

Attachment 1 ESPY - ef.

ATTACHMENT 1

HOW TO READ THE ATTACHED DOCUMENTS IN RELATION TO AMENDMENT C 25 & BECTON'S FURTHER SUBMISSION (DATED 15 MARCH 2002)

In the documentation which follows:

- All words appearing with a horizontal line through them are words which Becton propose to **delete** from the amendment.

Example Extensions ~~and alterations~~ to buildings...

- All words underlined are words proposed to be **introduced** by Becton to the amendment.

Example Extensions and alterations to buildings...

- All sentences, paragraphs and tables which are modified in some way are readily identified by a vertical line which runs parallel with the right hand margin of the page.

Example Higher residential densities are encouraged in ~~and around~~
activity centres and fixed public transports nodes.

The Council officer's comment and recommendation follow immediately after each provision of the amendment that is proposed to be changed and are underlined.

Example Comment:
The objective is supported in part.

Recommendation:
Alternative wording is recommended.

21.03 KEY ISSUES

21.03-6 Additional St Kilda Neighbourhood Issues

- The need to preserve the social and cultural diversity of the neighbourhood by offering a range of housing choices including low-income housing, and ~~supporting~~ recognise a range of cultural activities and associated venues which are widely accessible, especially for people on low incomes.

Comment:

This clause of the MSS identifies additional issues relevant to the St Kilda neighbourhood.

The Am C25 wording in the 2nd dot point, "... and *supporting* a range of cultural activities and associated venues ..." provides a strategy for addressing the principal issue. As this section of the MSS identifies issues only, it would be more appropriate to re-word as an issue as follows, "... and a range of cultural activities and associated venues that are widely accessible, particularly for people on low incomes."

Recommendation:

Becton's' proposed change to the wording of Clause 21.03-6, 2nd dot point, is not supported.

Modify Clause 21.03-6, 2nd dot point to read:

"The need to preserve the social and cultural diversity of the neighbourhood by offering a range of housing choices including low-income housing and a range of cultural activities and associated venues which are widely accessible, especially for people on low incomes."

21.04 PORT PHILLIP'S VISION

21.04-6 St Kilda

In St Kilda the Council envisages:

- That places having local cultural value icons, such as the Esplanade Hotel, are protected and be supported as they make an important for the contribution they make to the vitality, character and identity of the area.

Comment:

This clause of the MSS identifies the planning vision both at a municipal and neighbourhood level.

Becton's proposed change to the wording of the St Kilda Neighbourhood vision, 3rd dot point, is considered appropriate in that it provides a suitable level of specificity for a neighbourhood vision, noting that this dot point policy is nested within the overall vision for the municipality and the more specific policies for the key planning themes contained in the remainder of the MSS.

Recommendation:

Becton's proposed change to Clause 21.04-6, 3rd dot point, is supported.

21.05 OBJECTIVES, STRATEGIES AND IMPLEMENTATION

21.05-1 Residential Land Use

St Kilda Neighbourhood

☐

- ☐ Support the ongoing use and operation of the Esplanade Hotel, 11 the Esplanade, St Kilda, as an incubator of independent local music and comedy talent.
- ☐ Encourage appropriate cultural and arts related uses that complement the traditional and evolving use and operation of the Esplanade Hotel.
- ☐ Ensure that any use of the upper levels of the Esplanade Hotel building will support and be compatible with the traditional and evolving use and operation of the Hotel.
- ☐ Ensure that any development of the upper levels of the Esplanade Hotel building and on the balance of the site at 11-12 The Esplanade and 6 Victoria Street, St Kilda does not create an amenity conflict with the traditional and evolving use and operation of the hotel.

Comment:

The MSS is an appropriate place in the Planning Scheme to include policy in relation to the Esplanade Hotel site. The site and the place have attracted considerable community attention since the mid-1980s and its future use and development is of continuing interest to the St Kilda community and beyond.

This clause of the MSS identifies *strategies in relation to residential land use*, both at the municipal and neighbourhood level, and applies to all residential areas in the municipality.

The Esplanade Hotel site is located in a residential area, in the St Kilda neighbourhood, and therefore this was considered an appropriate chapter in the MSS to introduce policies specific to the site and the Esplanade Hotel, both of which could potentially accommodate future residential use.

The Am C25 policies derive from values expressed by the Esplanade Hotel Working Group and seek to acknowledge the on-going legitimacy (and cultural significance) of the Esplanade Hotel within its residential context, including the potential for future residential development on the remainder of the Esplanade Hotel site and in the upper levels of the Hotel building.

It is noted that Becton do not propose any change to the 8th dot point that relates the preparation of a management plan for the Hotel.

Recommendation:

Becton's proposed deletion of Clause 21.05-1 'St Kilda Neighbourhood', 4th, 5th, 6th and 7th dot points is not supported.

- Encourage the preparation of a management plan for the Esplanade Hotel that supports the on-going cultural significance of the Hotel.

21.05-2 Foreshore

Strategies

Municipal wide

- Ensure that new use and development on the foreshore reserve will:
 - ☐ ~~Support the role of the St Kilda foreshore area as a historically and regionally significant tourist destination and maintain key cultural icons, including the Esplanade Hotel.~~

Comment:

This clause of the MSS identifies strategies in relation to the foreshore.

The strategy, "Support the role of the St Kilda foreshore as a historically and regionally significant tourist destination," is currently in the MSS. Amendment C25 sought to expand upon this policy by adding the words, "... and maintain key cultural icons, including the Esplanade Hotel." Amendment C36 – St Kilda Foreshore Urban Design Framework Amendment (currently on public exhibition until the 28 May 2002), retains and expands upon the policy in the 12th dot point. It is appropriate to retain the current version of this policy (not the Am C25 version) and to have the discussion regarding this policy during the Am C36 process, in the broader St Kilda foreshore context.

Recommendation:

Becton's proposed change to the wording of Clause 21.05-2 'Municipal Wide', 12th dot point is not supported.

Modify Clause 21.05-2 'Municipal Wide', 12th dot point to read:

"Support the role of the St Kilda foreshore as a historically and regionally significant tourist destination."

