

From: [REDACTED]
To: [amendments](#); [Preston Market](#)
Subject: Preston Market Submission
Date: Monday, 12 July 2021 3:04:04 PM
Attachments: [Preston Market submission.pdf](#)

Dear Robert,

Thank you for the opportunity to comment on Draft Darebin Planning Scheme Amendment C182. I have lived within the Preston Central Activity Centre for 14 years. My family and I spend time in and around the Market Precinct every day.

Please find my submission attached. I would welcome the opportunity to participate in any Standing Advisory Committee process.

Kind regards,

[REDACTED]

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DRAFT DAREBIN PLANNING SCHEME AMENDMENT C182

[REDACTED]

[REDACTED]

[REDACTED]

Thank you for the opportunity to comment on Draft Darebin Planning Scheme Amendment C182. I have lived within the Preston Central Activity Centre for 14 years. My family and I spend time in and around the Market Precinct every day.

Traffic in Mary Street between Bell Street and Cramer Street

Mary Street between Bell and Cramer streets is a local street. It is narrow, carries two way traffic and at the southern end between Bell and Bruce streets, has parking on one side. The width of the asphalt is approximately 6.5 metres at the southern end, and with parked cars the effective road width is about 4.2 metres.



Looking north up the southern end of Mary Street showing narrow width

For a local street Mary Street is comparatively busy, particularly on Saturdays, and to a lesser extent on Fridays and Sundays, with traffic associated with the market, supermarket, hotel and bottle shop and sports oval. During the evening weekday peak an appreciable number of vehicles use Mary Street to get from Cramer Street to Bell Street. It is not argued that this part of Mary Street is at capacity as very few streets in Melbourne would meet this measure; only that for a narrow local street it is noteworthy how much traffic it carries and the speed of some cars.

It is rare that my family can cross Mary Street to get into our parked car without giving way to cars. Two way traffic, often with multiple cars in each direction, is very common. The driver's side mirror on my parked car and other parked cars, have been broken when clipped by passing cars.

Very little of the traffic in Mary Street south of the Market Precinct is local traffic. It is predominantly cars using this local street as a rat run between the Market Precinct, Cramer Street and Bell Street. Much of this traffic travels faster than is safe for the street dimensions.

The *Preston Market Traffic and Transport Assessment* 10 June 2021 states:

'Proposed Land Uses

The following indicative land uses are proposed within the market precinct and summarised within Table 3-1. Yields were provided by the VPA based on the draft PSP:

- *Around 2,200 apartments are proposed. The apartments will be comprised of a mix of 1, 2 and 3 or more bedroom dwellings;*
- *Approximately 27,500 sqm of retail floor space is proposed;*
- *The relocated market will comprise a gross floor area of approximately 12,700 sqm;*
- *Approximately 5,000 sqm of office floor area is proposed, generally to be located within the lower floors of the proposed development areas; and*
- ***The total number of car parking spaces to be provided across the subject site is expected to be around 2,000 spaces.'***

Amendment C142 seeks to facilitate intensive redevelopment of the Preston Market Precinct. The draft Structure Plan indicates potential for 2,200 dwellings and up to 1,400 ongoing jobs as follows:

Use	Column B rate car parking requirement
Rebuilding the market at its current size of 12,700sqm with commitment to no reduction in market parking (this is not factored into the calculation in Table 4-2 of the Traffic report)	800
27,500 retail @3.5/100	950
5,000sqm office @3/100	150
2,200 apartments (220 with 3brms)	2,420
Total	4,320

The Column B rate in the planning scheme which applies due to the proximity to the PPTN is acknowledged in section 4.1 of the Traffic Assessment however the Traffic Assessment supporting this draft planning scheme amendment is based on car parking numbers which halve what the planning scheme requires below the already reduced rates. This presumes a future decision maker will support a 50% reduction in the planning scheme requirement for parking based on staged car parking demand assessments, which is not an assumption which can be made at this time.

I question the *Market Traffic and Transport Assessment* conclusion that 4,500 to 6,000 new residents will require only 1,210 car parking spaces between them. My experience is that the market for apartments without any car parking in central, inner and middle ring Melbourne is limited and very much the exception.

In 2019 the Planning Minister Richard Wynne warned he has concerns about scrapping car parks in new developments in inner and middle ring Melbourne in comparable public transport rich Activity Centres. He says we need to carefully consider the practicalities of how people get about.

<https://www.theage.com.au/national/victoria/planning-minister-criticises-council-plan-to-axe-car-parks-20190409-p51chm.html>

In Preston in 2016 only 14.3% of households had no car and the trend towards households with no car is insignificant (-39 households over a 15 year period) with a much stronger trend towards households owning one or two cars.

Area:

Benchmark area:

Comparison year:

Preston (East)

