
- Works are needed to keep Freemasons Hospital relevant and in a competitive private hospital market, this proposal places the Hospital in a position of not being able to plan any development for this site.
- The Hospital rejects the council's reasons for the amendment and the underlying basis for the Council's recommended building height and other related DDO provisions.
- The Council has chosen to ignore the outcome of its own built form review and sought to distance itself from the recommended height limits of that study.
- Council advance little or no support for the amendment from any strategic study or report to justify the DDO provisions sought.
- The hospital is concerned about a number of aspects of the amendment.
- It seeks to unreasonably limit the potential redevelopment and expansion of the existing Hospital by imposing artificial building height restrictions which have not been properly substantiated and have no relationship to their immediate context.
- It fails to acknowledge the longstanding development rights of the Hospital under its existing Public Use zoning and the history of planning controls which have served to allow greater flexibility and new development opportunities on the Hospital's land than that contemplated by the Amendment.
- It fails to acknowledge the context of the Hospital land, its frontage to two important traffic routes, its location on an intersection and the capacity of the site to accommodate major redevelopment without impacting upon the Fitzroy Gardens.

- The proposed design objectives and built form outcomes set out in DDO21 are not representative of nor appeal to the characteristics of the surrounding area.
- The emphasis of the amendment is biased towards sterilising development opportunities of the Hospital's land.
- DDO21 is flawed by its use of confusing, ambiguous and meaningless terms to describe the desired built form outcomes and design objectives.
- Mandatory nature of the proposed DDO controls is regressive on its approach, stifling in effect and will not serve any useful planning purpose in furthering the objectives of the Planning Scheme.
- The amendment is not consistent with the policies or detailed provisions of the Planning Scheme.
- Freemasons are disappointed by the approach taken in this case to introduce arbitrary planning controls which will only serve undermine the Hospital's future and threaten its ongoing viability as a provider of health care and hospital services to the community of Victoria.
- Most recent exercise was a comprehensive project which included redevelopment of the Hospital for residential purposes, notwithstanding its considerable merit, the project lapsed due to local community opposition.
- The hospital was also invited to participate in the development of the East Melbourne Built Form Review. The study recommended preferred building heights of up to 35metres stepping down to 12metres, the study did not propose that the limits would be mandatory.
- Disappointed with Council's decision to embark on this amendment in the face of an independent study that it commissioned and which concluded otherwise.
- The amendment takes a narrow and distorted view of the elements that make up East Melbourne and relies heavily upon the misplaced notion that the area is of low scale, residential in character and intact.
- It ignores the existence of the institutions, the prominence of existing institutional buildings, proximity to parkland, major thoroughfares and the central city.
- The amendment will unreasonably limit the prospects of the Hospital in the future particularly in terms of its redevelopment potential and the opportunity to maintain a viable, working and modern community Hospital in East Melbourne.
- Believe that for as long as the site is included in a Public Use Zone under the Melbourne Planning Scheme, there should be no height limit and no DDO applicable to any part of the Hospital's property.

What changes, if any, has the submitter requested?

Removal of the Freemasons Hospital from the amendment – no height limit and no DDO should be applied to the hospital's land for as long as the site is included in a Public Use Zone. Change mandatory nature of control which is considered to be regressive on its approach, stifling in effect.

Is the planning authority willing to make the changes requested?

No.

There is likely to be some development pressure for this land into the future. It is considered appropriate that the planning scheme give some direction to the owner of the site and the wider community about the form of development which the Council considers appropriate in this location.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 17

<i>Submitter:</i>	Barry Reaper Chief Executive Officer Grand Lodge Holding Limited PO Box 154 EAST MELBOURNE VIC 3002
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<i>Location that Submission relates to:</i>	Freemasons Hospital Clarendon Street North-east corner of Clarendon Street & Albert Street DDO21 Area 1
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Summary of Submission:

