

*Planning and Environment Act 1987*

# Panel Report

Darebin Planning Scheme

Amendment C135

Preston Central Activities Area Precinct H – ‘Auto Alley’, Preston

**13 August 2014**

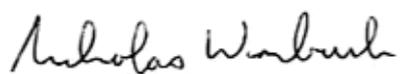


*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Darebin Planning Scheme Amendment C135

Preston Central Activities Area Precinct H – ‘Auto Alley’, Preston

A handwritten signature in black ink, appearing to read 'Nicholas Wimbush', written in a cursive style.

Nick Wimbush, Chair

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# 1 Background

## 1.1 The Amendment

Darebin Planning Scheme Amendment C135 (the Amendment) was prepared by the Darebin City Council as Planning Authority. As exhibited, the Amendment proposes to change the Darebin planning scheme to remove the current prohibition on dwellings from Precinct H of the Preston Central Activities Area. Specifically, the Amendment proposes to:

- Amend clause 21.05 of the Municipal Strategic Statement to reflect the new vision for the Precinct (and addendum to Structure Plan);
- Amend Schedule 2 of the Priority Development Zone to permit 'dwellings' in the Table of Uses;
- Amend clause 22.08 to reflect the new vision of the Precinct; and
- Amend the schedule to Clause 81.01 to reflect the update of the Preston Central Incorporated Plan (as amended 2013).<sup>1</sup>

The Amendment was requested by the proponent, Planning and Property Partners, on behalf of a number of landowners.

The Amendment applies to land located on High Street, Preston, that is generally bounded by Youngman Street to the south and Winifred Street to the north, otherwise referred to as 'Precinct H' under the original Priority Development Zone (PDZ) framework. Precinct H is shown in the north east corner of Figure 1.

## 1.2 Why was the Amendment prepared?

The Amendment will allow for Precinct H to be redeveloped for a broader range of uses than is currently permitted. The existing Preston Central Structure Plan (PCSP) encourages the maintenance of car yards and similar types of business in Precinct H. This has restricted investment and regeneration in the Precinct.

When the PCSP was originally prepared Precinct H was seen as having a continuing role as an automotive sales and service and related business focused area with prohibitions on residential use. Time has shown that the approach was misguided and the area, particularly along the High Street frontage, has stagnated.

An economic assessment was prepared by Essential Economics which found:<sup>2</sup>

