

23/11/2016
C270**SCHEDULE 62 TO THE DESIGN AND DEVELOPMENT OVERLAY**Shown on the planning scheme map as **DDO62**.**Special Character Areas- Built Form (Bourke Hill)****1.0**23/11/2016
C270**Design objectives**

- To protect the unique character of Bourke Hill.
- To protect the built form context of view lines to and from Parliament House to maintain its visual prominence.
- To ensure the scale and prominence of the landmark heritage buildings, the Princess Theatre and the Hotel Windsor, is maintained.
- To ensure development respects and maintains the heritage significance, low scale built form and valued public realm attributes of Bourke Hill.
- To protect sunlight access to streets and key laneways, the steps and ‘forecourt’ area of Parliament House including adjacent public spaces and public spaces.
- To maintain a high level of pedestrian amenity within Bourke Hill.
- To retain expansive open air sky views for pedestrians along streets and key laneways.

2.004/09/2015
C262**Buildings and works****2.1**23/11/2016
C270**Definitions**

For the purpose of this schedule:

- **street** means a road reserve of a public highway more than 9 metres wide.
- **laneway** means a road reserve of a public highway 9 metres or less wide.
- **street wall** means any part of the building constructed within 0.3 metres of a lot boundary fronting the street.
- **street wall height** means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the street wall, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the street wall.
- **total building height** means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the façade.
- **setback** is the shortest horizontal distance from a building façade, including projections such as balconies and architectural features greater than 300mm, to the boundary.
- **floor area ratio** means the gross floor area above ground of all buildings on a site, including all enclosed areas, services, lifts, car stackers and covered balconies, divided by the area of the site. Voids associated with lifts, car stackers and similar service elements should be considered as multiple floors of the same height as adjacent floors or 3.0 metres if there is no adjacent floor.

- **unsafe wind conditions** means the hourly maximum 3 second gust which exceeds 20 metres/second with probability of exceedance of 0.1% from all wind directions combined.
- **comfortable wind conditions** means a mean wind speed from all wind directions combined with probability of exceedance less than 20% of the time, equal to or less than:
 - 3 metres/second for sitting areas
 - 4 metres/second for standing areas
 - 5 metres/second for walking areas.
- **mean wind speed** means the maximum of:
 - Hourly mean wind speed, or
 - Gust equivalent mean speed (3 second gust wind speed divided by 1.85).
- **additional shadow** means any shadow cast outside any existing shadow from buildings or works, but not a shadow cast by incidental elements such as canopies, kiosks, artworks, screens or trees.

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Buildings and works for which no permit is required

A permit is not required for:

- Buildings and works at ground level, including external works to provide access for persons with disabilities that comply with all legislative requirements.
- Buildings and works to install or modify plant and service fixtures to an existing building.
- Buildings and works to an existing building(s) which do not alter the height or setback of any part of an existing building or result in any additional habitable or occupiable floor area.
- Buildings and works which would cast a shadow across the Yarra River Corridor between 11.00 am and 2.00 pm on 22 June caused by unenclosed structures associated with the construction of gangways, mooring poles and pontoons which are constructed by or on behalf of Melbourne Parks and Waterways or Parks Victoria under the *Water Industry Act 1994*, the *Water Act 1989*, the *Marine Act 1988*, the *Port of Melbourne Authority Act 1958*, the *Parks Victoria Act 1998*, or the *Crown Land (Reserves) Act 1978*.

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Requirements

Built Form

Buildings and works:

- must meet the Design Objectives in this schedule;
- must satisfy the Built Form Outcomes specified for each relevant Area in Table 1, Table 2 and Table 3 to this schedule and for each relevant Design Element in Table 4 to this schedule;
- should meet the Preferred Building Height or Modified Requirement specified for each relevant Area in Table 2 to this Schedule;

- should meet the Design Element specified for each relevant Area in Table 3 to this Schedule; and
- should meet the relevant Requirement specified for each relevant Design Element specified in Table 4 to this schedule.
- An application to exceed the Preferred Building Height or Modified Requirement must document how the development will achieve the specific Design Objectives and Built Form Outcomes of this schedule.