- The introduction of mandatory building heights over the Freemasons Hospital land is unnecessary and will unreasonably impede the potential use and development of the land for either Hospital or other purposes in the future.
- Use of mandatory height limits is contrary to accepted planning practice and odds with the directions set by the VPPs and criticisms directed at the Council arising from other planning scheme amendments in recent times.
- Proposed controls have been artificially derived without any regard for their impact upon the present operations or future of the Hospital land, the view of major stakeholders or the outcomes of the Built Form Review.
- The amendment is representative of the views of a small group of vocal residents motivated by self interest and a desire to prevent any further development in East Melbourne and to remove institutions such as Freemasons Hospital from the area.
- The amendment is misconceived in its analysis of the character of the East Melbourne area.
- There has been no justification given as to the basis for the proposed building heights, design objectives or built form outcomes described in the amendment. The focus of the amendment appears to generally limit new development to the height of existing buildings and direct the scale of any infill to be consistent with the low rise residential form.
- The amendment will not implement the objectives and strategies of the State or Local Planning Policy Framework of the Melbourne Planning Scheme.
- The amendment is draconian in their effect and counter productive to the achievement of proper and orderly planning of the East Melbourne area.
- The manner in which the amendment was contrived, the lack of transparency and the haste with which the Council moved to bring about these significant changes without consultation causes our organisation major concerns about the Council's interest and motivations in the area and its regard for institutions.
- Maintain a strong objection to the amendment with a preference that the amendment be abandoned in its present form.
- A height limit and no DDO should apply to the Freemasons Hospital whilst it remains in a Public Use Zone.

What changes, if any, has the submitter requested?

Removal of the Freemasons Hospital from the amendment – no height limit and no DDO should be applied to the hospital's land for as long as the site is included in a Public Use Zone. Change mandatory nature of control which is considered to be regressive on its approach, stifling in effect.

Is the planning authority willing to make the changes requested?

No.

There is likely to be some development pressure for this land into the future. It is considered appropriate that the planning scheme give some direction to the owner of the site and the wider community about the form of development which the Council considers appropriate in this location.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 18

Submitter:	Phillip Borelli Director SJB Planning 25 Coventry Street SOUTHBANK VIC 3006
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Location that Submission relates to:	Mercy Hospital 126-158 Clarendon Street, 134-188 Gipps Street & 141-161 and 94-108 Grey Street DDO21 Area 2 and 3
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Summary of Submission:

- Act on behalf of the Sisters of Mercy Property Association, owner of the Mercy Hospital complex.
- Oppose the amendment in its current form.
- The amendment is unnecessary, having regard to the heritage overlay and planning policies that already apply.
- The proposed height controls are inconsistent with the recommendations of the Hassell report.
- Proposed height control would unreasonably affect the future development potential for the hospital having regard to the existing built form character of the site and the neighbourhood.
- Proposed height controls and design objectives fail to have regard to the existing buildings that occupy the land and to important planning policies that seek to promote sustainable development, including the retention and/or recycling existing buildings.
- Height controls proposed would not achieve any worthwhile planning objective or practical outcome.
- Mandatory rather than discretionary height controls are contrary to the VPP.
- As it affects the Mercy Hospital the amendment is unnecessary and should be abandoned.

What changes, if any, has the submitter requested?

Removal of the Mercy Hospital from the amendment – no height limit and no DDO should be applied to the hospital's land.
Change mandatory nature of control which is considered to be contrary to the VPP.

Is the planning authority willing to make the changes requested?

No.