21.05-6 Tourism

Strategies

St Kilda Neighbourhood

- Support the Esplanade Hotel in its established role as an incubator of independent local music and comedy talent and as a venue accessible to a broad and diverse public.
- Support the Esplanade Hotel as one of the key publicly accessible facilities in the St Kilda foreshore recreation and entertainment precinct.

Comment:

This clause of the MSS identifies strategies in relation to tourism, both at the municipal and neighbourhood level.

There are strategies for the St Kilda neighbourhood which refer to a particular type of use (backpackers lodges) and a specific tourist attraction (Sunday Art and Craft Market). It is considered appropriate to have a strategy specific to the Esplanade Hotel that recognises its tourism role. Accordingly, the 3rd dot point should be retained.

The 4th dot point could be broader in its scope and state, "Support key publicly accessible facilities and attractions in the St Kilda foreshore recreation and entertainment area." This would complement the Amendment C36 – St Kilda Foreshore Urban Design Framework Amendment (currently on public exhibition until the 28 May 2002), that identifies key publicly accessible facilities and attractions in the foreshore area.

Recommendation:

Becton's proposed change to Clause 21.05-6 'St Kilda Neighbourhood', 3rd and 4th dot points is not supported.

Clause 21.05-6 'St Kilda Neighbourhood', 3rd dot point should be retained.

Modify Clause 21.05-6 'St Kilda Neighbourhood', 4th dot point to read:

"Support key publicly accessible facilities and attractions in the St Kilda foreshore recreation and entertainment precinct."

SCHEDULE 12 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO12

ESPLANADE HOTEL SITE

11-12 THE ESPLANADE AND 6 VICTORIA STREET, ST KILDA

1.0 Design objectives

Objective 1

To recognise the aesthetic contribution central landmark value of the Esplanade Hotel makes to and secure its pre-eminent place among the landmark buildings of The Esplanade.

Comment:

The words, "aesthetic contribution" have a different meaning to the words "central landmark value". Aesthetic is defined as - concerned with beauty or the appreciation of beauty. The landmark value in this objective refers to the multi-faceted historic, architectural, cultural and aesthetic significance of the Esplanade Hotel and the need to recognise this particular value of the Hotel in its Esplanade context.

Also, the Esplanade Hotel's pre-eminence as a landmark building should be secured and not diminished by any future development of the site.

Recommendation:

Becton's proposed change to the wording of the 1st objective is not supported.

Retain Am C25's 1st objective.

Objective 2

To recognise ~~enhance~~ the experience of The Esplanade as a pedestrian and vehicular promenade.

Comment:

The words "To enhance ..." are appropriate to have in an objective because they indicate that a positive contribution (in this case, in relation to the public realm), is required. This is consistent with the way that some objectives are worded in the State Planning Policy Framework (in relation to Design and Built Form), the Municipal Strategic Statement and Design and Development Overlays (including the current DDO6 a-9 that applies to the Esplanade Hotel site), in the Port Phillip Planning Scheme.

Recommendation:

Becton's proposed change to the wording of the 2nd objective is not supported.

Retain Am C25's 2nd objective.

Objective 3

To recognise strengthen and enhance pedestrian links between The Esplanade and Fitzroy and Acland Streets and the St Kilda foreshore.

Comment:

Refer comments for 2nd objective.

Recommendation:

Becton's proposed change to the wording of the 3rd objective is not supported.

Retain Am C25's 3rd objective.

Objective 4

To recognise ~~maintain~~ the character and amenity of the local residential area and the integrated relationship between the residential area and its broader foreshore context.

Comment:

A modification to the Am C25 wording and Becton's proposed change would be "To respond to the character and amenity of the local residential area and maintain the integrated relationship"

"To maintain..." can be defined as to preserve. "To recognise..." is neutral and can be defined as acknowledging the existence of a thing or person. A more appropriate start to the objective would be "To respond..." which means to show sensitiveness to by behaviour or change. In the context of this objective, it would mean that new development would need to demonstrate sensitivity to the character and amenity of the local residential area and maintain the relationship between the local area and its broader foreshore context.

Recommendation:

Becton's proposed change to the wording of the 4th objective is not supported.

Modify the 4th objective to read:

"To respond to the character and amenity of the local residential area and maintain the integrated relationship between the residential area and its broader foreshore context."

Objective 5

~~To ensure that new development will positively contribute to the multiplicity and diversity of the built form of the Esplanade, and will not overwhelm or imbalance these qualities by the introduction of any excessively dominant built elements).~~

Comment:

This Am C25 objective appropriately interprets the relevant MSS clauses (eg Clauses 21.03-1, dot point 2, 21.03-6, dot point 1, 21.04-6, dot point 2, 21.05-3, dot point 6) in relation to the Esplanade Hotel site.

Recommendation:

Becton's proposed change to the wording of the 5th objective is not supported.

Retain Am C25's 5th objective.

Objective 6

~~To ensure new development is of a height responsive to strengthen and consolidate the preferred prevailing massing and the varied skyline profile of The Esplanade and St Kilda Hill as seen from a variety of relevant vantage points.~~

Comment:

This objective needs to be viewed in relation to the proposed Am C25 and Becton building envelopes, which are up to an absolute maximum height of 10 storeys. These envelopes/heights are consistent with the Council's position of emphasising the prevailing massing and the related skyline profile of The Esplanade and St Kilda Hill, particularly when viewed from the foreshore.

Recommendation:

Becton's proposed change to the wording of the 6th objective is not supported.

Modify the 6th objective to read:

"To strengthen and consolidate the prevailing predominant massing profile of The Esplanade and the skyline profile of The Esplanade and St Kilda Hill as seen from a variety of relevant vantage points."

Objective 7

~~To protect and enhance the character and amenity of the St Kilda Foreshore by ensuring that new development does not overpower or dominate the foreshore.~~

Comment:

This objective is derived from the current DDO 6 design objectives and relates to the site's foreshore context. No justification has been provided as to why it is no longer applicable.

Recommendation:

Becton's proposed deletion of the 7th objective is not supported.

Retain Am C25's 7th objective.

Objective 8

To take into account ~~protect and enhance~~ key-views including:

- To the front façade and main section ~~and silhouette~~ of the Esplanade Hotel from:
 - St Kilda Pier and the foreshore area between the pier and The Esplanade.
 - The Esplanade, including from the south-west corner of the Arrandale property, 8-10 The Esplanade and from the north-west corner of the Bayview property, 13 The Esplanade.
- Towards landmark buildings and structures on and adjacent to the foreshore, including the St Kilda pier, Catani clocktower and monuments.
- Along Victoria Street and Pollington Street (north) towards Port Phillip Bay.
- To The Esplanade and St Kilda Hill from St Kilda pier and the foreshore.

