

DAREBIN PLANNING SCHEME

AMENDMENT C182dare

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Victorian Planning Authority (the VPA), who is the planning authority for this amendment.

Land affected by the amendment

The amendment applies to land known as the Preston Market Precinct (the Precinct) as shown in the map below. It is bound by Murray Road to the north, Cramer Street to the south, St Georges Road to the west, and the access road to the rear of shops fronting High Street to the east. It excludes Preston Rail Station and associated railway land, as well as 104 St Georges Road, Preston.

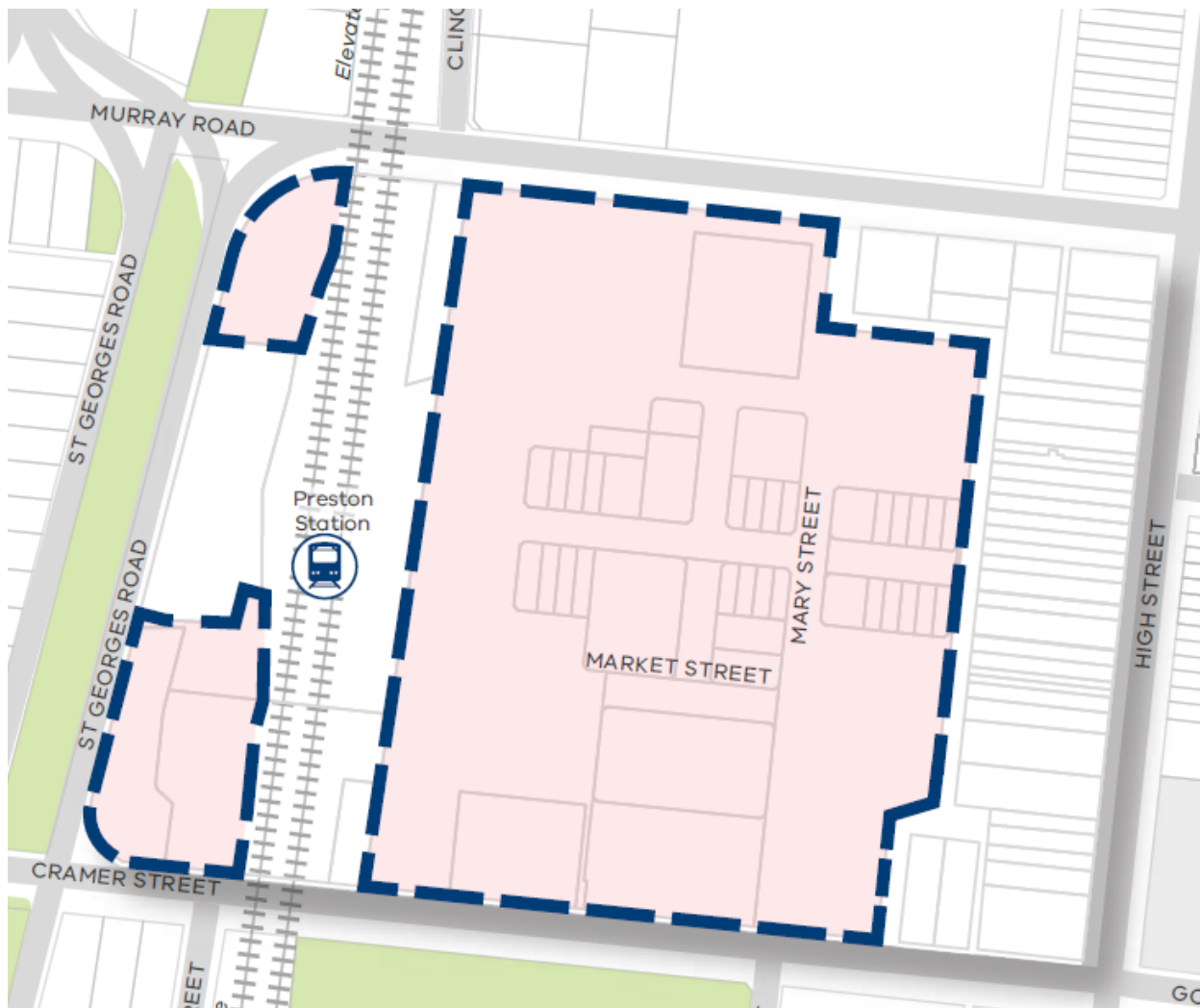


Figure 1: Land affected by the amendment (shown shaded pink within the blue hatched line).