There is likely to be some development pressure for this land into the future. It is considered appropriate that the planning scheme give some direction to the owner of the site and the wider community about the form of development which the Council considers appropriate in this location.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 19

Submitter:	Heathcote McMichael Wright 10/58 Clarendon Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	58 Clarendon Street DDO21 Area 5
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Summary of Submission:

- Submitter is the body corporate which administers the property situated at 58 Clarendon Street.
- The existing building was constructed in about 1973 and has a height of approx 40 metres.
- Proposed amendment would therefore prohibit all buildings and works at or to the existing building above a height of 12 metres.
- The prohibition would extend to all renovations, both internal and external, repairs and routine maintenance work including painting.
- The amendment is contrary to the fundamental objectives of the Planning and Environment Act 1987 “to provide for the fair, orderly, economic and sustainable use and development of land”.
- Has no strategic planning basis.
- Does not further any policy set out in the SPPF, the LPPF or the MSS contained in the Planning Scheme.
- Is contrary to a number of policies in the Planning Scheme.
- Is contrary to all motions of proper planning.
- Makes illegal a number of activities which are currently legal and which property owners have a reasonable expectation of engaging in.
- The height limit should be set no lower than the height of the existing building at 58 Clarendon Street.

What changes, if any, has the submitter requested?

A height control of no less than 42 metres, which is the height of the existing building at 58 Clarendon Street.

Is the planning authority willing to make the changes requested?

No.

The proposed DDO includes a paragraph which may partially address the concerns of this submitter. This paragraph relates to granting a permit to replace or alter a building or works existing at the approval date but which do not comply with the Maximum Building Height if the responsible authority is satisfied an increased height improves the amenity and enhances the urban character of the area.

It is highlighted that in response to Submission # 15 the planning authority supports changes to the wording of this clause.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 20

Submitter:	Body Corporate No. 4166 c/- Mr Egan Smith ECS Property Group 14 Floor, 500 Collins Street MELBOURNE VIC 300
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Location that Submission relates to:	
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Summary of Submission:

<ul style="list-style-type: none">• Submitter is the body corporate which administers the property situated at 58 Clarendon Street.• The existing building was constructed in about 1973 and has a height of approx 40 metres.• Proposed amendment would therefore prohibit all buildings and works at or to the existing building above a height of 12 metres.• The prohibition would extend to all renovations, both internal and external, repairs and routine maintenance work including painting.• The amendment is contrary to the fundamental objectives of the Planning and Environment Act 1987 “to provide for the fair, orderly, economic and sustainable use and development of land”.• Has no strategic planning basis.• Does not further any policy set out in the SPPF, the LPPF or the MSS contained in the Planning Scheme.• Is contrary to a number of policies in the Planning Scheme.• Is contrary to all motions of proper planning.• Makes illegal a number of activities which are currently legal and which property owners have a reasonable expectation of engaging in.• The height limit should be set no lower than the height of the existing building at 58 Clarendon Street.

What changes, if any, has the submitter requested?

A height control of no less than 42 metres, which is the height of the existing building at 58 Clarendon Street.
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Is the planning authority willing to make the changes requested?

<p>No.</p> <p>The proposed DDO includes a paragraph which may partially address the concerns of this submitter. This paragraph relates to granting a permit to replace or alter a building or works existing at the approval date but which do not comply with the Maximum Building Height if the responsible authority is satisfied an increased height improves the amenity and enhances the urban character of the area.</p> <p>It is highlighted that in response to Submission # 15 the planning authority supports changes to the wording of this clause.</p>

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 21

Submitter:	Dan Kolomanski PCH Melbourne Pty Ltd 36 Clarendon Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	178-226 Wellington Parade 36 Clarendon Street DDO21 Area 4 & 6
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Summary of Submission:

