

*Planning and Environment Act 1987*

**Panel Report**

**Casey Planning Scheme Amendment C207 Part 2  
Evan and Margaret Street Precinct, Berwick**

**14 January 2019**

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the Act

Casey Planning Scheme Amendment C207 Part 2

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A handwritten signature in black ink, appearing to read 'M. Elliott', with a long horizontal flourish extending to the right.

Mandy Elliott, Chair

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## List of Abbreviations

CDZ2	Comprehensive Development Zone Schedule 2
CZ2	Commercial Zone Schedule 2
DPO8	Development Plan Overlay Schedule 8
DELWP	Department of Environment, Land, Water and Planning
GRZ	General Residential Zone
RGZ	Residential Growth Zone
RGZ2	Residential Growth Zone Schedule 2
VPA	Victorian Planning Authority
VPP	Victoria Planning Provisions

# Overview

## Amendment summary

<b>The Amendment</b>	Casey Planning Scheme Amendment C207 Part 2
<b>Common name</b>	Evan and Margaret Street Precinct, Berwick
<b>Brief description</b>	<p>The Amendment:</p> <ul style="list-style-type: none"> <li>Rezones the subject land to Residential Growth Zone Schedule 2 (RGZ2)</li> <li>Rezones part of parcel 753-755 Princes Highway to Commercial 2 Zone (CZ2) to align with the zoning provisions across the remainder of the property.</li> </ul>
<b>Subject land</b>	The Amendment applies to all properties along Evans Street, Margaret Street and Patricia Court along with properties 1-9, 11, 13, 15, 17, 19, 21, 23 Jane Street, properties 2-10, 12-22, 24, 26, 28 Mansfield Street along with a portion of 755 Princess Highway, Berwick.
<b>The Proponent</b>	Victorian Planning Authority (VPA)
<b>Planning Authority</b>	VPA
<b>Authorisation</b>	21 August 2014
<b>Exhibition</b>	5 November – 7 December 2015 (first exhibition) and 26 April - 29 May 2017 (second exhibition)
<b>Submissions</b>	<p>A total of 15 submissions were received in relation to Part 2 of the Amendment.</p> <p>A full list of submitters to Part 2 is provided at Appendix A.</p>

## Panel process

<b>The Panel</b>	Mandy Elliott
<b>Directions Hearing</b>	29 October 2018 at Planning Panels Victoria
<b>Panel Hearing</b>	3 December 2018 at Bunjil Place Function Room Centre B, 2 Patrick Northeast Drive, Narre Warren
<b>Appearances</b>	<p>Ms Belinda Smith and Mr Matthew Rogers for VPA</p> <p>Mr Alistair Noble and Asok Rao for City of Casey</p> <p>Mr Jeff Allen</p>
<b>Citation</b>	Casey PSA C207 Part 2 [2018] PPV
<b>Date of this Report</b>	14 January 2019

## Executive summary

### (i) Summary

Casey Planning Scheme Amendment C207 (the Amendment) was split into two parts in August 2018. This Panel report relates to Part 2 of the Amendment only. The two parts are identified as:

- Part 1 – Berwick Health and Education Precinct - land proposed to be zoned Comprehensive Development Zone Schedule 2
- Part 2 – Evan and Margaret Street Precinct - land proposed as Residential Growth Zone Schedule 2 and small parcel of Commercial 2 Zone.

The RGZ2 component of the Amendment applies to all properties along Evans Street, Margaret Street and Patricia Court along with properties 1-9, 11, 13, 15, 17, 19, 21, 23 Jane Street, properties 2-10, 12-22, 24, 26, 28 Mansfield Street along with a portion of 755 Princess Highway, Berwick. The Amendment also proposes to amend part of parcel 753-755 Princes Highway to Commercial 1 Zone to align with the zoning provisions across the remainder of the property.