What the amendment does

The amendment rezones the land from Priority Development Zone Schedule 1 (PDZ1) to Activity Centre Zone Schedule 1 (ACZ1) and applies various overlays to the land to facilitate development of the precinct in accordance with the *Preston Market Precinct Structure Plan* (the Structure Plan), by making the following changes to the Darebin Planning Scheme:

- Amend Clause 21.03 Housing to refer to the Activity Centre Zone at Clause 21.03-2 Application of zones and overlays.
- Amend Clause 22.06 Multi Residential and Mixed-Use Development to refer to the Activity Centre Zone and list the Structure Plan as a policy reference document.
- Delete Schedule 1 to Clause 37.06 Priority Development Zone (PDZ1) as this is to be replaced by the ACZ1.
- Amend Clause 37.06 Priority Development Zone Schedule 2 (PDZ2) to remove any reference to sites west of the railway line that are to be zoned ACZ1 because of this amendment.
- Insert Clause 37.08 Activity Centre Zone (ACZ) into the Darebin Planning Scheme.
- Insert Schedule 1 to Clause 37.08 Activity Centre Zone (ACZ1) and apply the ACZ1 to all land within the Preston Market Precinct.
- Insert Schedule 315 (Preston Market) to Clause 43.01 Heritage Overlay and apply to a portion of the existing Preston Market.
- Insert Schedule 2 to Clause 45.06 Development Contributions Plan Overlay (DCPO2) and apply the overlay to all land within the Preston Market Precinct.
- Insert Schedule 2 to Clause 45.09 Parking Overlay (PO2) and apply the overlay to all land within the Preston Market Precinct.
- Amend the Schedule to Clause 52.27 to include reference to the Activity Centre Zone.
- Amend the Schedule to Clause 53.01 to require a 10% contribution for public open space for the Preston Market Precinct.
- Amend the Schedule to Clause 72.04 to incorporate: the *Heritage design guidelines: Preston Market* (GJM Heritage, 2020); the *Incorporated Plan – Preston Market Permit Exemptions* (GJM Heritage, 2020); the amended *Preston Central Incorporated Plan March 2007 (as amended 2021)*; *Preston Market Precinct Development Contributions Plan*, (Victorian Planning Authority, 202~~2~~⁴); and the *Statement of significance: Preston Market* (RBA and GJM Heritage, 2020).
- Amend the Schedule to Clause 72.08 to reference the *Preston Market Precinct Structure Plan* (VPA, ~~February 2021~~^{TBA}).
- Amend Planning Scheme Map No.11ZN to apply ACZ1 to the amendment area.
- Amend Planning Scheme Map No.11EAO to apply the Environmental Audit Overlay (EAO) to the two areas of land within the Market Precinct that are located to the west of the railway line.
- Amend Planning Scheme Map No.11HO to apply HO315 to part of the amendment area.
- Amend Planning Scheme Map No.11DCPO to apply DCPO2 to all land within the Preston Market Precinct; and-
- Insert Planning Scheme Map No.11PO into the scheme to apply the PO2 to all land within the Preston Market Precinct.

Strategic assessment of the amendment

Why is the amendment required?

In August 2017, the Minister for Planning requested the VPA to review planning controls across the Preston Market precinct. This review identified necessary changes to land use, development, and development contribution rules in the precinct to achieve State Planning policy objectives and encourage improved development outcomes for the site beyond that which the current planning controls provide.

The Minister then directed the VPA to prepare a structure plan and an amendment to the Darebin Planning Scheme to guide future development in the precinct that is part of the broader Preston–High Street major activity centre. This draft amendment (C182dare) is required to give effect to the Structure Plan.

Draft amendment C182dare was first placed on public consultation in May 2021. In November 2021, the VPA made changes to the draft amendment to reduce overall building heights and revise elements of the Structure Plan and ACZ1 relating to urban design, amenity, public open space and active transport. The changes were made following a direction from the Minister for Planning to revise the draft plans in response to submissions received during public consultation. The current (April 2022) version of the draft amendment includes additional changes that have been made to reflect the reduction in building heights and dwelling numbers, as well as other changes in response to submissions received from the community, landowners, Council and government agencies during the May 2021 public consultation process.

The amendment provides a framework to guide growth at a higher density in the precinct and continue the operation of a market, including additional retail and commercial opportunities, as well as residential development.

