

Amendment C278: Sunlight to public parks

Submission from the Carlton Residents Association Part 1

1 March 2021

Planning Panels Victoria Presentation

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Postscript 1 March 2021

Preliminary Comments

- In December 2020, the Melbourne City Council exhibited Planning Scheme Am C380: Zoning Corrections of Public Open Space etc
- This Amendment did not correct recent extensions to either University Square or Lincoln Square; nor did it include Carlton's significant grassed [and treed] medians. The Association does not understand why these important matters were not settled BEFORE proceeding with Am C278 Sunlight to Public Parks. [See Postscript to CRA's Submission for an elaboration of this concern]
- This highlights a key problem with Am C278; there is no clarity concerning what is being protected by many of the proposed new Design and Development Schedule 8 Overlays

Key conclusions of Carlton Residents' Association [CRA]

- The proposal to ensure that new development responds with appropriate building heights and setbacks to protect sunlight access to our municipal parks is laudable.
- However, the Council's failure to recognise Carlton's significant and historic median strips as parks [including Drummond Street] will result in these areas never being accorded the protection they deserve.
- While many of the height controls in the Carlton area are recommended maximum building heights, the CRA accepts that, for the purposes of determining whether a park falls within a low scale or a growth area, these recommended maximum heights should provide the appropriate benchmark.
- Further, when the limited additional overshadowing test has to rely upon discretionary street wall heights/building heights, the CRA accepts that these discretionary heights should be regarded as mandatory for the purposes of this test.

Key conclusions of CRA continued

- It is not clear what purpose would be served by including DDO8 overlays over those residential areas that currently have a mandatory maximum height [**with few exceptions**] of 9 metres. The proposed Planning Scheme Amendment makes it clear that where the overall building height is 9 metres or less, NO overshadowing analysis is required
- The designation of Argyle Square as a Park Type 2 cannot be accepted. This square is surrounded by a DDO which provides for a maximum building height of 4 storeys. Although this height may be exceeded, given that the FIRST Design Objective of DDO 47 seeks to “maintain the predominant low scale nature of the area”, this area cannot be considered as a Growth Area. [See Postscript to CRA’s Submission for an elaboration of this concern]
- Further, given that the Council endorsed *Melbourne Innovation Districts City North Opportunities Plan* has identified how Argyle Square could be extended, the Park Type 2 designation is demonstrably inappropriate. It will result in this significant open space being subject to increased overshadowing.

Argyle Square from Lygon Street



The Argyle Square Case Study

- City of Melbourne [CoM] Position: Although Argyle Square is surrounded by a 4 storey height limit area (DD047), it has a discretionary height control which means that a development could have additional floors above the 4 storeys.
- CRA Response: Most DDO's in Carlton have discretionary height limits, but, this DDO47 includes Design Objectives **which seek to maintain the predominant low scale of the area to support 'high levels of pedestrian amenity related to access to sunlight and sky views ...'** Since the City of Melbourne has not introduced a Planning Scheme Amendment to facilitate a Growth Objective, [it has had a decade to introduce such an Amendment] the current DDO Objectives and height guidance must determine the Park Type.

The Argyle Square Case Study continued

- CoM Position: The park is already subject to overshadowing.
- CRA Response: most parks in Carlton are subject to some overshadowing. This is true for both low scale areas [those parts of the study area with height controls of 4 storeys or less] and growth areas. To suggest that existing overshadowing should be a reason to reject the Park Type 1 designation for Argyle Square cannot be justified. The Council has designated the Station Street Park [which is within a growth area] as a Park Type 1, and yet this Park is subject to significant overshadowing. [See image on following slide]

The Argyle Square Case Study continued

The Issue of Existing Shadows

The presence of existing shadows on a park should NOT be a key determinant of a Park's designation as either a Park Type 1 or a Park Type 2

The image at the right is of the Station Street Park. It has been designated a Type 1 Park, even though located in a Growth Area.

Parks that are not separated by roads from nearby buildings [even low scale buildings] will always be subject to more significant shadows.