The VPA, in consultation with Casey City Council, has prepared the Evan and Margaret Street Precinct Amendment to enable the area to transition into a 'substantial change area'. In accordance with the City of Casey's *Housing Strategy 2017* and to encourage higher density residential development adjacent to the Berwick Major Activity Centre and Berwick Railway Station in accordance with the Casey Planning Scheme and Plan Melbourne.

The key issues raised in the submissions of the various parties are briefly summarised as follows:

- potential for negative amenity impacts from increased residential density including overshadowing and overlooking
- reductions in front setbacks
- access, parking and road network concerns.

The Panel has considered submissions and concludes that the Amendment is strongly supported by, and implements, the relevant sections of the Planning Policy Framework, is consistent with the relevant Ministerial Directions, is strategically supported by Plan Melbourne and supports the implementation of the City of Casey's *Housing Strategy 2017*.

### (ii) Recommendations

**Based on the reasons set out in this Report, the Panel recommends that Casey Planning Scheme Amendment C207 Part 2 be adopted as exhibited, subject to adopting the revised version of the Residential Growth Zone Schedule 2 as shown in Appendix B.**

# **1 Introduction**

## **1.1 The Amendment**

### **(i) Amendment description**

Amendment C207 Part 2 (the Amendment) relates to land shown as Residential Growth Zone Schedule 2 (RGZ2) and Commercial 2 Zone (CZ2) on the exhibited planning scheme maps (figure 1), known as the Evan and Margaret Street Precinct.

The Evan and Margaret Street Precinct is located west of Clyde Road, and has begun to see growth in units and townhouses with approximately 15 of the original lots already subdivided into multiple units. The majority of original lots are between 700-900 square metres.

The streetscape in the precinct is characterised by a mix of native and non-native smaller street trees that lack a significant canopy cover throughout most of the precinct.

The area has two main connections to Clyde Road, three connections to the Princes Hwy and one to Sweeney Drive to the west. A cycle path exists on Clyde Road and footpaths exist on all local roads within the area.