Greater Melbourne

2001

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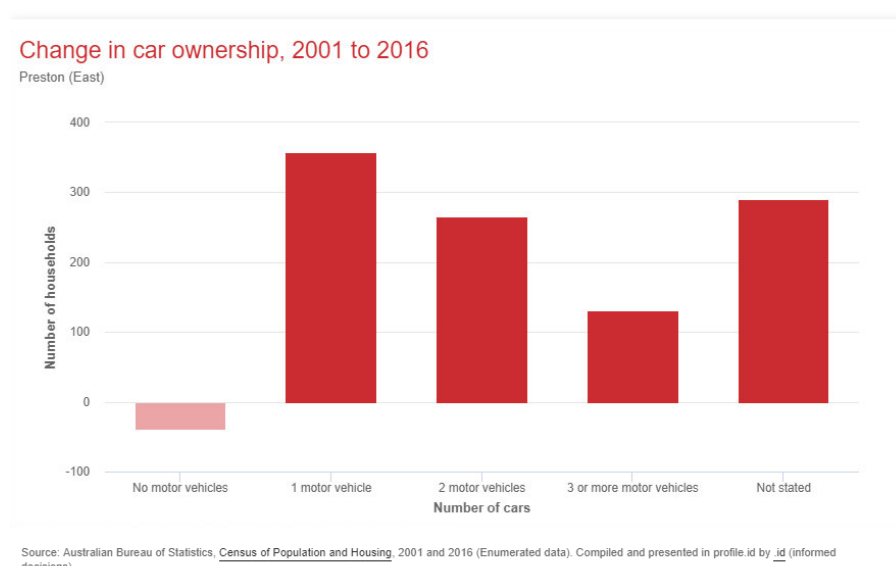
Car ownership

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Preston (East) - Households (Enumerated)	2016			2001			Change
Number of cars	Number	%	Greater Melbourne %	Number	%	Greater Melbourne %	2001 to 2016
<div>a</div> No motor vehicles	987	14.3	8.5	1,026	17.4	9.4	-39
1 motor vehicle	2,710	39.2	33.2	2,352	39.9	34.6	+358
<div>a</div> 2 motor vehicles	1,814	26.3	34.8	1,549	26.3	35.5	+265
3 or more motor vehicles	637	9.2	15.9	506	8.6	13.9	+131
Not stated	757	11.0	7.6	467	7.9	6.6	+290
Total households	6,907	100.0	100.0	5,902	100.0	100.0	+1,005

Source: Australian Bureau of Statistics, Census of Population and Housing 2001 and 2016. Compiled and presented by id (informed decisions)



Once redeveloped the Market Precinct could accommodate up to 5 times as many car parking spaces as it does currently. The *Preston Market Traffic and Transport Assessment* is silent on the impact of additional traffic associated with the increase in car parking on Mary Street between Bell and Cramer streets and the impact on the Mary Street/Cramer Street intersection to the south of the Market Precinct.

The methodology in the Traffic assessment states:

'A traffic impact assessment of the road network adjoining the Market Precinct has been undertaken to understand how it is expected to operate when developed under the draft PSP. The road network that has been considered includes:

- *Murray Road between High Street and St Georges Road;*
- *Cramer Street between High Street and St Georges Road;*
- *St Georges Road between Murray Road and Cramer Street; and*
- *Mary Street between Murray Road and Cramer Street.'*

The traffic implications of the proposed intensive redevelopment of the Market Precinct on Mary Street between Cramer Street and Bell Street has not been considered.

Under any scenario, the outcome is that the part of Mary Street which I live on is likely to carry much more traffic than it does at the moment. Mary Street between Bell and David streets is not designed to carry two way traffic with parked cars. The increase in traffic volumes will exacerbate the existing situation.

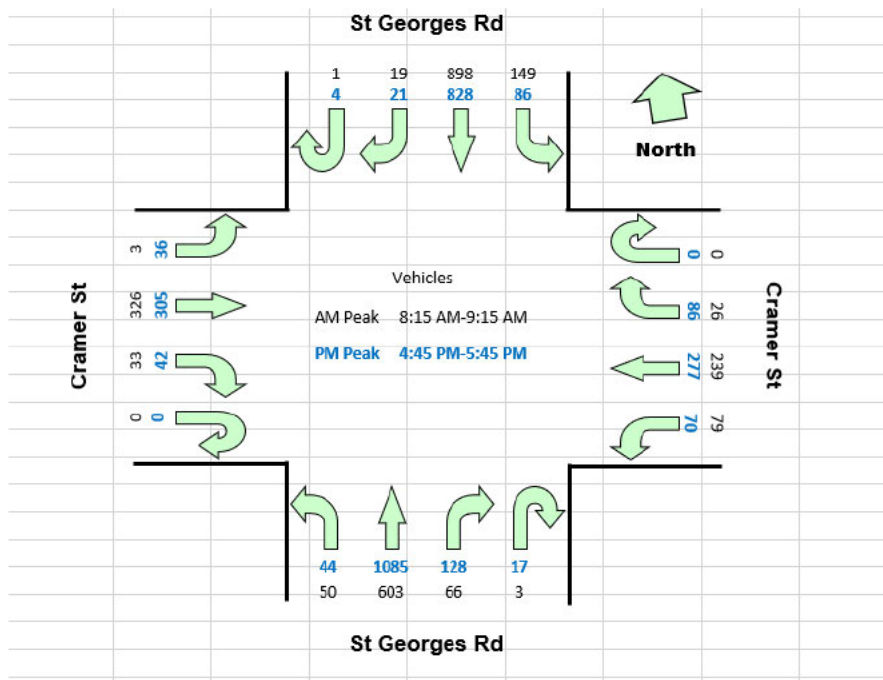
A suggested solution is for Mary Street to be made one way between Bell and Cramer streets and for works to be funded through the proposed DCP. This would also allow for widening of footpaths and planting of more substantial canopy trees to enhance the amenity for the 4,500 to 6,000 new residents who will call the Market Precinct home and will use the surrounding streets as pedestrians and cyclists.