The Argyle Square Case Study continued

- CoM Position: Applying the no additional shadow above the street wall control (Park type 2) is in line with the balanced approach adopted in this Amendment. It provides protection to the park while allowing for some development in accordance with existing controls.
- CRA Position. The designation of Argyle Square as a Park Type 1 [which is consistent with the current DDO Objectives] will not prevent quality development in the area. It must be emphasised that there is considerable scope for further development on both the Lygon Street and Argyle Place South frontages that would not cast any additional shadows onto the park between 10am & 3pm on June 21 beyond the existing shadows. [See following images]

The Argyle Square Case Study continued

**Argyle Place North looking West to
Cardigan Street at 3.04pm on 18th June
2020**



**Argyle Place North at 10.11am on 18th
June 2020**



The Argyle Square Case Study continued

Lygon St opposite Argyle Square [North of Pelham St] at 10.08am on 18th June 2020



Lygon Street looking North to Argyle Place North at 10.09am on 18th June 2020



The Argyle Square Case Study continued

**Lygon Street at Pelham Street at
10.22am on 3rd April 2020**



**Argyle Place South from Argyle Square
at 10.26am on 3rd April 2020**



The Argyle Square Case Study continued

South Corner of Cardigan & Pelham Streets at 3pm on 18th June 2020



North Corner of Cardigan & Pelham Streets at 2.59pm on 18th June 2020



The Argyle Square Case Study continued

Concluding Observations

The images indicate that street wall heights of 4 and 5 storeys on Lygon Street will have **no shadow impact on the Square, but that similar street wall heights on Cardigan Street at about 3pm will have a very different outcome.**

In November 2019, the City of Melbourne endorsed the **Melbourne Innovation Districts (MID) City North Opportunities Plan**. This Plan has recognised that impacts upon the public realm are not limited to the existing public spaces and squares, but that the streets must also be seen as an important opportunity to **EXTEND** our public open spaces.

The Argyle Square Case Study continued

Concerning Cardigan Street, the Plan recognised the potential for significant changes to pedestrianise the street. *By reducing parking, consolidating lanes of traffic, and repurposing central median strips, there could be an increase in public open spaces and an opportunity to integrate new public uses along the street.* The Plan also envisaged a similar treatment for Argyle Place North.

Given this context, it is clear that the Council's desire to designate Argyle Square as a Park Type 2, which would allow additional shadows [beyond those already existing] would severely compromise the pedestrianisation measures promoted by the **(MID) City North Opportunities Plan.**

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Palmerston & Canning Street Pocket Park Case Study



Palmerston-Canning St Park: Key Issues

- Because this park shares boundaries with dwellings, the no additional shadowing test would be highly appropriate; even although the contiguous buildings are currently low scale structures. That is, a Park Type 1 designation would be appropriate in this situation.
- However, the exhibited Schedule 8 to Clause 43.02 of the DDO makes it clear [at Cl.2.0] that no permit is required for “Buildings and works where the overall building height is 9 metres or less.” This would appear to render the Park Type 1 designation ineffective, since ANY building height extensions above the existing heights would further compromise the solar access to this open space. [See following images.]

Palmerston-Canning St Park cont.

**Palmerston-Canning Pocket Park
looking SE at 3.06pm on 20th June 2020**



**Palmerston-Canning Pocket Park
looking SW at 3.08pm 20th June 2020**



Palmerston-Canning St Park: Key Issues cont.

- Although the mandatory heights included in the current NRZ3 Zoning only apply to dwellings and residential buildings, it is most unlikely that a non-residential building higher than the approved 3 storey extension at the rear of 66 Palmerston Street would satisfy the Heritage Policies of the Planning Scheme. [See image next page]
- Further, while the current zoning provisions include some exceptions to the mandatory height requirements and would permit an extension to the Palmerston Street dwelling facing the Park [for example]; as above, it is most unlikely that the heritage policy would allow any additional height over the approved extension of this dwelling.

Palmerston-Canning St Park: Key Issues cont.

66 Palmerston Street [single storey dwelling adjacent to the park]

On 25th of June 2018, an Application was received for partial demolition, reconstruction, alterations and additions to the existing dwelling, including a three storey extension to the rear. A permit was issued, it was decided on 15th of January, 2019.

In this case, the application of the no additional overshadowing test would be of very little assistance, since the heritage policy is unlikely to allow any additional height extensions.



Palmerston-Canning St Park: Key Issues cont.

113 Canning Street [the dwelling adjacent to the park at this frontage]

As before, although a non-residential building could replace the non-contributory dwelling at this location, the heritage status of those dwellings to the immediate north should limit any extension above a height of 9 metres to the rear of the property.

In this case, the application of the no additional overshadowing test would be of limited assistance, as it would only be triggered for a possible rear extension.