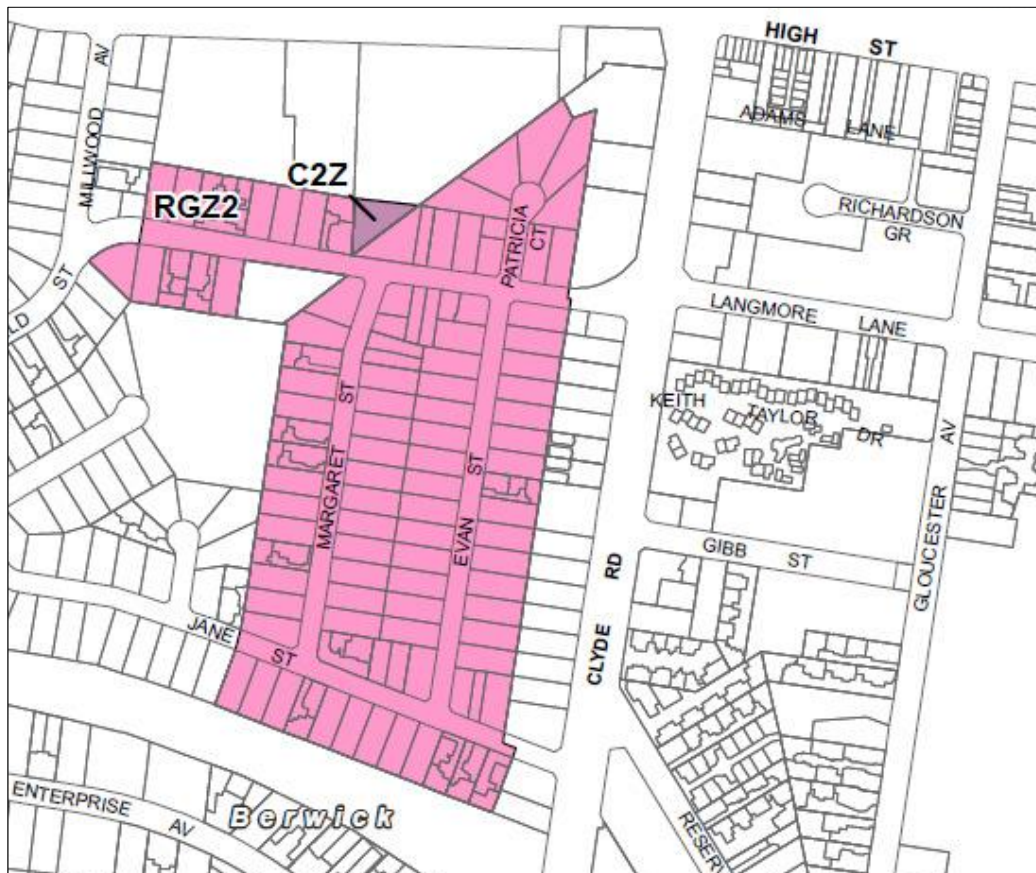
### **(ii) Purpose of the Amendment**

The purpose of the Amendment is to:

- implement Initiative 4.4.1 of Plan Melbourne 2014 (the Metropolitan Planning Strategy at the time) – ‘Prepare precinct structure plans for priority health and/or education precincts for greater future private and public investment in health, education and related services’
- implement recommendations of the City of Casey Housing Strategy 2017
- encourage higher density residential development close to activity centres and along key transport routes by inserting the RGZ2 and applying it to land adjacent to the Berwick activity centre
- amend part of parcel 753-755 Princes Highway to CZ2 to align with the zoning provisions across the remainder of the property.

### **(iii) The affected land**

The RGZ2 component of the Amendment applies to all properties along Evan Street, Margaret Street and Patricia Court along with properties 1-9, 11, 13, 15, 17, 19, 21, 23 Jane Street, properties 2-10, 12-22, 24, 26, 28 Mansfield Street along with a portion of 755 Princess Highway, Berwick. The Amendment also proposes to amend part of parcel 753-755 Princes Highway to CZ2.

**Figure 1** Subject site (shown in pink (RGZ2) and purple (C2Z))

## 1.2 Summary of issues

The key issues raised in submissions related to amenity (traffic, safety, noise, overshadowing, car parking) and increased residential density.

The VPA provided a response to submissions and has generally addressed the issues raised.

The Panel considered all written submissions made in response to the exhibition of the Amendment and material presented to it during the Hearing.

This Report deals with the issues under the following headings:

- Planning context
- The most appropriate zones
- Amenity impacts.



## 2 Planning context

The VPA and Council provided a response to the planning policy in their joint Part A submission.

The Panel has reviewed this response and the policy context of the Amendment and has made a brief appraisal of the proposed controls and relevant planning strategies.

### 2.1 Policy framework

The VPA submitted that the Amendment will assist in implementing State planning objectives by encouraging increases in residential density in a well-serviced area generally in accordance with the Planning Policy Frameworks of the Casey Planning Scheme, and with *Plan Melbourne 2017-2050*.

More broadly the relevant local planning policy is as follows:

- In response to Clauses 21.02, 21.05 and 21.09 the Amendment plans the area between the Monash Freeway and the Gippsland Rail Line as a ‘key employment precinct’, or ‘Casey Technology Park’ including education, health and industry uses with mixed use around the rail station; and plans the Margaret-Evans precinct as a residential area.
- In response to Clauses 21.03, 21.06, 21.07 and 21.09 the Amendment plans the Evans and Margaret Street precinct as a higher density residential area that maintains a garden character presentation to the street and site coverage appropriate to its suburban character context. The area is well located for medium density housing considering its excellent walking access to Berwick Village, Berwick rail and bus services and existing and planning employment and business opportunities.

The Berwick Village Structure Plan was prepared, exhibited by Council in 2011 and subsequently adopted as the Development Plan for the commercial areas of the Berwick Village and covered by the Development Plan Overlay 8 (DPO8).

