

Amendment C160 to the Bayside Planning Scheme

**Implementation of the Highett Structure
Plan 2018**

Part B Submission

Bayside City Council

11 March 2020



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List of Attachments

Appendix A – Draft Local Planning Policy Framework Translation

Appendix B – Updated Zoning Maps

Introduction

1. This submission is made by Bayside City Council (Council). My name is Julia Weyhe and I am a Senior Strategic Planner at Council and will be presenting Council's submission to the Panel and I will be assisted by Mr Tom Vercoe, Strategic Planning Coordinator. Council is the Planning Authority for Amendment C160 to the Bayside Planning Scheme.
2. On 28 February 2020, Council provided its 'Part A' to this submission which set out:
 - a) Background to the Amendment;
 - b) Chronology of events;
 - c) Strategic context and assessment;
 - d) Identification of the issues raised in submissions and its response; and
 - e) Any changes to the Amendment documentation proposed as a result of the issues raised in submissions.
3. This submission comprises Council's Part B submission and as directed by the Panel addresses the following matters:
 - a) An overview of the Amendment including a summary of the Highett Structure Plan and the proposed tools used to implement the plan;
 - b) Further discussion consistency with Planning Practice Notes 58 and 60 as referenced in Council's Part A Submission;
 - c) A detailed response to submissions;
 - d) Council's response to the expert evidence provided by Ms Sarah Horsfield, Director of Urbis Pty Ltd on behalf of Submitter 19; and Mr Jason Walsh, Traffic Engineer of Traffix Group Pty Ltd on behalf of Submitter 23;
 - e) Council's final position on the Amendment including any further changes proposed to be made to the Amendment.
4. This submission is structured so as to outline the background to the amendment, followed by Council's response to the issues raised in submissions, and then consideration of the precinct specific issues.

Background to the Amendment

5. As demonstrated in Council's Part A Submission (circulated on 28 February 2020), extensive work has gone into the development of the *Highett Structure Plan 2018* (the Structure Plan).
6. The process of updating the Structure Plan involved a significant amount of analysis by external experts on urban design, traffic (current conditions and future actions), economic conditions, and vegetation analysis.
7. The review of the Highett Structure Plan was undertaken in collaboration with the local Highett community. The first stage ran from April to June 2017 and gathered broad information on the Issues and Opportunities facing Highett as outlined in the Highett Structure Plan Review report¹. The feedback gained in this stage was incorporated into the draft Structure Plan. The final stage of community engagement ran from April to May 2018 and sought feedback on the draft Structure Plan. The final engagement with the community provided an opportunity for general feedback and tested the level of support on each of the following elements of the Structure Plan:
 - The revised vision statement;
 - The revised activity centre boundary;
 - Heights and types of housing;
 - Land use;
 - Walking and cycling around the Highett Activity Centre;
 - Using public transport;
 - Car traffic and parking; and
 - Main streets, public spaces and parks in Highett.104 participants provided their feedback.
8. There was general support for the vision, the boundary, the walking and cycling strategies, increasing canopy tree retention, improving access to open space, protection of natural assets on the CSIRO site.

¹ Appendix P to Council's Part A Submission

9. There were mixed views on the proposed increase heights to 4 storeys in Precincts 1 and 2A. The outcome of this feedback² was dividing Precinct 1 into 1A and 1B with 1B providing a transition from the core of the centre to the surrounding residential areas by specifying a 3 storey height limit. This was seen to be the most suitable solution for providing increased height and density in the commercial core and surrounds while offering the community certainty about the level of amenity protection they can expect.

10. The 2018 Structure Plan did not replace the core principles or direction of the 2004 Structure Plan. The key differences between the two Structure Plan are:
 - a) **The Activity Centre Boundary** – the boundary was updated to exclude large amounts of land in the Neighbourhood Residential Zone as this land is not proposed to accommodate increased densities. In considering the change to the Structure Plan boundary, Council considered the locations that change is to be accommodated, noting that much of the centre was zoned Neighbourhood Residential and not identified for growth. In addition, Council considered the requirements of PPN58: *Structure Planning for Activity Centres*.

 - b) **Land Use** – The review found that by 2031 the Highett Neighbourhood Activity Centre will need to be expanded to accommodate increased retail floor space³. For this reason, the 2018 Structure Plan identifies sites in the General Residential Zone and Neighbourhood Residential Zone that should be rezoned to the Commercial 1 Zone ('C1Z') to extend the commercial strip along Highett Road to Worthing Road and Donald Street.

 - c) **Building Heights** – The heights in the 2004 Structure Plan are 2 and 3 storeys in the residential areas with a range of 3-5 storeys along Highett Road. The 2018 Structure Plan altered these heights to 3-4 storeys on Highett Road with a 3 storey street wall height. The area known as Precinct 2A was designated 3 storeys in the 2004 Structure Plan. This was increased to 4 storeys in the 2018 Structure Plan, given this precinct's proximity to the train station, its interface with the railway line and that development of at least 4 storeys expected on the

² The report summarising this feedback is contained at Appendix P of Council's Part A Submission.

³ Highett and Southland-Pennydale Economic Advice, SGS Economics, 31 January Appendix N to Council's Part A Submission

CSIRO site directly opposite, it was considered 4 stories is a more appropriate height for this location.

Planning Practice Note 58: Structure Planning for Activity Centres

11. PPN58 provides guidance on the structure planning process for metropolitan and major activity centres. Whilst the Highett Activity Centre is defined as a Neighbourhood Activity Centre in local policy⁴, this Practice Note was considered in the preparation of the *Highett Structure Plan 2018* to ensure that the approach taken is logical and consistent with other Neighbourhood Activity Centres in Bayside.
12. Development in Highett is not intended to reach levels expected of the metropolitan and major activity centres identified in *Plan Melbourne 2017-2050*. However, as indicated in Council's Part A submission, the following aspects of PPN58 have informed the structure planning process for Highett.

Context for structure planning

13. The context for structure planning of Highett is as a designated Neighbourhood Activity Centre, with a local role and function under the Bayside Retail Commercial and Employment Strategy⁵. This was further reinforced with the economic advice prepared by SGS Economics and Planning to support the development of the updated Structure Plan.
14. Highett also has a role in accommodating moderate housing growth designated under the Bayside Housing Strategies 2012⁶ and 2019⁷.

The aims of structure planning

15. The aims of a structure plan are described in PPN58 as being:

“to plan for and develop a shared vision for the activity centre, and to identify the type and scope of change projected within the activity centre over time.”

⁴ Clause 21.07-1.

⁵ see page 23 of Appendix H of Council's Part A Submission.

⁶ Page 6.

⁷ Page 23.

16. The Highett Structure Plan 2018 is consistent with this in that it provides for housing growth and diversity, taking into account data from various sources to ensure that Council is planning for the appropriate level of change envisaged in Highett.

The process for structure planning

17. The process for reviewing the Highett Structure Plan 2004 is consistent with that outlined in PPN58, noting that the process involved extensive community engagement, background research and the various steps to the completion of a final Structure Plan.
18. The Highett Structure Plan Review report⁸ outlined in detail the effectiveness of the original Structure Plan and identified the changes that have taken place since the plan was prepared. It also provided consideration to a range of issues that will face the Highett community in the future, underpinning much of the work undertaken to inform the updated Structure Plan.
19. The draft Structure Plan was developed, informed by various expert reports to ensure that a robust and updated understanding of all aspects relating to the future planning of the centre could be considered. This material allowed Council to consider the boundary of the Structure Plan, given that the 2004 Plan took in a considerable amount of Neighbourhood Residential Zoned land within the structure plan boundary.
20. Following further community consultation, a final Structure Plan was adopted by Council in September 2018 which provided the future vision for the centre and defined the preferred planning outcomes for the Highett Neighbourhood Activity Centre.
21. A significant element of the revised Structure Plan was the alteration to the Structure Plan boundary from the *Highett Structure Plan 2004* to exclude land zoned Neighbourhood Residential Zone, as this is land whilst expected to accommodate some housing growth is not expected to see significant change.