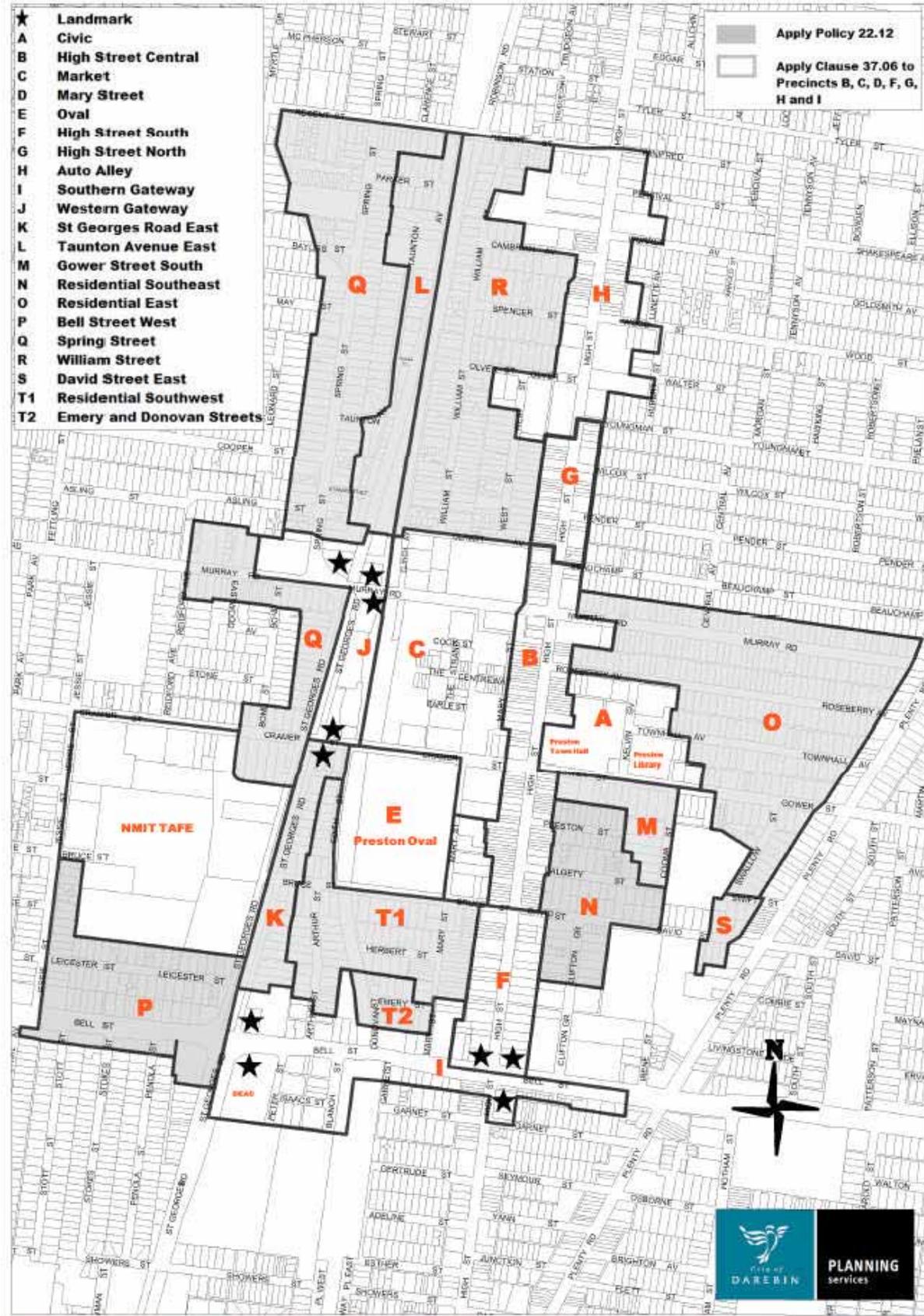
- Automotive associated use is no longer the dominant use in the precinct;
- The precinct is no longer a strategically important automotive use area;
- Changes in the car retailing industry have helped with the decline of the area for automotive industries;
- There is potential for co-location of automotive and residential use;
- Market demand for higher density residential development is higher; and
- Planning policy support for the more intensive utilisation of the land is clear.

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<sup>1</sup> Explanatory Report

<sup>2</sup> Preston Central Precinct H: Economic Assessment of Proposed Change in Land Use, 2012, p28.

Figure 1 Preston Central Precincts



### **1.3 Exhibition and submissions**

The Amendment was placed on public exhibition between 6 March and 7 April 2014. Fourteen submissions (listed in Appendix A) were received with twelve of these supporting, conditionally supporting or not objecting to the Amendment. Two submissions objected to the Amendment raising the following issues:

- Building height and setback;
- Open space provision and parklands;
- Solar access; and
- Residential amenity such as resident influx, traffic and car parking.

### **1.4 The Panel process**

At its meeting of 2 June 2014, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 20 June 2014 and comprised Nick Wimbush.

A Directions Hearing was held in relation to the Amendment on 7 July 2014. At the Directions Hearing only the Council and two supporting submitters attended and requested to be heard.<sup>3</sup>

The Panel suggested that given the limited nature of the Amendment and relatively few objecting submissions the matter could be determined 'on the papers' without a Hearing to which the parties present agreed. The Panel directed verbally at the Directions Hearing and in written directions that it would provide the opportunity for further written submissions to all submitters.

On the 8 July 2014 a late request to be heard form was received by the Panel from submitters the Benetti's acknowledging that they were too late to be heard but requesting a copy of the timetable and directions. As for all submitters the Panel offered the opportunity for further written submissions by close of business on 18 July 2014.