Although the extent of the Berwick Village Structure Plan extends across the entire Evans and Margaret Street precinct, the area is not covered by the DPO and as such there is no planning policy implementing the Berwick Village Structure Plan over this precinct, but rather it provided strategic direction to the area.

The VPA and Council submitted that, in relation to ‘Housing’, the Structure Plan notes:

*More diverse and higher density housing within walking distance of the Village offers a number of benefits including better access to shops and services. It also offers local housing opportunities for residents who wish to stay in the area but whose housing needs have changed. For instance, there may be older people who need to find a smaller dwelling to replace the family home, or younger people and students who want to live independently but wish to stay and study in the local area. The larger allotments around Evan and Margaret Streets may provide future opportunities for this type of residential infill development.*

They also noted that the objectives within the Evans and Margaret Street precinct as follows:

*To support the progressive redevelopment of the Evan-Margaret Streets precinct to provide opportunities for town houses, flats and apartments.*

## **2.2 Planning scheme provisions**

The Amendment proposes to apply the RGZ2 to the subject land.

The purpose of the RGZ is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide housing at increased densities in buildings up to and including four storey buildings.*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The Amendment proposes to introduce a revised Schedule 2 to the RGZ to introduce specific height and setback controls for the Evan and Margaret Street precinct.

After the Amendment was exhibited in May 2017, Council provided a submission that generally supported the Amendment but with some outstanding issues remaining, in particular removing the fence provisions to be consistent with Amendment C198 (which implements the Casey Housing Strategy 2017). Following negotiations between the VPA and Council on these matters, a number of proposed changes were made to the post exhibited RGZ2 to address Council's concerns.

## **2.3 Discussion and conclusion**

Both the VPA and Council submitted that the Amendment establishes a clear framework to guide housing growth and development and meet projected housing demand. It seeks to facilitate increased housing yield at appropriate locations where services, jobs and public transport are accessible. The Amendment seeks to provide guidance for an appropriate quantity, quality and type of housing to meet various household needs and improve housing affordability.

Council emphasised that the Amendment assists in implementing the Casey Housing Strategy 2017, as the Evan and Margaret Street precinct is identified in the Housing Strategy as an area for 'substantial residential growth', which is also in line with the 2011 Berwick Village Structure Plan. The Berwick Village Structure Plan supports increased housing in the area and preferred maximum heights of up to 16 metres east of Evan Street and 12 metres throughout the remainder of the precinct. Council submitted that: *"the proposed maximum heights of 13.5 metres and up to 16.8 metres on larger lots brings these heights in line with the reformed residential zones and state policy"*.

The Panel agrees with the VPA and Council that the Amendment is strongly supported by, and implements, the relevant sections of the Planning Policy Framework, is strategically supported by Plan Melbourne, is consistent with the Berwick Village Structure Plan and implements the Casey Housing Strategy 2017.

The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions and discussed in the following chapters.

## 3 The most appropriate zones

### 3.1 Key issues

The principal issues raised by submitters to the Amendment regarding RGZ2 were the increased residential density by application of the RGZ, increased traffic/car parking and impacts on existing character.

### 3.2 Submissions

The VPA submitted that the Amendment to rezone the Evans and Margaret Street precinct from General Residential Zone to the Residential Growth Zone enables the area to transition into a 'substantial change area' in accordance with the City of Casey *Housing Strategy 2017*. The VPA suggested that the RGZ2 encourages higher density residential development adjacent to the Berwick Major Activity Centre and Berwick Railway Station in accordance with the Casey Planning Scheme and Plan Melbourne and it will provide for greater range of housing types.

Council supported the proposed zoning and submitted it is consistent with the City's Housing Strategy 2017 (Amendment C198).

The RGZ2 was first exhibited in November 2015 and then in August 2017. Since exhibition, a further version of the RGZ2 was prepared by the VPA, which Council supported (August 2018 post exhibition changes). At the Directions Hearing, the Panel sought clarification regarding the proposed maximum building heights.