⁸ Appendix I to Council's Part A Submission.

22. The new boundary is consistent with the approach taken with other activity centres in Bayside and ensures that sufficient land is available for commercial and residential needs of the future Highett community.
23. The revised boundary has had regard to PPN58 in defining the location that better reflects the areas that are intended to grow in the suburb.

Planning Practice Note 60: Height and setback Controls for activity centres

24. PPN60 outlines the approach for developing height and setback controls for activity centres.
25. In accordance with PPN60: *Height and setback controls for activity centres*, the *Highett Structure Plan 2018* seeks to accommodate change in and around the Highett Neighbourhood Activity Centre in a manner that ensures new development maintains an appropriate level of amenity and integrates with existing and proposed land uses and built forms.
26. The heights proposed within the amendment are generally prescribed by the appropriate zones, with the exception of the commercial core where a Design and Development Overlay Schedule is to be used to guide building height and setback requirements.
27. The *Highett Structure Plan 2018* has been prepared to be consistent with PPN60 as outlined below.

Development of height and setbacks

28. PPN60 requires that proposed height and setback controls allow for an appropriate level of change over time whilst enabling sufficient capacity to meet projected future population growth.

29. The *Bayside Housing Strategy 2012* designated⁹ the Highett shopping strip commercial zoned land and the public use zoned land abutting the Frankston Railway line as Key Focus Residential Growth Areas (with three storey development anticipated under existing Design and Development Overlays) with surrounding residential precincts designated for moderate growth (comprising two storey development permitted by the zone).
30. The *Bayside Housing Strategy 2012* also identified the former CSIRO site, which is located within the Structure Plan boundary a key redevelopment site.
31. Upon reviewing development forecasts and housing capacity, the *Bayside Housing Strategy 2019* identified the appropriateness of continuing to apply the spatial approach outlined in the *Bayside Housing Strategy 2012* in directing the majority of housing growth to activity centres near fixed rail public transport.
32. The 2019 Housing Strategy review also found that Bayside's growth locations have sufficient housing capacity to meet anticipated population increases over the next 15+ years to 2036¹⁰.
33. These findings were based on anticipated built form outcomes across Bayside's activity centres, including the *Highett Structure Plan 2018*.
34. Consistent with this, the application of the residential zones within the activity centre boundary is not proposed to change substantially. The existing lot layout provides limitations to accommodate significant changes in relation to built form outcomes and therefore it is expected that the majority of the future housing capacity will be accommodated in the former CSIRO site. As a result, the primary changes relate to how the schedules to the General Residential Zone are applied rather than changing the built form outcomes substantially.

⁹ Pages 106-108

¹⁰ Pages 3 and 6

35. Council commissioned SJB Urban to undertake urban design analysis to understand issues and opportunities for Highett as they relate to the land use, built form, access and movement and the public realm.
36. A number of strategies to address issues and opportunities were identified and actions and initiatives to implement the strategic intent were applied on a precinct basis. Six built form precincts were identified within the study area based on this advice. Appendix L to Council's Part A Submission contains the full Urban Design Advice Report, which is to be read in conjunction with the Highett Structure Plan Review Report.
37. Built form outcomes for residential precincts are provided under Schedules 12, 13, 14, 15 and 16 of the General Residential Zone (GRZ) which is guided by Planning Practice 91 released in December 2019. Building heights in residential areas are mandatory and generally in accordance with the Zone.
38. In relation to the commercial areas, the *Highett Structure Plan 2018* identifies built form outcomes for commercial areas that are expressed under the amended Design and Development Overlay 4 (DDO4) and under Clause 21 of the Local Planning Policy Framework, in accordance with the instructions of PPN60.
39. The built form controls proposed in the DDO4 are proposed to be discretionary controls. The controls have regard to the existing height of the Woolworths development on Highett Road and the community sentiment in relation to the preferred character of the centre, as reflect in community feedback through the engagement process as part of the preparation of the Structure Plan Review, as well as the urban design advice from SJB¹¹.

Statutory Implementation of height and setback controls

40. References to heights under the new DDO4 is expressed in storeys and in metres in brackets. PPN60 specifies a preference for building height requirements in metres however providing both storeys and metres provides additional clarity for the

¹¹ Appendix L to Council's Part A Submission

community and Council officers assessing applications. Setback requirements are specified in metres in accordance with PPN60.

41. Additionally, PPN60 indicates that heights and setbacks should be in reference to a defined point. This has not been specifically defined within the DDO4 but Council is of the view that building heights and setbacks should be applied from the Natural Ground Level at the relevant boundary.
42. If the Panel thinks it beneficial to nominate this within the Schedule, Council considers it may be appropriate to include this as recommendation of the Panel.
43. The inclusion of this wording would be consistent with PPN60 and it will ensure that clarity exists in how the height control is to be applied, particularly where land is characterised by significant slope. It is noted that the land slopes downward to the south along the south side of Highett Road.

Response to Submissions

44. Council received a total of 24 submissions through the exhibition process, including 1 late submission.
45. Council considered the 23 submissions at the 17 December Ordinary Meeting of Council and resolved to request that the Minister of Planning appoint an independent planning panel to consider all submissions. The submissions are included at Appendix T in Council's Part A Submission and are taken to be read.
46. The following sections of this submission include:
 - A summary of general issues raised in submissions;
 - The objectives of each precinct within the *Highett Structure Plan 2018*;
 - How Amendment C160 proposed to achieve these objectives;
 - A summary of issues raised by submissions in each precinct; and
 - Council's response to these issues including final proposed changes.

General issues

47. There are a number of general issues raised in submissions that do not relate to specific precincts, or relate across the centre in its entirety. These include:
- Strategic justification for the need to accommodate increased population growth in the centre;
 - Areas within the Structure Plan are already at capacity, and additional growth is going to irreparably compromise the liveability of the area;
 - General amenity impacts relating to traffic congestion, parking and vehicle movements;
 - The need to ensure the Structure Plan outcomes have regard to the potential Level Crossing Removal project for the Highett Road level crossing;
 - The need to ensure new development incorporates an increased level of environmentally sustainable design;
 - Retention of the DDO5 to the areas at which it applies, being Precincts 1B, 2A, 2B, and parts of 1A and 3;
 - Quality of existing infrastructure to support growth, for example, roads, footpaths, community facilities, etc.

Strategic justification for accommodating increased growth

48. A key threshold in the assessment of any planning scheme amendment is whether what is proposed is strategically justified. Council considers that for the most part, the strategic justification is not questioned within the submissions to the amendment, nor is it raised in Ms Horsfield's evidence as an issue of concern.
49. The detailed list of considerations prescribed by *Ministerial Direction 11 – Strategic Assessment of Amendments* outlines the analysis to confirm an amendment is justified in policy.
50. It is clear from the material outlined in Council's Part A Submission that the existing Structure Plan has undergone a robust process of scrutiny and review to inform the proposed changes to be incorporated through Amendment C160. Council considers that the amendment has balanced the need to provide opportunities for growth and economic development with the need to protect the existing character and well

valued streetscape enshrined within the Scheme to protect the residential areas of Bayside.

51. As a Neighbourhood Activity Centre, it cannot be expected that Highett will do the 'heavy lifting' when it comes to accommodating additional housing opportunities and floorspace increases. Nevertheless, the centre has a role to play and Council considers that the balance proposed to be struck with this amendment is satisfactory.

Impact of new development on character and liveability

52. Council notes that the Highett Neighbourhood Activity Centre is nominated as a change area in various Council strategic planning documents, going back longer than a decade.
53. Council is proposing to strike the balance between accommodating growth and ensuring that the preferred character elements can be retained as new development occurs; for example, the vegetation and siting requirements that appear in many of the zone schedules as part of this amendment, are a way to ensuring that preferred character elements valued by the community are retained and enhanced.
54. Council considers that the amenity impacts arising from individual development are best considered as part of the planning permit process and the measures proposed to be included through Amendment C160bays will ensure that change within the activity centre responds to the preferred character.