Mary Street/Cramer Street intersection, south of the Market Precinct

At times it can be difficult to get out of the southern end of Mary Street onto Bell Street and with the removal of the Bell Street level crossing it will become significantly more difficult. At peak market trading times it can also be difficult to get out of the northern end of Mary Street onto Cramer Street. In the middle of the day on Saturday the Mary Street/Cramer Street intersection is pandemonium. The pedestrian crossing point on Cramer Street, just to the west of the intersection, is dangerous at peak market times, especially for children, with cars turning left from Mary Street not looking out for pedestrians. Pedestrians also commonly cross at the desire line across the middle of this intersection, rather than where pedestrian refuge islands are.

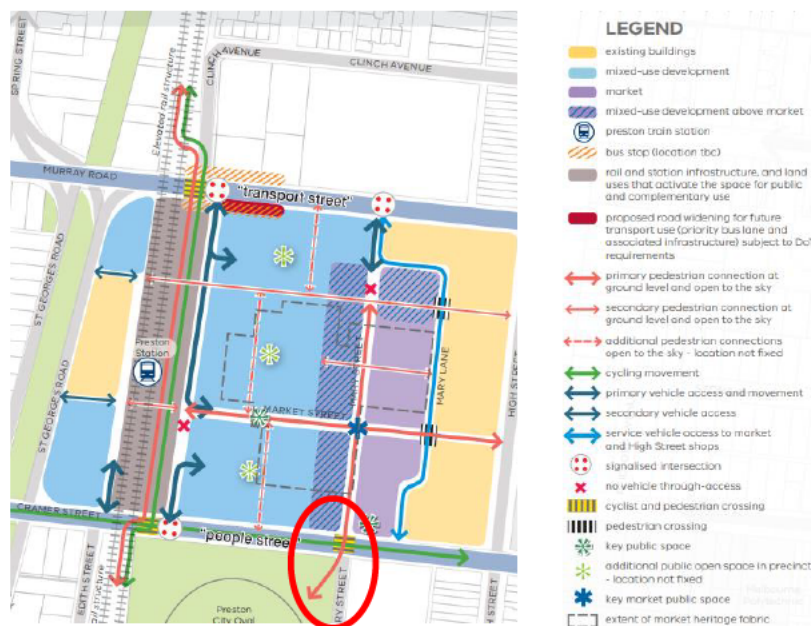
The Framework Plan presents a vision of Cramer Street as a 'people street'. There is no articulation in the Structure Plan of what a 'people street' is, but as it is distinct from a 'transport street', presumably it is a street that prioritises pedestrians and cyclists.

At peak, Cramer Street adjacent to the Market Precinct carries approximately 500 vehicles per hour in each direction. To this will be added traffic movements associated with 2,200 dwellings and up to 1,400 workers. The realisation of a 'people street' rather than a 'transport street' is going to be a challenge.



Council traffic count taken on a Thursday in August 2019

The Framework Plan shows the four points surrounding the precinct where pedestrians will seek to cross and acknowledges the pedestrian desire line at the Mary Street/Cramer Street intersection, where pedestrian currently cross the middle of the intersection, out of the Market Precinct into the surrounding neighbourhood.



Three of the four pedestrian crossing points out of the Market Precinct are indicated as being signalised, but the already dangerous pedestrian crossing point is not.

The Draft Structure Plan on p12 states:

'The Preston Market Precinct is well located to public transport but is on an increasingly congested road network. The community has identified that the precinct does not currently provide a high standard of safety, comfort and access for public transport users,

pedestrians or cyclists, and there are numerous conflicts between these users and private vehicle movements. The Existing Conditions Assessment (May 2018) and Preston Market Transport and Car Parking Strategy (April 2021) prepared by Cardno for the VPA, identified a number of issues and opportunities to improve access, movement and carparking within the precinct.'

The *Existing Conditions Assessment* has not been exhibited with the other background documents for this Amendment and the *Transport and Car Parking Strategy* substantially ignores Mary Street between Bell and Cramer streets and the Mary Street/Cramer Street intersection to the south of the Market Precinct.

A suggested solution is for the Amendment to require pedestrian lights, like the pedestrian lights shown at the Murray Road/Mary Street intersection, at the Mary Street/Cramer Street intersection and for them to be funded through the proposed DCP.

Sunlight to the people street and parkland

The proposed ACZ Schedule contains an objective to minimise overshadowing of Cramer Street and avoid overshadowing of Preston City Oval, acknowledging that these things are important.

It is highlighted that all shadow modelling in Urban Design background documents models substantially different building envelopes to those permitted by the proposed controls. This presents a deceptive outcome. The VPA ought to provide shadow modelling of the proposed building envelopes within the planning control and not hypothetical envelopes which do not build out or beyond the discretionary building envelope.

Sunlight to Cramer Street

It is a well established Urban Design principle that there is a relationship between access to sunlight in public space and the number of people who use a space. In Melbourne the most often cited example is the sunny, grassed slope of the State Library forecourt and numerous planning schemes have planning controls constructed around sunlight access to specified footpaths and parks.

The development enabled by the proposed planning controls will overshadow the northern footpath of Cramer Street pretty much all day, every day of the year. To create an attractive, peopled street, maximising sunlight to the southern footpath of Cramer Street is critically important. The proposed building envelopes do not achieve the objective to minimise overshadowing of Cramer Street and the proposed ACZ Schedule does not contain any control which aligns with this objective.

It is suggested that the proposed ACZ Schedule be amended to specifically identify sunlight to the southern footpath of Cramer Street as being required. The suggested time period is 10am to 3pm at the Winter Solstice to provide sunlight to one footpath through most of the day, most of the year.

Sunlight to open space

As the population of Preston Central grows, so too does the demand for open space. Protecting existing open space from overshadowing is a critical issue. The importance of sunlight to open space is comprehensively documented in the recent Panel Report for Melbourne Planning Scheme Amendment C278. It relates to human health and enjoyment as well as the health of flora.