Comment:

The words "To protect and enhance key views ..." are appropriate to have in an objective because they indicate that a positive outcome (in this case, in relation to views), is required. This is consistent with the way that objectives are worded in the MSS and Design and Development Overlays (including the current DDO 1 and DDO6 a-9 that applies to the Esplanade Hotel site) in the Port Phillip Planning Scheme.

The reference to the silhouette of the Esplanade Hotel should be changed to refer to the profile of the Hotel which would be more appropriate to include in this objective in relation to views. Also, it could be argued that any new development on the site, that altered the existing silhouette of the Hotel against open sky, does not satisfy the existing objective. Furthermore, Clause 2 in DDO 12 (building design provisions) includes a provision in relation to the silhouette of the Hotel, which is discussed further on.

Recommendation:

Becton's proposed change to the introductory sentence of the 8th objective is not supported.

Retain Am C25's introductory sentence to the 8th objective.

Becton's proposed change to the wording of the 8th objective, dot point 1 is not supported.

Modify the 8th objective, dot point 1 to read:

"To the front facade and main section and *profile* of the Esplanade Hotel from:".

Modify the 8th objective, dot point 3 to read

"Along and across Victoria Street and Pollington Street (north) towards Port Phillip Bay."

Objective 9

To ensure ~~site planning and design are demonstrative of St Kilda's~~ that the architecture and development of the site responds to the diverse and layered history and the culture of the area.

Comment:

Becton's proposed change to this objective clarifies its intent.

Recommendation:

Becton's proposed change to the 9th objective is supported.

Replace Am C25's 9th objective with Becton's proposed change.

Objective 10

~~To maintain the significant role that the Baymor Flats building plays in the form and imagery of the streetscape and local vistas along Victoria Street.~~

Comment:

The Esplanade Hotel Working Group generally agreed that the Baymor flats building or a similar replacement building would successfully address the character and interface issues of the Pollington Street/Victoria Street corner of the site. This should be encapsulated in a design objective. A more appropriate wording of the objective would be, "To acknowledge and respond to the contribution that the Baymor flats building makes to the form and imagery of the streetscape and local vistas along Victoria Street."

Recommendation:

Becton's proposed deletion of the 10th objective is not supported.

Modify the 10th objective to read:

"To acknowledge and respond to the contribution that the Baymor flats building makes to the form and imagery of the streetscape and local vistas along Victoria Street."

Objective 11

~~To acknowledge and respond to the presence of open spaces within the site and the opportunity to move around and between some of the key existing parts of the buildings.~~

Comment:

The intent of this objective relates to the potential to move around and at the same time obtain glimpses of heritage buildings on the site (ie to acknowledge their 3-dimensional setting) and to interpret the presence of open spaces on the site into a design proposal. A more focused objective would be, "To provide opportunities to move around buildings so that some interstitial spaces and oblique views of heritage buildings on the site are obtained."

Recommendation:

Becton's proposed deletion of the 11th objective is not supported.

Modify the 11th objective to read:

"To provide opportunities to move around buildings so that some interstitial spaces and oblique views of heritage buildings on the site are obtained."

Objective 12

~~To respect and respond to the domestic-varied scale and ambience of buildings in the residential nearby streets in the vicinity of the site and the denser residential character of The Esplanade.~~

Comment:

A more appropriate wording of the objective, that is more specific about the relevant character elements would be, "To ensure new development responds to the character and setting of residences abutting Pollington Street and Victoria Street and the denser residential character of The Esplanade."

Recommendation:

Becton's proposed change to the 12th objective is not supported.

Modify the 12th objective to read:

"To ensure new development responds to the character and setting of residences abutting Pollington Street and Victoria Street and the denser residential character of The Esplanade."

Objective 13

~~To respect and respond to the scale and variety of the significant heritage buildings on the Esplanade Hotel site and in the surrounding residential area.~~

Comment:

The current DDO6 a-9 and DDO1, DDO3, DDO4 and DDO7 in the Port Phillip Planning Scheme include a design objective that addresses the relationship between new development and heritage buildings on the same or adjacent sites, noting that most of these DDO areas are also subject to a Heritage Overlay.

In this context, it is considered appropriate to retain the 13th objective

Recommendation:

Becton's proposed deletion of the 13th objective is not supported.

Retain Am C25's 13th objective.

Objective 14

~~To reinforce the essential significance of the heritage buildings on the site.~~

The 14th objective does not add to the current heritage policy and provisions that are applicable to the heritage buildings on the site and could therefore be deleted.

Recommendation:

Becton's proposed deletion of the 14th objective is supported.

Replace Am C25's 14th objective with Becton's proposed change.

Objective 15

To ensure that the reasonable access, operational and service needs of the Esplanade Hotel are appropriately addressed, and that the cultural significance of the Hotel is not compromised.

Comment:

The access, operational and service arrangements for the Hotel should be highlighted in a design objective as they are integral to the on-going viability (and cultural significance) of the Hotel and could influence the detailed planning of new development on the site.

At the request of Council, legal advice was sought on this objective. The advice is that the intent of the objective is best met by the following wording, "To ensure that the reasonable access, operational and service needs of the Esplanade Hotel are appropriately addressed and that the cultural significance of the Hotel is not compromised by the means adopted to meet those needs".

Recommendation:

Becton's proposed change to the 15th objective is not supported.

Modify the 15th objective to read:

"To ensure that the reasonable access, operational and service needs of the Esplanade Hotel are appropriately addressed and that the cultural significance of the Hotel is not compromised by the means adopted to meet those needs".

Objective 16

~~To protect sunlight access to public open spaces in midwinter and, in particular, to ensure that new development will does not unreasonably overshadow detract from the amenity of the foreshore reserve, The Esplanade and Alfred Square Gardens due to overshadowing throughout the year.~~

Comment:

The design objective in relation to overshadowing should better link to the overshadowing provision in Clause 2 of DDO 12. Appropriate modified wording is, "To ensure that new development does not overshadow the foreshore in midwinter and minimises overshadowing of The Esplanade and Alfred Square in midwinter".