Additional supporting submissions were received from Mr Andrew Lo and Mr Paul Little of Planning and Property Partners representing a number of landowners in the Precinct. These submissions reiterated information from their original submissions. Council did not provide a further submission in reply but provided for information a document entitled *How does Amendment C135 affect building heights?* that they submitted was used during exhibition.

The Panel inspected Precinct H and the objector's properties on 17 July 2014.

### **1.5 Issues addressed in this report**

There are a number of submissions in support of the Amendment. Unless the submissions also request changes to the Amendment they are not specifically addressed, but rather noted by the Panel.

The Panel has also reviewed the Amendment and its strategic basis in the light of the submissions. No submitter sought to challenge the substantive basis of the Amendment;

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<sup>3</sup> One of whom, Mr Little, was representing a number of landowners.

that the economic framework for 'Auto Alley' and its planning implementation have significantly changed since the controls were introduced in 2006.

Similarly, no submitter sought to argue that the policy basis for the Amendment in State and Local policy as set out in the Explanatory Report was inappropriate. The Panel has reviewed the policy basis and fundamentally accepts that the policy and planning control 'refocus' in Precinct H from solely automotive businesses to mixed use automotive business and residential is appropriate.

A submitter also suggested that Council had erred in not providing direct notice to properties opposite the Amendment area (on the west side) of William Street. Council relied on its 2 June 2014 response to submissions at the Council meeting that it had met its statutory obligations. The Panel does not wish to comment further on whether broader notice should have been given, but is satisfied on Council's advice that the requirements of the *Planning and Environment Act 1987* have been met.

There are a number of remaining issues addressed in this report being:

- Building heights; and
- Residential amenity and related issues.

## 2 Building heights

### 2.1 The issue

The issues raised in submissions related to:

- Objections to the height and overshadowing of neighbouring properties; and
- Support for loosening of height controls to allow for higher development.

### 2.2 Submissions

Submitters Emily Banna and Keith Atkins (Submission 7) and Albert and Lisa Benetti (Submission 11) expressed concern about developments inappropriately overlooking their property.

The Benetti's suggested that the Toyota site could be developed for residential but at a low rise 1-2 storeys.

Council noted, in response to submission 7, that the building heights and setbacks are not proposed to be changed by the Amendment and remain the same as currently in place. In relation to overshadowing and overlooking, Council also noted that any development will be subject to ResCode provisions.

This position was consistent with the document provided by Council during exhibition titled *How does Amendment C135 affect building heights?*.

Other submitters, such as How S Ng on behalf of Andrew Lo and L Chen (Submission 13) supported development without height restrictions. Urbis (Submission 14) on behalf of a number of property owners in High Street stated:

*...we are concerned that the design parameters outlined in the Preston Central Incorporated Plan are too restrictive and do not recognise the true potential of development opportunities in this well-serviced and located area. For Precinct H, the Incorporated Plan stipulates a preferred building height of only four storeys. Whilst it is acknowledged that a planning permit may be granted to exceed the height, it is considered that the documents sets out a clear preferred building height for development within Precinct H...<sup>4</sup>*

In relation to submissions calling for relaxed height controls; Council stated that whilst a review could be considered, it should not be part of this Amendment. It would be more appropriate to undertake such an exercise as part of a larger review of the PCSP.

### 2.3 Discussion

The Panel notes that the Amendment does not change the existing height controls in the planning scheme. Introducing a residential, as opposed to commercial, use may increase the risk of overlooking and overshadowing but the Panel is satisfied that there are suitable provisions in the scheme to manage such issues. These include:

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<sup>4</sup> Urbis submission

Clause 22.08 *High Street Corridor Land Use and Urban Design* (with draft amendments) provides the following design guidelines in relation to Precincts 11 and 12 that cover 'Auto Alley':

- *To ensure new development is designed to protect the amenity of adjoining residential properties.*

Schedule 2 to the Priority Development Zone (PDZ2) includes in the decision guidelines that the Responsible Authority must consider:

- *The design of the proposed buildings, their relationship to the streetscape and any surrounding development and uses.*
- *The amenity of residential properties within, abutting or adjacent to the land.*
- *The interface with adjoining zones, especially the relationship with residential areas.*

The *Incorporated Document Preston Central Incorporated Plan, March 2007 (amended 2014)* includes the height controls.

