

## **SUBMISSIONS TO INDEPENDENT PANEL**

### **AMENDMENT C60 to the MELBOURNE PLANNING SCHEME**

**On behalf of**

#### **COALITION OF RESIDENTS ASSOCIATIONS**

##### **A. Background**

1. The Coalition of Residents Associations is an informal coalition of residents associations active in the Melbourne municipality. It comprises the Parkville, North and West Melbourne, Carlton, Kensington, Southbank, South Yarra and East Melbourne Associations, together with EastEnders and Residents 3000 representing groups of residents within the CBD.
2. The associations have a detailed knowledge of their individual areas and the communities that reside in them. They also include members with professional expertise in architecture, planning and planning law. All of the associations are aware of the wider strategic context of municipal and State planning and are seeking to achieve appropriate planning outcomes for the city including protection of its heritage assets and “liveability” for existing and future residents.
3. The Coalition participated extensively in the processes leading up to Amendment C20 to the Melbourne Planning Scheme which reviewed and revised Design and Development Overlays over a large part of the Melbourne municipality. Amendment C20 was gazetted in December 2002 and is an important development since the 1999 MSS, of which the Exhibited MSS must take account.
4. While we concede that Amendment C20 was a review of built form, with a view to determining maximum heights and other built form outcomes in the C20 areas, the amendment had a significant strategic component. This was inevitably so, because the driver of the review was not any need or desire to alter built form

*per se*, but the need to accommodate the growth or expansion of uses which it was considered necessary or desirable to encourage in a municipality whose footprint is already fully developed. Given existing development densities in the inner urban areas, which are ‘high density’ on the horizontal plane, the primary means of accommodating growth is by imposing new over old at a higher scale, which threatens to destroy the valued heritage character of inner Melbourne’s built form.

5. Amendment C20 sought to reconcile the tension between growth and preservation by identifying areas whose existing heritage character and low scale must be maintained to preserve the city’s heritage assets, and other ‘transition’ areas which were suitable to undergo ‘built form transformation’ from existing 2-3 storeys to 4-6 storeys or higher as specified in the relevant DDO. The heights specified for the transition areas were determined in part by perceptions of ‘city structure’ – e.g. city fringe areas being ‘stepped down’ in height from the CBD as a transition to the lower-scale residential/heritage areas and Elizabeth Street acting as a ‘major civic spine’ – but also (and often chiefly) by reference to the anticipated character of the uses it was projected to accommodate – e.g. institutional ‘education, research and development’ uses in South Carlton, where built form and existing heritage considerations would otherwise dictate a significantly lower scale.
6. With three or four controversial exceptions where the then Department of Infrastructure unilaterally imposed outcomes at odds with the submitted form of the amendment, Amendment C20 reflects an agreed gameplan for the future character of areas covered by the Amendment in which strategic projections about growth (or lack of) and anticipated land use were implicit.
7. Broadly speaking, the growth needs for which C20 made provision in CBD fringe areas was in three categories – (a) residential, in line with policy encouragement of urban consolidation and re-populating the municipality; (b) institutional, to accommodate education research and development activities considered to be of State significance; and (c) commercial and service activities. These formed the strategic skeleton upon which the built form recommendations in respect of transition areas were shaped.

8. Category (b) played a large role in Carlton; category (c) in the city fringe 'mixed use' areas of Carlton and West Melbourne; and category (a) exerted pressure wherever the heritage character of an area was not considered to be of such conclusive importance as to over-ride other considerations (i.e. anywhere outside the areas to which mandatory height limits apply under the DDOs).
9. The Coalition is concerned that, notwithstanding advice from Council Officers that the Exhibited MSS is intended to be consistent with Amendment C20, there is some inconsistency between the Strategic Framework Plan in Figure 5 of the Exhibited MSS (and the text which refers to it) and the land use assumptions and built form objectives of Amendment C20. These will be detailed in submissions from the individual associations, following this overview.
10. The Coalition is also concerned that there are other mis-matches between the strategy set out in the Exhibited MSS and zone and overlay controls to which no change is currently proposed, resulting in confused messages which would be likely to translate into poor planning outcomes.

**B. Framework for assessing the Exhibited MSS**

11. The Strategic Assessment Guidelines for Planning Scheme Amendments (General Practice Note No.2001) at page 2 refers to 'the need to ensure that there are clear linkages between the MSS and the application of zones, overlays, schedules and policies' to ensure transparency of both policy and process.
12. The Explanatory Report claims, among other things, that the Exhibited MSS provides:
  - Clearer expression of the strategic role of local areas across the municipality regarding their contribution to Melbourne's function as a capital city and their capacity to accommodate changes in land use and built form;
  - Clearer expression of the residential amenity expectations of the Capital City and Mixed Use Zones.
  - Clearer expression of the relationship between Melbourne's heritage, city structure and desired future built form.

13. The Coalition wishes to draw the Panel's attention to significant deficiencies and confusions in each of these matters which require the Exhibited MSS to be amended.

**C. Linkages between MSS and the application of zones, overlays, policies and schedules**

14. Before considering particular areas and strategies, it is useful to analyse the concept of "mixed use" in the Exhibited MSS. In Clause 22.03-1, in the second bullet point under the heading 'strategic response' (p.11 of 75), the following statement appears:
15. Throughout the MSS the term 'mixed use area' has been used to describe the outcome that is sought rather than a specific zone.
16. This is a frank admission that other zones – e.g. Residential 1 – may be included in 'mixed use areas' for the purposes of the MSS. This is born out by Figure 5 (Strategic Framework Plan) where parts of Carlton and North Melbourne which are zoned Residential 1 are included in the category of 'Mixed Use Areas'.
17. Apart from the confused signals created by the mismatch between 'the outcome that is sought' (mixed use) and the zone controls which encourage a different outcome (predominantly residential use), the updated 'Discretionary Uses in the Residential 1 Zone' policy does not promote mixed use in Residential 1 zones in that its objectives are:
- *To facilitate non-residential uses in residential areas only where they are compatible with the residential character and amenity and serve the needs of the local community; [and]*
  - *To discourage non-residential uses that have a negative impact on residential amenity or would be more appropriately located within Mixed Use or Business Zones.*
18. Despite this policy protection for residential amenity in a Residential 1 Zone, the Amenity Framework in Table 2 under Clause 21.03-1 (page 11 of 75) distinguishes between areas that are 'Predominantly Residential' (where the only

other allowable uses are those that support the residential community and serve a local role and non-residential uses must minimise impacts on residential amenity) and ‘Mixed use and other areas with housing and a range of other uses’ (where uses will vary ‘as per Strategic Framework Plan’ [i.e. Figure 5] and design and management techniques to minimise impacts on residential amenity may or may not be required).

19. To cap it all off, Figure 5 is annotated ‘This Plan is indicative only and is not meant for statutory purposes’.
20. The attempt in the Exhibited MSS to de-couple ‘Mixed Use Areas’ from the ‘Mixed Use Zone’ thus creates a totally confusing position for anyone attempting to discover clear planning objectives for Residential 1 zoned land in a ‘Mixed Use Area.’
21. By interaction of the various statements and policies, it also creates an apparent array of sub-categories whose statutory status (based on Figure 5) is inherently uncertain:
  - Residential 1 zone which is also ‘Predominantly Residential’ for strategic purposes (which the Discretionary Uses Policy will protect by discouraging non-residential uses if incompatible, not serving ‘local’ needs or better suited to a Mixed Use zone);
  - Residential 1 zone in a ‘Mixed Use Area’ (which appears somehow to have less amenity protection, although the zone and policy situation is identical to the above);
  - Pocket Areas within the Residential 1 Zone which are in close proximity to mixed use areas or other areas (see row 2 of Table 2) where amenity will vary ‘as per Strategic Framework Plan’?? (again although the zone and policy situation is identical to the above); and
  - Mixed Use zone in a Mixed Use Area, which is the only sub-category in relation to which the strategic objectives are clear.

22. This is indicative of a confusion which pervades the Exhibited MSS in relation to residential and 'mixed' land use, which is further compounded by the built form outcomes sought by the DDOs.

**D. Residential Uses in the Exhibited MSS**

23. In the existing MSS 'Housing Opportunities' are set out in Map 7 which distinguishes clearly between areas designated for "growth" and those deemed to be "existing stable".

24. The equivalent map in the Exhibited MSS is Figure 8 "Housing and Residential Development", but this no longer distinguishes between projected growth areas and stable areas. Instead, the Map simply portrays three descriptive outcomes: "Predominantly residential areas", "areas where housing will occur in an environment of mixed use" and "Small residential pockets" which are represented in the Figure (and in figure 5) within "areas where housing will occur in an environment of mixed use".

25. This means that there is no reflection in the Map of the strategic underpinnings of the built form objectives for different areas developed as part of Amendment C20, based on the identification of some areas as "growth" areas and others as stable residential environments in which high priority is to be given to preserving existing character and heritage built form.

26. We consider it appropriate for the exhibited Figure 8 to reflect these different strategic outcomes as the existing MSS does.