Traffic congestion

55. A number of submissions raised concerns about the negative impacts of increased development on future traffic congestions in the activity centre.
56. The Structure Plan identifies various upgrades and alterations to the activity centre as part of the 15-20 year vision for the centre.

57. The content in the Structure Plan has been based on the technical advice provided by Cardno in preparing the Highett Structure Plan.¹² This outlines the recommendations required to ensure that the activity centre responds to future needs.
58. Many of the concerns raised in submissions refer to the unknown level of impact future development of the CSIRO site might have on the surrounding street network.
59. Broad assumptions were considered in the background analysis to understand the potential impact of future development on this site. As the level of development is yet unknown, a comprehensive transport analysis will be carried out as part of the Development Plan prepared for the CSIRO site which must consider both expected traffic volumes associated with the site and measures to address the impacts of traffic generated by the development on the surrounding road network including any required upgrades or modifications.
60. In regards to traffic generated by new development facilitated by this Amendment, the increase in development capacity is not substantial, as there are only a few areas where controls are proposed to change to facilitate increased housing.
61. It is not expected that the increased capacity created will generate a significant increase in traffic volume, however Council will continue to monitor traffic conditions in the area to ensure that the road network is operating efficiently.

Parking

62. Concerns about the existing car parking pressures were raised in submissions to this amendment. Submitters have raised concerns that this will only be exacerbated as new development occurs.
63. It is not Council's intention to increase parking provisions in the Highett Activity Centre for the following reasons:

¹² Included at Appendix J and K to Council' Part A submission

- The Structure Plan and consequently Amendment C160bays prioritise active transport modes by improving walking and cycling infrastructure in the centre and locating increased density within 400 metres of Highett train station;
 - The car parking surveys¹³ undertaken by Cardno as part of the background work revealed the car parking to occupancy to be below capacity. Clause 52.06 of the Bayside Planning Scheme provides sufficient direction for car parking requirements, noting that much of the centre is within the Principal Public Transport Network Area;
 - If future population increases lead to a change in parking demand, Council's 'Managing On-Street Car Parking Demand' Policy will be used by Council's Traffic Management Team to assess the demand and consider alterations to restrictions.
64. Council has a raft of policy documents encouraging sustainable travel, including the Bayside Integrated Transport Strategy 2018, the Bayside Bicycle Action Plan 2019 and the Bayside Walking Strategy 2015.
65. Council is currently developing a car parking strategy however this has not progressed to a stage where Council has a defined, municipal-wide position on car parking.
66. Council considers that the analysis undertaken to inform the Structure Plan is robust and as such, there are no proposed changes to car parking provisions that Council intends to incorporate in Amendment C160bays.

Level Crossing Removal at Highett Road

67. A number of submissions make reference to the potential removal of the level crossing at Highett Road. This is currently not a scheduled or funded level crossing removal so it is presently unclear as to if and when this will occur.
68. Council considers that the Structure Plan and the provisions within Amendment C160bays do not prejudice the removal of the level crossing and that there is scope

¹³ Included at Appendix J to Council's Part A Submission.

to ensure that any benefits of the works can be clearly articulated at the time. Council submits that this is not a relevant consideration for the Panel in making its recommendations on Amendment C160bays.

Environmentally sustainable design

69. A number of submissions requested more minimum standards for Environmentally Sustainable Design. A State-wide ESD policy is expected to be released by the State Government which is expected to apply to all new development in Bayside.
70. In addition, Council has recently signed up to the Built Environment Sustainability Scorecard (BESS) program which can now be used to assess any new planning applications.
71. Clauses 21.11 (Local Areas) and 43.02-4 (DDO4) encourage the use of green roofs and walls where possible, particularly in commercial areas where there are limited landscaping opportunities at ground level.
72. As part of the non-statutory objectives of the Structure Plan, there is an objective that streetscape and open space upgrades will incorporate green sustainable infrastructure, including increased canopy cover and landscaping, stormwater management and Water Sensitive Urban Design (WSUD) strategies and energy capture¹⁴.
73. In response to submissions, Council is proposing to introduce a Strategy at Clause 21.06 to introduce a municipal wide ESD policy.

Retention of the DDO5

74. The DDO5 currently applies to a number of precincts within the Structure Plan area.
75. Much of the content of the DDO5 can be translated into a zone schedule, including the following elements:
 - Design objectives;

¹⁴ Hightt Structure Plan 2018 page 27.

- Building heights;
- Street setbacks;
- Landscaping requirements; and
- Site coverage.

76. Council considers that the intent of the DDO5 has generally been retained in terms of ensuring that development in the centre reflects the 3 storey height controls envisaged by the Overlay, as well as retaining the amenity related protections into the schedule.
77. As such, Council submits that the DDO5 is no longer relevant and can be removed from these precincts.

Community infrastructure

78. With a revised Structure Plan in place, Council may proceed to prepare an updated streetscape master plan for the centre which provides for improvements to the commercial core of the centre.
79. Roads, footpaths and open space can all continue to be upgraded and replaced as required, and this will not be impacted by the amendment.
80. Further, it is noted that Council has resolved to purchase a portion of the CSIRO site for the purpose of a new community facility. Whilst this is outside the scope of the amendment, it demonstrates Council intentions to ensure that the needs of the future Highett community are met. Implementation actions that sit outside the planning scheme amendment process will continue to occur through the relevant processes.

Precinct 1A

What the Structure Plan is seeking

81. The issues raised by submitters in relation to Precincts 1A and 1B are similar as they are both to be affected by the Commercial 1 Zone and the DDO4. However, the issues have been separated into those which relate to both precincts, with the

discussion in relation to Precinct 1A including much more of the general discussion as to the overall commercial core.

82. The vision outlined in the Highett Structure Plan for Precinct 1A is a commercial core of the centre running along Highett Road from Highett train station in the east to Major Street in the west.
83. The Highett Structure Plan 2018 envisions a commercial core with a mix of retail, employment and other associated activities that complements the rest of the centre located to the east of the train line with active frontages that reinforce the human scale of the centre.

How the Amendment proposes to achieve the objectives of the Structure Plan

84. Precinct 1A is currently zoned Commercial 1 Zone with a Design and Development Overlay, Schedule 4 (DDO4). The zone for this area is not proposed to change, however the DDO4 is proposed to be completely redrafted to reflect updated objectives for the Highett Road commercial area.
85. The revised controls will create a proportionate 3 storey street wall along the Highett Road Shopping strip, with the 4th storey set back from the street wall, provide weather protection of pedestrians, provide interest at street level and reinforce the human scale of the Highett Road Shopping Strip, increase the amount of greenery within the within the Highett Road Shopping Strip and to minimise the adverse amenity impacts of increased building heights in the Highett Shopping Strip on surround residential areas.
86. The projected retail floorspace expansion requirements of 4,600 square metres identified by SGS Economics and Planning¹⁵ plus the commercial floorspace expansion can be accommodated in its majority within the area to which the Commercial 1 Zone is to be expanded, providing an additional 3,600 m². Additional commercial floorspace is expected to be delivered as part of the CSIRO redevelopment.

¹⁵ Page 13, Highett and Southland-Pennydale Economic Advice, SGS Economics and Planning - Appendix N to Council's Part A Submission

87. The Commercial 1 Zone is the appropriate tool to deliver the land use outcomes envisaged for the precinct and its application to Precinct 1B will ensure that the land nominated for the expansion of the commercial core responds to future needs.
88. The need for retail and commercial floorspace to be provided at the ground floor is reinforced within Council's existing policy framework which includes strategies to *encourage new housing in commercial areas of activity centres to provide no net loss of commercial floorspace at the ground floor¹⁶* to ensure that new development is able to deliver the projections for floorspace either at the ground or first floor.
89. The application of the Design and Development Overlay Schedule 4 to the expanded centre will ensure that the built form elements of the Structure Plan are to be translated into policy, primarily through prescribing building height and setback requirements.
90. Whilst there are some elements within the DDO4 relating to how buildings are to respond to the streetscape and urban context, including through the incorporation of characteristics such as fine grain, activated and articulated facades and the use of landscaping, the primary features of the DDO4 relate to building heights and setbacks.