It includes a long-term vision for the precinct, as well as objectives and strategies to guide future development, and is supported by an amendment to the Darebin Planning Scheme that re-zones the land to Activity Centre Zone Schedule 1 (ACZ1) and introduces planning controls to facilitate development in accordance with the future vision for the precinct.

Discretionary-Mandatory height controls are ~~applied with preferred maximum building heights~~ combined with design objectives to determine a built form response, along with objectives, requirements and guidelines.

To protect the significant heritage fabric of the existing market a Heritage Overlay (HO) will be introduced over the portion of the existing market building that is identified as having heritage significance, as outlined in the citation.

Heritage Overlay Schedule 315 (HO315) will be applied and will incorporate heritage design guidelines to guide the extent of existing fabric retention and appropriate redevelopment of the market.

To facilitate the collection of funds for provision of necessary infrastructure and services that the existing and future population will require, a Development Contributions Plan will be incorporated via the Development Contributions Plan Overlay Schedule 2 (DCPO2).

The existing EAO applying to the Market land has been expanded to cover all land within the precinct that is to the west of the rail line. The EAO requires that further testing and investigation of the land for environmental contaminants be undertaken before sensitive uses (e.g., apartments) can be developed.

The PO2 will be applied to the precinct and sets maximum car parking rates for new development to encourage a shift to public transport, walking and cycling, while not affecting the number of car spaces available for the market.

The Schedule to Clause 53.01 will require the Preston Market precinct to contribute 10% in

land and/or cash contribution towards public open space provision that is required to provide suitable amenity for the existing and future users of the site and surrounding areas.

Significant public open space will be provided as part of the removal of the level crossings on Cramer Street and Murray Road and the elevation of the railway corridor which offsets the need for a further contribution from development on railway land. Thus, the requirements of 53.01 will not apply to the two sites within the precinct west of the railway corridor currently owned by VicTrack (the government railway land corporation).

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the following relevant objectives in section 4 of the *Planning and Environment Act 1987* (the Act):

- a) *provide for the fair, orderly, economic and sustainable use, and development of land;*
- c) *secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- d) *conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- e) *protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- f) *facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- fa) *to facilitate the provision of affordable housing in Victoria; and,*
- g) *balance the present and future interests of all Victorians.*

The amendment seeks to implement the above objectives by applying permanent planning controls for a significant development site in one of Melbourne's major activity centres, Preston – High Street, as recognised in *Plan Melbourne 2017 - 2050*.

The levying of development contributions and open space contributions seeks to balance the interests of current and future generations. The contributions ensure developers of the land pay a fair amount towards local infrastructure affected by their development.

The amendment supports the vision of the Preston Market Precinct Structure Plan and the community engagement response for the precinct to be a desirable place for a thriving fresh food market, retail, commercial uses enriched by a people-focussed community. Increased living opportunities will be supported by sustainable transport, accessible community services and an amenable public realm.

A strong sense of place, rich character and valued cultural identity will be reinforced by the unique cultural qualities of the existing precinct and encouragement of high-quality built form.

How does the amendment address any environmental, social and economic effects?

The amendment is expected to produce social, economic, and environmental benefits. The amendment proposes to implement the Preston Market Precinct Structure Plan that sets out objectives for the use and development of the precinct. The amendment will help manage the continued transformation of the area in a framework of sustainable transport, land use and development outcomes, rejuvenated heritage, and quality urban spaces.

The implementation of the structure plan through the ACZ1 will facilitate development and investment within the precinct, providing opportunities for economic development and employment growth. The amendment responds to the local demand for housing and provides housing and employment in a location which has good access to public transport,

infrastructure, and social services.

The amendment encourages sustainable urban growth, by directing high density residential development to an activity centre near public transport and employment opportunities.

Does the amendment address relevant bushfire risk?

The land is not subject to bushfire risk or a Bushfire Management Overlay, and the amendment is unlikely to result in any significant increase to the risk to life, property, community, infrastructure, or the natural environment from bushfire.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* pursuant to section 7(5) of the Act.

The amendment has also been prepared with regard to *Ministerial Direction No. 1 – Potentially Contaminated Land*. Most of the precinct was historically used as a tannery. An Environmental Audit Overlay (EAO) covers the portion of the precinct that was used as a tannery. As a result of this amendment this EAO will remain in place. Further preliminary investigations have recommended the EAO be applied to all land within the precinct that is to the west of the rail line. The EAO requires that further testing and investigation of the land for environmental contaminants be undertaken before sensitive uses (e.g., apartments) can be developed.