27. Moreover, the "small residential pockets" in Figure 8 are areas currently zoned Residential 1. By including them within the boundaries of the "areas in which housing will occur in an environment of mixed use", the map shifts their strategic emphasis in a direction contrary to the objectives of the zone. In conjunction with Table 2, it also lessens the amenity expectations that residents in such areas are entitled to have. Nevertheless, we are advised by Council officers that there is no intention to seek a re-zoning of these areas

28. Although the Mixed Use Zone is part of the suite of residential zones, the converse is not true: a Residential 1 Zone does not encourage mixed use, except on the very limited terms set out in the revised Discretionary Uses in the Residential 1 Zone policy where priority is given to residential amenity, the needs of the local area and uses not compatible are encouraged to locate in a Mixed Use or Business zone.
29. This is part of the confusion delineated in section C of these submissions, arising from application of the term 'mixed use areas' to areas which are zoned Residential 1.
30. Residents in a Residential 1 area naturally expect that town planning strategy will reflect the main purpose of the area as residential. They also have a legitimate expectation that such zoning (and the outcomes it ensures) are unlikely to change except in exceptional circumstances, which is presumably why no zone change is planned in the present instance.
31. In Figure 5 of the Exhibited MSS (Strategic Framework Plan) the 'small residential pockets' are entirely subsumed into larger 'mixed use areas' and are not distinguished from areas falling within the Mixed Use zone.
32. Apart from the Residential 1 zones, some areas which are currently zoned Mixed Use under the present MSS (and fall within 'mixed use areas' in Figure 5 in the Exhibited MSS) were encouraged to become predominantly residential and were to be re-zoned upon such conversion.
33. In particular, Map 7 Housing Opportunities in the current MSS shows the Courtney St area and the Bulla Cream area site in North Melbourne as falling within the "growth" areas for housing. In both of these areas conversion to residential use has substantially occurred or is under construction.
34. Part 2 of the existing MSS (p98) and sub-headed "Maintaining Residential Amenity" states that:
35. *As new residential areas are developed within the Mixed Use Zone, these will be re-zoned Residential 1.*

36. Where conversion has occurred the future strategy should be consistent with this promise and not effectively reverting the area to mixed use and compromised amenity.

37. **Amenity - General**

38. A key objective for the Coalition is the importance of ensuring high amenity levels for all residential uses, both new and existing, in the residential suite of zones (which include Mixed Use and Residential 1). The Coalition does not consider that there is a consistency in the expected levels of residential amenity carried over from the previous MSS. A high level of conversion to residential use has occurred in certain Mixed Use Zone areas in the expectation of levels of residential amenity specified or implied in the current MSS.

39. Aim 4.5 of the current MSS is:

***To make Melbourne even more liveable by improving amenity, safety and access***

40. To make the city an attractive alternative to other locations for living, studying, working or visiting, there must be a high order of residential amenity, streetscape attractiveness, access to facilities such as parks, recreation options and perceptions of safety.

41. Outcome 4.5.1 is as follows:

- *A high standard of amenity in the City:*
- *To contribute to this, Council will:*
- *When considering new development or uses, give priority consideration to residential amenity and character in residential and mixed-use zones.*

42. The equivalent statement in the Exhibited MSS at page 10 states:

43. The level of residential amenity achievable in the municipality, especially in the mixed use areas and the Central City and Docklands will be different from that achieved in the middle ring suburbs.

44. The comparison with the middle ring suburbs is unhelpful, and taken in conjunction with the fact discussed above that ‘mixed use areas’ includes some Residential 1 areas and Mixed Use Zones previously encouraged to become residential, represents a major policy shift away from the protection and enhancement of residential amenity in the inner city. The coupling of ‘mixed use areas’ (as broadly defined) with the Central City and Docklands in terms of limitations on amenity expectations is particularly concerning, given the 24-hour operation of the latter and the differences in built form and activity between those areas and the ‘mixed use areas’.
45. Prior to Amendment C20, Clause 22.13 *Development and Land Use in the Mixed Use Zone* provided guidance on amenity in the Mixed Use Zone.
46. Amendment C20 amended the title of the Policy to *Land Use and Activities in the Mixed Use Zone* and deleted the following urban form principle (we believe unintentionally):
47. Development should not cause a significant loss of amenity to any nearby or adjacent dwellings by way of overshadowing, overlooking or massing. It should not result in any significant loss of sunlight at street level in streets with high pedestrian use and adjoining residential properties between 11 am and 2 pm on 22 September or 22 March.
48. If the deletion was intentional, it was not among the matters highlighted as new policy under Amendment C20.
49. Amendment C60 now proposes to remove the remainder of the Clause 22.13 policy. If this occurs, the following amenity considerations under the heading of General Land Use Principles will be lost:
50. *A compatible and sustainable mix of residential and non-residential uses is encouraged, including ground level commercial and public activities in residential and institutional buildings.*
51. Non-residential uses should protect residential amenity from noise, light and odours emitted from the site and new residential development should be

designed to protect its occupants from external noise and not unduly prejudice the operation of surrounding non-residential uses.

52. *Land use should not unduly impact on traffic conditions or on-street parking in the locality.*
53. Although the text under ‘Strategic response’ is shown in the annotated MSS provided by the Council to assist the Panel as ‘change to wording but no major change in direction or concept’, the change in wording does in fact represent a major change in direction from the previous MSS (as well as leading to confusing outcomes). Once again, insufficient attention has been drawn to the loss of these general protections of residential amenity in the mixed use zone.
54. For example, the requirement for a high level of residential amenity (internal and external) and for non-residential uses to adopt stringent design and management techniques to minimise their impact on residential amenity (fourth dot point under “Strategic Response”) is limited to the ‘predominantly residential’ and ‘pocket residential’ areas.
55. ‘Where housing occurs in areas with *(sic)* a variety of uses are being encouraged’ [which technically could include Residential 1 land in ‘mixed use areas’], the third dot point limits the amenity requirements to the **internal** amenity of new **residential dwellings**, and provides that any requirements to be imposed on non-residential uses will ‘vary depending on the area and its strategic role as expressed in the Strategic Framework Plan’. The latter (Figure 5) has nothing to say on the point. Table 2 ‘Amenity Framework’ confuses the issue with respect to mitigation of impacts of non-residential uses on residential by distinguishing between areas with a ‘capital city function’ – where mitigation will not ‘automatically’ be required – and those where the mix is ‘local’, where non-residential uses will have to adopt ‘design and management techniques’.
56. The second dot point under ‘Strategic Response’ claims that the planning scheme ‘contains strategies that clearly outline the role, amenity standards and context for both residential and non-residential uses’ in the various areas. This clarity cannot be found.

57. To demonstrate the confusion with respect to North Parkville. In Area 8 where residential development is supported ‘within a context of educational, research and limited business uses’, the general strategy is to ‘discourage office and commercial uses not associated with research or education use...and encourage residential and education uses ***that are compatible with residential amenity***’ (see, for example, Cl.21.05-2 Institutions). Despite the fact that ‘compatibility with residential amenity’ is specified as a condition of future development of non residential uses, the strategies under Cl.21.05-4 Housing and Residential Development state that –
58. *Residential development must be designed and constructed to minimise amenity conflicts with commercial activity and is to incorporate measures to create a reasonable residential amenity given the preferred long term use of this area;[and]*
59. *The same level of amenity in regard to noise and activity cannot be expected as would be expected by residents in residential areas that are distant from non-residential uses.*
60. This does not create a clear level of amenity expectation. The picture is far more confused in North and West Melbourne and Carlton, where the range and intensity of mixed use is greater and the concept of what constitutes ‘distance’ from non-residential uses sufficient to maximise amenity expectations is unexplored.
61. In the context of the strategic encouragement of residential intensification throughout the municipality, the Coalition further considers that it is not appropriate for the MSS to erode reasonable standards of residential amenity even within high-density 24-hour areas such as the CDB and Docklands. If residential uses are to be encouraged in those areas, residents are entitled to expect a reasonable standard of amenity. The disclaimers included in the Exhibited MSS by-pass the concept of ‘reasonableness’ and fail to provide any substitute baseline standard to which residents may appeal in the context of incompatible development.

**F. Amenity – Sunlight, Overlooking, Overshadowing etc**

62. As noted above, prior to Amendment C20, Clause 22.13 *Development and Land Use in the Mixed Use Zone* provided direct guidance with respect to impacts such as overlooking, overshadowing and massing within the Mixed Use Zone.

63. Despite the deletion of that provision and the proposed compromises to amenity standards as set out above, each local area strategy under Clause 21.05-4 states that:

*High standards of residential amenity with respect to residential building design and construction (including sunlight, overlooking and shadowing, noise) will be sought.*

64. While this statement is welcome, it raises three concerns. Firstly, it is unclear whether these high standards refer to impacts of new development on existing residential uses or to the amenity of the development; secondly, it is quite unclear what performance measures will be applied; and thirdly, it appears that non residential buildings are not required to meet these standards.

65. Although in the residential suite of zones these matters will frequently fall to be dealt with by ResCode, the scale of built form which may be expected in the Mixed Use Zones may not be covered by ResCode provisions, which are limited to buildings up to 3 storeys. Existing low scale buildings within the mixed use zone are therefore especially vulnerable in the face of adjacent development of 4 storeys or more, where the potential for detriment is so much greater than for development of 3 storeys or less.

66. Although the DSE are currently producing guidelines for residential buildings over 4 storeys, it is unknown whether these guidelines will contain any measures for such amenity impacts. It is also assumed that the guidelines will not be applicable to non-residential buildings, even though such buildings may produce similar amenity impacts and are of particular concern given the proposed breadth of the ‘mixed use areas’.