The proposed ACZ Schedule includes the following:

'A permit must not be granted to construct a building or construct or carry out works which exceed the mandatory overshadowing measure of this schedule.

- *Development must not overshadow:*
 - *more than 75% of the key public spaces within the precinct between the hours of 11am and 2pm on 21 June.*
 - *remainder of public spaces within the precinct between 11am and 2pm on the 22 September.*
 - *the playing surface of the Preston City Oval when measured between the hours of 11am and 2pm on 21 June.'*

The first two dot points relate to sunlight within the Market Precinct and the third ensures that grass on a regional sportsground used for Winter football does not die. In all cases only three hours of sun per day is required. Before 11am and after 2pm tall buildings within the market precinct will cast long oblique angled shadows across areas to the south of the Market Precinct.

In passing, it is noted that there is a misalignment between the mixture of Equinox and Winter Solstice overshadowing controls proposed and the Equinox shadow diagram requirement in the Application Requirements and this should be corrected.

The most contemporary work on sunlight to parks and public spaces, undertaken by any Council that has been considered and supported by Panel, is Melbourne Amendment C278. This amendment sets a new benchmark to guide planning for sunlight to parks and public spaces. This amendment, whether applying a Winter solstice or Equinox sunlight standard, uses a time window of 10am to 3pm, which delivers 5 hours of sunny public space throughout the day.

It is suggested that the proposed ACZ Schedule be amended so that all overshadowing requirements use a 10am to 3pm time window.

Whilst the Winter solstice sunlight objective to the Oval is supported, this aspiration should be extended to the whole of the existing parkland known as 'Preston City Oval', including the area with grass, mature and emerging trees and public seating and a BBQ between Cramer Street and the perimeter fence of the oval itself.

This BBQ and seating area was particularly well utilised by large groups during Melbourne's long Covid lockdowns last year, it is particularly popular as an afternoon, after work drinking spot for groups of high-viz wearing local workers and at times has supported a community of people experiencing homelessness. It is a popular place for many sectors of the diverse Preston community.



BBQ and seating, mature trees and WSUD plantings southern side Cramer Street and northern end of Preston City Oval park

Maximising ongoing year round access to sun along this northern part of the park will ensure the health and vitality of existing established and more recently planted canopy trees, the WSUD plantings which filter nutrients from Cramer Street stormwater runoff and ensure ongoing human enjoyment of the sunny, grassed slope and BBQ and seating areas, as the population of the activity centre continues to grow.

Cramer Street human scale

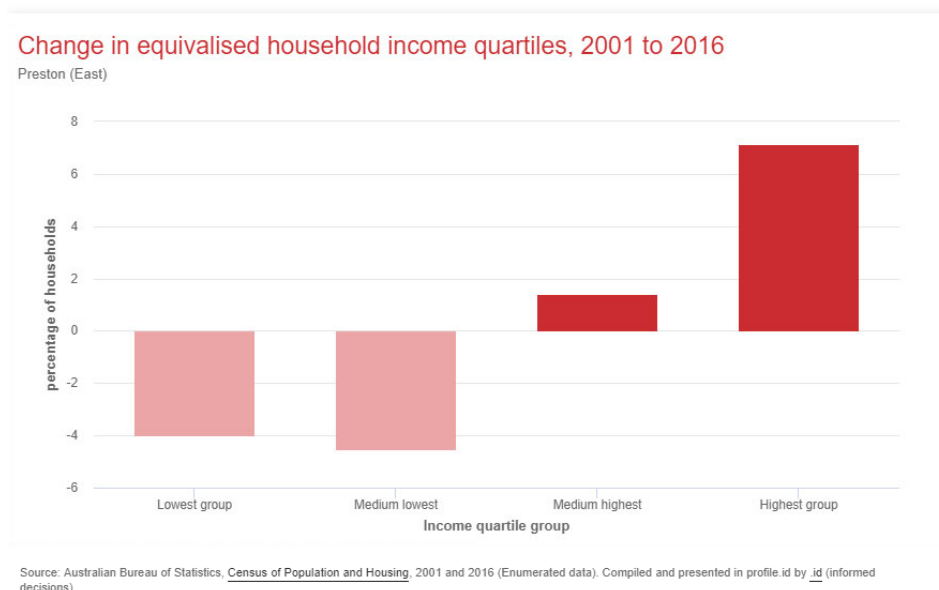
The preferred maximum building heights within the draft ACZ Schedule provides for 42 metre high buildings with a streetwall height of 12.1 metres, and a setback above the streetwall of 5 metres.

My submission is that this streetwall height is too high, the setback above the streetwall is inadequate and the building height for this part of the Market Precinct is too high. It also concerns me that there is no streetwall requirement to the Cramer Street frontage between Mary Street and Mary Lane.

A streetwall height of two storeys with a more substantial setback to upper levels, for the length of the Market Precinct east of the railway line would create a more human scale for the 'people street'. Likewise, a maximum building height of 8 storeys for the southern third of the Market Precinct is preferred, particularly given the long range views of new buildings on this part of the site from the park opposite.