Issues raised by submissions regarding Precinct 1A

91. Submission 3, Submission 9 and Submission 22 raise specific issues in relation to Precinct 1A:
 - a) The mandatory building height and setbacks requirements in the DDO4 should be removed and replace with discretionary controls;
 - b) The controls should ensure that commercial frontages are activated to attract a range of businesses into the area and make it a safer and more attractive area;
 - c) Building heights within this precinct should be increased beyond the 4 storeys proposed;
 - d) A three storey street wall height is inappropriate for the centre;

¹⁶ Clause 21.03-1, Objective 2

- e) Objection to the rezoning from the General Residential Zone to the Commercial 1 Zone, as it removes a significant level of amenity from properties currently within the GRZ;
- f) The efforts to increase the commercial floorspace in the centre are misguided, given the majority of uses proposed for rezoning already comprise existing non-residential uses;
- g) The extension of the commercial uses along Highett Road will only add to the existing traffic and pedestrian issues in the centre;
- h) The Commercial 2 Zoned land to the south of the CSIRO site should be included within the Activity Centre Boundary
- i) Council should remove the design objective in the DDO4 “To increase the amount of greenery within the Highett Road Shopping Strip either through the use of landscaping at ground level or the use of green roofs and walls where landscaping opportunities at ground level are limited” as this requirement is inconsistent with objective of achieving an active streetscapes.

Response to submissions relating to Precinct 1A

92. Following exhibition of Amendment C160bays, Council incorporated changes to the DDO4 to ensure that clarity exists on how the control is to be implemented. This included the rewording of objectives so that they are focused more on the outcome to be achieved rather than the characteristics that will deliver those outcomes, as well as altering the use of the term ‘should’ to ‘must’ in relation to the application of the specified side and rear setback requirements.
93. All of Bayside’s activity centres are subject to Structure Plans or similar which have guided built form controls across the centres. Whether the controls are mandatory are discretionary varies across different centres, though it is noted that in almost all cases the residential precincts in Bayside’s Activity Centres are subject to mandatory height controls, the exception being the Hampton East Major Activity Centre, where the Activity Centre Zone Schedule 1 applies rather than one of the suite of residential zones.

94. The appropriateness of mandatory controls compared with discretionary controls have been considered by various Panel's, with discretionary heights being favoured by Planning Panels in commercial precincts within Bayside's Activity Centres¹⁷.
95. In relation to the Highett Activity Centre, it is proposed to apply discretionary height controls through the use of a Schedule to the DDO. It is observed that submissions relating to this centre appear confused as to whether this is a mandatory or discretionary control.
96. Some parent provisions allow for a schedule to provide requirements as well as guidelines (for example, the Activity Centre Zone at Clause 37.08-6) whereas the Design and Development Overlay allows only for requirements to be specified, rather than also including guidelines.
97. PPN60: Height and Setback controls for activity centres states¹⁸ that:
- Clear and consistent terms should be used to distinguish between preferred and mandatory maximum building height controls as follows:*
- *'Preferred maximum building height' should be used consistently for a performance-based provision in conjunction with 'should';*
 - *'Mandatory maximum building height' should be used consistently for a mandatory provision in conjunction with the word 'must'.*
98. The Design and Development Overlay parent provision outlines¹⁹ that for land affected by a Design and Development Overlay:
- Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay. A schedule may include requirements relating to:*
- *Building setbacks.*
 - *Building height.*
 - *Plot ratio.*
 - *Landscaping*
 - *Any other requirements relating to the design or built form of new development.*

¹⁷ C100-C103 Panel Report, page 28

¹⁸ Page 4

¹⁹ Clause 43.02-2, Buildings and works

A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay, unless the schedule specifies otherwise.

99. Council notes that the parent provision utilises the word ‘must’ whilst acknowledging that the requirements specified are able to be varied, unless otherwise stated.
100. Council highlights this distinction, referencing the language used elsewhere in the Scheme, where for example at Clause 55, discretionary controls applied through the standards specified are referenced with softer language, for example:
- A development:*
- *Must meet all of the objectives of this clause that apply to the application;*
 - *Should meet all of the standards of this clause that apply to the application.*
101. In this example, it is clear that discretion does not exist in relation to the term ‘must’; in that development in all circumstances must meet the objective; and that the standards which are caveated with the term ‘should’ is where discretion exists, and alternate approaches that deliver the objective may be considered.
102. *A Practitioners Guide to Victorian Planning Schemes* outlines in relation to drafting schedules that the local content in a schedule can only do what the parent provision allows.
103. In the context of the DDO, it is interpreted that the use of the term ‘must’ does not in itself make a requirement mandatory. It must be specified that a permit cannot be granted for buildings and works which are not in accordance with the requirement, in combination with the use of the term ‘must’. This issue has been thoroughly considered in the past²⁰.
104. Despite the use of the term ‘must’ in the DDO4, the controls are intended to be discretionary controls as there are no specific statements included within the DDO4 that also prescribe that a permit cannot be granted to vary the requirements.

²⁰ Shadda Abercrombie v Salter Architects & Anor [2018]

105. The correction of the bullet point in the DDO4 schedule following exhibition is to ensure that the provision is drafted consistently with the other areas of the Schedule that allow discretion to be exercised. Council submits that this does not alter the intent of any of the built form requirements of the schedule, as they will all continue to be discretionary, and that it is merely a correction to ensure the control is applied consistently.
106. Council submits that the changes proposed and the drafting of the DDO4 to refer to 'must' is consistent with the DDO parent provision and can be supported on that basis.
107. In relation to the comments raised in relation to ensuring the commercial core provides a more activated and attractive streetscape, the proposed extension of the commercial core to the west will ensure that Highett Road benefits from an increased viability and vibrancy, with new commercial uses providing active frontages.
108. The building heights nominated in the Structure Plan reflect the balance that is intended to be struck between facilitating an appropriate level of growth, implementing the urban design advice and providing the level of change that the community wish to see in this part of the centre. Whilst the proposed heights are more akin to the centres role as a Neighbourhood Activity Centre, it is considered that if there is a site that is capable of accommodating additional height than the discretionary 4 storeys specified, the DDO4 provides the flexibility for this to occur.
109. In relation to the 3 storey street wall height, the urban design advice found the need to create a proportionate street wall and building height along Highett Road, distinctive from the 1-2 storey height in the Kingston portion of the Activity Centre, east of the railway line.
110. In addition, there is no justification to reclassify the Neighbourhood scale role of the centre. Retaining this should not be specific to its economic function and in preparing the Structure Plan it was clear that built form is a major determinant of role, function and public domain amenity. The 3 storey street wall height was considered

appropriate not only in responding to the centre's role but in creating a pleasing eye level experience for people on the street to secure the future viability of the area.

111. It is noted that between the urban design advice and the preparation of the Structure Plan, the transitional height and setback requirements nominated on the relevant maps as being between Precinct 1A and the proposed NRZ1 land along Middleton Street appear to have been removed. It is considered that the intent remains, as height and setback requirements are specified at Table 1 of the DDO4 despite not appearing in the Map. Council considers it reasonable for the Panel to recommend that the transitional setbacks be reinstated at Map 1 to the DDO4 to ensure the transitional setbacks are clear between Table 1 and Map 1.

112. In relation to the loss of amenity for existing properties within the GRZ that are to be rezoned C1Z, particularly in relation to the site at 2A Major Street²¹, it is considered that the nature of that development already allows for commercial uses at the ground floor. In terms of built form outcomes, there will be little change facilitated by the C1Z as the site already adjoins C1Z land and its proximity to the station indicates a reduced level of amenity than other sites that may be further located from an activity centre. There are various examples of Tribunal and Panel decisions that indicate the amenity of activity centres will change in the future, and that planning controls should have regard to managing change in a way that protects amenity, where it is reasonable to do so. Council considers that the controls proposed will protect amenity whilst ensuring that new development meets the preferred future character.