67. The City of Port Philip has had in place for a number of years, a local policy dealing with amenity impacts of buildings above 3 storeys. Local Policy 22.06, Urban Design Policy for Non-Residential Development and Multi-Unit Development, includes a performance measure no. 5 as follows:

- *There is not a significant loss of daylight to existing habitable rooms(excluding service areas) in nearby properties.*
- *Main living room windows on existing or nearby residential properties are not significantly overshadowed*
- *Private or communal open space proposed as part of a new development is able to receive a minimum of four hours of sunlight between the hours of 9am and 3pm on 22 September (the equinox).*

68. In addition, several inner city councils [Yarra, Moreland and Moonee Valley] have produced and exhibited Planning Scheme Amendments for their own guidelines for such developments. The City of Moreland with *Design Guidelines for Buildings Over Three Storeys*, have exhibited a measure for overshadowing as follows:

#### **69. 4.5 SUNLIGHT ACCESS**

##### *Objectives*

*To ensure adequate sunlight into secluded private open space and onto the main living room windows of new dwellings.*

#### **70. Design Standards**

- *In Business and Mixed Use Zones private outdoor spaces and main living room windows should receive at least 50% direct sunlight for at least 5 hours between 9am and 3pm on 22 September each year.*
- *In Residential 1 Zone private outdoor spaces and main living room windows should receive at least 75% direct sunlight for at least 5 hours between 9am and 3pm on 22 September each year.*

71. The Coalition concludes there is a gap in the City of Melbourne policy framework both at the strategic level and the detailed policy level to address this issue, and that this is especially acute in the context of amendments to Clause 22.13. We note that Council’s ‘Summary of Submissions and Council Response’ tabled at the Panel on Monday concedes this gap and undertakes to resolve the issue prior to the adoption of the Amendment.
72. The only decision-guidelines relevant to amenity in the Mixed Use Zone apply to the establishment of industry and warehouse uses, where a decision-maker must consider:
73. The likely effects, if any, on the neighbourhood, including noise levels, traffic, air-borne emissions, emissions to land and water, light spill, glare solar access and hours of operation (including the hours of delivery and dispatch of materials and goods.)
74. While Cl. 19.03-2 of the Melbourne Planning Scheme has as one of its objectives that
75. *development should achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impacts on neighbouring properties* [our emphasis]
76. this objective is accomplished through the ResCode provisions at Clauses 53 and 54. Where these clauses do not apply – e.g. to buildings 4 storeys and above - Clause 19 sets out 10 design principles, none of which address amenity issues.
77. 59. The only remaining means by which a consideration of amenity impacts in mixed use areas could occur is the general decision-guideline at Clause 65 which enable a decision maker to consider (‘if appropriate’):
78. *The effect on the amenity of the area.*
79. Too little remains throughout the rest of the planning scheme to afford more than a passing glance at this requirement.

80. For this reason the Coalition supports the deletion of Table 2 and the formulation of stronger statements and performance measures with respect to protection of the amenity of existing residences and the level of amenity to be provided for new dwellings, with requirements to mitigate external amenity impacts to be imposed on non-residential as well as residential buildings.
81. In the case of high rise towers in areas such as Southbank and Docklands, the question of amenity is in many ways bound up with the separation distance between towers. This issue - and in particular, the question of whether a separation distance equivalent to the length of shadow at the midday equinox provides adequate amenity protection - is to be addressed by way of supplementary submission on behalf of Southbank residents.
- 82. Local Area Strategies – problems with format**
83. Before proceeding to further substantive issues, this may be the most opportune place at which to mention the extreme difficulty of forming a comprehensive picture of the strategies applying to an area and the priorities between them, arising from the way the Exhibited MSS is formatted.
84. The lay person, seeking to know the strategic objectives applicable to his or her area, might naturally expect to find these at Clause 21.03-2, which is headed ‘Planning for Local Areas’. However, more specific strategies for local areas are scattered throughout Clause 21.05 under the various land use headings, pages apart, and without cross-referencing, so that even the most assiduous researcher cannot be sure without the aid of an electronic word search that he or she has uncovered the full objectives for an area.
85. In addition, as exemplified by the example of North Parkville in the discussion of amenity, when cross-referenced the entries may be inconsistent or at the very least leave questions of priority unresolved.
86. In preparing this submission we have found ourselves frequently confused, having to cross-refer local-area specific strategies under different headings and trying to determine what the planning scheme actually desires in terms of strategic balance. As a clear expression of strategic objectives which strike a

balance between competing objectives is precisely the task of an MSS, we consider this to be a very serious deficiency.

**87. Institutional Uses and impact of Biotechnology**

*The extent of the area which may be impacted by the State Government's Biotechnology Strategy remains unknown. The Exhibited MSS flags impacts on Parkville, Carlton, and North Melbourne, apparently in line with Carlton 2010 (a reference document dealing with Carlton strategies).*

88. We note that Council in its “*Summary of Submissions and Council Response*” has indicated that it will redraw the biotechnology-related precinct along the south side of Flemington Road to coincide with ‘that shown in the local area plan, *Carlton 2010* and *City Plan 2010*’. This should be made clearer by both the text and the maps in the Exhibited MSS, Figure 5 of which represents the area as encroaching more significantly towards the residential hinterland of North Melbourne.
89. The encouragement provided to ‘*the establishment of activities and services related to Bio 21 on the south side of Flemington Rd*’ in the Exhibited MSS represents a shift from the housing growth in the area encouraged by the current MSS, although Figure 8 Housing and Residential Development continues to show this area as an area where housing will occur in an environment of mixed use.
90. Experience has taught that once institutional uses cross a major road, they spread like wildfire through adjacent residential areas, first ‘buying up’ the existing stock and then seeking to demolish and rebuild at a scale which is incompatible, and indeed confrontational, with the scale of existing uses. Carlton east of Swanston Street is an obvious case in point.
91. Although the scale of development on the south side of Flemington Road is subject to a Design and Development Overlay seeking to limit development to six storeys, the height limit under the DDO is not mandatory. Uses such as education, research and development often appeal to the fact that they are ‘Capital city functions’ and of State significance to justify very significant

departures from the built form outcomes sought by the DDOs. This is why they are perceived by residents as so threatening. It is not the nature of the uses that is of primary concern, but the fact that institutions typically manifest in a built form that destroys residential amenity, visual amenity and heritage and parkland values.

92. We are assured by Council Officers that it is not the intention of the Exhibited MSS to encourage large-scale institutional structures on the south side of Flemington Road, and that biotechnology-related uses in North Melbourne, Carlton and Parkville will typically be on a small scale compatible with the existing built form and/or built form objectives for the area.
93. We seek to have this expectation articulated in the MSS, in the form of encouragement of **small to medium scale** education, research and development uses, **compatible with the built form objectives for the area**. Although it could be said that these built form objectives already form part of the scheme such that the limitation is implicit, past experience suggests that built form considerations in such a context are readily over-ridden, unless the strategy encouragement itself is limited to a particular scale of use.
94. In conjunction with this, we seek much tighter expression of the areas within which these uses are to be encouraged. While the first of the 'Strategies for all areas' under C1.21.05-2 Institutions is to
- *Support the functioning and development of institutional uses identified on the Strategic Framework Plan, whilst minimising the impacts on important characteristics of the surrounding area such as built form, residential amenity and parkland values*
95. there are two additional objectives which are not expressed to be subject to these constraints. These are:
- *Support the clustering of hospitals and medical facilities and their continued operation and development in their current locations. [and]*

- *Support the establishment of complementary businesses (such as doctors' suites, medical clinics, health services and medical support services) in the areas surrounding hospitals and medical facilities.*
96. It is notable that these objectives are in conflict with the Discretionary Uses in the Residential 1 Zone Policy applicable in Residential 1 areas, which limit non-residential uses to uses serving the local community (not institutions with a Capital City function or other role).
97. Given that Parkville, North Melbourne, Carlton and East Melbourne all contain significant hospital and medical facilities, and that the interface between those facilities and surrounding residential areas is tense, the encouragement of complementary uses should be limited to **mixed use zones** in the vicinity of hospitals and medical facilities. Apart from the impact on residential amenity, so far as heritage protection and maintenance of local community is concerned, there is nothing more soulless than a heritage dwelling converted for medical uses.

## ***I. Heritage***

98. As noted in our initial submission to the Council, a detailed comparison of statements of support for heritage in the current and Exhibited MSS indicates that there has been a watering down of previously strongly stated protection objectives. For example, in the case of South Parkville, the current MSS states:
- South Parkville is one of the most intact 19<sup>th</sup> century residential areas in the City and is of national importance. Conservation of the area's heritage is the primary planning consideration in this area.*
99. With rather less enthusiasm, the Exhibited MSS states that '*South Parkville is an intact historic area considered to be of national importance*'. The reference to conservation of the area being '*the primary planning consideration*' has been deleted. Under '*strategic role*' there is an objective to '*support the residential communities of Parkville by maintaining the existing residential amenity and preserving the heritage and character of the area*', but this is one of four objectives applied to the now amorphous 'Parkville'.