Recommendation:

Becton's proposed change to the wording of the 16th objective is not supported.

Modify the 16th objective to read:

"To ensure that new development does not overshadow the foreshore in midwinter and minimises overshadowing of The Esplanade and Alfred Square in midwinter".

Objective 17

To ensure buildings do not significantly ~~unreasonably~~ overshadow existing ~~secluded~~ private open space of neighbouring ~~residential~~ properties.

Comment:

Becton's proposed changes clarify the intent of this objective.

Recommendation:

Becton's proposed change to the 17th objective is supported.

Replace Am C25's 17th objective with Becton's proposed change.

Objective 18

To ensure that new development exhibits architectural ~~innovation~~ and excellence, ~~and an imaginative design response in the skilful and subtle resolution of the design objectives in Schedule 12 to the Design and Development Overlay.~~

Comment:

The current LPPF (and the design objectives in the DDO 6 applicable to the site) have a similar (generic) "architectural excellence" objective to that proposed by Becton. The intent is to have an objective that clearly identifies the requirement to achieve architectural innovation and excellence in the specific application of the design objectives in DDO 12. Accordingly, the objective should be modified to read, "In the achievement of the design objectives in schedule 12 to the Design and Development Overlay, ensure that new development exhibits architectural innovation and excellence."

Recommendation:

Becton's proposed change to the 18th objective is not supported.

Modify the 18th objective to read:

"In the achievement of the design objectives in schedule 12 to the Design and Development Overlay, ensure that new development exhibits architectural innovation and excellence."

SCHEDULE 12 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO12**

ESPLANADE HOTEL SITE

11-12 THE ESPLANADE AND 6 VICTORIA STREET, ST KILDA

Continues after Clause 1 – Design Objectives.

2.0

Buildings and works

Height

Buildings and works are considered to meet the design objectives for height if

- They do not exceed the preferred maximum height specified in the table to this schedule.
- Architectural features such as domes, towers, masts and building services do not exceed the maximum height by more than 4 metres and do not exceed 10% of the gross floor area of the top building level.

The responsible authority will only consider a permit to exceed the preferred maximum height up to the absolute maximum height where it can be clearly demonstrated that the proposed development will continue to meet the relevant design objectives and achieve all the outcomes specified in the table to this schedule.

A permit cannot be granted for buildings and works exceeding the maximum height specified in the plan forming part of this clause other than:

- Architectural features such as domes, towers, masts and building services may exceed the maximum height by up to 4 metres and providing they do not exceed 10% of the gross floor area of the top building level; and/or
- Minor buildings and works, such as architectural features, balconies, shelters, sunshades, artworks, street furniture and fences may be constructed at a height greater than the maximum height specified in the plan forming part of this clause.

Comment:

Becton's proposed changes to Clause 2.0 'Buildings and Works - Height' should be considered in the context of:

- the remainder of DDO 6 (wherein absolute maximum heights – AMH's - are specified for the St Kilda foreshore area);
- other relevant planning outcomes since the preparation of Am C25 (in particular, the Panel recommendations in relation to Am C20 to the Melbourne Planning Scheme that rejects a PMH/AMH regime); and
- the potential to have AMH's coupled with a framework of design objectives and provisions to guide an appropriate development outcome within the building envelopes

On the basis that a comprehensive framework of design objectives and provisions is provided in schedule 12 to the DDO, the expression of only an AMH is considered appropriate. Becton's proposed AMHs are addressed further on.

Recommendation:

Becton's proposed change to Clause 2.0 'Buildings and Works - Height', in so far as it specifies only an absolute maximum height, is supported subject to schedule 12 to the Design and Development Overlay including a comprehensive framework of design objectives and provisions.

The recommendation in relation to Becton's proposed AMH's is provided further on.

Setbacks

Buildings and works are considered to meet the design objectives for setbacks if they are no less than the setback distance from a boundary specified in the table to this schedule.

Minor buildings and works, such as architectural features, balconies, shelters, sunshades, art works, street furniture, fences, and also basements which do not project above ground level, may be constructed within the setback distance from boundaries specified in the table to this clause.

A permit may be granted to vary the setback distances from the boundary specified in the table to this schedule where it can be demonstrated to the satisfaction of the responsible authority that the variation will achieve the design objectives.

Comment:

Becton is proposing to remove the link between varying the setback distances from the boundary and achieving the design objectives of the schedule. This is not supported, as this linkage is considered important to maintain.

Balconies (ie size and design) has emerged as an issue during the course of discussions with Council and Council's consultants. Based on legal advice, it would be appropriate to agree to the deletion of the first two paragraphs of the clause, retain the third paragraph, and introduce a design objective that relates to balconies.

A balcony would require a permit and satisfying the design objective would be a part of the assessment of an application.

Recommendation:

Becton's proposed deletion to the first two paragraphs to Clause 2.0 'Buildings and Works – Setbacks' is supported.

The third paragraph to Clause 2.0 'Buildings and Works – Setbacks' should be retained and modified to read:

"A permit may be granted for minor buildings and works to vary the setback distances from the boundary specified on the plan where it can be demonstrated to the satisfaction of the responsible authority that the variation will achieve the design objectives."

A design objective in relation to balconies should be introduced to Clause 1.0 'Design Objectives'.

Overshadowing

All buildings and works should be designed to:

- ~~Ensure that there is no overshadowing~~ Minimise shadows beyond the kerbline on the southern side of Jacka Boulevard road reserve adjoining the Port Phillip Bay foreshore between the hours of 10.00 A.M. and 4.00 P.M. on 22 June (the winter solstice).
- ~~Generally avoid easting~~ Minimise shadows beyond the western kerbline of The Esplanade between the hours of 11.00 A.M. and 2.00 P.M. on 22 June (the winter solstice).
- ~~Generally not further~~ Not unreasonably overshadow the Alfred Square Gardens having regard to the extent of sunlight which would continue to be available during between the 6 hour period between 10.00 A.M. and 4.00 P.M. on 22 June (the winter solstice).