A revised RGZ2 was presented at the Hearing by the VPA that clarifies the mandatory maximum heights of 13.5 metres for lots up to 2,000 square metres and mandatory maximum heights of 16.8 metres for sites 2,000 square metres or over. The VPA submitted that this change reflects policy settings in the Berwick Village Structure Plan of 16 metres with allowance for roof forms on larger sites and the default 13.5 metres on all other land. The VPA emphasised that these limits become a mandatory not variable limit, as is the case with the existing General Residential Zone and Residential Growth Zone.

In response to the Council's submission highlighting changes to the VPP RGZ, the revised RGZ2 removes the exhibited changes to 'landscaping', 'side and rear setbacks' and 'front fence height' in clause 2.0 to ensure consistency with the Residential Growth Zone and Amendment C198, returning to the standard ResCode provisions for front fences and removing the landscaping requirements as it was considered by the VPA and Council as ambiguous.

This version of RGZ2 is attached in Appendix B.

A number of submissions from local residents raised issues with the increased residential density that the RGZ2 would provide for and the subsequent amenity impacts that may occur (amenity is discussed in section 4). Other matters raised in submissions included the need for open space requirements, loss of trees/landscaping, and car parking. Council responded that these matters would continue to be subject to existing provisions and controls in the Casey Planning Scheme. For example, Council submitted in response to car parking concerns that *'as per standard planning provisions, car parking is to be provided on site for future developments at a rate of 1 space per 2 bedrooms and 1 visitor parking space*

*per 5 dwellings which is a rate deemed appropriate for Casey and supported by the recently adopted Casey Parking Strategy’.*

### **3.3 Discussion**

The implementation of the RGZ2 will allow a moderate increase in residential density in the area. As explained by the VPA in its submission, the maximum building height in the standard General Residential Zone provisions and Schedule 1 is currently limited to 11 metres (with the exception of sloped lots). This is a mandatory maximum (“must”) not allowing any flexibility above this height. The standard RGZ provision allows for 13.5 metres as a preferred maximum height (“should”) and if a design can demonstrate exemplary features then a building may exceed this height through the granting of a planning permit. In the exhibited version of Amendment C207, the RGZ2 applies a mandatory maximum (“must”) of 13.5 metres on all lots under 2,000 square metres and a mandatory maximum of 16.8 metres on all lots above 2,000 square metres.

The exhibited front setbacks to replace Standard B6 are proposed as a minimum of 5 metres, which was identified through the Housing Strategy, and Council submits have been included in the Amendment C198 RGZ provisions to allow more flexibility in built form.

When queried by the Panel as to whether the changes could be considered a transformation of the Amendment, both the VPA and Council provided sound reasons why the changes are not transformational. Particularly:

- the changes proposed to RGZ2 are already in the Planning Scheme (ResCode for example regarding landscaping and removal of a front fence height provision)
- the revised provisions are adopted in policy already (VPA pointed to clause 55-03 B13, 55-06-2 B32)
- consistency with C198 which Council intend to move forward with (Panel report has been received by Council and it will release this towards the end December 2018).

The Panel has broadly reviewed the final versions of the Amendment documents and is satisfied that they do not require further changes and that the proposed changes are not considered transformational.

There were no questions regarding the proposed changes to RGZ2 from submitters.

There were no submissions that raised issue with the proposed rezoning of part of the parcel 753-755 Princes Highway from General Residential Zone to C2Z and the Panel agrees with the VPA that the site be rezoned to align with the zoning provisions across the remainder of this property.

### **3.4 Conclusions**

The Panel concludes that:

- The RGZ is an appropriate zone for the precinct.
- The proposed changes to the RGZ2 are appropriate.
- The proposed application of the C2Z to 753-755 Princes Highway is supported.

### **3.5 Recommendation**

**Based on the reasons set out in this Report, the Panel recommends that Casey Planning Scheme Amendment C207 Part 2 be adopted as exhibited, subject to adopting the revised version of the Residential Growth Zone Schedule 2 as shown in Appendix B.**

## 4 Amenity impacts

### 4.1 The issue

The issues raised in submissions relate to the perceived potential negative effects upon existing amenity from the rezoning of General Residential land to the RGZ2.