100. Things are even worse in Carlton where the objective is *‘to maintain an attractive neighbourhood which **improves on** the highly valued heritage buildings and streetscapes and the amenity standards in the established residential areas’* [our emphasis].
101. Significantly, these statements are coded blue in the Annotated MSS – i.e. they are said be *‘change to wording but no major change in direction or concept’*. While it is true that they do not technically constitute a *‘major change in direction or concept’*, the dilution of support and the developer-speak of *‘improvement upon’* heritage certainly have the potential to deliver very different **outcomes** in a situation of contest where the degree of support given to the protection of heritage is in question.
102. Even *Clause 21.06-3 Cultural Heritage Places* does not contain strongly worded conservation objectives and, significantly, does not contain particular area strategies other than for the central city.
103. We note that Kate Shaw in her submission has arrived independently at a similar conclusion that cultural heritage is less protected under the Exhibited MSS than before.
104. The Council in its *“Summary of Submissions and Council Response”* states that it intends to undertake a detailed comparison between the exhibited and current MSS with a view to achieving a stronger focus on heritage and invites the Panel to make observations in this regard. While it is not possible to demonstrate the language shift in greater detail than the examples provided above, they are indicative of a general sea change.
105. The protection of heritage is one of the Coalition’s primary objectives and the source of many battles before the Victorian Civil and Administrative Tribunal. But for the past vigilance of the residents’ associations, many of the city’s most valued heritage assets would have been lost. This vigilance includes vigilance about subtle shifts in planning culture which weaken the statutory defences to demolition and modification. Melbourne is still a great Victorian city, but it will

only remain so if the Melbourne Planning Scheme enables heritage to withstand often intense development pressures. In this context, we seek the Panel's support for strongly worded conservation objectives and area-specific strategies to give strength and depth to the generalised objectives of *Clause 21.06-3*.

**106. POLICIES**

**J. Sunlight to Public Spaces Policy**

107. In the current *Cl 22.02 Sunlight to Public Spaces*, the general protection of sunlight to public spaces is achieved by reference to sunlight at the equinox between 11am and 3pm.

108. More intense protection is available in some instances as a result of the following 'policy basis':

*In the most intensively used public spaces, access to sunlight should be available all year round. This will be achieved by restricting overshadowing on the shortest day of the year, 22 June.*

109. The current policy thus appears to offer winter solar access to any public space which can be demonstrated to be '*intensively used*', although in practice the detail of the policy restricts its application to five specified locations.

110. The exhibited policy under the heading 'General' applies an equinox measure to public parks and gardens, major pedestrian routes and privately owned spaces, and shortens the time of protection from 11am-3pm to 11am-2pm. Council's submission suggests that this policy is largely unchanged, but the shortening of the time of protection is significant and unexplained.

111. The same five locations as before are subject to the winter solstice measure. However, instead of applying this on the basis that a public space is intensively used, the object of the policy is '*to protect and where possible increase the level of sunlight to public spaces during the times when the intensity of use is at its highest*'. Is this a reference to seasonality or time of day?

112. The Coalition believes that the existing policy basis must be retained to enable inclusion, not exclusion, of those areas which are intensively used, whether or not they are specified within the policy, and that the policy should include wording to the effect that the winter solstice measure is appropriate to any public space if the test of its being ‘intensively used’ can be met.
113. The Coalition believes that the Flagstaff Gardens, which the Master Plan describes as Melbourne’s most intensively used gardens, should be named in the policy for winter solstice protection. Other examples of spaces which the Coalition suggests are appropriate for winter solstice protection are the highly pedestrianised link between Melbourne University and Carlton along Faraday St/Swanston St and neighbourhood parks.
114. The Coalition considers that all year round solar access to public spaces is of particular importance to a city of increasing density.
115. It is noted that the City of Melbourne submission acknowledged that a previous panel supported the winter solstice measure for additional spaces, including the Flagstaff Gardens.
116. Further, it is noted that the City of Port Phillip’s *Local Policy 22.06 Urban Design Policy for Non-Residential Development and Multi-Unit Development* includes a performance measure no. 3 as follows:
- New development may meet the policy for light and shade if, as appropriate:*
117. It does not further overshadow public parkland (which is included in the Public Park and Recreation Zone) between the hours of 10am and 4pm on the 22 June (winter solstice) unless otherwise specified in a DDO.
118. The Coalition requests the Panel to consider whether it is open to the Council to adopt the winter solstice measure given that the proposal was exhibited as part of the new format Melbourne Planning Scheme and was favourably considered by the Panel appointed at that time, but for some reason not taken up.

### **Discretionary Uses in the Residential 1 Zone**

119. In the “Summary of Submissions and Council Responses” the Council has agreed to delete the following statement in response to the submission from the Property Council;

*To discourage non-residential uses that have a negative impact on residential amenity or would be more appropriately located within Mixed Use or Business Zones.*

120. The Coalition does not support the proposed deletion and believes that the Property Council has misunderstood and consequently mis-stated the import of the objective.

121. In its submission the Property Council says:

*Our interpretation of the MSS suggests that non-residential uses are being discouraged from industrial and mixed uses areas by increasing pressures on these zones due to an increasing residential mix that requires increased amenity, drives up local land prices and places stress on the entire community. This will ultimately result in a decline in unskilled and semi-skilled jobs in inner areas. It is going too far to require that non-residential uses be asked to demonstrate why they cannot relocate in a mixed use zone.*

122. It is illogical to suggest that non-residential uses which are unable to afford land or meet amenity demands in a mixed use zone would be seeking to locate in a Residential 1 zone where the prices and amenity pressures are higher. There also appears to be a misunderstanding that **existing** non-residential uses in a Residential 1 zone could be required to relocate. Even if the word ‘relocate’ should read ‘locate’ so that it refers to new uses, how can it be ‘going too far’ to ask a non-residential use that is ‘more appropriate’ to a mixed use zone to demonstrate why it is intent on locating in a zone which seeks to meet residential amenity and neighbourhood character objectives by discouraging non-residential uses that are not fully appropriate?

123. The Coalition considers this to be an important provision in implementing the objectives of the Residential 1 zone and preventing an influx of mixed uses into residential areas. Even if without adverse impacts on residential amenity, they

will adversely impact on the amenity **expectations** that residents in the residential area are entitled to have by virtue of provisions in the Exhibited MSS which provide that residents in residential areas that are in close proximity to mixed uses must expect a lesser standard of amenity.

We therefore request that the policy as exhibited be retained.

**L. Local Policy 22.19 Ecologically Sustainable Buildings**

124. The Coalition acknowledges and supports the efforts being made by both Council and submitters to fine-tune the issues of ESB in relation to office uses, noting that 60% of the greenhouse gas emissions generated in the City of Melbourne are contributed by commercial uses.
125. It is noted that the broad strategy at 21.08-1 page 67 of *Ecologically sustainable development* includes two issues which are not brought forward into the policy at 22.19. These are:
1. encourage the retention of buildings or parts of buildings that have efficient recycling potential; and
  2. orientation to optimise ventilation.
126. Alterations to the amended policy drafted by Mr Lester Townsend which have been suggested by Dr Talacko – i.e. page 2, 4<sup>th</sup> dot point to be altered to read ‘*natural lighting and natural ventilation techniques*’, would address issue 2).
127. To address issue 1), the following amendment is suggested:
- *Construction Materials and Building Re-cycling*
  - *To encourage the use of sustainable building materials in construction.*
  - *To encourage the retention of buildings or parts of buildings that have efficient recycling potential*
128. Further in relation to the Lester Townsend draft, the Coalition considers that the following provisions under the heading **Overshadowing** go beyond the spirit of the exhibited amendment:

*New development should consider the performance, efficiency and economic viability of the active and passive solar collecting devices on the adjoining properties where alternative design responses are available.*

129. Does this imply that in the event the applicant claims that no other design responses are available, these issues are deemed to be irrelevant?

*The practicality and cost of any alternative design response.*

130. Presumably the applicant frames this argument. What resources does Council have to assess the validity or otherwise of these claims? Is it intended that the issue of site yield and developer profits be examined in analysing costs of alternative design responses?

131. The Coalition is concerned that there are no performance measures available to evaluate a response to ESB overshadowing impacts when such statements as ‘to minimise the impact’, ‘should not unreasonably diminish’ are utilised.

132. Finally, it would seem relevant to include as a policy reference at the end of *Cl. 22.19* the policy referred to on page 68, *Guidelines for Solar Technology Installations in the City of Melbourne’s Residential Areas*.

## **M. Local Area Issues**

Issues arising from the above, as they apply to particular areas of the municipality, will now be addressed individually by the associations.

### **1. North and West Melbourne**

#### **A. Support for North and West Melbourne residential communities**

To be consistent with the Council’s commitment to support residential communities in other local areas at Cl 21.03-2, the NWMA seek an addition to the statement at page 17:

*Support the residential communities of North and West Melbourne by recognising the character of the area and its proximity to the Central City and Docklands and*

*encourage a truly mixed use liveable environment that provides an appropriate balance of residential and commercial development at different scales.*

## **B. Strategic Plan - Mixed use areas conflict with Residential Zones**

133. As noted in the overview submission, page 11 of the exhibited MSS states: *throughout the MSS the term “mixed use area” has been used to describe land use outcome that is sought rather than a specific zone.* Overlaying the boundaries of the ‘mixed use areas’ shown in Figure 5 Strategic Framework Plan onto zoning maps for North and West Melbourne reveals several areas of Residential 1 Zone covered by such areas. These are coloured red on the attached map.
134. An example of this which the Coalition nominated for a site visit at Site 3. is the area bounded by Elm, Abbotsford, Spencer and Curzon Streets. An inspection will reveal that the Residential 1 Zone is appropriate for the area and there seems to be no indication that the residential usage will or should alter over time.
135. It is understood that it is not the intention of the City of Melbourne to re-zone these Res 1 areas, therefore the Coalition seeks to have all Res 1 zoned areas depicted Figure 5. as R circled and thereby not to be caught by strategic change in land use outcome.