Comment:

The overshadowing provisions of Am C25 are essential to retain and clarify. They are empirical (ie measurable) and are a recognised performance measure that is part of the strategic justification for having AMH's for the foreshore. In order to ensure that the overshadowing provision in relation to the foreshore reserve is mandatory, legal advice is that the clause should commence with the words, "All buildings and works shall be designed to: ..." Further to this, the 1st dot point should read, "Ensure that there is no overshadowing ..."

The changes proposed by Becton for the 2nd and 3rd dot points are considered to clarify the intent of these provisions and are acceptable.

Recommendation:

Becton's proposed change to Clause 2.0 'Buildings and Works – Overshadowing' is supported with the exceptions that:

- the first sentence to the clause be modified to include the word "shall" instead of "should"; and
- the 1st dot point should read:

"Ensure that there is no overshadowing beyond the kerbline on the southern side of Jacka Boulevard road reserve adjoining the Port Phillip Bay foreshore between the hours of 10.00 A.M. and 4.00 P.M. on 22 June (the winter solstice)."

Building Design

Buildings and works are considered to meet the design objectives for building design if the following requirements are met:

~~The design of new buildings on the site should:~~

- ~~— avoid monolithic tower or slab block forms;~~
- ~~— provide a sense of human scale in the relationship between ground and upper levels and new and existing buildings;~~
- ~~— provide a mix of clearly articulated building forms with the only portion of these rising to the Preferred Maximum Building Height;~~
- ~~— provide a mix of clearly articulated building forms with the only a very limited portion rising to the Absolute Building Height;~~
- ~~— ensure that the front building elevation of any new development on the existing bottle shop site (12 The Esplanade) and the core area of the site is orientated to The Esplanade and the foreshore;~~
- ~~— provide a massing of building forms that allows a substantial portion of the roof ridge line of the front section of the Esplanade Hotel to be seen against open sky when viewed from The Esplanade and St Kilda Pier;~~

~~The design of any new building on the site should respect and respond to the significant heritage buildings that are to be conserved on the site and:~~

- ~~— provide new layers of appropriate related building types, uses and forms that will enhance rather than replicated the significant heritage buildings;~~
- ~~— where a new building forms rom a backdrop to a significant heritage buildings, the scale, proportion, colour and visual complexity of the new building are important consideration so that the backdrop gives visual dominance to the forms and profile of the heritage building;~~
- ~~— recognises that where any new development demonstrates high quality architectural planning, design and detailing that respects the value of adjacent heritage fabric rather than imitating it;~~

Comment:

The above Am C25 building design provisions are considered important and should be retained and strengthened to provide direction on the nature of the design and development outcome for the site, within the specified AMH's.

Legal counsel has recommended the introduction of the following criterion in schedule 12 of the DDO, "The specified maximum height on plan XX [ie the AMHs], will only be able to be achieved by a building which meets the design objectives and other provisions of the schedule." Subject to this criterion being added, the introductory wording to the building design clause is considered redundant. This criterion is further referred to in the comments and recommendation in relation to the plan.

There is also agreement between Council's consultants that with AMHs only, there should be an explicit design objective(s) or provision(s) that a building would need to be articulated and modulated and that it is not contemplated that the whole envelope would be occupied.

In particular, the 3rd and 4th dot points above should be combined and modified to create a single design provision as follows:

"Provide articulated and modulated building forms within the designated setbacks and maximum height limits with only a portion of the building reaching the maximum height(s)."

A building design provision that could be added to strengthen the Council's intent with respect to the original PMH and AMH regime of Am C25, and to address the principles in Council's resolution of the 22 April 2002, is as follows:

"Provide a modulation of the buildings within the Pollington Street (east) and Victoria Street (eastern section) envelopes that acknowledges and mediates the interface with the one and two storey scale of nearby residences."

The 6th dot point should be reworded to maintain the intent of the requirement, but to provide an appropriate degree of flexibility as follows. "Provide a massing of building forms that allows a substantial portion of the roof ridge line of the front section of the Esplanade Hotel to be seen against open sky when viewed from the Esplanade and/or the foreshore."

Recommendation:

Becton's proposed deletion of the building design requirements is not supported.

Am C25 building design provisions should be retained and strengthened with the following changes made:

- Deletion of the introductory sentence, "Buildings and works are considered to meet the design objectives for building design if the following requirements are met;" and replacement with a criterion in the schedule that reads:

"The specified maximum height on plan XX [ie the AMHs], will only be able to be achieved by a building which meets the design objectives and other provisions of the schedule."

- Combine and modify the 3rd and 4th dot points to read:

"Provide a mix of articulated and modulated building forms with only a portion of these rising to the specified absolute maximum height(s)."

- To reflect the strategic intent of the PMH and AMH regime in Am C25, introduce the following dot point to the building design provisions:

"Provide a modulation of the buildings within the Pollington Street (east) and Victoria Street (eastern section) envelopes that acknowledges and mediates the interface with the one and two storey scale of nearby residences."

- Modify the 6th dot point to read:

"Provide a massing of building forms that allows a substantial portion of the roof ridge line of the front section of the Esplanade Hotel to be seen against open sky when viewed from the Esplanade and/or the foreshore."

2.3 Additional Decision Guidelines

In addition to the decision guidelines at Clause 43.02-5 the responsible authority must consider where appropriate, whether:

- The most significant parts of the Esplanade Hotel are retained and incorporated with new buildings and works.
- The lower levels of buildings interacting with surrounding streets have a pedestrian scale and are detailed for visual interest.
- The front elevations of any new buildings on the bottle shop site are of a scale that is complementary to the Esplanade Hotel.
- The architecture complements rather than replicates the Esplanade Hotel.
- The design is composed and finished in a manner that is respectful of the most significant parts of the Esplanade Hotel.

Comment:

Becton submit that the additional decision guidelines, together with the plan, are a synthesis of the building design provisions of Am C25. Having regard to the strategic intent of Am C25, the role of the building design provisions is to inform a development outcome within the specified maximum building heights, rather than the maximum building heights performing this role per se. This is envisaged by the general provisions of the DDO at Clause 43.02-2 that state that a schedule may include requirements relating to the design or built form of new development.

The RA must consider decision guidelines whereas design objectives should be satisfied and building design provisions should be met. The latter design objectives and building design provisions are therefore a more effective tool to achieve an appropriate design and development outcome for the site. It is noted that two of the guidelines (1st and 5th dot points that refer to "the most significant parts of the Esplanade Hotel building") are inconsistent with the heritage provisions that relate to Esplanade Hotel, that identify the whole of the Hotel complex as a significant heritage building(s).