- PCH Melbourne Pty Ltd is the owner of land in East Melbourne including the Hilton Hotel and Mosspennoch House.
- The amendment is lacking in strategic justification and is contrary to the recommendations made by experts employed by Council to specifically address this matter.
- Oppose the amendment on the basis that:
 1. For the key redevelopment sites the Council has ignored the recommendations of the Hassell report and substituted the Hansen Partnership recommendations which were not a part of the extended consultation process.
 2. Maximum height limits proposed to be introduced do not provide flexibility to facilitate creative design solutions.
 3. Maximum height limits do not give due regard to the importance of the land along Wellington Parade as part of the boulevard entry to the Melbourne CBD.
- 1. The current proposal for the redevelopment of the MCG Hotel site has been designed to provide an appropriate response to the complex urban design context. Under the controls proposed as a part of this amendment the proposal would be prohibited.
- 2. The prohibition of the development means that the adjoining boundary wall, acknowledged as an eyesore and vast unbroken mass, will remain largely exposed and visible to the public travelling east along Wellington Parade.
- 3. Implementation of such low maximum building height will by necessity encourage full site coverage to enable sufficient floor space outcomes to be achieved. This is likely to impact on the quality of development or ensure that any redevelopment does not occur.

What changes, if any, has the submitter requested?

Whist strongly opposing the amendment this submitter has not explicitly requested any changes in the submission.

Is the planning authority willing to make the changes requested?

No.

It is noted that on 16 December 2004 the Minister for Planning approved Melbourne Planning Scheme Amendment C101, which allows for the comprehensive redevelopment of the whole of this submitters land holding. Amendment C101 also makes the Minister for Planning the responsible authority for administering and enforcing the scheme for this land. This approval overrides the existing height controls of the planning scheme and subject to the time limits on the approval it also overrides any proposed height controls.

Notwithstanding that there is now an approval in place for the comprehensive redevelopment of this land the Council still needs to consider this submission.

The amendment expresses the planning authority's position about the form of development which it considers appropriate in this location.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 22

Submitter:	Brendan Sullivan 4 Ledbury Court TOORAK VIC 3142
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Location that Submission relates to:	126 Wellington Parade DDO21 Area 7
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Summary of Submission:

- Existing building is a 7 storey building (22 metres high) with a permit for a further 2 storey of 6 metres.
- Reasons for the objection to amendment:
 1. Reduction in value of property due to new proposed height limit.
 2. Buildings in immediate vicinity including 112 Wellington Parade and 1 Powlett Street are above the height of 126 Wellington Parade
 3. Existing building already surpasses proposed new maximum height.
 4. The singling out of specific building and reducing height limits causes inconsistency and ad hoc development.
- Please remove 126 Wellington Parade from Area 7.
- The proposed amendment will have a severe detrimental effect on the value of 126 Wellington Parade.

What changes, if any, has the submitter requested?

Removal of 126 Wellington Parade from the amendment – no height limit and no DDO should be applied to this site.

Is the planning authority willing to make the changes requested?

No.

The amendment expresses the planning authority's position about the form of development which it considers appropriate in this location.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 23

Submitter:	Lois and Nik Iljin 135 George Street EAST MELBOURNE VIC 3002
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Location that Submission relates to:	Rear 126 Wellington Parade DDO21 Area 7
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Summary of Submission:

<ul style="list-style-type: none">• Owners of 135 George Street, adjoins proposed area 7.• Agree with stated objectives in the review.• Two main concerns:<ol style="list-style-type: none">1. 126 Wellington Parade (Coach House) has been excluded from this review, would like to ensure that this existing building, should it be considered for re-development that it be contained within the existing envelope and not exceed the existing wall and roof heights.2. 126 Wellington Parade should be redesignated as ‘any development is consistent with the prevailing 1-2 storey residential and heritage buildings in the area’. This area is quite narrow and any development exceeding these surrounding buildings would be inappropriate and intrusive.
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What changes, if any, has the submitter requested?

Minor change to the Built Form Outcome “Development is consistent with the 1-3 storey heritage buildings in the area” to refer to 1-2 storey buildings, rather than 1-3 storey buildings.

Is the planning authority willing to make the changes requested?

No. The heritage buildings within the East Melbourne do vary between 1 and 3 storeys in height, hence the wording accurately characterises the area.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 24

Submitter:	Hugh Paton 4 Isabella Grove HAWTHORN VIC 3122
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Location that Submission relates to:	North east corner Wellington Parade and Powlett Street - Address not specified DDO21 Area 7
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Summary of Submission:

- Object to the proposed Amendment C93 and request that the amendment be abandoned.
- Any amendment should seek a consistency in building heights that approximately relate to the existing scale of buildings along Wellington Parade.
- The recommendations do not accurately record the Wellington Parade profile as it now is and much of the appraisal criteria is not applicable.