## **C. Figure 8 Housing and Residential Development Housing Outcomes Map**

136. Consistent with the promise in the current MSS to re-zone areas Mixed Use Zone to Residential 1 if consolidated residential change has taken place, the area shown along Courtney St between Arden St roundabout and Harcourt St has been shaded as predominantly residential areas. This approach is supported, and indeed the Council should ensure that any similarly consolidated residential pockets are similarly highlighted.

## **D. CBD Fringe**

137. Spencer St has been nominated by the Council on the accompanied site visit to be undertaken with the Panel. The NWMA would like the Panel to re-visit this area [marked on the attached map] nominated as Site 4. West Melbourne: Block bounded by Dudley, William, LaTrobe and Adderley Streets (including Flagstaff Gardens) at their convenience to assess the following:

### **Expression in the exhibited MSS of the City structure and built form**

- The 420 Spencer Street site which was the subject of recent VCAT determination to refuse a permit for a 26 storey mixed use residential/office/serviced apartment building.
  - Need to preserve visual contrast and stepdown from CBD development, preserve amenity, sunlight access and visual prospect from Flagstaff Gardens to Docklands,
  - Need to preserve sensitive context for St James Cathedral.
  - Need to acknowledge recently established 3-4 storey scale residential buildings and warehouse conversions
  - Pressure from DSE to include area in Central City.
138. This area has been the subject of considerable debate with regard to transformation and built form outcomes, which were largely unresolved by the gazettal of Amendment C20. In the final wording of the DDO by the Minister in Amendment C20 for CBD Fringe, the objectives and built form outcomes were considerably altered from the exhibited amendment, and gave little guidance for preferred maximum heights. In addition, the DDO was written without reference to the comments of the panel, which included:
- Council needing to undertake further work on appropriate heights for the area
  - the importance of retaining a setting for the St James Old Cathedral
  - acknowledgment of the importance of view corridors from Flagstaff Gardens.

139. It is noted that the current MSS was revised to be consistent with Amendment C20 and page 99 of 120 states;

### **CBD Fringe**

*Higher building forms may be appropriate in West Melbourne adjacent to the CBD edge, due to its proximity to the CBD and Docklands, and some existing higher built forms, provided the development does not visually challenge the dominance of the CBD buildings, and maintains an open outlook from Flagstaff Gardens.*

**Planning scheme response:** *Design and Development Overlays contain design objectives for higher building forms in this area, and specify building heights.*

140. The exhibited MSS adopts the concept of the contrast in scale with the CBD but is silent about the importance of the built form from the Flagstaff Gardens. The NWMA seeks the retention of this statement in full.

### **Dominance of the CBD**

141. The interface of the CBD Fringe and Central City occurs along LaTrobe St, and it is this built form contrast which is drawn to the Panel's attention. LaTrobe St, almost fully developed, is at a scale somewhat lower than the more central part of the CBD. In particular the block opposite the CBD Fringe ranges from 2-10 Storeys. In order to be quite clear about the intentions of the MSS about this contrast in scale, the West Melbourne Structure Plan is currently underway. This plan will undertake detailed amount of analysis of the built form, uses and sensitive interfaces of the CBD Fringe. The MSS should not pre-empt the work which is being done.
142. The NWMA considers that the issues which are attempted to be defined by *21.06 City Structure and Built Form* section need to be strengthened by duplicating statements about the contrast in scale of the CBD to the Surrounding areas.

### **Central City and Docklands Strategies**

- *Maintain a clear distinction and distinct edge between the taller built form of the Central City and the surrounding areas.*
- *Ensure that the area bounded by Latrobe and Victoria Streets and Elizabeth/Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.*
- *Ensure a strong contrast in scale of development along Elizabeth St from the lower scale areas to the north of Victoria Street and the higher scale of the Central City.*

**143. Add statement:**

*Ensure a contrast in scale of development along Latrobe St from the higher scale of the Central City*

### **North and West Melbourne Strategies**

144. Facilitate higher built forms in West Melbourne in the area adjacent to the Central City and maintain lower scale streetscapes in other parts of West Melbourne and North Melbourne.

**145. Add statement:**

*Maintain a clear distinction and distinct edge between the taller built form of the Central City and West Melbourne.*

### **Flagstaff Gardens**

146. The Flagstaff Gardens Master Plan adopted by Council and dated December 2000, and included in the exhibited MSS as a reference document, states at page 30:

*King and Dudley St edges should emphasise the elevation of the gardens and retain views over the streets and buildings to the west. Although the historic view*

*line to the time ball in Williamstown has been lost, the vista across to the west (taking in Appleton Dock, Swanston Docks and Coode Island) is still significant. Planning provisions under the Melbourne Planning Scheme should be investigated to determine whether these views can be protected from future building development.*

147. Recent works undertaken by Council in the Flagstaff Gardens include the demolition of the former toilet block and the establishment of a raised mound and new pathway which opens up the views from the highest part of the Gardens considerably. This is one location from which the Panel is invited to view the area.

### **West Melbourne Structure Plan**

148. The West Melbourne Structure Plan study currently being undertaken by consultants for the City of Melbourne will be required to revisit the issues which were inconclusive during the C20 process and have since been tested by VCAT and found to require further development.

Angela Williams

Planning Group, North and West Melbourne Association Inc.

August 2003

## **2. Carlton**

149. The exhibited Amendment C60, in our view will not deliver planning controls for development in Carlton which appropriately link and clarify the zone and overlay controls with the overall strategic plan.
150. As explained in the overview submission, *Amendment C20* reviewed the design and development objectives for much of the Carlton area and effectively determined where development would and would not occur.

Map 1. Amendment C20 Carlton Design and Development Overlay Areas.

151. The areas coloured red on the map above (Map 1 of this submission) and coinciding with DDO44 and DDO45 have design and development objectives appropriate for growth areas where a transition to a new urban character is anticipated. Conversely the design and development objectives of the areas coloured blue, coinciding with DDO46, DDO47, DDO48 and DDO6, require new development to respect existing heritage and low scale character context, and imply minimal growth. The objectives are set out in detail in Table 1 below.

Table 1

**Design Objectives for Carlton Design and Development Overlays**

<ul style="list-style-type: none"> <li>• DDO44</li> </ul>	<ul style="list-style-type: none"> <li>• To encourage development which promotes Elizabeth Street as a major boulevard entrance to the central city fronted by buildings of a consistent scale.</li> <li>• To encourage a consistent <b>higher form</b> of development in this area.</li> <li>• To maintain a contrast in building heights between this precinct and the CBD.</li> <li>• To acknowledge the <b>transitional nature</b> of the area and the opportunity for the development of a <b>new built form character</b>.</li> <li>• To acknowledge the importance of the Haymarket Roundabout with dominant landmark buildings surrounding.</li> <li>• To encourage <b>development opportunities for growth</b> in the education, research and development sectors.</li> </ul>
<ul style="list-style-type: none"> <li>• DDO45</li> </ul>	<ul style="list-style-type: none"> <li>• To promote the future character of this precinct as a major, tree-lined, civic spine fronted by buildings of consistent scale.</li> <li>• To encourage <b>development opportunities for growth</b> in the education, research and development sectors.</li> <li>• To maintain a contrast in building heights between this precinct and the CBD.</li> <li>• To acknowledge the <b>transitional nature</b> of the area and the opportunity for the development of a <b>new built form character</b>.</li> </ul>
<ul style="list-style-type: none"> <li>• DDO46</li> </ul>	<ul style="list-style-type: none"> <li>• To encourage development that reinforces the importance of Swanston Street as a major thoroughfare</li> <li>• To ensure that the highest parts of any redevelopment are located at the Swanston Street frontage of the site.</li> <li>• To ensure that new development <b>respects the scale and form of heritage buildings on Faraday and Cardigan Streets.</b></li> </ul>
<ul style="list-style-type: none"> <li>• DDO47</li> </ul>	<ul style="list-style-type: none"> <li>• To <b>maintain the predominant low scale nature</b> of the area.</li> <li>• To ensure development supports high levels of pedestrian amenity related to access to sunlight and sky views and a pedestrian friendly scale.</li> </ul>
<ul style="list-style-type: none"> <li>• DDO48</li> </ul>	<ul style="list-style-type: none"> <li>• To <b>maintain the predominant low scale nature</b> of the area.</li> <li>• To ensure development supports high levels of pedestrian amenity related to access to sunlight and sky views and a pedestrian friendly scale.</li> </ul>
<ul style="list-style-type: none"> <li>• DDO6</li> </ul>	<ul style="list-style-type: none"> <li>• To protect and conserve buildings and streetscapes of significance and <b>to reinforce the built form character of the area</b> as being essentially of <b>low-rise buildings</b></li> <li>• To maintain the human scale of the area and to ensure compatibility with the scale and character of the <b>existing built form.</b></li> <li>• To ensure that any redevelopment or new development is <b>compatible with the scale and character of adjoining and the area.</b></li> </ul>

These DDO objectives and areas are consistent with the main objective for Carlton on page 92 of the current MSS:

*“To support the established residential community of Carlton **north of Grattan Street and in the streets to the east of Lygon Street**; to support the regional and local retail role of the Lygon Street shopping central and to facilitate growth of a mix of commercial, residential and educational activities closer to the CBD”.*

152. A distinction in land use and urban character between the 'mixed use' south of Grattan Street, and “residential” north of Grattan Street has been made since the 1920s and is recognized in the existing zones (see Map 2 below), the MPS, Carlton 2010, the DDOs as described above and in the draft Heritage Statement of Significance for Carlton.