Recommendation:

Becton's proposed additional decision guidelines are not supported.

Table to Schedule 12

DDO12				
DDO12				
	Variable distance from The Esplanade boundary—that area of the site that provides a forecourt to the Esplanade Hotel.	No buildings and works to be constructed.	No buildings and works to be constructed.	The existing open forecourt setting to the front facade and main section of the Esplanade Hotel is maintained. An important element of the essential heritage significance of the Esplanade Hotel is protected.
	Variable distance from The Esplanade boundary—that area of the site occupied by the Esplanade Hotel building to be retained.	No higher than the existing Esplanade Hotel building.	45 metres (5 storeys)	The cultural significance and the central landmark value of the Esplanade Hotel is maintained. The profile and silhouette of the existing building is maintained which is an important feature of the building and of the site when viewed from St Kilda Pier, St Kilda foreshore and The Esplanade. The essential heritage significance of the Esplanade Hotel is protected.
	0—8 metres from The Esplanade boundary (view cone)*.	No buildings and works to be constructed.	No buildings and works to be constructed.	The existing open forecourt setting to the front facade of the Esplanade Hotel building and view from the south east is maintained unimpeded consistent with the Hotel's identified heritage significance.

	<p>From 8 metres from The Esplanade boundary to a line joining the north-west corner of No. 13 The Esplanade property boundary with a point on the south-east elevation of the Esplanade Hotel being 18 metres from The Esplanade boundary (view cone line)*.</p>	<p>4 metres (1 storey)</p>	<p>7 metres (2 storeys)</p>	<p>The cultural significance and central landmark value of the Esplanade Hotel is reinforced.</p> <p>That part of the south-east elevation of the Esplanade Hotel, characterised by expressed string courses and eaves brackets, is visible to a person standing on the north-west corner of No. 13 The Esplanade property boundary.</p> <p>Potential new development adjacent to the Esplanade Hotel and fronting The Esplanade, is of a setback, scale and mass that complements the adjacent Esplanade Hotel building.</p> <p>The essential heritage significance of the Esplanade Hotel is protected.</p>
	<p>Between the view cone line and a line up to 25 metres from and parallel to The Esplanade boundary</p>	<p>13 metres (4 storeys)</p>	<p>15 metres (5 storeys)</p>	<p>The cultural significance and central landmark value of the Esplanade Hotel and its pre-eminent place among the significant buildings of The Esplanade is enhanced.</p> <p>The eaves and all of the leading hipped roof of the Hotel's south-east elevation are visible to a person standing on the north-west corner of No. 13 The Esplanade property boundary.</p> <p>Potential new development adjacent to the Esplanade Hotel and fronting The Esplanade, is of a setback, scale and mass that complements the adjacent Esplanade Hotel building.</p>

	<p>10 metres from the Pollington Street (north-east boundary) **.</p>	<p>9 metres (3 storeys)</p>	<p>12 metres (4 storeys)</p>	<p>The building scale along Pollington Street (north-east boundary) is compatible with the:</p> <ul style="list-style-type: none"> □ One and two storey dwellings in this section of Pollington Street and nearby Victoria Street. □ Esplanade Hotel and Baymor Flats on the site. <p>Potential new development is of a scale that allows a substantial portion of the roof ridge line of the front section of the Esplanade Hotel to be seen against open sky when viewed from The Esplanade and St Kilda Pier.</p>
	<p>8.2 metres from the Pollington Street (north-west boundary) **.</p>	<p>12 metres (4 Storeys)</p>	<p>15 metres (5 Storeys)</p>	<p>The building scale along the Pollington Street (north-west boundary) is compatible with the height and width of the north-east wing of the Esplanade Hotel and provides an appropriate transition in scale to the adjacent residential area.</p> <p>Potential new development is of a scale and mass that allows a substantial portion of the roof ridge line of the front section of the Esplanade Hotel to be seen against open sky when viewed from The Esplanade and St Kilda Pier.</p>
	<p>9.5 metres from the Victoria Street boundary **.</p>	<p>12 metres (4 storeys)</p>	<p>15 metres (5 storeys)</p>	<p>The building scale and massing along the Victoria Street boundary is compatible with the height and width of the main wing of the Baymor Flats and the Esplanade Hotel and provides an appropriate transition in scale to the adjacent residential area.</p>

	Variable distance from boundary—that area of the site not included in the areas above.	24 metres (8 storeys)	30 metres (10 Storeys)	<p>There is an appropriate transition in scale and massing between:</p> <ul style="list-style-type: none"> —The perimeter and core areas of the site —The variable scale of buildings surrounding the site and potential new development on the core area of the site. <p>Monolithic tower or slab-block building forms are avoided.</p> <p>Development reinforces and complements the urban design, built form and amenity qualities of the site's context.</p> <p>Reasonable solar access is provided to The Esplanade promenade (western footpath), nearby public open spaces, including the foreshore reserve and Alfred Square, and private open spaces of neighbouring dwellings.</p>
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*—The view cone and view cone line relate to that portion of the site known as the bottle shop site and described in Certificate of Title as Vol. 8061, Folio 417, Lot 3 on Plan of Subdivision No. 27811, being part of Crown Allotment 3 at St Kilda Parish of Melbourne South, County of Bourke.

**—At the corners of the site or where two maximum heights may overlap, the lower maximum height shall apply.

The table deleted above is replaced with a plan titled

PLAN FORMING PART OF CLAUSE 2.0 OF SCHEDULE 12

A copy of this plan is on the next page in this document.

Comment:

The "plan" depiction and the expression of absolute heights as RLs (to Australian Height Datum) is supported, as it is a clear and accurate way of specifying the maximum heights.

The following discussion addresses the key differences between the Am C25 table to schedule 12 and Becton's plan.

Maximum building heights:

Am C25 includes PMH's and AMH's whereas Becton's plan specifies AMH's only. Becton's plan generally applies the Am C25 AMH's to the site (the exception being in relation to the leased area of the Esplanade Hotel, where no change to the current DDO 6 controls is proposed, and the building envelopes to Pollington Street (east) and Victoria Street).