The amendment has also been prepared with regard to *Ministerial Direction No. 9 – Metropolitan Planning Strategy*. The current Planning Strategy is *Plan Melbourne 2017 – 2050*. The amendment is consistent with the following relevant principles and directions in *Plan Melbourne 2017 - 2050*:

- Direction 1.1 – seeks to create a city structure that strengthens Melbourne's competitiveness for jobs and investment.

The amendment responds to this initiative by providing well-planned and accessible land suitable for commercial land uses to accommodate a range of services, employment, and accommodation uses.

- Direction 1.2 – seeks to improve access to jobs across Melbourne and closer to where people live.

The amendment provides the appropriate mechanism for the planning and management of the precinct to continue to meet community needs for access to employment near where people live.

- Direction 2.1 – seeks to manage the supply of new housing in the right locations to meet population growth and create a sustainable city.

The amendment provides opportunities for future housing to assist in accommodating anticipated population growth.

- Direction 5.1 – seeks to create a city of 20-minute neighbourhoods.

The amendment provides opportunities for increased urban consolidation and provision of employment and services in an area well serviced by public transport.

The requirements of *Ministerial Direction No. 11 – Strategic Assessment of Amendments* have been followed while preparing this amendment as is outlined in this explanatory report.

The amendment seeks to incorporate the *Preston Market Precinct Development Contributions Plan* that has been prepared in accordance with the *Ministerial Direction on the Preparation and Content of Development Contributions Plan* under S46M(1) of the *Planning & Environment Act*.

The amendment complies with Ministerial Direction No.19 - Ministerial Direction on the Preparation and Content of Amendments that may Significantly Impact the Environment, Amenity and Human Health.

The EPA was consulted with during preparation of the draft amendment and the recommendations of the EPA have been accepted with regards to the inclusion of requirements in the ACZ1 relating to noise, vibration and light spill.

The VPA has not accepted the recommendations of the EPA that where an environmental audit is triggered by the EAO and makes recommendations in relation to ongoing risks, uses, controls, management, and monitoring actions, provisions should be included in the Special Use Zone schedule to give effect to such recommendations.

The VPA respectfully does not support this inclusion for the following reasons:

- Planning Practice Note 30 Potentially Contaminated Land, July 2021 (PPN30) states that “Where an environmental audit is to be completed in response to an EAO, it is necessary to carefully draft the planning provisions in the planning scheme amendment to address implementation of the environmental audit statement recommendations”.
- PPN30 goes on to state at Table 4 that the EPA is responsible for “Enforcement of obligations associated with the duty to manage and environmental audit recommendations that are listed in a mechanism under the Environment Protection Act 2017, including: - A site management order - A remedial notice. These typically relate to long term or ongoing monitoring or management”.
- The provision drafted by EPA requires the responsible authority to enforce all audit recommendations, rather than the EPA. Some audit recommendations require complex and ongoing management and should be enforced by EPA, potentially through a Site Management Order (SMO). This provision would unnecessarily duplicate the management framework and require a responsible authority to enforce matters beyond their expertise.
- The current wording makes a requirement for any audit, regardless of whether it was triggered via the EAO or whether it involves sensitive uses or not. The provision also removes the ability for a responsible authority to determine to issue a permit with conditions for certain audit recommendations to be complied with. This would be for non-complex applications, which should be dealt with by EPA through an SMO.
- Including such a provision in special purpose zone schedules does not allow for standardisation of the approach where standard zones are used and the EAO is applied. The EAO should be self-contained and must be adhered to as the responsible authority must consider the EAO, SPPF and General Decision Guidelines at Clause 65.01.

How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?

The amendment supports and implements the relevant objectives of the State Planning Policy Framework (SPPF). In particular, the amendment gives greater effect to State activity centre policy, specifically Clause 11 (Settlement), Clause 15 (Built Environment and Heritage), Clause 16 (Housing), Clause 17 (Economic Development) and Clause 18 (Transport), which seek to concentrate major retail, commercial, administrative, leisure, residential and

community uses and developments in Activity Centres.

- Clause 9 Plan Melbourne

The amendment has been prepared having regard to the principles and directions set out in *Plan Melbourne: 2017-2050: Metropolitan Planning Strategy* (See response above to Ministerial Direction No. 9 – *Metropolitan Planning Strategy*).

- Clause 11 Settlement

The objective of Clause 11.02-2S Structure Planning is to facilitate the orderly development of urban areas. The amendment seeks to implement the objectives and strategies of a structure plan that has been prepared for the Preston Market Precinct.