The Station Street Park Case Study

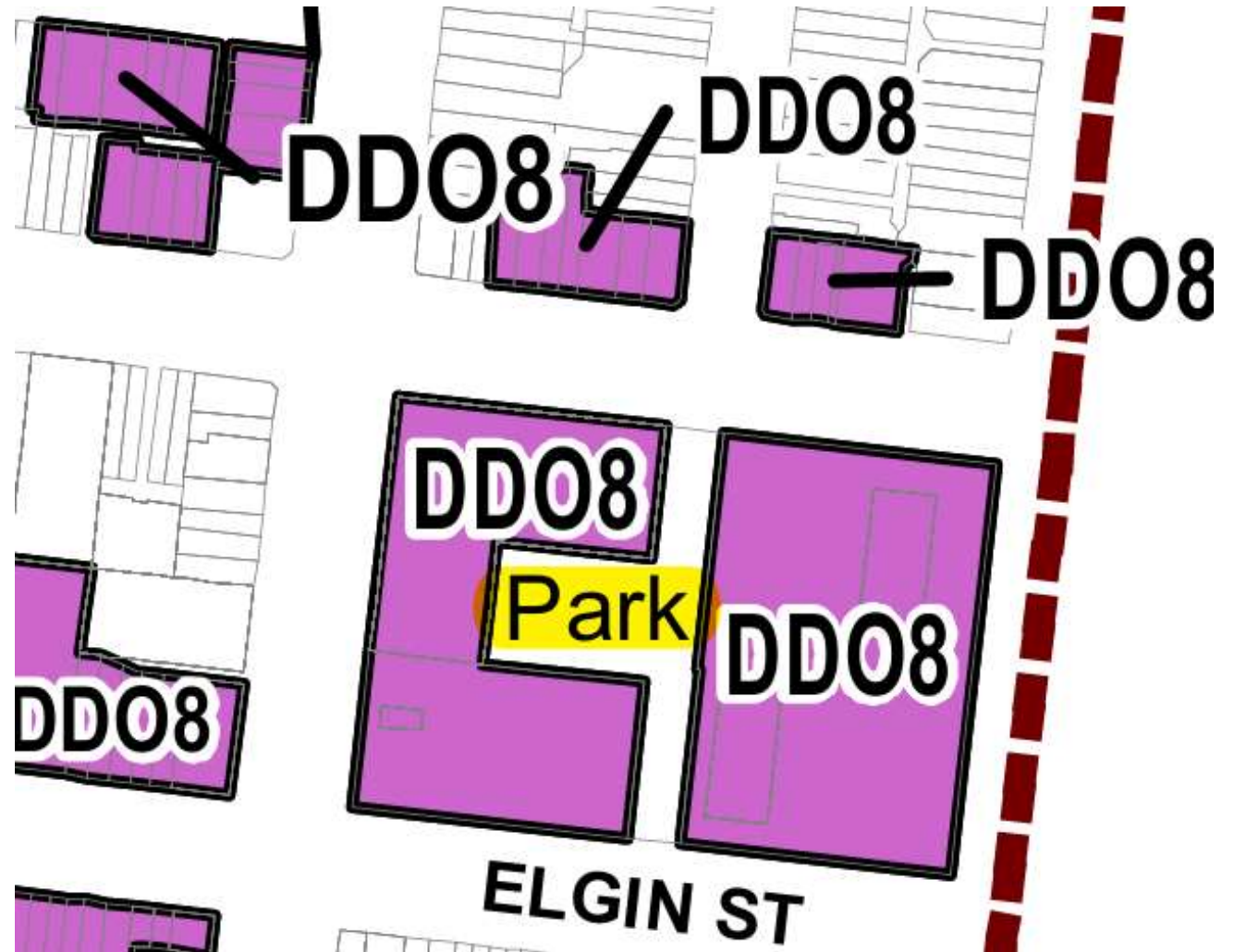


The Station Street Park Case Study continued

Extract from the Exhibition version of the DDO8 Map 05 [from the proposed Amendment C278 to the Melbourne Planning Scheme] showing the location of the Station Street Park.

This Park is located in a Growth Area within Development Plan Overlay 8, with the principal built form guidance included in the Approved Development Plan for this Precinct.

Although the new buildings in this precinct are within the 5 to 8 storey range, which results in extensive shadows over the park, this open space has been designated as a Park Type 1 [see following images]



The Station Street Park Case Study continued

The Park looking East at 10.35am on the 1st April 2020



The Park looking North at 10.33am on the 1st April 2020



The Station Street Park Case Study continued

Given that this park is surrounded by mid rise developments, and is located within a Growth Area, it is difficult to see how the Park Type 1 can be justified.