113. Council disagrees with the comments in submissions that the extension of the C1Z towards Worthing Road is misguided, as there is still considered to be ample opportunity for the provision of commercial floorspace that will meet future need. It is also noted that the Commercial 1 Zone provides for a greater level of permission for commercial uses than the residential zones, and is considered the appropriate tool to deliver the mixed use outcomes that are sought for this part of the activity centre. It is considered that public realm improvements can be undertaken in the future to ensure that this part of the centre is designed to be consistent with the existing commercial core, and that this will enhance the pedestrian safety and amenity of this part of the

²¹ Some sources indicate this site as part of 481 Highett Road

precinct. This is considered to be a secondary matter to the appropriate planning controls.

114. Further changes to the DDO4 design objectives have been outlined at Appendix X to Council's Part A submission that ensure the wording is more clearly articulated.
115. The proposed changes at Appendix X outline Council's final position in relation to the controls for Precinct 1A, having regard to the issues raised in submissions.

Precinct 1B

What the Structure Plan is seeking

116. The vision outlined in the Highett Structure Plan for Precinct 1B is to extend the commercial core to make it a vibrant precinct incorporating shop-top housing and an appropriate transition to the surrounding residential area.
117. The Highett Road shopping centre will be a revitalised strip and an attractive, vibrant and well used main street and community focal point that provides a wide range of local shopping, business and community services suited to the needs of people living and working in the area with sufficient car parking to meet the needs of businesses and residents.

How the Amendment proposes to achieve the objectives of the Structure Plan

118. The implementation of the vision for Precinct 1B is very similar to 1A however the land is currently within the General Residential Zone Schedule 5, the Neighbourhood Residential Zone Schedule 3 and the Commercial 1 Zone.
119. The primary difference in relation to the proposed controls is the proposed height contained in the DDO4. The change in height from 4 storeys to 3 storeys for Precinct 1B is considered an appropriate transition from the intensity of the commercial core nearer to the train station to the peripheral western end where the commercial strip interfaces with the Neighbourhood Residential Zone.
120. The objectives of Precinct 1B are proposed to be rezoned from GRZ and NRZ to C1Z to facilitate an expansion of the commercial core. In addition, the amenity of adjoining

residential properties was considered to have an important influence on height, particularly as some properties in Precinct 1B will directly adjoin Neighbourhood Residential Zoned land.

121. The DDO4 provides for screen planting and landscaping in side and rear setbacks where land abuts a residential zone to further aid in transitioning to the lower scale residential character outside the proposed boundary.

Issues raised by submissions

122. The primary issue raised specifically in relation to Precinct 1B, separate to the general issues raised in relation to the commercial core, is that the proposed height at 3 storeys is an underdevelopment and the height should be increased to at least 4 storeys.

Response to submissions relating to Precinct 1B

123. Council does not agree with submissions that suggest the height control for this part of the centre should be amended to be a 4 storey discretionary height, the same as for Precinct 1A.
124. It is considered that the height of 3 storeys assists in preserving the human scale of this part of the centre and has consideration that this part of the commercial core interfaces with land outside the activity centre boundary.
125. The topography of this part of Highett slopes down from the commercial area, meaning the buildings in the commercial area will have additional impact on adjoining lots. The sites which are currently NRZ and are being rezoned. As outlined by PPN60, in a sloping terrain, 3 storeys at the commercial street can be up to 2 storeys higher at the rear.
126. Further, there are no laneways providing separation between the adjoining residential properties in this part of the centre. As such, a discretionary 3 storey control is proposed. Similar to Precinct 1A, it is observed that this is a discretionary height control and that development may exceed this height if appropriate.

127. In order to improve consistency between the proposed DDO4 and DDOs in Bayside's other activity centres, the Panel may wish to consider recommending the inclusion of a criteria in the proposed DDO4 for assessing discretionary heights, similar to that which was considered by a Panel²² in relation to Amendment C126 for Bayside's small activity centres, being:
- A high standard of architectural design;
 - Innovative environmental design;
 - Enhancement of the public realm including minimal overshadowing of adjoining streets and public spaces;
 - Minimal impact on the amenity of adjoining residential properties;
 - Respect for places within the Heritage Overlay; and
 - Transitions in scale to lower building forms.
128. As such, a reduced height control is considered appropriate to ensure that the adjoining residential amenity is protected. In order to clarify the requirements of this interface, Council proposes to correct a mapping error in the DDO4 to add transitional setback requirements to the map at 43.02-6 to show ensure the map matches the requirements at Table 1 in the DDO.

Precinct 2A

What the Structure Plan is seeking

129. The vision outlined in the Highett Structure Plan for Precinct 2A is an area with an increased density, providing apartments and townhouses proximate to public transport and shops. Development within the precinct will include space for landscaping to provide a garden setting for new developments.

How the Amendment proposes to achieve the objectives of the Structure Plan

130. Amendment C160bays proposes to increase the height in Precinct 2A from 3 storeys to 4 storeys by introducing a new Schedule 13 to the General Residential Zone (GRZ13).

²² Bayside Amendment C126 Planning Panel Report, page 85

131. In order to maintain the human scale of the commercial area and appropriately transition to the surrounding residential areas, the 4th storey is required to be recessed back from the street by 5 metres. The Highett Structure Plan Urban Design Advice²³ provided as part of the background work for the Structure Plan outlines that a proportionate street wall and building height should be created to be distinctive from the 1-2 storey street wall portion on the Kingston side.

Issues raised by submissions

132. The only submission received that specifically considers Precinct 2A is Submission 19, which seeks to increase the building height from 4 storeys to 6 storeys in order to avoid having larger scale development at the CSIRO site and then transitioning to a lower height closer to the station.

Response to submissions relating to Precinct 2A

133. Council does not agree with the submitter that the height control in Precinct 2A should be increased to 6 storeys.
134. Council considers that the heights in this part of the centre should match those of the commercial core (being 4 storeys), as this better reflects the preferred character objectives that the Structure Plan and community envision for this part of the centre.
135. In considering the appropriate zone for this location, Council had regard to the community sentiment relating to building height in the centre, as well as the available tools to ensure the appropriate zone is applied.
136. Whilst the *Consultation Findings Summary Report* indicates a mixed support for the heights proposed at Precinct 2A²⁴, the primary comments raised by the community throughout the elaborated responses generally does not support increased heights. It is clear that residents are concerned about the increased number of apartments in the area and the impact this is having on the attractiveness of the centre.

²³ Included at Appendix L in Council's Part A Submission.

²⁴ Appendix P to Council's Part A Submission, pages 18-24.

137. As a result, Council considered the preferred character outcomes that residents of Highett are seeking to achieve to ensure that the appropriate tools could be used to balance the impact of increased growth and the delivery of a preferred future character.
138. In considering the appropriateness of the Residential Growth Zone for this precinct, noting that this was prior to the release of PPN91: *Using the Residential Zones*, Council considered that this control was unsuitable for the following reasons:
- **Consistency with the Structure Plan** – The General Residential Zone (GRZ) contains the objective to encourage development that respects the neighbourhood character of the area which is not an objective of the Residential Growth Zone (RGZ). Therefore use of the RGZ within Precinct 2A would have been inconsistent with the with the strategic direction Highett Structure Plan 2004²⁵ and the vision of the Highett Structure Plan 2018²⁶ which was to enable change whilst recognising the character of Highett’s established residential areas.
 - **Community expectations** – Based on strong opposition from the local community Council had previously rejected insertion of the RGZ within any part of Highett’s residential areas as part of the introduction of the state government’s reforms to the residential zones in 2014. It is Council’s view that applying the GRZ with a precinct-specific schedule increases the development capacity of this precinct while maintaining transparency and the trust of the community.
139. For these reasons, applying the GRZ with a 4 storey limit in one schedule in Precinct 2A is considered a suitable balance between meeting community expectations, ensuring transparency of the process and providing an opportunity for increased development in an area close to the train station.
140. Council’s proposed GRZ schedule aims to strike the appropriate balance between the garden character sought and the infill development encouraged.

²⁵ Page 4.

²⁶ Page 11.