### 4.2 Submissions

A total of 15 submissions were received across both exhibitions covering Amendment C207 Part 2; one submission requested an extension to the RGZ2, which the VPA advised was inconsistent with the Casey Housing Strategy 2017 and Amendment C198.

The remaining 14 submissions raised issues such as traffic safety, pollution and noise, overshadowing, overlooking of private space and blocking of existing views. The VPA submitted that the issues around overshadowing, overlooking of private space and landscaping were covered by ResCode under clause 55 and will be applied to all planning permits to ensure adequate amenity, including setbacks, is retained. The VPA noted that car parking provisions are covered by clause 52.06 of the Casey Planning Scheme to ensure adequate parking is provided on each site.

Regarding traffic issues raised in submissions, the VPA noted that Clyde Road has a capacity of 40,000 vehicles each day and is adequate to distribute any local increase in traffic regionally.

Mr Allen submitted that there is already an existing car parking and traffic congestion problem in the precinct.

In regard to setbacks, the VPA explained that Council's position post 2017 exhibition included the removal of blanket side and rear setbacks preferring a performance based approach. Changes to the VPP RGZ needed to be reflected in the current RGZ2 preferring a mandatory approach to heights to provide certainty within the precinct. Returning to the standard ResCode provisions for front fences and removing the landscaping requirements as it was considered ambiguous. The VPA stated that Amendment C207 Part 2 is now consistent with provisions proposed in Amendment C198 (Casey Housing Strategy 2017) in regard to both front setbacks and building heights and the updated VPP.

The five-metre setback requirement in RGZ2 will provide consistency for new development in the Evan and Margaret Street precinct allowing adequate opportunities for planting of mature tree species.

The VPA and Council both submitted that the heights proposed in RGZ2 apply a mandatory maximum of 13.5 metre on all lots under 2,000 square metres, as opposed to a preferred maximum of 13.5 metres that currently applies to the RGZ, potentially allowing greater heights subject to Council approval. For lots over 2,000 square metres, the proposed RGZ2 applies a mandatory maximum height of 16.8 metres instead of allowing open consideration of heights above 13.5 metres which the VPA and Council submit is a more stringent control than the RGZ, allowing greater protection of residential amenity in this precinct.

Mr Allen submitted that the Casey Housing Strategy 2017 is not a *'needs based document'* and shouldn't be used to determine that the precinct could allow for greater density of housing. He submitted that the Amendment will impact on the *"nature and feel"* of the

township area and it should be able to develop over time without the need for the Amendment, *“allowing a more organic growth of this area”*.

Council responded that Casey needs to transition from its 91 per cent of single dwellings to enable more choice, housing affordability and diversity within the municipality and it needs to comply with State government policy that suggest increased density is applicable in areas within 400 metres of rail stations and town centres.

### **4.3 Discussion**

Providing certainty regarding set building heights is important for the existing residents of Evan and Margaret Streets. The RGZ2 ensures that heights can not exceed 13.5 metres on lots less than 2,000 square metres in this precinct and for lots greater than 2,000 square metres, the height limit is up to five storeys (16.8 metres). The Panel agrees with Council that this control provides more protection for this precinct and notes that the 16.8 metres could only occur if existing lots are amalgamated.

The Panel agrees with Council that it is important for the future needs of the municipality to provide for greater choice, housing affordability and diversity within areas in close proximity to services, public transport and activity centres.

The Panel also agrees with the VPA and Council that existing planning controls and provisions provide adequate measures to minimise potential impacts from the rezoning on existing residential amenity.

The Panel notes that the parent RGZ states:

*A building must not be constructed for use as a dwelling or a residential building that exceeds the maximum building height specified in a schedule to this zone.*

The above refers to a single height (not multiple heights). Ministerial Direction states you can have two choices for a RGZ schedule which are:

- Where no height is specified insert “None specified”, or
- Where a height is specified insert “A building used as a dwelling or a residential building must not exceed a height of [insert number] metres.”