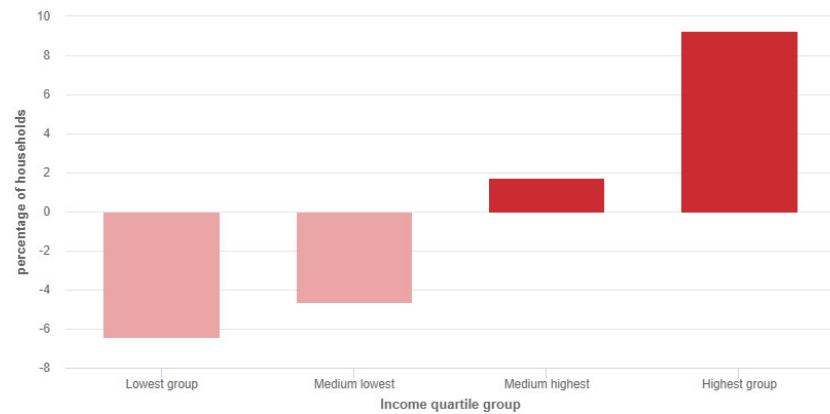
Affordable housing

There is a significant unmet need for affordable housing in Darebin and Preston, which is growing over time as house price escalation (both purchase and rental) is displacing very low, low and moderate income households. More than 500 people are homeless on any given night in Darebin and rough sleeping is visible in the Preston Central Activity Centre. There are more than 7,000 Darebin families and individuals on the waiting list for public housing. More broadly the socio-economic mix of Preston is changing over time with a significant trend in Preston and Darebin of lower income households being displaced by those with higher household incomes.



Change in equivalised household income quartiles, 2001 to 2016

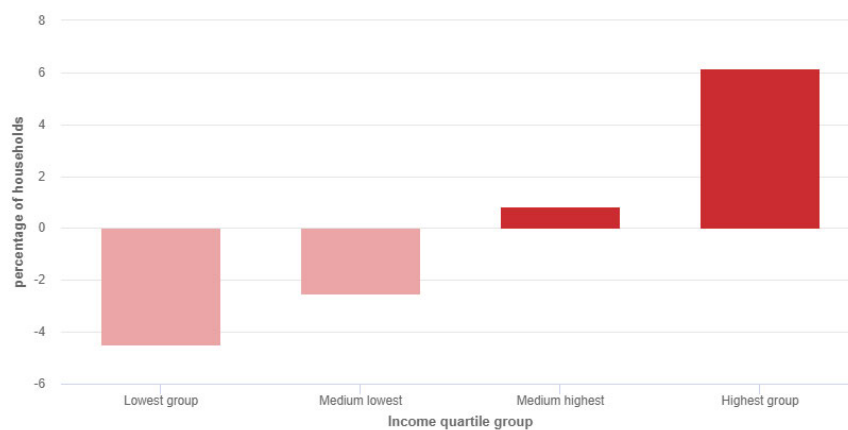
Preston (West)



Source: Australian Bureau of Statistics, [Census of Population and Housing, 2001 and 2016](#) (Enumerated data). Compiled and presented in profile.id by [.id](#) (informed decisions).

Change in equivalised household income quartiles, 2001 to 2016

City of Darebin



Source: Australian Bureau of Statistics, [Census of Population and Housing, 2001 and 2016](#) (Enumerated data). Compiled and presented in profile.id by [.id](#) (informed decisions).

Equivalised household income - Quartile group dollar ranges

export reset

Calculated from income data for Victoria

Weekly income by Census year

Equivalised household income ranges	2016	2011	2006	2001
Lowest group	\$0 to \$494	\$0 to \$430	\$0 to \$352	\$0 to \$288
Medium lowest	\$495 to \$864	\$431 to \$751	\$353 to \$601	\$289 to \$492
Medium highest	\$865 to \$1,392	\$752 to \$1,203	\$602 to \$969	\$493 to \$782
Highest group	\$1,393 and over	\$1,204 and over	\$970 and over	\$783 and over

Just as the Preston Market strategic development site is well located to accommodate housing and job growth, it is also very well located to house those who have the least choices. Locating Affordable Housing in proximity to public transport, services and commercial hubs provides social, financial and environmental benefits.

In this context, the 10% affordable housing aspiration within this draft planning scheme amendment is very disappointing and opportunities to increase this to at least 20% affordable housing should be explored. This could be achieved if some housing in the precinct was subsidised by the state government.

Market

Sunlight

The proposed ACZ Schedule includes a requirement that development must not overshadow more than 75% of the key public spaces within the precinct between the hours of 11am and 2pm on 21 June. This is a mandatory requirement which cannot be varied. There are two key public spaces shown on the Framework Plan. There is a third public space which is arguably key, labelled on the Framework Plan as 'Key market public space'.

For clarity it is suggested that consistent terminology be used between the Framework Plan and the ordinance. All three of these spaces are non-specific in their location, dimensions and size, which is significantly problematic in applying a mandatory control.

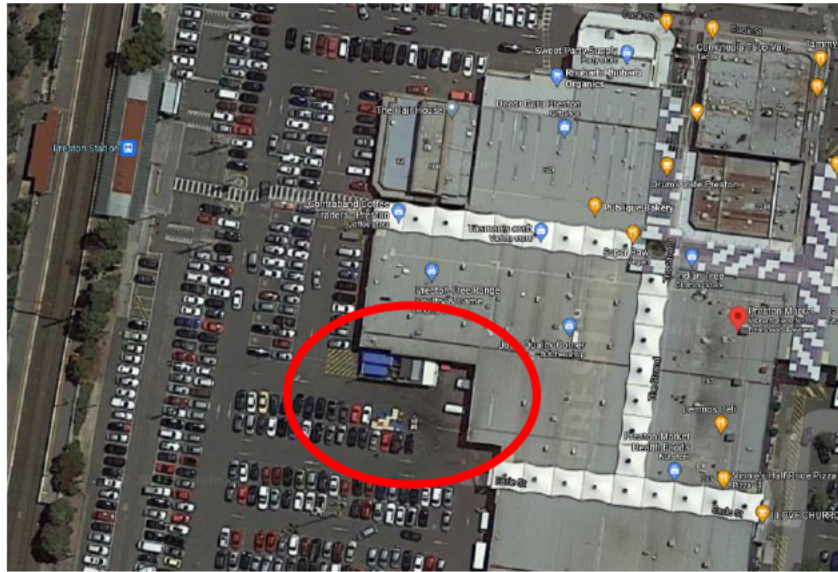
This is exacerbated by the staged nature of the development. For example, what if buildings are approved on the north side first, before any public open space is approved and then the horse has already bolted for provision of solar access to that space.