If and when the old red brick public housing blocks are demolished, surely it would make no sense to apply the no additional overshadowing test to any replacement building.

The image illustrates the North-South section of the Park, looking South at 10.29am on the 1st April 2020.



Palmerston Street Median Strip Case Study



Palmerston Street Median Strip Case Study

The image illustrates that section of Palmerston St at Station Street looking East 11.57am on the 20th June 2020, where half street closures are in place.

However, given that this median strip, and half street closures, have been designed with traffic control objectives as a primary consideration, it is not clear how any Park Type at this location could be justified.

Further, given that Palmerston Street is about 30 metres wide, any shadows cast by an existing or replacement building on the North side of Palmerston Street, near Station Street, will have no meaningful impact upon the Station Street Park.



Palmerston Street Median Strip Case Study

The image illustrates that section of Palmerston St at Canning Street looking East at 11.55am on the 20th June 2020, where half street closures are in place.

As before, this median strip, and half street closures, have been designed with traffic control objectives as a primary consideration.

However, unlike the Station-Palmerston Street intersection, this corner building, and the two adjacent buildings on Palmerston Street have NOT been included within a DDO8 Overlay. This suggests that the Council has no plans to re-configure the central median strip to prioritise pedestrian and open space initiatives over traffic control measures.



Palmerston Street Median Strip Case Study

Dwelling at NE corner of Palmerston and Station Street is illustrated at right. Although the current Zoning would permit the adjacent buildings on both frontages to be higher, it is Heritage Policy that any additions to the adjacent heritage places are partly concealed.

Further, given that the corner building has a Significant Grading [HO71], it is Policy that any addition to this building should not dominate adjoining contributory buildings.

Under these circumstances, any unlikely designation of the median strip as a Park Type 1 will have minimal impact.



Palmerston Street Median Strip Case Study

Dwelling at NW corner of Palmerston and Station Street is illustrated at right. Since it is Heritage Policy that any extension to this corner property is respectful in terms of scale and placement, any shadow impacts of an extension are likely to be minimal.

Further, given that the dwelling adjacent to the corner building [on Palmerston St] has recently been completed, any height extension for non residential use seems most unlikely.

Under these circumstances, any designation of the median strip as a Park Type 1 will have minimal impact.



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1 March 2021

Planning Panels Victoria Presentation

The Keppel Street Park Case Study



The Keppel Street Park Case Study continued

- This Park is located in a Growth Area within Development Plan Overlay 8, with the principal built form guidance included in the Approved Development Plan for this Precinct.
- Although the new buildings to the north of this precinct are 2 to 6 storeys in height, those buildings abutting the park are just 1 storey in height. These low scale heritage buildings were part of the former Queen Elizabeth Centre [Victorian Heritage Register Ref No H1813].
- Although the no additional overshadowing test is most desirable, given the scale and heritage status of those buildings surrounding the park, the designation as a Park Type 1 is almost “academic”.

The Keppel Street Park Case Study continued

The Keppel Street park [illustrated] is surrounded by single storey heritage buildings.

Since these buildings are on the Victorian Heritage Register, it is most unlikely that additional storeys would be approved for these places.

Accordingly, it is most unlikely that the “no additional overshadowing test” would ever be triggered.



Elgin Street Case Study



Elgin Street Case Study

- **The DDO 8 areas on the North side of Elgin Street between Lygon and Canning Streets** are located within a Commercial 1 Zone [C1Z] where there is NO height guidance at all.
- Since it is unlikely that new parks will be created on the South side of Elgin Street, it is not clear what will be protected and how. Any reconfiguration of the median strips located in Elgin Street will probably be designed with transport considerations uppermost.
- If these medians were to be designated as Parks Type 2 [rather unlikely] there would be no way to measure any ALLOWABLE shadow, since there are NO specified street wall or building heights in the C1Z. This area is not 'covered' by other DDO controls.

Elgin Street Case Study

The image illustrates Elgin Street near Drummond Street looking East at 11.16am on the 18th of June 2020.

Since it is unlikely that new parks will be created on the South side of Elgin Street, it is not clear what will be protected from overshadowing and how. Any reconfiguration of the median strips located in Elgin Street will probably be designed with transport considerations uppermost.

The proposed Planning Scheme Amendment must clarify how any allowable shadow will be determined in those areas where the Planning Scheme provides no height guidance at all.