What changes, if any, has the submitter requested?

Removal of north east corner Wellington Parade and Powlett Street from the amendment – no height limit and no DDO should be applied to this site.

Is the planning authority willing to make the changes requested?

No.

The amendment expresses the planning authority's position about the form of development which it considers appropriate in this location.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 25

<i>Submitter:</i>	Kerrie Homan Melbourne Water 100 Wellington Parade EAST MELBOURNE VIC 3002
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<i>Location that Submission relates to:</i>	DDO21 Area 7 100 Wellington Parade
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Summary of Submission:

Melbourne Water has no objection to the amendment and does not wish to appear before any subsequent Independent Panel on this matter.

What changes, if any, has the submitter requested?

No changes requested.

Is the planning authority willing to make the changes requested?

No changes requested.

MELBOURNE PLANNING SCHEME AMENDMENT C93

SUBMISSION NO: 26

Submitter:	JD Hurren General Manager Catholic Development Fund PO Box 174 EAST MELBOURNE VIC 8002
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Location that Submission relates to:	96 Wellington Parade DDO21 Area 7
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Summary of Submission:

<ul style="list-style-type: none">• The CDF is the owner and occupier of 96 Wellington Parade.• The CDF objects to the proposed amendment. It is considered that 24 metres is the appropriate height for this site, the CDF building has an overall height of just over 21 metres.• The building to the rear is occupied by the taller Melbourne Water, any additional height would have no impact on residents to the north.• No reason to discriminate between the land to the west of Powlett Street and that to the east.• The existing building is not excessive in scale as it relates to Wellington Parade, nor would any additional height to 24 metres be appropriate.

What changes, if any, has the submitter requested?

That the height limit for DDO21 Area 7 be altered from 14 metres to 24 metres.
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Is the planning authority willing to make the changes requested?

No.
The amendment expresses the planning authority's position about the form of development which it considers appropriate in this location.

FINANCE ATTACHMENT

**MELBOURNE PLANNING SCHEME AMENDMENT C93: EAST MELBOURNE
BUILT FORM REVIEW**

There are no financial implications for Council at this time.

Joe Groher
Manager Finance Services

LEGAL ATTACHMENT

MELBOURNE PLANNING SCHEME AMENDMENT C93: EAST MELBOURNE BUILT FORM REVIEW

Divisions 1 and 2 of Part 3 of the *Planning and Environment Act 1987* (“the Act”) set out the required process for amending a planning scheme. This includes exhibition, giving notice of the proposed amendment, receiving public submissions and the appointment of a panel to hear submissions in relation to the proposed amendment.

Section 23 of the Act provides that after considering a submission which requests a change to the amendment the planning authority must either change the amendment in the manner requested, abandon the amendment or part of the amendment or it can refer the submissions to a panel appointed in accordance with Part 8 of the Act.

That Part provides amongst other things that the Minister must appoint a panel which may consist of one or more persons. The Minister also has the power under the Act to require additional notice and the consideration of additional submissions after the amendment is submitted.

The Minister may then approve the amendment or part of the amendment with or without changes subject to any conditions it wishes to impose. The Minister may also refuse the amendment. If approved, the Minister must publish notice of the approval of the amendment in the Government Gazette and Council must also provide notice of the approval in a manner satisfactory to the Minister.

The amendment will come into operation on publication of the notice in the Government Gazette or on the later day or days specified in that notice.

Instrument of Delegation

On 16 December 2004 the Council resolved to delegate to the Planning and Environment Committee the power, duties and functions directly relating or ancillary to Statutory Planning.

Alison Lyon
Manager Legal & Governance