141. Following submissions, the drafting of the GRZ13 has been reviewed to ensure that the intent of the Structure Plan is clearly expressed.
142. Council considers that the design objectives within the exhibited GRZ13 could be improved to provide clearer outcomes and avoid language that is more closely related to design standards, rather than objectives.
143. In addition, the Clause 54 and 55 requirements have been revised to ensure that the townhouse and apartment typologies sought are able to be facilitated by reducing the side and rear setback requirements and site coverage requirements to reflect ResCode, rather than the increased control provided in other areas.
144. The application requirements and decision guidelines have been revised to ensure that the content in each of these sections better aligns with the outcomes that Council is seeking to achieve.
145. The following changes have been made to Clause 32.08-13 in order to ensure consistency across the Amendment documentation:
 - The neighbourhood character objectives have been altered to be clearer and more consistent with the objective for Precinct 2A;
 - '*Frontage*' has been changed to '*street*' in response to submissions;
 - The requirement for site coverage has been changed to '*none specified*' to facilitate the building typologies sought
 - A minimum dimension of 3m has been added to the deep soil requirement in response to submissions;
 - Side and rear setbacks have been changed to '*none specified*' to facilitate the building typologies sought;
 - The canopy tree must be provided in the front setback to ensure that the character outcomes are clear;
 - Front fence requirements in a Road Zone have been removed as there is no road zone within or adjacent to this precinct;

- The application requirements have been amended to require plans to identify opportunities for canopy tree plantings (rather than this being a decision guideline in the exhibited version); and
- The decision guidelines amended to better relate to the landscaping outcomes sought in this precinct.

146. These changes are relevant to most zone schedules within Amendment C160bays and have been incorporated across the various schedules.

147. These changes can be viewed in tracked change format at Appendix X to Council's Part A Submission. There are no further changes proposed in response to submissions.

Precinct 2B

What the Structure Plan is seeking

148. The Structure Plan aims to provide an opportunity for increased housing, supported by the necessary improvements to infrastructure, to enable more people to live and work in Highett, with access to public transport and within walking and cycling distance of shops, services, and open space.

149. The vision outlined in the Highett Structure Plan for Precinct 2B is an area of increased density with apartments and townhouses of up to three storeys, with the preferred character incorporating adequate setbacks to provide space for significant landscaping in a garden setting.

How the Amendment proposes to achieve the objectives of the Structure Plan

150. Amendment C160bays proposes to implement this updated vision through the retention of the GRZ as the appropriate tool to deliver the preferred outcomes.

151. A new GRZ Schedule 12 is proposed to apply which retains the existing height control of 3 storeys, with the third storey to be recessed 3 metres from the building façade.

152. A 3 metre street setback is proposed in Train Street, with a 6 metre street setback proposed in all other streets. The setbacks provide opportunity for landscaping, including canopy trees, to be provided within the front setbacks to ensure that the preferred character of a garden setting is retained. A front fence height of 1.2 metres will ensure this garden setting is enhanced.

Issues raised by submissions

153. Various issues raised in submissions include:
- a) Support for a mandatory height control in this precinct;
 - b) Building heights should be reduced to allow 2 storeys/9 metres;
 - c) The objectives for this precinct restrict the ability to achieve the desired moderate level of growth encouraged in this precinct;
 - d) A number of drafting changes suggested to improve the clarity of the GRZ12 to ensure the controls achieve the intended purpose.

Response to submissions relating to Precinct 2B

154. In order to achieve the preferred development outcomes for this precinct, it is proposed to retain the GRZ as the appropriate tool for this precinct. This is consistent with the design objectives that currently apply to the precinct through the DDO5 however the GRZ allows for much of this content to be translated into the Schedule, rather than existing in a DDO.
155. Council notes that the retention of the GRZ in this part of the centre will ensure that a mandatory height control exists to provide that level of certainty for the community.
156. For the most part, Council agrees with submitter 22 in relation to the drafting improvements suggested and has incorporated the majority of these into the revised GRZ12, included at Appendix X of Council's Part A submission.
157. In considering the officer response to submissions at its 17 December 2019 Ordinary Meeting, Council was presented with an attachment which indicated changes from submitter 22 that officers agreed with. Following further review, Council no longer agrees it is necessary to incorporate the following change.

158. Submitter 22 proposed that the setback variation should specify that:
- ‘where the site is on a corner, the street setback applies to the wider frontage of the site to avoid the situation where the reduced setback requirement of 2 metres or 3 metres, associated with the ‘side street’ is taken advantage of as part of the development which will reduce an inferior development presentation to the key street interface of the site’*
159. With further review of this wording, there is only one site within Precinct 2B that is on a corner, being 24 Worthing Road. It is noted that this site has been subdivided with two dwellings constructed at the site. As such, 1/24 is the only property within the precinct on a corner.
160. This site has a 22.5 metre frontage to Dart Street at its side boundary, and a 16 metre frontage to Worthing Road, with an approximately 2.3 metre angled boundary adjoining both.
161. The existing dwelling is designed to address Worthing Road and is set approximately 7 metres from the street and 4 metres from Dart Street. Both frontages have structures encroaching within those setbacks. In the event that site is to be redeveloped, it is considered reasonable to allow the site to provide a 6 metre setback to Worthing Road, as much of the development along Dart Street already has a reduced street setback, generally between 4-5 metres.
162. The proposed changes in relation to this centre are outlined at Appendix X and are not proposed to be further altered in response to submissions.

Precinct 3

What the Structure Plan is seeking

163. Precinct 3 comprises much of the residential area of the activity centre and is generally located between the railway line and the CSIRO site.
164. The vision outlined in the Hightett Structure Plan for Precinct 3 is an area of increased density with a mix of townhouses, units and detached houses with front and back

gardens, landscaped setbacks and to balance the existing neighbourhood character whilst encouraging well designed new buildings to improve and enrich the local character.

165. Throughout the centre, a high quality streetscape is encouraged through landscaping and tree retention wherever possible. This is particularly relevant in Precinct 3 where the preferred housing typology has potential to provide an important contribution to the streetscape character of Highett through the provision of significant landscaping.
166. The Structure Plan contains an objective for a pedestrian access way that will provide a much-needed connection from Graham Road to the Lyle Anderson Reserve, linking the open space areas within the Structure Plan boundary with the CSIRO to create a future open space network to support the open space needs of the community.

How the Amendment proposes to achieve the objectives of the Structure Plan

167. Amendment C160 proposes to achieve the objectives of the Structure Plan by introducing Schedule 14 to the General Residential Zone. A site specific schedule is proposed for 32-40 Graham Road, being the GRZ16.
168. As can be seen in the Zone comparison table²⁷ there are minimal changes proposed for Precinct 3 in the proposed Schedule GRZ14. The two changes from the GRZ1 to the GRZ14 are a reduction in minimum street setback from 9 metres to 6 metres, and an increase in the deep soil that must be provided to accommodate canopy trees.
169. The GRZ16 is a result of the conditions of authorisation from DELWP which require a site specific control to be applied to this site, which facilitates a 4 storey building height in exchange for a *'safe, landscaped, attractive and publicly accessible link through the site from Lyle Anderson Reserve to Graham Road'*. In order to improve the flexibility for building design and layout, the minimum street setback has been set as 6 metres.

²⁷ Appendix B to Council's Part A Submission

170. The garden area requirements will continue to apply in this precinct across both GRZ schedules.

Issues raised by submissions

171. Submission 1 raised concerns regarding the changes to occur in Precinct 3 and submitted that Council should reduce the development capacity within this precinct through reducing the existing 3 storey height control and not proceeding with the reduced street setback.
172. Other submissions also raised matters including support for the setback requirements to the Hihett Grassy Woodland to minimise any future impacts that could compromise the significance and future role of the site.