More particularly, Clause 11.03 'Activity Centres' seeks to build up activity centres as the focus for high quality development, activity and living for the whole community by developing a network of activity centres.

At Clause 11.03-2 'Activity Centre Planning', the SPPF encourages a concentration of retail, residential, commercial, administrative, entertainment and cultural developments into activity centres and to ensure that councils undertake strategic planning for their centres.

The amendment provides a strong framework for the development of the Preston Market Precinct in a manner that will achieve a consolidation of development and activity within the centre.

- Clause 15 Built Environment and Heritage

Clause 15 seeks to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

The amendment supports this Clause by providing appropriate design and built form guidance to ensure that development within the precinct is site responsive and appropriate in the context of the identified heritage significance of the place.

Heritage Overlay Schedule 315 will be applied to most of the existing market buildings acknowledging the heritage significance of the market. The HO315 will also incorporate a set of heritage design guidelines that will provide guidance on the extent of built form to be retained, and the appropriateness of re-development of the market site.

Acknowledging Preston Market Precinct is a significant re-development site within an identified activity centre, it is important to balance the competing objectives of protecting areas of heritage significance and allowing for increased residential and commercial densities. Incorporating a set of heritage design guidelines will foster an appropriate design response in recognition of the heritage attributes of Preston Market.

- Clause 16 Housing

Clause 16 encourages a diversity of housing, with a substantial portion of new housing to be in or close to activity centres or areas with good access to public transport and a range of services.

This amendment provides strategic guidance on the appropriate scale and location of housing within the centre.

- Clause 17 Economic Development

Clause 17 seeks to encourage development which meets the community's needs for retail, entertainment, office and other commercial services and provides a net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

The amendment supports the objectives of this clause by promoting the precinct as a key destination for entertainment, office, retail and other commercial services.

- Clause 18 Transport

Clause 18 promotes the creation of a safe and sustainable transport system by integrating land-use and transport.

This amendment implements the objectives of this clause by promoting sustainable transport choices in an area with good access to public transport.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The amendment supports and implements the Local Planning Policy Framework and gives effect to the following relevant objectives and strategies of the Municipal Strategic Statement and relevant Local Planning Policies:

- Clause 21.02 Environment – this policy outlines objectives and strategies that promotes urban environments and open spaces designed for liveability and environmental sustainability and making a positive contribution to the health and wellbeing of Darebin residents, workers and visitors. It also recognises and seeks to protect areas and sites of natural, cultural and built heritage value.

The amendment facilitates the development of the precinct to provide additional living, working, and retail opportunities requiring an exceptional response to deliver a sustainable urban environment including the provision of open space. In addition, the amendment recognises and seeks to protect elements of built form that are of heritage and cultural value, being the components of the Preston Market.

- Clause 21.03 Housing - this policy provides a housing framework to give greater certainty as to where growth and change can be expected and the preferred scope of housing change in terms of the intensity and type of residential development to be encouraged in different areas. This policy seeks to address housing delivery, diversity and equity.

Darebin's housing framework plan marks the area for 'substantial change'. The amendment implements the structure plan that encourages development of the precinct for a variety of uses including provision of significant housing opportunities. These opportunities will include a diverse range of dwellings as well as the provision of affordable housing as defined by the *Planning & Environment Act*.

This policy will be updated to reflect the use of an Activity Centre Zone for the Preston Market Precinct.

- Clause 21.04 Economic Development – the strategic economic development framework plan depicts the precinct situated in a 'sub-regional role' retail/commercial activity centre. The amendment encourages the development of the precinct to comprise a variety of uses including the continuation of the market with additional retail and commercial opportunities. This will bolster employment provision in the community and will encourage visitors to the precinct that is accessible to the broader Preston activity centre.
- Clause 21.05 Transport and Infrastructure – this policy supports a vision for well planned,

efficient and equitable provision of transport and infrastructure across the municipality. This includes provision for sustainable transport such as walking, cycling and public transport, essential services and a range of community facilities, to meet growing community needs, enhance health and wellbeing and promote environmentally sustainable lifestyles.

Public transport to the precinct is well afforded by Preston railway station and rail corridor separating the western side of the precinct from the eastern side. A dedicated bike path is located along St Georges Road adjacent to the precinct, and Cramer Street is identified as a 'street for people' that will prioritise pedestrian and cycling movements.