The Panel considers it is important to note that these controls are already in the planning scheme for any development occurring under the current provisions; they are not being introduced by the Amendment.

The Panel is confident that interface issues can be managed through the existing height controls, setbacks and required design responses in the planning scheme.

The Panel also notes the submissions requesting removal of height controls or increased height allowances. In the Panel's view, this would be a significant transformation of the Amendment, and whatever the merits of such proposals, they should be explored through a separate strategic study and amendment if Council sees fit.

## **2.4 Conclusions**

The Panel is satisfied that the interface issues to residential areas associated with height and setbacks are already adequately covered in the planning scheme.

The Panel does not consider that requests to either reduce or increase height controls are appropriate in this Amendment and should be pursued through a separate planning process if necessary.

No changes are recommended to the Amendment.

## **3 Residential amenity and related issues**

### **3.1 The issues**

Some submitters raised issues related to car parking, traffic and impacts on residential amenity as a result of increased residential development in the Precinct.

Other general issues relating to open space, privacy and safety were also raised.

### **3.2 Submissions**

Emily Banna and Keith Adams (submission 7) were concerned about parking, as they consider that Cambrian Avenue and William Street are already busy.

Albert and Lisa Benetti (submission 11) stated that increased residents moving to the area will create noise and traffic pollution, particularly in William Street.

### **3.3 Discussion**

In section 2.3 the Panel outlined its views in relation to the existing planning controls around residential interfaces and amenity.

The Panel notes that similar provisions apply to parking and traffic. For example the PD22 in *Application requirements* requires consideration of traffic and the preparation of an *Integrated Transport Plan* for developments over 1,000m<sup>2</sup>. Again these provisions are not new and are already present in the planning scheme.

In clause 5.0 '*Application requirements*' there is a new clause dealing with amenity, requiring consideration of:

*In Precinct H, the relationship of proposed dwellings to existing non-residential uses in order to minimise potential conflict (eg noise, odours, hours of operation).*

The Panel supports this clause as increasing residential density may increase the potential for conflict with existing or new businesses.

The Panel is not suggesting that the Amendment, with its allowance of residential development in Precinct H, will not increase traffic or raise additional amenity or open space concerns, but rather that there are provisions in the planning scheme that, in the Panels view, can acceptably manage any impacts.

For example, open space contributions from development must be provided in accordance with clause 52.01; and parking can be managed through either the specific provisions applying to the area or the general provisions in clause 52.06.

The Panel considers that Precinct H is strategically well placed for medium density, apartment style development and is in an activity centre that has been progressively allowing for higher levels of density.

### **3.4 Conclusion**

The Panel concludes that there are provisions in the Amendment and/or planning scheme that should be able to effectively manage amenity and other local impacts as development occurs. No change to the Amendment is recommended.

## **4 Recommendation**

For the reasons outlined in this report, the Panel recommends:

- 1. Adopt Darebin Planning Scheme Amendment C135 as exhibited.**

## Appendix A List of submitters

No.	Submitter
1	Barbara Pitt
2	Len Hutchinson
3	Matt Ruchel
4	Department of Environment and Primary Industries
5	Ralph D'Silva, Gary McMillan, Anthony Cascone and Neil Grierson (all represented by Planning and Property Partners)
6	Tony Angerame
7	Emily Banna and Keith Atkins
8	Brian Beaden
9	George and Christina Vrionis
10	Martino Properties Pty Ltd
11	Albert and Lisa Benetti
12	Gary McMillan
13	Andrew Lo and L Chen
14	Dan Hand Trust, DMC Family Trust and Jackson Family Trust