All key public spaces should be shown at a specific size, dimensions and location on a map within the ordinance. For the same reasons as discussed above, these key public spaces should not be overshadowed for the 5 hours between 10am and 3pm on 21 June. Sunlight in public spaces within the market and the broader precinct, throughout the day and throughout the year, are central to the environment created.

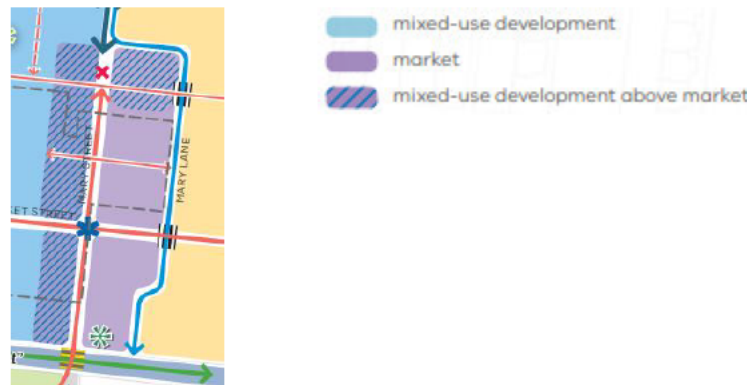
The Framework Plan also shows three lime green asterix, indicating 'additional public open space in the precinct – location not fixed'. For the same reasons that existing public open spaces should not be overshadowed, sunlight accesses to all new public open spaces should be required. If an Equinox measure is favoured for these spaces, the 5 hour window is still advocated as best practice.

Waste and cleansing

A visit to the part of the current market circled on the aerial below, on Saturday or Sunday afternoon in Summer reveals the extraordinarily gag-worthy stench of the waste from meat, poultry and especially from seafood. This smell is associated both with bins and also stagnant pools of water from hosing out stalls, including seafood ice, at the end of each trading day.



The proposed ACZ Schedule envisages apartment buildings on top of and immediately adjacent to a fresh food market.



The ACZ Schedule should be amended to specifically require information about how market waste and cleansing is required to be managed in order that residential apartments and market uses can operationally coexist as they are not easy bedfellows.

Noise

Preston Market currently trades from 8am – 3pm Wednesday to Sunday. In the past the market has operated until 8pm on Fridays. In the future, the hours may well change again and nothing about the construction standards of apartments should jeopardise this. Forklifts operate before and after market trading hours.

There is a need to ensure residential noise complaints don't impact on market operations and the best way to do this is to attenuate apartment buildings from market noise. It is highlighted that achieving a 6 Star Green Star Communities rating, a 6 Green Star Design & As Built rating and an average 7 Star Nationwide House Energy Rating Scheme accreditation in apartment buildings where windows need to be closed to meet noise standards will be quite challenging.

The proposed ACZ Schedule includes specific numeric requirements for noise attenuation of apartments adjacent to the Mernda Rail Line or a Road Zone Category 1 (Murray Road). When it comes to noise from the operation of the fresh food market however, the Schedule leaves it to a suitably qualified acoustic engineer to determine the noise attenuation requirements in a Noise Report. Not even to the satisfaction of the RA; any qualified acoustic engineer can make this decision.

It is suggested that people living in apartments within the Preston Market Precinct should be able to sleep, watch tv, work or study, hold a conversation, or just hear themselves think, 24/7. In order to ensure they are able to do this while coexisting with a busy, noisy activity, with unknown future operating hours, the ACZ Schedule should include specific 24/7 numeric requirements for noise attenuation of apartments above and adjacent to the market.

It is flagged that accommodation is a Section 1 use in the proposed ACZ Schedule. It is suggested that where noise attenuation requirements have not been met, accommodation ought to be S2 to provide discretion to refuse a residential use which would threaten or limit market operations.

Further, the proposed ACZ Schedule at Clause 4.1 includes a standard requirement which states:

'Use of land

A use must not detrimentally affect the amenity of the neighbourhood, including through the:

- *Transport of materials, goods or commodities to or from the land;*
- *Appearance of any building, works or materials;*
- *Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.'*

This Schedule facilitates an ongoing market land use which will detrimentally affect the amenity of the precinct through emission of noise (and smell). This clause should be reworded or added to so that the burden to protect the amenity of apartments clearly falls to the noise receivers rather than the noise generators, akin to the agent of change principle now long-running VPP requirement for live music entertainment venues.

It is also highlighted that if a market is a Section 1 use then there is no planning permit for this use and hence no effective planning enforcement mechanism. Arguably the RA could seek to enforce the above requirement, but there are no VCAT cases where this has been successfully argued.

In order for any operational requirements in a planning permit or accompanying endorsed documents to be enforceable, the proposed ACZ Schedule should be

amended to make market a Section 2 use or attach operational requirements to it being a Section 1 use, or to call up an enforceable operational plan.