The differentiation in Am C25 between the PMH and AMH is in relation to:

- Two building design provisions that state that "only a portion of new development rises to the PMH" and "only a very limited portion of new development rises to the AMH"; and
- The Am C25 height control in relation to the Esplanade Hotel is flexible in its wording and includes a PMH (no higher than the existing Hotel, RL 23.0) and AMH (15 metres, RL 26.0) that relates to "that part of the Hotel to be retained". Under Am C25, if planning approval were given for the demolition of part of the Hotel, then that area of the site would be subject to the "core area" PMH of 24 metres (RL 35.0) and AMH of 30 metres (RL 41.0).

All of the other objectives and provisions of schedule 12 to the DDO are to be satisfied for both the PMH and AMH.

The key concern with specifying an AMH only is that it is intended that development should be appropriately modulated and articulated within the volume of the envelope rather than seeking to fill it. Also, that the AMH shouldn't be seen to pre-empt any outcomes with respect to the retention (or otherwise) of heritage buildings (as is separately addressed in the Port Phillip Heritage Policy at Clause 22 and the Heritage Overlay provisions at Clause 43.01).

Becton's proposed AMH's are therefore supported, subject to:

- Retaining and strengthening the framework of design objectives and provisions of Am C25.
- The introduction of a criterion in the schedule to DDO that reads, "The specified maximum height on plan XX will only be able to be achieved by a building which meets the design objectives and other provisions of the schedule".
- Including a note in the legend of the Plan that reads, "Nothing in this plan is to influence any consideration under a Heritage Overlay."
- Deletion of the roof plan in respect of the leased portion of the Esplanade Hotel so that the plan only shows maximum heights for the various portions of the site and does not make any suggestions regarding the retention/demolition of existing buildings on the site.

Building envelopes to Pollington Street (east) and Victoria Street and to the east of the view cone:

Becton's plan shows a reduction in the width of sections of the building envelope to Pollington Street (east) from 10 to 5 metres and Victoria Street from 9.5 to 4 metres. The envelope to the east of the view cone has been reduced in depth by 1 metre (moved from the roof ridgeline to in front of the nearby chimney).

Becton submit that their proposed projection of the RL 41.0 (10 storey) envelope into the Victoria Street and Pollington Street (east) envelopes:

- is for economic and building efficiency reasons (eg allows for an efficient internal building layout, central building core etc);
- that active residential frontages are proposed along these interfaces of the site and can be accommodated within the envelopes shown on their plan; and
- and in relation to the Victoria Street envelope, interfaces with the car park to the rear of Bayview at No. 13 The Esplanade.

The justification does not take into account the urban design and character issues associated with the potential additional building bulk and scale and therefore Becton's proposed changes to the building envelopes for Pollington Street and Victoria Street are not supported at this time.

Becton's proposed change to the other building envelope is not considered critical as the view cone is retained and the "stepping" of the building envelopes remains largely intact.

Outcomes in the table to schedule 12 of the Design and Development Overlay:

The Am C25 outcomes, included in the table to schedule 12, provided an important link between the objectives, provisions and the PMH/AMH's for the site. In recommending support for AMH's only for the site, it is appropriate that the outcomes that are not already covered by other objectives/provisions should be included as design objectives or as building design provisions, rather than being deleted. This is consistent with maintaining the strategic intent of Amendment C25.

These include:

- That part of the south-western elevation of the Esplanade Hotel, characterised by expressed string courses and eaves brackets, is visible to a person standing on the north-west corner of No. 13 The Esplanade's property boundary.
- Development adjacent to the Esplanade Hotel and fronting The Esplanade is of a setback, scale and mass that complements the adjacent Esplanade Hotel building.
- There is an appropriate transition in building scale between the perimeter and core areas of the site.

Recommendation:

Bectons' proposed plan and specified maximum heights are supported subject to:

- Maintaining the strategic intent of Amendment C25.
- Including a note in the legend of the plan that reads:

"Nothing in this plan is to influence any consideration under a Heritage Overlay"
- Deletion of the roof plan of the leased portion of the Esplanade Hotel.
- The introduction of a criterion in schedule 12 to the Design and Development Overlay that reads:

"The specified maximum height on plan XX will only be able to be achieved by a building which meets the design objectives and other provisions of the schedule".
- No change to the Pollington Street (east) and Victoria Street envelopes.
- The following outcomes, included in the table to schedule 12, are included as design objectives or building design provisions:

"That part of the south-western elevation of the Esplanade Hotel, characterised by expressed string courses and eaves brackets, is visible to a person standing on the north-west corner of No. 13 The Esplanade's property boundary."