Elgin Street Case Study

The image illustrates Elgin Street near Lygon Street looking West at 11.17am on the 18th of June 2020.

As for the previous slide, it is unlikely that new parks will be created on the South side of Elgin Street.

Since any reconfiguration of the median strips located in Elgin Street will probably be designed with transport considerations uppermost, the Council needs to justify why most of the North side of Elgin Street has been included within a DDO8 Overlay.



Area bounded by Elgin, Rathdowne, Grattan and Cardigan Streets



Central Carlton North Case Study

An extract from the exhibited Melbourne C278 ddoMap05 illustrating the DDO8 areas

Given that Drummond Street, within the Central Carlton North area, already has generous grassed medians, why is it that this Street is provided with so little DDO8 “coverage” North of Grattan Street? Surely, the Drummond Street median could justify a NO ADDITIONAL OVERSHADOWING control [ie be considered as a Park Type 1 when formally designated].

This will be especially important on the West side of Drummond Street, as many of the buildings located there are already causing significant shadows over the Drummond St carriageway. See images on following slide.



Central Carlton North Case Study

Drummond St near Grattan St looking South at 3.11pm on 18th June 2020



Drummond St near University St looking North at 3.13pm on 18th June



Carlton Street Case Study

Image below extracted from Google Street View



Carlton Street Case Study

- No doubt, the intention of the DDO8 Overlay north of Carlton Street is to ensure that no additional shadows are cast over the Carlton Gardens, a Park Type 1. But, these DDO's are located within a Neighbourhood Residential Zone Schedule 3 area, where the [mandatory] maximum building heights are currently 9 metres [with few exceptions]. However, if the overall building height is 9 metres or less, NO overshadowing analysis is required.
- Although the maximum height of 9 metres only applies to dwellings and residential buildings, given that low scale heritage dwellings are the dominant land use, and that Carlton street is a Significant Streetscape, it is heritage policy that additions to significant or contributory buildings are concealed. This should limit additional overshadowing impacts of any new non-residential land uses. [Note extent of existing shadows in following slide.]

Carlton Street Case Study

Carlton Gardens from the Carlton-Canning St Corner at 2.47pm on 20th June 2020



Carlton Street Case Study

The City of Melbourne Response to CRA Position: “Whilst low mandatory building height limits are specified within many of the residential zones, provisions within the Planning Scheme enable mandatory heights to be exceeded where there are existing buildings of greater height on abutting allotments or the proposed building is for a non-residential use.”

*Extract from MPS concerning the maximum building height exception [Cl 32.09-10]: A building may exceed the applicable maximum building height or contain more than the applicable maximum number of storeys if: There are existing buildings on **both abutting allotments** that face the same street and the new building does not exceed the building height or contain a greater number of storeys than the lower of the existing buildings on the abutting allotments.*

CRA Response to Council’s Position: Since that section of Carlton Street illustrated in the Google Street View consists almost entirely of one and two storey heritage terraces within a significant streetscape, the “**abutting allotment**” **exception to the NRZ mandatory height provision** would have almost no application in Carlton Street.

Carlton Street Case Study

- Again, although the maximum height provisions do not apply to non-residential buildings [an anomaly in CRA's opinion] the heritage policy to conceal higher rear additions to heritage places in Significant Streetscapes, would both limit the height of non-residential buildings AND any overshadowing consequences.
- Quite simply, if the Council were to apply the "Concealment of Additions" provisions of the current Local Heritage Policy, there would be NO need for any additional overshadowing controls in this Significant Streetscape.
- It must be emphasised [as illustrated in the earlier and following slides] that the existing two level terraces on Carlton Street do not cast any shadows on the Carlton Gardens at [about] 3pm on the Winter Solstice.

Carlton Street Case Study

**Carlton Gardens opposite Austin Place
[off Carlton Street] at 2.46pm on 20th
June 2020**



**Carlton Street between Canning &
Nicholson Streets looking East at
2.52pm on 20th June 2020**



Amendment C278: Sunlight to public parks

Concluding Observations

- The effectiveness of the proposed measures to limit additional overshadowing on public parks varies considerably across Carlton.
- In our view, where parks are NOT separated by roads from buildings [as for the Palmerston-Canning Street pocket park] the no additional overshadowing test, while desirable, would have little impact since one and two storey buildings contiguous with park boundaries already cast **significant** shadows over these parks.
- And again, the DDO8 Overlay surrounding the Keppel Street Park would have no impact, since the height of the surrounding single storey, Victorian Heritage Registered buildings has been determined by heritage considerations and not the Development Plan envelopes.