The schedule must not specify a height lower than the height specified in the zone.

The Panel notes that what is proposed for RGZ2 in Amendment C207 Part 2 may not have the head of power through the parent RGZ and conflicts with the Ministerial Direction. The matter was not raised at the Hearing, however the Panel considers that the VPA may need to seek further advice from DELWP prior to finalising the Amendment.

### **4.4 Conclusion**

The Panel concludes that no further changes are required beyond those shown in the revised version of the RGZ2 as submitted in VPA’s Part A submission, attached in Appendix B.



## Appendix A List of submitters

No.	Submitter
01 (1st exhibition, 2015)	M Westaway
02 (1st exhibition, 2015)	C Overbeek
04 (1st exhibition, 2015)	M Hodges
06 (1st exhibition, 2015)	M and M Sigg
11 (1st exhibition, 2015)	J and K Allen
12 (1st exhibition, 2015)	E Neville
01 (2nd exhibition, 2017)	E Cutler
04 (2nd exhibition, 2017)	B Byrne
05 (2nd exhibition, 2017)	S Turner
06 (2nd exhibition, 2017)	M Edwards
08 (2nd exhibition, 2017)	A Kors
09 (2nd exhibition, 2017)	A Gilbert
10 (2nd exhibition, 2017)	B Flower
12 (2nd exhibition, 2017)	D and M Abbott
17 (2nd exhibition, 2017)	M Hodges

## **Appendix B Revised Schedule 2 to the Residential Growth Zone as submitted by the VPA (November 2018)**

Track changes shown against the exhibited version.

## CASEY PLANNING SCHEME

---(---)2017  
Proposed C207

**SCHEDULE 2 TO CLAUSE 32.07 RESIDENTIAL GROWTH ZONE**

Shown on the planning scheme map as RGZ2.

**Evan & Margaret Street precinct****1.0 Design objectives**

---(---)2017  
Proposed C207

To support the progressive redevelopment of the Evan-Margaret Streets precinct to provide opportunities for town houses, flats and apartments.

To provide for high quality residential built form which offers diverse housing opportunities in an attractive residential environment.

To provide an excellent built form response that increases passive surveillance, positive address and activity around Bill Hudson Reserve and other public open spaces.

**2.0 Requirements of Clause 54 and Clause 55**

---(---)2017  
Proposed C207

	Standard	Requirement
Minimum street setback	A3	None specified
	B6	5 metres
Site coverage	A5 and B8	None specified
Permeability	A6 and B9	None specified
Landscaping	B13	<del>A substantial amount. No less than 50% of the street setback must be garden area landscaped.</del>
Side and rear setbacks	A10	None specified
	B17	<del>3 metres</del> <u>None specified</u>
Walls on boundaries	A11 and B18	None specified
Private open space	A17	None specified
	B28	None specified
Front fence height	A20	<u>None specified</u>
	B32	<del>0 metres; or 2 metres where enclosing secluded private open space (not a common area)</del> <u>None specified</u>

**2.0 Maximum building height requirement for a dwelling or residential building**

---(---)2017  
Proposed C207

16.8 metres where constructed on land ~~greater than of~~ 2,000 square metres or more in area,  
13.5 metres where constructed on land less than 2,000 square metre in area.

**3.0 Application requirements**

---(---)2017  
Proposed C207

None specified

**4.0 Decision guidelines**

---(---)2015  
Proposed C207

None specified

## Appendix C Document List

Documents Presented to Hearing (No.)	Description	Presented By
1	VPA Part B submission including a revised version of Schedule 2 to the Residential Growth Zone	Mr Rodgers and Ms Smith, VPA
2	City of Casey submission	Mr Noble, City of Casey
3	Mr Allen submission	Mr Allen
4	Plan - Location of submitters	Ms Smith