A permit must not be granted for buildings and works, including the replacement of the existing building, which exceed the Maximum Building Height specified in Table 1 to this schedule, with the exception of:

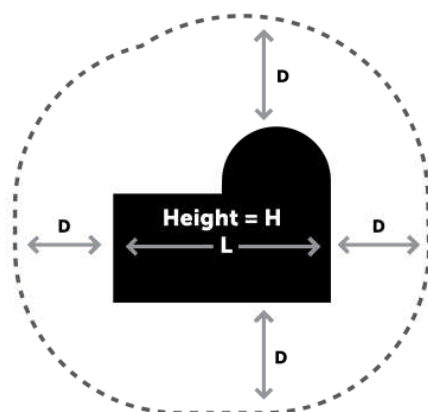
- non-habitable architectural features and building services.
- buildings and works for a replacement building which:
 - retains the existing building envelope, including no increase in height or reduction in setbacks, and
 - does not result in any additional habitable or occupiable floor area (excluding an open balcony).

Wind effects

A permit must not be granted for buildings and works with a total building height in excess of 40 metres that would cause unsafe wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

A permit should not be granted for buildings and works with a total building height in excess of 40 metres that do not achieve comfortable wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

Figure 1



Assessment distance D = greater of:
 $L/2$ (Half longest width of building)
 OR
 $H/2$ (Half overall height of building)

Overshadowing

A permit must not be granted for buildings and works which would cast any additional shadow across a space listed below during the hours and date(s) specified, unless the overshadowing will not unreasonably prejudice the amenity of the space:

Space	Hours between	Date(s)
Parliament Gardens Treasury Gardens Gordon Reserve Parliament Steps and Forecourt Old Treasury Steps	11.00am and 3.00pm	22 April to 22 September
Birrarung Marr	11.00am and 2.00pm	22 April to 22 September
The southern footpath of Bourke Street between Spring Street and Exhibition Street	12.00pm and 2.00pm	22 April to 22 September
The southern building line of Little Bourke Street between Spring and Swanston Streets and Cohen Place/Chinatown Plaza Liverpool Street and Crossley Street	12.00pm and 2.00pm	22 April and 22 September
Any public space, public parks and gardens, public squares, open spaces associated with a place of worship and privately owned public spaces accessible to the public	11.00am and 2.00pm	22 September

Table 1 to Schedule 62

Area	Maximum building height	Built form outcomes
B1	15 metres	<p>The low scale and fine grain historic context of the Bourke Hill heritage precinct is respected and new development sensitively responds to this context.</p> <p>The visual prominence of Parliament House is maintained.</p> <p>Maintain the low scale built form context to Bourke Street and the general bowl shaped prospect view from Parliament House.</p> <p>The vista along Bourke Street continues to be characterised by the consistent diminutive scale of buildings facing Bourke Street, an intimate human scale, and a fine grain pattern of buildings and their contrast with the monumentality of Parliament House and its steps at the streets eastern termination.</p> <p>The high level of pedestrian amenity provided by the low scale built form, access to sunlight and active street frontages along Crossley and Liverpool Streets is maintained.</p> <p>Overshadowing of the public realm is limited to maintain the high level of pedestrian amenity by ensuring there is no reduction in sunlight access to the Parliament House steps and 'forecourt' and key streetscapes and public spaces.</p> <p>New development should respect and respond to the high quality public realm and amenity attributes brought about by low scale heritage streetscapes, expansive open air sky views, sunlight access, minimal wind impacts, pedestrian connectivity, active street frontages and development of an intimate human scale.</p>
B2	25 metres	<p>The prominence of the original heritage buildings of the Hotel Windsor and the Princess Theatre is maintained.</p> <p>The scale of the landmark heritage buildings as visual anchors, or 'bookends', to the Spring Street streetscape and the prospect view from Parliament House is respected.</p> <p>The built form scale at the eastern entry to Little Bourke Street is complementary to the existing historic built form scale of the Princess Theatre.</p> <p>Overshadowing of the public realm is limited to maintain the high level of pedestrian amenity by ensuring there is no reduction in sunlight access to the Parliament House steps and 'forecourt' and key streetscapes and public spaces.</p> <p>New development should respect and respond to the high quality public realm and amenity attributes brought about by low scale heritage streetscapes, expansive open air sky views, sunlight access, minimal wind impacts, pedestrian connectivity, active street frontages and development of an intimate human scale..</p>
B3	40 metres	<p>The prominence of the original heritage buildings of the Hotel Windsor and the Princess Theatre is maintained.</p>