The objective is that the apartments are well designed to mitigate impacts and don't prejudice the market whilst at the same time having clear and reasonable guidance around market operations.

Market size

Within the proposed ACZ Schedule a Market is a Section 1 use if the gross floor area is at least 12,700sqm. It is presumed that the intent of this condition is to require a redeveloped market to be at least the same size as the existing market.

As drafted, a market of a smaller size is a Section 2 use, leaving the door open for a decision maker to reduce the size of the market.

More properly, the condition about minimum market size should attach to accommodation uses, so that residential apartments can only be considered once a market of the required size has been provided. The proposed ACZ Schedule should be amended so that accommodation is only as of right once a market with a gross floor area of at least 12,700sqm has been provided.

The apartments

Visitor car parking

Activity Centres and locations close to the PPTN use Clause 52.06 Column B rates, which makes sense for commercial uses. The difference between Column A and Column B rates for dwellings is there is no visitor car parking required. The question then is 'Where are the visitors to 2,200 new homes going to park?'

The ACZ Schedule should be amended to specify a reasonable rate of visitor parking for an Activity Centre context, so that visitors to 2,200 new dwellings are not parking out surrounding streets or market parking. This parking should be able to be accessed by visitors to the proposed apartments.

Loading bays for removal vans

Arguably a deficiency with the VPPs is the lack of a requirement for a loading bay in residential apartment buildings. The ACZ header clause requires plans showing loading areas if any are proposed, but no requirement for loading bays for apartment buildings exists within the VPP.

The practical reality is that in any apartment building is going to have turn over of occupants and the greater the number of apartments, the more frequently people move in and out. In many apartment buildings around Melbourne it is common for there to be multiple people moving in and out every week. Where this occurs external to the building removal vans commonly double park and items are stolen from removal vans.

With 2,200 apartments proposed for the Preston Market Precinct, if all apartments were occupied on a 12 month lease, there would be 42 households moving out and another 42 households moving in, in addition to changing occupants of share households, every week. Of course, some apartment occupants are long term, but it is highly likely that a significant number of removal vans will access the proposed development week in and week out.

The ACZ Schedule should be altered to require a basement loading bay for removal vans for each of the proposed apartment buildings.

Hard rubbish

Associated with turnover of occupants, illegal dumping of hard rubbish is a significant issue associated with apartment buildings across Melbourne.

By way of example, this illegal dumping of hard rubbish associated with an apartment building in Darebin occurred on Sunday 4 July 2021. Over the days that followed this pile grew and grew, with multiple people adding to it. This incident occurred within two weeks of the annual hard rubbish collection for this part of Darebin. This is not a sole example, it is a common concern to residents in and around Activity Centres across Melbourne.



Dumped hard rubbish associated with an apartment building in Darebin

The City of Melbourne's Guidelines for Waste Management Plans, called up by Melbourne's ESD policy, provides best practice guidance for managing waste from apartment buildings. It requires that developers must provide for the storage and disposal of hard waste, e-waste, charity goods and any other waste streams generated at the site. The guideline require on-site hard waste storage be provided as follows:

- Multi-unit developments of 50 - 250 Apartments may book a once monthly 4m³ collection. 4m² of floor space for hard waste storage is required.
- Multi-unit developments of 250 – 500 Apartments may book up to two monthly 4m³ collections. 4m² of floor space for hard waste storage is required.
- Multi-unit developments of 500-750 Apartments may book up to two monthly 6m³ collection. 6m² of floor space for hard waste storage is required.
- Multi-unit developments of 750-1000 Apartments may book up to two monthly 8m³ collection. 8m² of floor space for hard waste storage is required.

- Multi-unit developments of >1000 Apartments may book up to two monthly 10m³ collection. 10m² of floor space for hard waste storage is required.

The proposed ACZ Schedule should be amended to include a requirement for onsite storage and disposal of hard waste, e-waste and charity goods, as well as arrangements for its disposal.

Other rubbish streams

Early last year the Victorian Government announced that all local council waste services will transition to a four-bin service to reduce waste to landfill and improve the quality of recyclables. The four bins or streams will separate:

- garbage (red lid)
- recycling (yellow lid)
- food and garden organics (FOGO) (light green lid)
- glass (purple lid).

The ACZ Schedule should be amended to include a requirement for disposal, storage and collection of waste from these four streams. Commonly in high rise apartment buildings this includes inbuilt design features such as elephant foot waste chutes, lazy-Susan type mechanisms to move various bins underneath chutes and designing accessways and basements to facilitate onsite emptying of bins. With the introduction of a four stream system, larger bin storage areas are also likely to be required.

Use of the ACZ

Preston Central is an Activity Centre. Preston Market Precinct is one precinct within this Activity Centre.

DELWP Practice Note 56 states ‘The ACZ is a **centre-wide tool** developed specifically for application at activity centres and Metropolitan Activity Centres in metropolitan Melbourne.’ It must be applied to the whole of an Activity Centre. The ACZ has been applied to 17 Activity and this is the only instance where it hasn’t been applied to the whole centre.

The VPA Preston Market Planning Report states on p27:

‘Initial discussions with the Department of Environment Land Water and Planning (DELWP) advised that the Priority Development Zone (PDZ) is likely to be phased out. Both the Activity Centre Zone (ACZ) and Comprehensive Development Zone (CDZ) were identified as potential alternatives.