Response to submissions relating to Precinct 3

173. Council does not propose to reduce the level of growth that is currently envisaged in this precinct by reducing the height permitted in the GRZ, or by considering the Neighbourhood Residential Zone for the site.
174. This is consistent with the existing direction of the 2004 Structure Plan which sees a level of growth to be encouraged in the area, and designating much of the area as a location for incremental growth. This is generally consistent with what is to be delivered through the updated structure plan, as the level of change envisaged is not substantial. The primary housing typology expected is townhouses of up to three storeys, consistent with the current controls that affect the area.
175. Similar to other zone schedules, Council has incorporated drafting changes in both the GRZ14 and GRZ16 to improve clarity.
176. In the GRZ16:
- The neighbourhood character objectives have been updated to clarify the objective to provide the publicly accessible link to Lyle Anderson Reserve though the site, as this was previously referenced in the decision guidelines only;

- Site coverage has been changed to '*none specified*' to reflect the increased development opportunity at this site;
- The Landscaping requirement has been changed to allow canopy tree planting in the front '*and*' rear setback rather than '*or*', given the considerable size of the land;
- The application requirements have been updated to require identification of opportunities for canopy tree planting in accordance with the minimum dimensions specified.

177. The link through 32-40 Graham Road is not new, as this is an action from the 2004 Structure Plan and has been incorporated into the approved development for the site.
178. The tracked changed version of GRZ14 and GRZ16 are included at Appendix X to Council's Part A Submission.

Precinct 4

What the Structure Plan is seeking

179. Precinct 4 relates to the CSIRO site and the intended development outcomes for that site, consistent with Council's adopted controls that it has submitted to the Minister for Planning for consideration.
180. Precinct 4 is nominated in the Structure Plan as being an area for residential development, new public open space and conservation area for the community.

How the Amendment proposes to achieve the objectives of the Structure Plan

181. Amendment C160bays does not contain provisions for the former CSIRO site. This is beyond the scope of what the amendment is seeking to do, and is an explicit condition of authorisation of the amendment.
182. Regardless of advocacy from Council, the CSIRO and any future land owner, controls for the site will be determined by the Minister for Planning and it is presently not possible to know the specific changes the amendment will introduce.

183. There were some references to the CSIRO land and Council advocacy position contained within the exhibited amendment however as outlined in the response to submissions presented to Council's 19 December 2019 Ordinary Meeting, those provisions have been removed from the amendment.

Issues raised by submissions

184. There are a number of issues raised by submitters that relate to the CSIRO site and the consideration of potential controls, including:
- a) The importance of protecting the Highett Grassy Woodland;
 - b) The impact of development at the site on the surrounding road network, and its impact on amenity;
 - c) There should be additional tree planting requirements on the CSIRO site;
 - d) Amend the proposed Clause 21.04 changes to delete the reference to a 3m wide buffer requirement on private property adjoining the Highett Grassy Woodland;
 - e) Amend proposed Clause 21.08 to delete reference to negotiating open space contributions as obligations are already in place for 4ha of land to be transferred to Council as part of the sale;
 - f) Council should amend the *Highett Structure Plan* strategies under Objective 3 to reflect the DPO specified building heights for the DPO as they are inconsistent with the final controls set by the Minister for Planning.
 - g) Amend the *Highett Structure Plan* to remove references to a pedestrian and cycling shared paths to be provided by the CSIRO.

Response to submissions relating to Precinct 4

185. A number of changes have been made to the amendment documents having regard to the changes outlined in submissions, including:
- Clarification that the 3 metre buffer to the Highett Grassy Woodland applies to land outside the CSIRO site; and
 - Removing references to the CSIRO site where it influences the outcomes to be achieved on the site itself.
186. It is not proposed to amend the Structure Plan to remove all references to the CSIRO, or reflect the DPO put forward by the potential land owner for the site.

187. Council is retaining other aspects in the amendment that indirectly relate to the CSIRO site, for example, the setbacks on adjoining properties to the future Highett Grassy Woodland.
188. There are existing agreements in place with the Federal Government that will ensure the transfer of 4 hectares of the site for public open space. Whilst the exact boundaries are still to be determined, the grassy woodland area for example is to be in a fixed location. As such, development outside the site that interfaces with this can respond to this feature, without prejudicing the outcomes to be constructed on the CSIRO site itself.
189. Despite these issues, it has not been Council's intent to provide controls on the CSIRO site through Amendment C160bays.
190. These changes can be viewed in tracked changed format at Appendix X to Council's Part A Submission.

Precinct 5

What the Structure Plan is seeking

191. Precinct 5 relates to the strip of land that runs between the CSIRO site and Middleton Street, encompassing the residential zoned properties on the eastern side of Middleton Street.
192. The vision for this area is for a precinct where low scale residential transitions are provided.

How the Amendment proposes to achieve the objectives of the Structure Plan

193. Council is proposing to retain the Neighbourhood Residential Zone as it applies to this precinct, however is proposing to introduce a new Schedule 1 to the Neighbourhood Residential Zone with a street setback of 9 metres and requirements for additional landscaping requirements. The precinct will retain the existing site coverage and side and rear setback requirements, however incorporates a 3 metre rear setback for lots adjoining the future Highett Grassy Woodland.

194. A full comparison of the existing and proposed provisions are included at Appendix B to Council's Part A Submission.

Issues raised by submissions

195. Only supportive submissions were received in regards to Precinct 5, supporting aspects such as the deep soil and canopy tree requirements, retention of the NRZ, overshadowing statements protecting the Highett Grassy Woodland, and similar.

Response to submissions relating to Precinct 5

196. While no changes were specifically requested by submitters for Precinct 5, Council has incorporated some drafting changes to the NRZ1 in order to ensure consistency across the Amendment documentation. The following changes to Clause 32.09-1 (NRZ1) have been made:

- The neighbourhood character objectives have been amended to clarify the importance of canopy tree retention and the sensitive interface to the Highett Grassy Woodlands;
- Reference to requirements for sites on a corner have been removed as a redundant sentence, as there are no corner sites in the precinct;
- The decision guidelines and application requirements have been amended to reflect the importance of canopy tree planting and retention in the approval process.

197. These changes can be viewed in tracked change format at Appendix X to Council's Part A Submission.

Precinct 6

What the Structure Plan is seeking

198. Precinct 6 relates to the land fronting Bay Road, along the southern boundary of the activity centre.
199. The Highett Structure Plan seeks to support the Bay Road corridor as an opportunity for redevelopment that achieves better integration between the Southland Activity

Centre and the Bayside Business District by encouraging increased housing density with an apartment typology preferred.

How the Amendment proposes to achieve the objectives of the Structure Plan

200. Council is proposing to retain the GRZ to this precinct in order to achieve its preferred mix of increased housing density amongst a garden setting.
201. A similar approach to that taken for Precinct 2 is recommended, with the inclusion of some specific objectives relating to the activation of Bay Road.
202. Council is proposing to implement the objectives of the Structure Plan by introducing Schedule 15 to the General Residential Zone (GRZ15) in place of the existing GRZ1. The GRZ15 specifies a height of 3 storeys with an objective for fine grain frontages that contribute positively to the public realm, providing mature vegetation within the front and rear setbacks.
203. Landscaping is to be provided at the rear of developments to ensure an appropriate buffer to the less dense Precinct 3, with a 3 metre setback to be provided at the ground floor rear boundary.
204. The site coverage and side and rear setback requirements are reduced so that ResCode applies, from the current increases that exist in the GRZ1.

Issues raised by submissions

205. In relation to Precinct 6, Submitter 23 puts forward that the precinct should encourage consolidation of land to achieve the precinct outcomes. Further, the precinct be subject to a Development Plan Overlay in order to achieve the mixed-use urban consolidation sought.
206. Other submissions relating specifically to this precinct have raised issues with the Structure Plan, rather than any controls proposed within Amendment C160bays. The changes include:

- a) References to 'investigating' signalisation of Bay Road/Graham Road and Bay/Jack Road should be removed from the Structure Plan;
- b) Remove reference to advocacy for a bicycle lane along Bay Road from the Structure Plan;
- c) There is presently a lack of consistency between the Pennydale Structure Plan and the Hihett Structure Plan.