Area	Maximum building height	Built form outcomes
		<p>The scale of the landmark heritage buildings as visual anchors, or 'bookends', to the Spring Street streetscape and the prospect view from Parliament House is respected.</p> <p>Development does not detract from, or intrude upon, the built form context of the view lines to and from Parliament House.</p> <p>Maintain the low scale built form context to Bourke Street and the general bowl shaped prospect view from Parliament House.</p> <p>Development does not diminish the prominence of, and view lines to, the decorative roof forms of the Hotel Windsor and Princess Theatre.</p> <p>Development respects the existing built form context of Liverpool Street and Harwood Place.</p> <p>Overshadowing of the public realm is limited to maintain the high level of pedestrian amenity by ensuring there is no reduction in sunlight access to the Parliament House steps and 'forecourt' and key streetscapes and public spaces.</p> <p>The high quality public realm and amenity attributes of low scale heritage streetscapes, expansive open air sky views, sunlight access, minimal wind impacts, pedestrian connectivity, active street frontages and an intimate human scale are maintained.</p> <p>A height of 25 metres is preferred for development at 103-137 Spring Street, Melbourne. Development above this height must meet the above Built Form Outcomes.</p>

Table 2 to Schedule 62

Area	Preferred Building Height	Modified Requirement	Built Form Outcomes
B4	40 metres	10:1 Floor Area Ratio	<p>Development does not visually intrude upon the Parliament House view lines.</p> <p>Maintain the low scale built form context to Bourke Street and the general bowl shaped prospect view from Parliament House.</p> <p>Development responds to the low scale nature of area B1 and provides a transition to the higher built form scale of area B5 and area B6</p> <p>Development responds to the human scale of Little Collins Street.</p> <p>Upper levels are visually recessive from streets and laneways.</p> <p>The visual impact of taller buildings, above the preferred building height, is alleviated through increased upper level setbacks.</p> <p>Overshadowing of the public realm is limited to ensure pedestrian amenity is maintained by providing a high level of sunlight access to the Parliament House steps and</p>

Area	Preferred Building Height	Modified Requirement	Built Form Outcomes
			<p>'forecourt', public spaces and:</p> <ul style="list-style-type: none"> To Little Bourke Street (street frontage on the south side of the street) and to Crossley Street and Liverpool Street, between 11.00 am to 2.00 pm on 22 September. <p>Development does not adversely impact on the highly valued public realm and amenity attributes of areas B1, B2 and B3.</p> <p>Development limits additional overshadowing of the Melbourne Club Garden to protect the viability of existing and future plantings and to ensure that significant trees are not compromised by lack of sunlight resulting from development.</p>
B5	60 metres	13:1 Floor Area Ratio	<p>Development of a scale that will not significantly impact any further on the Parliament House view lines than the buildings extant within Area B5 on the commencement of this provision.</p> <p>Maintain the low scale built form context to Bourke Street and the general bowl shaped prospect view from Parliament House.</p> <p>Overshadowing of the public realm is limited to maintain the high level of pedestrian amenity by ensuring there is no reduction in sunlight access to the Parliament House steps and 'forecourt' and key streetscapes and public spaces.</p> <p>Development responds to the higher scale (in part), commercial edge of Exhibition Street and Spring Street (northern end), without compromising the scale, character and amenity of the wider Bourke Hill area.</p> <p>Development does not adversely impact on the highly valued public realm and amenity attributes of areas B1, B2 and B3.</p> <p>The visual impact of taller buildings, above the preferred building height, is alleviated through increased upper level setbacks.</p>

Area	Preferred Building Height	Modified Requirement	Built Form Outcomes
B6	100 metres	15:1 Floor Area Ratio	<p>Development responds to the higher rise, commercial edge of the north side of Lonsdale Street without compromising the integrity and amenity of the low scale Bourke Hill heritage precinct.</p> <p>Overshadowing of the public realm is limited to ensure pedestrian amenity is maintained by providing a high level of sunlight access to the Parliament House steps and 'forecourt', public spaces and:</p> <ul style="list-style-type: none"> To Little Bourke Street (to the building line, south side) and to Crossley Street and Liverpool Street between 11.00 am and 2.00 pm on 22 September. <p>Development does not adversely impact on the highly valued public realm and amenity attributes of areas B1, B2 and B3.</p> <p>The visual impact of taller buildings, above the preferred building height, is alleviated through increased upper level setbacks.</p>