- *The ACZ applies to areas within an identified activity centre to encourage a mix of uses for intensive development.*
- *The CDZ applies to specific sites and areas to support a range of uses and development specified within a comprehensive development plan.*

Currently, there is a stronger level of support for the application of the ACZ from DELWP. This is largely due to council's work on the wider Preston central area that is currently investigating use of the ACZ.'

The Priority Development Zone still exists as a VPP tool. The Ministerial Direction on the Form and Content of Planning Schemes was amended in conjunction with Amendment VC148. It states:

*'A planning scheme or planning scheme amendment must not include or introduce a new schedule to the Priority Development Zone (Clause 37.06) that was not in the planning scheme before the commencement of VC148. **This paragraph does not prevent the amendment of any schedules to Clause 37.06 forming part of a scheme before the commencement of VC148.**'*

As such there is nothing preventing the existing PDZ Schedule 1 in the Darebin Planning Scheme from being amended to give effect to the work undertaken by the VPA for the Preston Market Precinct.

Darebin City Council has not concluded its investigation of future zoning of the Preston Central Activity Centre, importantly has not engaged with the community about rezoning this centre, and there is no Council resolution to seek authorisation for such a rezoning. Rezoning the Preston Central Activity Centre should occur through a transparent public process and using the ACZ for one precinct now puts the cart before the horse and pre-emptes the outcome of a process which has not even commenced.

A further complicating factor is that the ACZ is a **centre-wide tool** with whole of centre land use and development objectives, whole of centre framework plan and a whole of centre use table. It is not a zone that envisages a separate schedule for each precinct. As drafted, the proposed ACZ schedule for the Preston Market Precinct treats this precinct as though it is an Activity Centre in its own right, rather than one precinct within a wider centre.

If or when the ACZ is applied to this activity centre the provisions for the Preston Market Precinct could be translated into a Preston Central ACZ Schedule. Even if a Preston Central Precinct ACZ Schedule is progressed now, it would properly still need to be consolidated into the Schedule for the whole of this centre.

Until such time as an ACZ is applied to the Preston Central activity centre, the Preston Market precinct should remain in its own schedule within the Priority Development Zone or as identified in the VPA Planning Report, the CDZ could be utilised.

Relationship between PDZ2 and proposed ACZ

The Amendment Instruction Sheet indicates that the amendment amends the zoning map to put whole of the Preston Market Precinct into the ACZ and deletes the PDZ1 ordinance.

The amendment also proposes changes to PDZ2, including changes to the map within the ordinance, indicating the Preston Market Precinct is in the ACZ. If PDZ2 does not apply to the Preston Market Precinct the map within the PDZ2 ordinance should not contain any information for the Preston Market Precinct. The place for any map, or maps within an ordinance for the Preston Market Precinct, is within the ACZ Schedule, if that is the zone which is to be used.

The purpose of the Map 1 to the Schedule to Clause 37.06 – Preston Central, within PDZ2, is to call up Building Heights and Setbacks within an Incorporated Plan. The Preston Central Incorporated Plan March (amended 2014) **applies to all land** shown on Map 1 of Schedule 2 to the Priority Development Zone.

This Incorporated Plan applies building heights to the Preston Market Precinct of between 3 and 10 storeys.

PRECINCT C Area shown as I	7 storeys	Buildings have no front setback. Above the podium, a building is set back at least 5 metres from street frontages.	Preferred minimum building height of 4 storeys.
PRECINCT C Area shown as II	3 storeys within 15 metres from Clinch Ave 5 storeys within 15 - 30 metres from Clinch Ave 7 storeys all other locations	Above the podium, buildings are set back at least 5 metres from pedestrian access ways.	
PRECINCT C Area shown as III	10 storeys	Above the podium, buildings are set back at least 5 metres from street frontages and pedestrian access ways.	Preferred minimum building height of 4 storeys.
PRECINCT C Area shown as IV	8 storeys	Above the podium, buildings are set back at least 5 metres from street frontages and pedestrian access ways.	Preferred minimum building height of 4 storeys.

Unless PDZ2 and the Incorporated Plan apply to the Preston Market Precinct, and the 3-10 storey building heights continue to apply, this precinct should be removed from Map 1 in PDZ2.

Maps within proposed ACZ Schedule

The Ministerial Direction on the Form and Content of Planning Schemes requires maps within ACZ Schedules to be based on the guidance provided from the [Activity Centre Zone Mapping Style Guide](#).

The maps within the proposed ACZ Schedule have been snipped from the Draft Preston Market Precinct Structure Plan May 2021 and have not yet followed this style guidance.

Notice and review

The proposed ACZ Schedule states:

'An application to construct a building or construct or carry out works is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act in accordance with Clause 37.08-8 of the Activity Centre Zone if:

- The proposed buildings and works exceeds the preferred building heights within schedule sub-section 4.4 of this Schedule; or*
- The proposed development **does not meet the requirements and guidelines of schedule sub-section 4.4 of this Schedule.**'*

Many of the requirements and guidelines in sub-section 4.4 are not numeric and determining whether these requirements and guidelines have been met involves quite wide exercise of discretion.

Quite commonly within ACZ Schedules third party exemptions do not apply where buildings:

- Exceed the preferred maximum building height
- Exceed the preferred maximum street wall height
- Reduce the setbacks above the street wall.

Notice and review exemptions should be drafted to be binary. Either something meets the requirements and it is exempt from notice and review or it doesn't meet the requirements and PEA Sections 52(1)(a), (b) and (d), 64(1), (2) and (3) and 82(1) apply. As drafted, it opens up potential for PEA Section 39 defect in procedure appeals.

It is suggested that the notice and review requirement include streetwall height and setback in addition to building height.