The removal of the level railway crossings on Murray Road and Cramer Street and elevating the railway corridor will ease transport movement in the area and provide additional open space to the area.

Currently the precinct accommodates a significant number of at-grade public car parking spaces. As the precinct will continue the market use, the number of car parking spaces for the market will be retained.

The amendment will require the delivery of public open space on-site and/or contributions towards delivery of public open space within the municipality. ~~A community facility will also be required and delivered within the precinct, as well as traffic and other necessary infrastructure to service the precinct. These will be funded through a development contributions plan applied to the precinct using the Development Contributions Plan Overlay Schedule 2DCPO2.~~

- Clause 22.06 Multi-Residential and Mixed Use Development – the amendment will amend this policy so that it will apply to land in the Activity Centre Zone and thus be applicable to the Preston Market precinct. The policy builds on the design and built form objective in Clause 15.01-2 and implements the strategies for housing diversity and urban design in the Municipal Strategic Statement.

The structure plan and amendment provide urban design guidance and encourage design excellence, sustainable design, dwelling diversity, management of on and off-site amenity impacts, provision of a street address, appropriate parking and vehicular access, thereby implementing the objectives and strategies of the policy.

- Clauses 22.12 Environmentally Sustainable Development – this policy builds on and implements the sustainability objectives and strategies of Clause 21.01-4 relating to environmentally sustainable built environments. The policy requires development to meet appropriate environmental design standards and provides a framework for early consideration of environmental sustainability at the building design stage.

Any development application within the precinct is required to respond to this policy, and the amendment compels environmentally sustainable development to exceed minimum industry standards by encouraging achievement of a 6 Star Green Star Communities rating, a 6 Green Star Design & As Built rating and average 7 Star NatHERS accreditation.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the Victorian Planning Provisions by applying the ACZ to the precinct. The ACZ is the preferred Victoria Planning Provision tool for controlling land use and development in Activity Centres. The amendment has been prepared in accordance with Practice Note 56 – Activity Centre Zone.

The Activity Centre Zone (ACZ) is the preferred tool available in the Victoria Planning Provisions to be applied to Activity Centres. The ACZ was developed to implement the strategic objectives for an Activity Centre and to reflect the outcomes identified in structure

plans for Activity Centres.

The application of the ACZ1 to the precinct allows Council to provide permanent planning controls for the centre, which implement the *Preston Market Precinct Structure Plan* and clearly identify how the future land use and development planning vision for the centre can be achieved.

The ACZ1 ~~requires the~~supports the continuation of a market use in the precinct and encourages a wide mix of land uses and development, including open space and a community facility.

The ACZ1 also implements the building height and setback requirements set out in the Structure Plan to address:

- Street setback.
- Open space interface (existing and potential future open space).
- Building separation.
- Street wall heights and setbacks; and
- Heritage and non-heritage building interfaces.

In addition, the amendment implements other Victorian Planning Provisions, such as the ~~Heritage Overlay and Development Contributions Plan Overlay~~DCPO, HO and PO to guide and deliver the outcomes and vision for the precinct.

How does the amendment address the views of any relevant agency?

The VPA has undertaken consultation with and received recommendations from officers from a range of relevant agencies as part of the preparation of the final structure plan and the associated amendment. Those agencies include:

- Darebin City Council
- Level Crossing Removal Project (LXRP)
- Department of Transport (DoT)

The amendment has addressed the input of these agencies to the extent where it has been agreed between the relevant parties and where it addresses the policy and strategic intent of the future direction of the site.

Extensive engagement with LXRP has assisted with the preparation of the Structure Plan about the future preferred interfaces to the railway corridor and the pedestrian connectivity through the site to the Preston railway station.

The amendment addresses input from the Department of Transport by identifying where alterations to the road network may be required to accommodate potential bust stops and traffic management measures.

The VPA has consulted extensively with Darebin Council, which included several community engagement sessions to help understand and develop the preferred vision for the precinct and the elements of the existing market to protect. In developing the Structure Plan and the associated planning scheme amendment the VPA has incorporated the feedback and input from the community and Council that strikes a balance to protect and continue the market use of the site, including elements of the existing built form by applying a Heritage Overlay, and incorporating areas of public open space on site; and encouraging the development of the site to achieve State Planning policy objectives.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment addresses the relevant requirements of the *Transport Integration Act 2010*. The amendment is considered to support the Act's objectives for transport and decision-making principles.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment is unlikely to change the current resourcing and administrative costs of Darebin City Council in undertaking their duty as the responsible authority.