Amendment C278: Sunlight to public parks

Concluding Observations [continued]

- In the CRA's view the designation of the Park Types has NOT been applied consistently. Why, for example, was the Station Street Park designated a Park Type 1 when it is surrounded by mid-rise buildings [higher than 4 storeys] AND located in a Growth Area, whereas Argyle Square, which is located in a low scale area which the current planning controls seek to maintain, is designated a Park Type 2? [See Postscript for an elaboration of this concern]
- And again, the location of DDO8 overlays in areas where no Park Types have been designated requires justification. While the future of the Drummond Street median would justify a Type 1 designation, most of the buildings on Drummond Street, to the north of Grattan Street, have no DDO8 coverage. In contrast, almost all of Elgin Street east of Lygon Street is "covered by" DDO8 Overlays, and yet it is difficult to imagine the Elgin Street median justifying ANY Park Type.

Amendment C278: Sunlight to public parks

Concluding Observations [continued]

- The analysis of the existing shadows on Argyle Square during the Winter Solstice demonstrated that those shadows generated from buildings on the West side of Cardigan Street had a much greater impact on the Square than shadows from similar scale buildings on Lygon Street. The determination of appropriate built form controls over developments surrounding this square must acknowledge this variability. [See Postscript for an elaboration of this concern]
- The Argyle Square Case Study also underlined the importance of acknowledging recent studies endorsed by the Council, including the **(MID) City North Opportunities Plan**. While developers prefer to prioritise the “emerging built form” as a key determinant of development outcomes, the CRA submits that greater weight should be given to endorsed Council Policy Positions [like the City North Opportunities Plan]. Failure to do so is likely to result in compromised public realm outcomes.

Am C278 - Sunlight to public parks

CRA Submission - Postscript 1 March 2021

Related Planning Scheme Amendment under consideration: Am C380 Zoning corrections of public open space; CRA concerns

Some important errors have not been corrected. The Association does not understand why these important matters were not settled BEFORE proceeding with Am C278 Sunlight to Public Parks.

- For example, the boundaries of two of Carlton's major squares, University and Lincoln Squares, do not align with the approved designs for these squares. This has resulted in subsequent shadow analysis not representing an accurate picture of both actual and potential over-shadowing of these squares.
- The exhibited Amendment did not record some open space reservations consistently. For example, the boundaries of the Canning-Neill Street Reserve [71] have been corrected; but the Amendment has failed to record other reservations associated with full and partial street closures. They include the Lytton Street Reserve and the reservation associated with the closure of Keppel Street at Swanston Street.

Am C380 Zoning corrections of public open space

CRA concerns continued

- Similarly, the Council has failed to record other important public open spaces, including the space in front of the Australian School of Optometry. Further, the decision of the Council to exclude Carlton's historic median strips and roundabouts from the Amendment fails to recognise that these have provided important and accessible open spaces for the local community for DECADES. The Council's *Carlton Urban Forest Precinct Plan 2013-23* notes that the suburb's centre medians, roundabouts and tree islands have provided "fantastic opportunities for planting large trees in streets."
- **Given the Council's determination [in Am C278] to treat ALL public parks as equally important, and NOT limit meaningful solar protection to the major municipal parks; the exclusion of these other public spaces from both Amendments makes no sense whatsoever.** We are not talking about any potential resumption of surplus road space for new open space [as contemplated by the Council's report *Melbourne Innovation Districts City North Opportunities Plan 2020*] but EXISTING open space reservations.

The designation of Park Types according to whether located within low scale or growth areas

In the Association's view, the Report *Sunlight access to public parks modelling analysis report* February 2018; [brief Title: Hodyl (2018)] includes most contentious conclusions concerning the designation of Park Types.

- Map 4 on pages 40 and 41 of Hodyl [2018] does not record some of the height limit controls accurately. For example, Carlton includes three Housing Precincts the subject of major developments; all are associated with proposed Public Parks. Although all are included within the Residential Growth Zone, **it is the building envelopes approved in the context of the Development Plan Overlays that have determined the critical building heights.**
- More particularly, the Reeves Street Park [no 82] is bordered by a nine storey development on the west and a six storey development on the east; this is not a low scale area. So, why was the Reeves Street Park designated a Park Type 1? Similarly, the Station Street Park [no 84] is surrounded by new buildings in the range of 5 to 8 storeys, heights that cannot be categorised as low scale. So, again, how can a Park Type 1 be justified.