Map 2: Zone areas in Carlton

153. The distinction of areas north and south of Grattan Street is expressed in the incorporated Lygon and Elgin Street Shopping Centre Local Planning Policy (Clause 22.15) which distinguishes Lygon Street north (north of Grattan Street) and Elgin Street as the “*local retailing and community focus of the area*”, and Lygon Street south (south of Grattan Street) as the “*regional restaurant and entertainment focus.*” Objectives include:

*“to maintain a local shopping centre role to help promote residential development in the surrounding area” and “to discourage the extension of retail, entertainment and restaurant use from Lygon Street into the surrounding area”.*

154. These areas correspond to the DDO47 Central Carlton South and DDO48 Central Carlton North areas as defined in *Amendment C20*.
155. The main objective for Carlton in the existing MSS is assumed in *Carlton 2010* (page 4) in the statement of the key features of Carlton:
156. *“Carlton has approximately 10,500 residents who are concentrated in the areas **north of Grattan Street and to the east of Lygon Street**. These areas are renowned for their intact 19<sup>th</sup> century streetscapes and terrace houses. Carlton*

*has a tradition of active residents associations who have worked over a long period of time to defend and protect these built assets of State significance”*

157. The Carlton heritage overlay (HO1, see Map 3 below) mainly covers the “existing stable areas” of DDO47, DDO48; parts of DDO46 and DDO6; and most of the residential areas to **north of Grattan Street and in the streets to the east of Lygon Street**; rather than the “growth areas” of DDO44 and DDO45 areas.

Map 3. HO1 Carlton Heritage Overlay (MPS, 1999).

158. The connection between heritage overlay areas and infill development is made explicit in Carlton 2010 in Aim 5.1 on page 26:

*"Planning controls in heritage overlay areas aim to ensure that infill development is sympathetic to the established character. New buildings are encouraged to have a contemporary character rather than recreating historical styles, but a general consistency of scale and form is required."*

159. In *Carlton 2010* future business and commercial development areas are defined on pages 11 to 13 as being areas in mixed-use and business zones and areas outside areas of heritage significance. The areas for business development were indicated in the map on page 15 (see Map 4 below) to be **south of Grattan Street** in Elizabeth Street, South Carlton and Swanston Street. Unlike the exhibited MSS (Area 7 , Figure 8), there is no anticipation of the mixed use zone expanding or further commercial activity being encouraged in any part of the residential area north of Grattan Street.

Map 4. Business and Commercial Areas in Carlton (Carlton 2010).

160. From the Map, it can be seen that the only zone change anticipated in Carlton 2010 was an expansion of the Lygon Street Business zone south of Queensberry Street. Commercial activity **within** the Mixed Use zone was to be "encouraged" along the Pelham Street axis. Contrary to the exhibited MSS (first point on page 28), Elgin Street was not included in the area where further commercial activity was to be encouraged (see aim 1.3.5 of *Carlton 2010*). The discussion of mixed-

use areas (Aim 1.2) was in terms of the existing mixed use and business zones (1.2, 1.2.1, page 13). As well, further development of health and associated businesses was restricted to the mixed-use zones (2.3.1 page 18).

161. We consider it appropriate for the Figure 8 in the exhibited MSS to reflect these strategic outcomes with clear “growth areas” and “existing stable areas” and consistent with policy expressed in the existing MSS, Carlton 2010 and Amendment C20 as described above.
162. We are very concerned to find that one part of the area covered by DDO 48 – Central Carlton North (being the large block bounded by Grattan, Cardigan, Elgin and Rathdowne Street) and outlined in blue in Map 1 above – has been included in the category of ‘mixed use area’ in Figure 5 of the exhibited MSS and as a ‘small residential pocket’ in an area ‘where housing will occur in an environment of mixed use’ in Figure 8 of the exhibited MSS. Since the area is zoned Residential 1 and is subject to a DDO designed to preserve the scale and character of the area, its inclusion with the ‘mixed use area’ rather than with the residential area to the north and north east is inappropriate. In Map 7 of the current MSS “Housing Opportunities” – reproduced below as map 5 of these submissions - it is included as part of the residential area, as it should in our view continue to be.

Map 5 : “Housing Opportunities” (MPS, 1999)

163. The zoning (map 2 here) also reflects this very clear distinction between the Mixed Use (MUZ) zone south of Grattan Street and the mainly Residential 1 zone (R1Z) north of Grattan Street. . The zoning is not proposed to be changed. The major change to a mixed use area heralded for “Area 7” in the exhibited MSS was given no strategic basis in the expansion of business and commercial areas as the existing MSS map does, and expansion of innovative and universities was envisaged to occur in the south Carlton area (page 17 and defined as a local area in the map on page 37 equivalent to DDO44).
164. The MSS text and Figure 8 should make explicit the distinct goals implied for Area 7 to ensure that the zone, local policy and DDO schedule distinctions are

honoured, with the DDO48 area being maintained as a low scale local residential neighbourhood surrounding the local Lygon Street shopping strip. This is necessary to ensure that developers do not take advantage of the misleading signal created by the area's inclusion in the Mixed Use area in Figure 8.

165. This revision is also necessary to preserve the amenity expectations of residents in the residential area, given the graduated scale of amenity expectations which the exhibited MSS seeks to introduce and the significance, in terms of that scale, of being included in a 'mixed use area' rather than a predominantly residential area.
166. For consistency, the Business 1 zoned area coinciding with the Lygon Street shopping strip should be excluded from the areas identified in Figure 8 as areas for housing development.
167. Another puzzling aspect of Figure 8 is the depiction of Area 5: Swanston Street. Along Swanston Street north of Grattan Street there is a triangular shape which appears to cover half the Women's Hospital block and a small portion of the block north of Faraday Street. Page 37 of the Exhibited MSS contains an objective for Area 5 to "*Support residential development on Swanston Street especially for student housing purposes, within a mixed use context of educational, research and commercial uses*". However there is nothing to explain the peculiarity of the triangular shape (nor the fact that it does not coincide with the boundaries of either of the two relevant DDOs, DDO45 and DDO46).
168. If/When Figure 8 is revised to display "growth" v "stable" areas, the two major residential redevelopment sites in the northern part of Carlton coinciding with the former Queen Elizabeth Hospital site and the Ministry of Housing estate should be included as residential "growth" areas. They are recognized as such in *Carlton 2010* and in the text of p38 of the Exhibited MSS, but once again the map fails to distinguish these growth sites from the established residential areas.
169. Thus in terms of zone, design overlays and heritage overlay, three areas could be identified as "future" growth areas in Carlton: DDO44, DDO45 and the

Northern Residential Area with Residential 2 zoning. The remaining areas should be clearly defined as established character areas where infill development is permitted.

170. The Strategic Framework Plan in Figure 5 of the Exhibited MSS should then be amended for consistency with the revised Figure 8. In particular, the Residential 1 zoned area covered by DDO48 should again be included in the 'predominantly residential' category, not as part of the large mixed use zoned area which includes the area covered by DDO45.
171. In *Melbourne 2030* Lygon Street was named as a major activity centre. Activity centres are assumed to be areas where a high level of development is encouraged while less intense development is supported in other areas. In its submission on *Melbourne 2030*, MCC called for a reconsideration of the boundary for an Activity Centre based in Carlton so that it corresponds more closely with the areas in which future growth is planned as set out in the *C20 Amendment* and *Carlton 2010*. The area south of Grattan Street, termed 'South Carlton', is the appropriate area for an activity centre, with policy to support major development, rather than in the heritage overlay area surrounding Lygon Street where infill development only is envisaged. This recommendation (Woodland, MCC Planning Committee, April 2003) is consistent with DDO44 and DDO45 being "growth" areas, as well as being where development is actually occurring in Carlton currently.

Sue Chambers

President

The Carlton Residents Association Inc.

Parkville

### **Introduction**

172. The Parkville Association initially intended to limit its specific submissions to the area of North Parkville. However, in perusing the exhibited MSS with the

intensity required by this occasion and reviewing the Council's submissions, there appears to be an alarming new 'double speak' on the subject of Parkville.