Response to submissions relating to Precinct 6

207. The road network within the area will continued to be monitored by Council as part of its standard traffic management operations and any required measures will be implemented.
208. Whether the intersection at Graham Road and Bay Road is signalised or some other measure imposed is somewhat irrelevant to the Amendment, as this will be implemented regardless of the planning controls that relate to the land within the activity centre.
209. As Bay Road is a Road Zone Category 1 and is the responsibility of the Department of Transport, Council can only advocate as the preferred outcome at this location. This is a signalised option as outlined in the Structure Plan, and Council considers that the Panel is not required to consider the appropriate treatment for this intersection as part of its consideration of the amendment. These are separate matters and the amendment is not reliant on road management outcomes in the area.
210. Similarly, whether or not a cycle lane is constructed along Bay Road is also irrelevant to the consideration of the amendment. Further discussions with the Department of Transport will need to occur to deliver the non-statutory implementation mechanisms of the Structure Plan. Whilst the Plan may provide Council's preferred position, there is scope through negotiations with the relevant stakeholders to ensure that any outcomes delivered are safe and in the interests of the Bayside community and align to State agencies strategies and envisaged outcomes for the area.

211. The Structure Plan identifies various upgrades and alterations to activity centre as part of the 15-20 year vision for the centre and has identified the need for further investigation and monitoring of the Bay Road intersections. Council will continue to monitor traffic conditions in the area to ensure that the road network is operating efficiently.
212. The need for traffic management interventions within the Local Road network is assessed against the Council's Local Area Traffic Management Policy which has been to ensure a consistent, equitable and inclusive approach to the investigation, consultation, design, implementation and monitoring of Local Area Traffic Management (LATM) schemes.
213. The Pennydale Structure Plan and Highett Structure Plan were developed concurrently by Council and are intended to be read as consistent documents. Submission 24 raises this however it is not clear how the submitter considers that the Plans are inconsistent. Expert advice considered the study areas of the Pennydale and Highett Structure Plans to ensure consistency of outcomes.
214. Regardless, Council does not share this view and considers that the plans are to be read consistently. It is noted that Amendment C163bays which implements the Pennydale Structure Plan has yet to be authorised and Council submits that it cannot be given significant weight in deciding the controls application for the Highett Activity Centre.
215. Similar to other zone schedules, the following changes have been made to the GRZ15 in order to ensure consistency across the Amendment documentation:
- The neighbourhood character objectives have been updated to clarify the importance of retention of canopy trees;
 - A neighbourhood character objective for limiting the impact of new development of existing glow density residential development has been added;
 - Site coverage has been changed to 'none specified';
 - The Landscaping requirement has been changed to allow canopy tree planting in the front 'and' rear setback;

- Side and rear setbacks have been reduced to better reflect the apartment typology that is encouraged in Precinct 6; and
- The decision guidelines and application requirements have been amended to reflect the importance of canopy tree planting and retention in the approval process.

216. These changes can be viewed in tracked change format at Appendix X to Council's Part A Submission.

Response to Expert Evidence

217. Two expert evidence reports were submitted in advance of the Panel Hearing for Amendment C160bays.

218. A report containing town planning expert evidence was prepared by Ms Sarah Horsfield, Director, Urbis Pty Ltd prepared for Norton Rose Fulbright on behalf of Wolf International Group.

219. A report containing traffic evidence prepared by Mr Jason Walsh, Traffic Engineer, Traffix Group, prepared for Planning and Property Partners Pty Ltd on behalf of Chandos Bay Pty Ltd (Submitter 23) was circulated on March 3 2020.

220. It is noted that neither expert questions the strategic justification for the amendment, as the evidence provided primarily relates to (what Council considers to be) minor changes to the amendment documentation.

221. Many of the changes recommended by Ms Horsfield have been agreed to by Council in its response to submissions, and have been incorporated at Appendix X of Council's Part A Submission.

222. The evidence of Mr Walsh relates primarily to traffic management steps that Council's Traffic Management department and the Department of Transport may wish to consider, rather than recommending any fundamental changes to the amendment documentation itself.

223. Mr Walsh concludes that the Structure Plan objectives in relation to transport matters are appropriate and respond to the future needs of the area. Mr Walsh appears to have comments in relation to the strategies to achieve the objectives, as outlined in his evidence.

224. The traffic evidence report contains the following recommendations:

- a) The structure plan should identify an appropriate plan for signalisation of the Graham Road and Bay Road intersection and how it is to be funded. It is not sufficient to only allow for advocacy to VicRoads.
- b) The structure plan should remove reference to providing bicycle facilities along Bay Road as these cannot be provided in the existing reservation.
- c) The structure plan should remove reference to bicycle improvements along Middleton Street as these cannot be provided in the existing reservation.
- d) The structure plan should better identify the works necessary to facilitate the strategy to improve the safety and amenity along Graham Road. More specifically, a plan should be prepared to show how these works are to be achieved.

225. Council's response to the recommendations are as follows:

- a) Council is aware of the existing congestion at this intersection. The Highett Traffic and Transport Plan prepared by Cardno²⁸ notes that:

“With additional development occurring in the study area, and traffic volumes expected to increase, the conditions of the local street network (including road safety, vehicle speeds and local street traffic distribution) are expected to change. In response, it is recommended that the local network is monitored in an ongoing capacity and appropriate Local Area Traffic Management (LATM) and parking control measures are taken to respond to any traffic and transport issues that arise.”

However the management of the Graham Road and Bay Road intersection is the responsibility of the Department of Transport (formerly known as VicRoads).

Identifying the intersection for a proposed upgrade²⁹ as Council's policy position

²⁸ Page 10, Appendix K to Council's Part A Submission

²⁹ Highett Structure Plan 2018, figure 7: Access and Movement Plan.

through the Structure Plan is an important step for advocacy to the Department of Transport for improvements. In addition, a comprehensive transport analysis will be carried out as part of the Development Plan Overlay for the CSIRO site which must consider both expected traffic volumes associated with the site and measures to address the impacts of traffic generated by the development on the surrounding road network including any required upgrades or modifications. As the level of development is not yet known for the CSIRO site and the Structure Plan area was not possible to include a detailed funding proposal as part of the Structure Plan.

- b) The Structure Plan is the adopted policy position on the overall vision for the future of the Highett Activity Centre. As part of that vision, an east-west bicycle link to connect the coast to the Frankston Railway line and Nepean Highway. As part of the non-statutory stages of implementation of the Structure Plan, further work including discussion with VicRoads will be undertaken in regards to the options for achieving the goal of improving cycling infrastructure in Highett.
- c) There are a range of options for facilitating a cycling route on Middleton Street in addition to a designated bike lane. As outlined in Bayside's *Bicycle Action Plan* 2019, under the Action 1.10³⁰ identifies the need to:

“provide sharrows along Middleton Street to indicate local bicycle route”

As part of the overall objective to provide high quality on-road infrastructure that contributes to a safe, connected network for cycling in Bayside.

- d) The Structure Plan is an overarching vision for the centre, it does not contain specific action plans for each street. Detailed works plans are part of the non-statutory implementation actions of this Structure plan and not within the scope of this amendment.

Planning Policy Framework Translation Process

226. Council is currently awaiting a second draft of its Planning Policy Framework Translation from DELWP, after having received version 1 in 2019.

³⁰ Bayside *Bicycle Action Plan* 2019, page 5-6

227. Council has undertaken an exercise to consider how the content proposed to be incorporated into Clause 21 may be translated into the new format, included at Attachment A to this submission.
228. Council submits that the Panel is not required to decide this on the specific location of the content in the attachment as DELWP will undertake a migration of the adopted format once the amendment has been adopted by Council. The purpose of providing this to the Panel is to provide clarity that there are not significant changes required to translate the content of Amendment C160bays into the new format Planning Policy Framework.

Minor mapping corrections

229. Council has identified a number of minor mapping errors to be incorporated into the Amendment to ensure that zone and overlay boundaries align with property boundaries. This will avoid issues in the implementation of controls following a decision on the amendment.
230. These are outlined at Attachment B to this submission.

Conclusion

231. Council reserves the right to address any further matters raised in the course of the submissions of other parties through this hearing in its reply.
232. This completes the Part B submissions for Council.