The designation of Park Types according to whether located within low scale or growth areas continued

Unsurprisingly, since both the Reeves Street and Station Street Parks are surrounded by mid-rise buildings on the west, north and east, they are ALL subject to considerable overshadowing at present. Extracts from the **Sunlight Map Book Feb 2021 Parks** [Folder_8_Doc_7] follow [Brief Title: Map Book].



The designation of Park Types according to whether located within low scale or growth areas continued

Clearly, the shadow analysis below [for the Station Street Park] is incomplete, since the significant shadows from the new 5 and 6 storey buildings on the west and north of the park have NOT been recorded.



The designation of Park Types according to whether located within low scale or growth areas continued

From this analysis, the Park Type 1 designation is inappropriate, since the existing buildings [built to the existing height controls] have already seriously compromised meaningful winter sunlight access.

And again, more seriously, the Association cannot accept the designation of Argyle Square as a Type 2 Park. **In Council's Expert Witness Statement No 6 – Folder 13 [pp 13 and following] it is clear that low scale areas have been redefined as those areas with a maximum height of three storeys or below.** The Association can find no planning justification for this redefinition. This shift in definition, results in areas with a maximum or discretionary maximum height of 4 storeys being treated as de-facto growth areas. But:

- According to the current Growth Area Framework Plan [MPS Clause 21.04-1] NO area south of Grattan Street [East of Swanston Street] is designated as an existing, proposed OR potential Urban Renewal Area,

The designation of Park Types according to whether located within low scale or growth areas continued

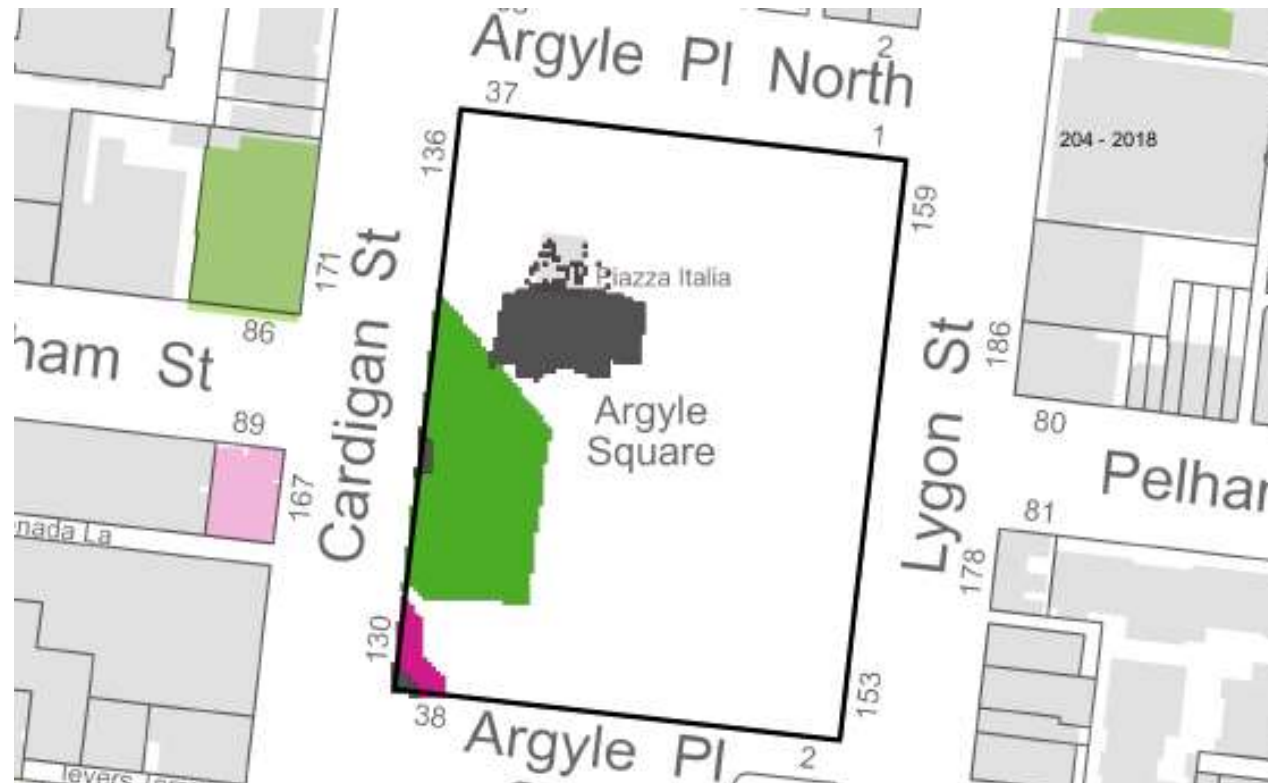
- DDO47, which surrounds Argyle Square, includes Design Objectives which seek to **“maintain the predominant low scale nature of the area”** AND to **“ensure development supports high levels of pedestrian amenity related to access to sunlight and sky views and a pedestrian friendly scale.”**
- Further, the table to Schedule 47 nominates the maximum building height for this low scale area as 4 storeys. **“An application to exceed the Maximum Building Height must demonstrate how the development will continue to achieve the Design Objectives and Built Form Outcomes of this schedule and any local planning policy requirements.”** The Built form Outcomes are also quite unambiguous: **“New development respects and is consistent with the built form especially low scale of the existing older building stock in the street,”** and **“Development that does not overshadow Argyle Square ... between 11am and 2pm on 22nd September and 22nd March.”**