173. As shown by the attached map (Map 1), Parkville comprises three distinct areas linked by Royal Park: South Parkville, North Parkville and West Parkville. All three are predominantly residential and contain significant heritage built form. South Parkville is, as the MSS (current and exhibited) concedes 'an intact historic area, considered to be of national importance'. North Parkville contains 'residential, institutional and research uses' and, in terms of built form, 'includes significant heritage buildings and is marked by an open visual relationship between its buildings and the surrounding parklands'. West Parkville (though it does not rate a mention in the MSS) is a residential enclave with heritage housing in an attractive parkland environment.
174. It is probably correct to say that there has been an historic tension between the heritage village and residential character of Parkville and institutional uses and that for many years this has been managed, if not resolved, through a relatively strict observance of boundaries between residential and other uses, enforced through appropriate zoning. With only minor fuzziness at the edges, institutional uses have been confined to the Public Use zones and the Business 2 zone in North Parkville (of which more later).
175. The 'strategic role' for Parkville set out at Clause 21.03-2 of the exhibited MSS ('Planning for Local Areas) appears at face value to continue this approach, as evidenced by objectives such as
- *Support the residential communities of Parkville by maintaining the existing residential amenity and preserving the heritage and character of the area [and]*
  - *Maximise and support hospital, education research, institutional uses and business clusters without encroachment into residential areas and open space.*
- [see top p.17 of Annotated MSS]
176. However, there is one objective which is not expressly constrained from encroachment into residential areas and open space and that is '*Continue to*

*promote Parkville as a state significant area for biotechnology research, education and industry'.*

### **Impact of Biotechnology strategy**

177. According to *Carlton 2010* and in the understanding of Parkville residents, the 'Bio21 precinct' is located 'in the triangle of land extending from Haymarket roundabout that is bounded by Flemington Road, Royal Parade, Park Drive and Storey Street' - that is, on land zoned Public Use, which has been granted to the University of Melbourne for the purposes of the project and the Royal Melbourne Hospital/Walter and Eliza Hall site.
178. There can therefore be no objection to the strategic objective in City Plan 2010 to '*Develop Bio21 (Parkville)...precinct as [a] key centre for commercialisation of medical and biotechnology research*' (although the built form outcomes at the residential interface may be less than desirable).
179. However, the nomination of '**Parkville**' as a 'Specialist Activity Centre' in *Melbourne 2030* -based, it seems, on the presence of Bio21 - is a troubling development, because its proclamation is both inchoate and grandiose.
180. In its submissions to this Panel [at page 65] the Council referred to matters in its Melbourne 2030 submission which remain unresolved with State government - one of which is that 'whilst Council acknowledges and supports the collection of specialised functions distributed through Parkville, the identification of Parkville as a Specialised Activity Centre presents some difficulty regarding the planning for this as a discrete activity centre'.
181. The difficulty of such planning is, of course, evident from the map, which shows that institutions in Parkville with a relationship to biotechnology (Bio21 and Walter and Eliza Hall, Monash University College of Pharmacy and CSL Limited) are physically some distance apart and sit in a residential, heritage and parkland context which makes their expansion (whether vertically or horizontally) highly problematic and damaging to the city's cultural assets.

182. Since the 'Activity Centre' has no clear locus, the *Melbourne 2030* objective of encouraging development in and around activity centres potentially applies to all of Parkville, in conflict with the much more clearly formulated and specific objectives (including built form objectives) of the present MSS and, to a lesser extent, the exhibited MSS.
183. While undoubtedly aware of this conflict, Council's response to the pressure of *Melbourne 2030* has been to generalise its references to 'Parkville' as the focus of this strategic objective and to avoid for the time being the critical question of *justwhere* these uses are to be encouraged and at what cost to other strategic priorities.
184. Council's language quoted in paragraph 9 above is a good example - '*Whilst Council acknowledges and supports the collection of specialised functions distributed through Parkville...*'. Is that 'distributed throughout Parkville', or at various isolated and specialised sites specifically identified as suitable for this purpose?
185. At page 41 of its submission to the Panel, Council refers to '**Parkville**, Alfred (Prahran) and Port Melbourne (Fisherman's Bend) as 'existing significant clusters' of innovative industry, research and education and comments further that 'Alfred (Prahran) and Parkville are recognised Specialist Activity Centres'. It is of note that 'Alfred (Prahran) is a site; 'Port Melbourne (Fisherman's Bend)' is an area; whereas 'Parkville' is a whole suburb.
186. When describing Parkville in Clause 21.03-2 ("Planning for Local Areas') the exhibited MSS refers to the presence of '*a number of significant hospitals, educational, scientific and industrial research facilities located in three areas, along Flemington Road, Royal Parade and north of Royal Park*' and lists the range of institutions accommodated in these '*clusters*' [begging the question of whether they are in fact 'clusters']. The strategic intention may therefore be to limit the encouragement of education, research and industry (including biotechnology industry and research) to these 'clusters'. However, this is not what the strategy says, and there is confusion about whether the '*hospital, education research, institutional and business clusters*' which are to be

*'maximise[d] and support[ed] ... without encroachment into residential areas and open space'* (and presumably therefore in their existing 'clusters') **includes or does not include** the 'biotechnology research, education and industry' that is the subject of a separate objective.

187. This may appear to be a mere drafting issue, but as with much of the MSS the relationship between objectives stated in parallel and in related but variable language paves the way to conflicting interpretations.
188. It could be said that these general statements about Parkville must be read subject to the specific 'Parkville strategies' under each land use heading (although in the case of an alleged 'state significant' activity the hierarchy of interpretation may be open to debate).
189. Under 'Land Use - Institutions (Cl.21.05-2) the 'Parkville Strategies' are:

*Within Parkville support:*

- *Hospital, research and development uses along Flemington Road.*
- *The development of the Bio21 precinct as key centre for the commercialisation of biotechnology and medical research.*
- *Research and education uses along Royal Parade.*
- *Industrial research and development at CSL Limited to the north of Royal Park.*
- *Discourage office and commercial uses not associated with a research or education use in North Parkville along Royal Parade and encourage residential and education uses that are compatible with residential amenity.*

190. This appears to narrow the scope of the potentially affected areas, but there is still a critical ambiguity. The 'Bio21 precinct' (undefined in the MSS?) is specified as the 'key centre' for the commercialisation of biotechnology and medical research, but the strategy is otherwise silent about where (if anywhere else in 'Parkville') such uses may locate and whether the category 'Institutions'

fully comprehends the anticipated scope of biotechnology-related uses which the exhibited MSS commits itself to promote.

191. Even where the strategies are apparently area-specific, there is a certain looseness. The words 'along Flemington Road' refer (or, for consistency with other parts of the MSS and wider planning scheme, should refer) to the easternmost end of Flemington Road comprising the current hospital and Bio21 precincts and Area 12 on Figure 8. 'Royal Parade' refers (or should refer) to the part of Royal Parade in North Parkville which is zoned Business 2 -i.e. Area 8 of Figure 8.
192. We submit that it is in nobody's interest for the MSS to be confused on the critical question of precisely how and to what extent the biotechnology strategy should affect Parkville or on the relationship between the objective of 'promot[ing] Parkville as a state significant area for biotechnology research and industry' and that of 'support[ing] the residential communities of Parkville by maintaining the existing residential amenity and preserving the heritage and character of the area' [Exhibited MMS p.17].
193. We therefore appeal to the Panel to measure reality of Parkville against the rhetoric of *Melbourne 2030* and to articulate the constraints on the realisation of biotechnology strategy objectives in areas of Parkville other than those currently associated with and encouraged to accommodate institutional and industry uses. Specifically, we request that the statement of support for the promotion of biotechnology research education and industry be expressed to be "without encroachment into residential areas and open space" and subject to the built form requirements which exist to preserve the heritage and parkland character of the area which is a state-significant asset of equally high priority.
194. **North Parkville**
195. For the purposes of this submission, 'North Parkville' refers to the area in the immediate vicinity of Royal Parade, north of Macaulay Road. It is the sliver of developed land between Royal Park and Princes Park, with Royal Parade as its main axis.

The zoning of this area is shown below [Map 2].

196. While the vast majority of the area is Residential 1, land along Royal Parade between Leonard Street and Ievers Street, to the depth of Mile Lane, is zoned Business 2.
197. The application of the Business 2 Zone to this area derives from the lack of any appropriate zone in the suite available under the standardised Victoria Planning Provisions. In fact, the objective of the Business 2 Zone - 'to encourage the development of offices and associated commercial uses' - is directly *contrary* to the strategic objectives for the area, current or proposed.

198. The existing MSS at Clause 21('Supporting research in the 'Parkville Strip') states that:

*A cluster of nationally significant educational and scientific research facilities is located along Royal Parade to the east of Mile Lane. However, there is limited capacity for intensive growth because of the proximity of residential areas. In order to preserve the limited opportunities for growth to the education and research sectors, it is necessary to **restrict** general commercial uses. [our emphasis]*

199. As a 'planning scheme response' to this identified need, the MSS goes immediately on to explain:

*The area is zoned Business 2 with restrictive limitations on office floorspace. The Parkville Research and Education Strip Policy gives guidance on the type and intensity of uses compatible with other activities in the broader area.*

200. The Parkville Research and Education Strip Policy (Clause 22.06) effectively converts the encouragement commercial uses associated with the Business 2 zone into discouragement of those uses in favour of research and education activity. Its objectives are:

- *To **restrict general commercial and office development** in favour of research and education activity that relies on and flourishes in a high*

*quality environment, and is compatible with the primarily residential and open space uses of the surrounding area.*

- *To provide for the maintenance and establishment of residential accommodation associated with research and scientific institutions.*
- *To preserve the limited opportunities for growth in the education and research sectors by limiting general commercial uses* [our emphasis].