Table 3 to Schedule 62

Area	Building design features	Built form outcomes
B3	<p>Street wall height should not exceed 25 metres.</p> <p>Buildings above the street wall should be setback no less than 5 metres from a laneway or Liverpool Street.</p>	<p>The provision of a street wall and setback is responsive to the characteristics and operational function of the adjoining laneway.</p> <p>The street wall height and setback should respond to the Built Form Outcomes for area B3 as listed at Table 1 to this Schedule.</p>
B4	<p>Street wall height should not exceed 25 metres.</p> <p>Buildings above the street wall should be setback no less than 5 metres from a laneway or Little Collins Street.</p>	<p>The provision of a street wall and setback is responsive to the characteristics and operational function the adjoining laneway.</p> <p>The street wall height and setback should respond to the Built Form Outcomes for area B4 as listed at Table 1 to this Schedule.</p>

Table 4 to Schedule 62 of the Design and Development Overlay

Design Element	Requirement	Built Form Outcomes
Street wall height	Street wall height should not exceed 20 metres, or the preferred building height, whichever is lower, excluding the areas specified in Table 3 above.	<p>Street wall height is scaled to ensure:</p> <ul style="list-style-type: none"> a human scale. consistency with the prevalent parapet height of adjoining buildings. height and setback that respects the scale of adjoining heritage places. adequate opportunity for daylight, sunlight and skyviews in the street.

Design Element	Requirement	Built Form Outcomes
Upper level street setbacks	Above the street wall, upper levels of a building should be set back a minimum of 5 metres.	Buildings are setback to ensure: <ul style="list-style-type: none"> larger buildings do not visually dominate the street or public space. the dominant street wall scale is maintained. sun penetration and mitigation of wind impacts at street level.
Setback(s) from side boundary	<p>Above the street wall the setback from side boundary should be:</p> <ul style="list-style-type: none"> 5 metres if above 40 metres, or 6% of the total building height if above 80 metres. <p>If a laneway:</p> <p>Above the street wall, the setback to the centreline of the laneway from side boundary should be:</p> <ul style="list-style-type: none"> 5 metres if above 20 metres; or 6% of the total building height if above 80 metres. 	Buildings are setback to ensure: <ul style="list-style-type: none"> provision of adequate sunlight, daylight, privacy and outlook from habitable rooms, for both existing and proposed developments. provision of adequate daylight and sunlight to laneways. buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them.
Setback(s) from rear boundaries	<p>Above the street wall the setback from rear boundary should be:</p> <ul style="list-style-type: none"> 5 metres if above 20 metres, or 6% of the total building height if above 80 metres <p>If a laneway:</p> <p>Above the street wall the setback to the centreline of the laneway from side boundary should be:</p> <ul style="list-style-type: none"> 5 metres if above 20 metres; or 6% of the total building height if above 80 metres. 	Buildings are setback to ensure: <ul style="list-style-type: none"> provision of adequate sunlight, daylight, privacy and outlook from habitable rooms, for both existing and proposed developments. taller buildings transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate or compromise the character of adjacent existing low-scale development areas.

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Exemption from notice and appeal

An application to construct a building or construct or carry out works is 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.

2.5**Application Requirements**23/11/2016
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If in the opinion of the responsible authority an application requirement listed below is not relevant to the assessment of the application, the responsible authority may waive or reduce the requirement.

Urban context report

An application for permit must be accompanied by a written and illustrated urban context report.

The urban context report must:

- explain the key planning, design and contextual considerations and influences on the proposed buildings and works.
- describe the existing urban context of the area in which the proposed buildings and works are to be located.
- explain how the proposed buildings and works relate to and respond to their urban context including:
 - built form character of adjacent and nearby buildings.
 - heritage character of adjacent and nearby heritage places.
- identify the key opportunities and constraints supporting the design response.
- explain the effect of the proposed buildings and works, including on:
 - microclimate, including sunlight, daylight and wind impacts on streets and other public spaces.
 - vistas.
- Explain how the proposed buildings and works respond to each of the Design Objectives and the Built Form Outcomes in Table 1, Table 2, Table 3 and Table 4 of this schedule, as appropriate.