The designation of Park Types according to whether located within low scale or growth areas continued

- Finally, for years the Planning Scheme has provided different guidance for apartment developments of five or more storeys. With the introduction of the new Apartment Standards, the Clause 58 provisions apply for apartment developments of five or more storeys in a residential zone. **Different standards [Clause 55] apply for low scale apartment developments [four storeys or less] in a residential zone.**

Argyle Square and existing [and potential] shadow impacts

From the Council's Map Book and CRA Images below, it is clear that buildings higher than 4 storeys will have a remarkably different shadow impact upon the square; the extent of any shadows relates to the street location of these buildings.



Argyle Square and existing [and potential] shadow impacts continued

↓ 204-218 Lygon St, a 6 storey office development



Argyle Square and existing [and potential] shadow impacts continued

Existing 3 storey development at north corner of Cardigan and Pelham Streets [below] already causes a minor shadow on Argyle Square on the 18th June at 2.59pm, whereas, the higher 6 storey building at 204-218 Lygon Street causes negligible shadows on Lygon Street on the 18th June at 10.08am [both dates very close to the Winter Solstice].



Argyle Square and existing [and potential] shadow impacts continued

- The Association concludes that the designation of Argyle Square as a Type 1 Park, would have little impact upon the development potential of all those streets surrounding Argyle Square with the exception of new developments on Cardigan Street.
- If Argyle Square is extended to the north [over Argyle Place North] new developments on Argyle Place North would also be constrained if the no additional overshadowing test were to be applied.
- However, it must be noted that it is Council Policy that height additions to all those Heritage Places fronting Argyle Place North are to be partly concealed [and completely concealed in the case of most significant Heritage Places.] To achieve this Policy, these additions would need to be set back a considerable distance from the front façade of Heritage Places; an outcome that would reduce the impact of any resulting shadows

CRA Submission Postscript 25 February 2021

Concluding Comments

- Given the considerable variability of shadow outcomes resulting from the application of the DDO8 shadow tests to the SAME public park, the Association submits that there is merit in exploring an alternative Planning Scheme instrument to achieve the desired sunlight access to our public parks.
- More particularly, the Association would support an investigation of the alternative option advanced in the Council's Expert Witness Statement No 7 – Folder 13 [See extracts below]

CRA Submission Postscript 25 February 2021

Concluding Comments

Possible alternative approaches – A particular provision

117. The overshadowing of parks is an 'issue based' planning matter rather than a 'site based' matter. The preferred way to implement issue based planning controls is via 'particular provisions' in a planning scheme.

Particular provisions are planning controls that apply only to certain uses and development or to particular aspects of certain uses and development.

Particular provisions operate differently to zones and overlays in that they are issue-based, rather than land-based controls. They apply to a use or development irrespective of the zone or overlay that applies to the land.⁷

CRA Submission Postscript 25 February 2021

Concluding Comments

Possible alternative approaches – A particular provision continued [Extract from Council's Expert Witness Statement No 7 – Folder 13]

118. Clause 52 provides for 'particular provisions'. However, at present it generally only provides for State based provisions.

119. In my opinion, a municipal based particular provision would be an appropriate way to introduce the overshadow controls proposed by Amendment C278. I believe it would be appropriate for the Department of Planning to consider revising the VPPs to contain an option for Councils to introduce municipal based particular provisions. The Panel may wish to comment on the appropriateness or otherwise of this approach in its report.