201. Under the Policy, education, research and research and development uses are only conditionally encouraged '*provided that the scale of activities is compatible with the primarily residential and open space character of the area*'. The plot ratio applicable to general commercial uses is also limited in a manner designed to discourage general commercial uses.

202. It is therefore clear that the strategic intent of the existing MSS with respect to this 'strip' is to:

- *protect surrounding residential amenity and open space;*
- *encourage research and educational uses (including student residential accommodation) only provided they are compatible with the above;*
- *restrict general commercial uses to preserve growth opportunities for research and educational uses.*

203. The so-called 'strip' has been carved out of what the MSS acknowledges to be a 'predominantly residential' area on the basis of the claimed presence of '*nationally significant scientific and research institutions*' and an expectation that other institutions would seek to co-locate with them.

### **Reality of Land Use in North Parkville**

204. Figure 2 shows the current pattern of land use in North Parkville. Although there are a number of university residential colleges and theological colleges, the number of scientific and research and development institutions has actually

declined [See Map 3 - Current Land Use in North Parkville]. The locus of such development has shifted south to the Bio21 precinct and South Carlton.

205. Monash University College of Pharmacy is a relatively isolated remnant of the 'Research and Education Strip' concept and is effectively subject to site-specific controls in that it is not subject to the mandatory height limits imposed on every other part of North Parkville under the Design and Development Overlays approved as part of Amendment C20.
206. While there may be an understandable reluctance to discontinue the encouragement of education, research and research and development activities in any part of the municipality where they are in part established, the Parkville Association seeks to have the MSS recognise that the area is **not** a key component of the biotechnology strategy (although it may play a part), that its use for university residences is stable rather than increasing, that the area is and should remain predominantly residential (including residential uses associated with educational institutions) and that development of any kind must pay high regard to residential amenity and heritage and parkland values.
207. The Parkville Association is also concerned that, given the peculiarity of the zoning, the proposed deletion of the Parkville Education and Research Strip Policy - the justification for which is that 'the content [of the policy] has been incorporated into the MSS' [Council submission p.25] -may open up the area to commercial uses which it is not policy to encourage, which would be even more detrimental to the residential and heritage character of the area than institutional uses (as witness the fate of Melbourne's other once-great Victorian boulevard, St Kilda Road).
208. We confess also to the suspicion that deletion of the Parkville Education and Research Strip Policy may be part of the attempt to co-opt Parkville generally to the cause of education and research-related uses (particularly biotechnology), rather than be seen to designate a specific 'strip' for such uses.

## Changes in the Exhibited MSS

209. Under 'Planning for Local Areas' (Clause 21.03-2), the MSS states with respect to North Parkville:

*Located between Royal and Princes Park, North Parkville contains residential, institutional and research uses. It includes significant heritage buildings and is marked by an open visual relationship between its buildings and surrounding parklands.*

210. As previously noted, under 'strategic role' in Cl.21.03-2 the MSS no longer refers specifically to North Parkville as the 'education and research strip', but to **Parkville** 'as a state significant area for biotechnology research, education and industry' and to 'maximis[ing] and support[ing] hospital, education research, institutional uses and business clusters without encroachment into residential areas and open space'.

211. However, under 'Land Use - Business and Retail' (Cl.21.05-1) the 'Parkville Strategies' are 'to encourage uses associated with research and education in North Parkville and discourage office and commercial uses unless associated with a research or education use' and under 'Land Use - Institutions' (Cl. 21.05-2), insofar as they relate to North Parkville 'to discourage office and commercial uses not associated with a research or education use in North Parkville along Royal Parade and encourage residential and education uses that are compatible with residential amenity'.

212. It would appear, therefore, that there is no intention to alter the outcomes of the way the planning scheme operates with respect to North Parkville by virtue of the Parkville Research and Education Strip Policy.

213. However, in the absence of the policy, the gulf between the strategic objectives of the MSS and the policy and objectives of the Business 2 Zone is inexplicable and there is a risk that, without a mechanism to redirect the emphases of the Business 2 zone in its application to this area, the zone provisions may be interpreted to prevail (again the debate about the hierarchy of interpretation).

214. Under the VPPs the zones and overlays are intended to *implement* the strategic vision in the MSS and the MSS provides the strategic justification for applying a particular zone and overlays to a given area. The VPPs do not really contemplate a scenario where the zone and the strategic framework are radically at odds. Nor do the VPPs specify a hierarchy to be applied in the event of inconsistency.

215. Under 'Land Use - Housing and Residential Development' (Cl.21.05-4) the 'Parkville Strategies' are:

*Support residential development in North Parkville (refer Figure 8 - Area 8), within a context of educational, research and limited business uses.*

216. This immediately raises the question why the area is not zoned Mixed Use rather than Business 2. Its projected strategic mix is, after all, little different from the Mixed Use (institutional and housing) areas of Carlton. It would seem a much more straightforward task for the MSS to specify the desired mix of uses in a Mixed Use area than to seek to direct commercial uses away from a Business zone. The fact that the Mixed Use zone is one of the suite of residential zones is also relevant for the emphasis placed on residential amenity under the policy (and in the proposed Cl.21.05-2).

217. We acknowledge that the desirability of a rezoning is outside the scope of the present inquiry. What is relevant is the potential vulnerability of the area if the local policy is deleted and there is a direct conflict between the strategic objectives of the MSS and the objectives of the zone. In this context, we would prefer to see the policy retained.

218. We also seek the Panel's support for retaining the existing high level of expectation of residential amenity in North Parkville, consistent with the encouragement under the policy of *only* those research and education uses which are compatible with residential amenity.

219. In this respect the exhibited MSS is inconsistent. While the North Parkville-specific strategy under 'Land Use - Institutions' gives priority to residential amenity by encouraging '*residential and education uses that are compatible with residential amenity*', the guidance for North Parkville under 'Land Use - Housing

and Residential Development' treats Area 8-Figure 8 (the 'strip') as if it were a 'mixed use area' for the purposes of expectations of residential amenity. That is:

- *Ensure residential development takes into account the amenity impacts of established uses, including noise impacts, and take protective steps to minimise these impacts on future occupants;*
- *Residential development must be designed and constructed to minimise amenity conflicts with commercial activity and is to incorporate measures to create a reasonable residential amenity given the preferred long term use for this area.*
- *The same level of amenity in regard to noise and activity cannot be expected as would be expected by residents in residential areas that are distant from non-residential uses.*
- *High standards of residential amenity with respect to residential building design and construction (including sunlight, overlooking and shadowing, noise) will be sought.*

[Annotated MSS page 39].

220. As well as exhibiting all the deficiencies of these provisions as applied to mixed use areas - i.e. the fact that the requirements do not apply to non-residential buildings and the lack of any requirement on new non-residential uses to mitigate impacts on existing residential amenity - this is a major reversal of the priority hitherto given to preserving a high standard of residential amenity in this area.

221. In our submission the reversal is inappropriate given the predominantly residential character of North Parkville. The proposed change can only have been made for bureaucratic reasons - i.e. to standardise the expectations attached to anything resembling a mixed use area. Since the planning history of this area is unique, such standardisation is unwarranted and fails to consider the needs of the area.

## **Other Issues Arising**

222. A similar misguided standardisation appears to have occurred with respect to the ensuing provision on page 39 of the Annotated MSS, to the effect that
- *In the residential areas of Parkville located in close proximity to mixed use areas (shown as hatched areas on Figure 8)*
  - *Residents living adjacent to Mixed Use and Business Zones cannot expect the same level of amenity in regard to noise and activity as residents in residential areas that are distant from non-residential uses.*
223. There are in fact no residential areas of Parkville located in close proximity to mixed use areas shown as hatched areas on Figure 8.
224. Finally, in the interests of clarity we note that the North Parkville 'strip' has not been included among the 'Education, Research and Development' Capital City Functions depicted in Figure 3, although the map recognises Monash University College of Pharmacy as a major institution. In our view, given the present pattern of land use, this is an appropriate treatment of the area which has the benefit, if the Table 2 Amenity Framework is retained, of rendering the mix of uses 'local' and thus requiring non-residential uses to adopt design and management techniques to mitigate impacts on residential amenity.
225. However, this concept of a local mix, while more attuned to reality of North Parkville and to policy as we would wish it to be articulated, is at odds with the 'three clusters of nationally significant scientific institutions' view of Parkville promulgated elsewhere in the MSS.

## **Conclusion**

226. The Parkville Association does not seek to deny the importance of education research and institutional activity in Parkville or to reject the potential importance of the biotechnology industry. It does however seek clear expression in the MSS that there is no intention to give biotechnology strategy over-riding strategic emphasis and that biotechnology-related uses will be confined to the existing Public Use, Business 2 and Industry 1 zones.

227. In conjunction with this clarification, the Association seeks to have the Panel recognise that North Parkville is not a burgeoning centre of scientific, research and education activity; that there is an existing surplus commercial/office space; and that the strongest practical demand is for accommodation (residential, student and hospitality).
228. The Association also seeks retention of the Parkville Research and Education Strip policy to mitigate the potential impacts of the incongruous Business 2 zone in North Parkville.
229. In seeking retention of the policy, the Association also seeks to retain the high level protection of residential amenity which has always been accorded to this area on the basis not only that residents are entitled to continuity of expectation in such matters, but that this is appropriate to the predominantly residential character of North Parkville.

Bev Kennedy

Vice-President

Parkville Association