Wind analysis report

An application for a permit for a building with a total building height in excess of 40 metres must be accompanied by a wind analysis report prepared by a suitably qualified person. The wind analysis report must:

- explain the effect of the proposed development on the wind conditions in publicly accessible areas within a distance equal to half the longest width of the building, measured from all facades, or half the total height of the building, whichever is greater.
- at a minimum, model the wind effects of the proposed development and surrounding buildings (existing and proposed) using wind tunnel testing.
- identify the principal role of each portion of the publicly accessible areas for sitting, standing or walking purposes.
- not rely on street trees or any other element such as screens, within public areas for wind mitigation.

3D digital model of buildings and works

An application for a permit must be accompanied by a 3D digital model of the proposed buildings and works in a format to the satisfaction of the responsible authority. This is for

assessing overshadowing and visual impacts caused by the proposal and for general archive, research and public information purposes.

3.0 Subdivision

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A permit is not required to subdivide land.

4.0 Advertising signs

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None specified.

5.0 Decision guidelines

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Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Design Objectives.
- The specific Built Form Outcomes of Table 1, Table 2, Table 3 and Table 4 to this schedule.
- Whether the development adversely impacts on the unique character of the Bourke Hill precinct.
- Whether the development respects the built form scale and urban structure of the precinct where it is located.
- Whether the development provides a high quality architectural response.
- The impact of development on the consistency of scale (low scale) and heritage significance of the Bourke Hill heritage precinct.
- Whether development detracts from the visual prominence of Parliament House both in terms of scale and architectural expression.
- Whether development adversely impacts on the built form context of view lines to and from Parliament House.
- Whether the scale and prominence of the landmark heritage buildings, the Princess Theatre and the Hotel Windsor, is maintained.
- Whether development maintains and responds to the fine grain subdivision pattern and narrow lot frontages of Bourke Hill.
- Whether the distinctive and highly valued public realm attributes of Bourke Hill are maintained and enhanced.
- Whether development adversely impacts on the expansive open air sky views (from pedestrian eye level) along streets and laneways.
- Whether development improves pedestrian connectivity and permeability.
- Whether development provides a comfortable and attractive pedestrian environment at ground level, including frontage activation and protection from adverse wind impacts.
- Whether the development adversely impacts significant trees through overshadowing in the Melbourne Club Garden.
- Securing the floor area ratio across a site where a site is developed in part to ensure:
 - that an agreement be entered into to acknowledge that the remaining site cannot be later developed;

- that a heritage building being retained that an agreement be entered into to converse the heritage building in perpetuity;
- that the proposed building is sited so that adequate setbacks are maintained in the event that the land is subdivided or separate land holdings are administratively effected to create a future development site.
- Whether the cumulative effect of the proposed development in associated with adjoining existing and potential development supports a high quality of pedestrian amenity in the public realm, in relation to human scale and microclimate conditions including overshadowing and wind impacts.
- The effect of the proposed buildings and works on solar access to existing and proposed open space and public places.
- The potential for increased ground level wind speeds and the effect on pedestrian comfort and the amenity of public places, with allowance to exceed uncomfortable conditions only if the wind effects of the proposed development do not exceed the existing wind condition(s).

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Reference documents

- *Bourke Hill Heritage, Planning and Urban Design Review, Department of Transport, Planning and Local Infrastructure, September 2014*
- *Central City Built Form Review Overshadowing Technical Report, Department of Environment, Land, Water and Planning, April 2016*

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Transitional arrangements

The requirements of this schedule do not apply to:

- an application (including an application to amend the permit) made before the commencement of Amendment C262 to this planning scheme. For such applications, the requirements of this schedule, as they were in force immediately before the commencement of Amendment C262, continue to apply.
- an application (including an application to amend the permit) made after the commencement of Amendment C262 but before the commencement of Amendment C270 to this planning scheme. For such applications, the requirements of this schedule, as they were in force immediately before the commencement of Amendment C270, continue to apply.