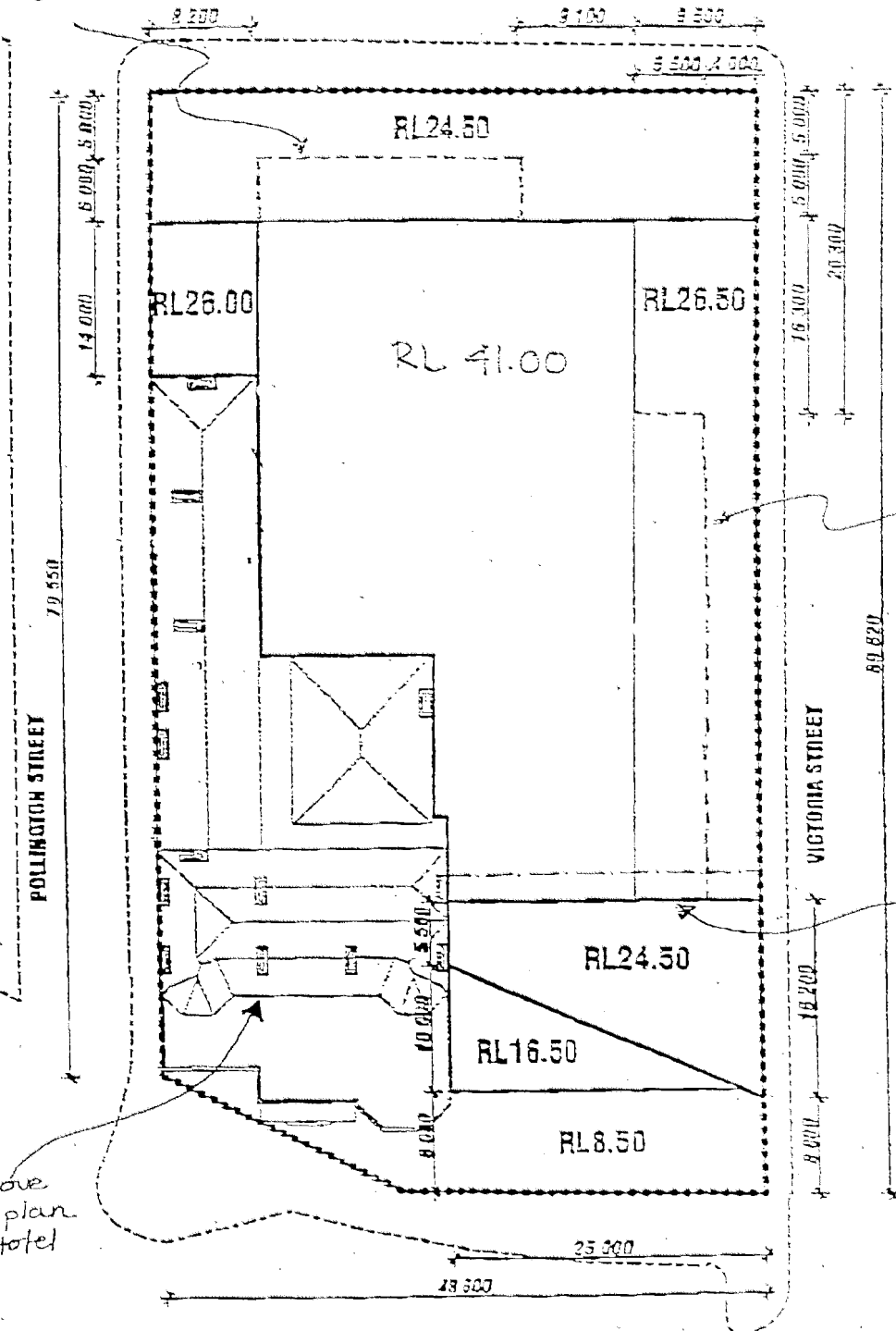
"Development adjacent to the Esplanade Hotel and fronting The Esplanade is of a setback, scale and mass that complements the adjacent Esplanade Hotel building."

"There is an appropriate transition in building scale between the perimeter and core areas of the site."

ATTACHMENT 2

BUILDING ENVELOPE PLAN

Section reduced setback - disagree



THE ESPLANADE

DRAFT MODIFIED BUILDING ENVELOPE



SCALE 1:500 @ A4

Levels shown that RL 0.00 are in metres

Add note "Nothing in this plan is to influence any consideration under a"

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ATTACHMENT 3

Submission Summary

Submitter	Comments
Esplanade Alliance Inc.	<p>Following changes are unnecessary or insupportable (these matters and those in original submission are to be expanded upon at the panel hearing):</p> <ul style="list-style-type: none"> • Deletion in the MSS of all specific references to the Esplanade Hotel and/or the role of Council in protecting, supporting or recognising the Hotel and the role it plays in Port Phillip and beyond. • Dilution of the design objectives in schedule 12 to the DDO. • Expansion of the building envelope. If the building envelopes and design objectives should be realigned to say exactly the same things, there can be no argument that the envelopes be determined by the design objectives. If there are to be any changes to the envelopes, they must be reduced to accord with the design objectives rather than the design objectives loosened to allow an expanded building envelope. • Abolition of the table in schedule 12.
4 Alfred Square (Body Corporate Services on behalf of 29 owners)	<ul style="list-style-type: none"> • The amendment was reached after much negotiation with all stakeholders and therefore should remain the final document.
	<ul style="list-style-type: none"> • Council's well considered wording should not be changed and, in particular, there should be no change to the design objectives, height, setback, overshadowing or building design provisions.
8 Victoria Street	<ul style="list-style-type: none"> • Complete rejection of Becton's further submissions; in particular, the deletion of schedule 12 reveals the developers' intentions to alter the urban character of the precinct without due consideration to its historical importance and residents' amenities and way of life.
	<ul style="list-style-type: none"> • Whatever design is proposed for the site it must retain the integrity of Baymor Flats and enhance the architectural quality of the site and not be driven by profit.

<p>3 Pollington Street</p>	<ul style="list-style-type: none"> Concerned at the envelope on the immediate perimeters of the site. Building development on the site along Pollington Street and Victoria Street should be limited to 2 storeys to a depth of 9 metres. The proposed 24.5 metres will create a massive visual barrier and be completely out of keeping with the scale of single storey properties in Pollington Terrace. This reduction in height on the perimeter could be offset by a corresponding increase in the height of the central envelope.
	<ul style="list-style-type: none"> Concerned of removal of references to the operation of the Esplanade Hotel as a music venue. In the absence of a recognition of the Hotel as a music venue it is foreseeable that occupants of the new development will object to the operation of the Hotel as a music venue.
	<ul style="list-style-type: none"> Need to ensure that there is some consideration to the interface between the Hotel and the development – the contiguous nature of the envelopes sends an inappropriate message.
	<ul style="list-style-type: none"> Traffic management is an issue that needs to be considered in view of the scale of development that could occur on the site.
	<ul style="list-style-type: none"> Pollington Street and Victoria Street are narrow and already have a heavy parking burden.
	<ul style="list-style-type: none"> No strong views about the retention of Baymor Flats. Ultimately if redevelopment of the flats was to facilitate a more successful integration of the existing hotel into the site, that outcome would be favored.
<p>The Esplanade (Nos. 1-2)</p>	<ul style="list-style-type: none"> Object to the removal of the references to the Esplanade Hotel in the MSS. The cultural use of the Hotel should be protected and removal of these policies will lead to future residents on the site trying to object to the noise of the Hotel and close it down.
<p>The Esplanade (Nos. 1-2, also owns 21/13 The Esplanade)</p>	<ul style="list-style-type: none"> Opposes Becton's changes to the amendment. Opposition relates to Esplanade frontage setbacks, retaining Victoria Street building line, building height and overshadowing impacts on 'Bayview', 13 The Esplanade and Baymor Flats fascia.

The Esplanade (Nos. 8-10 and 13), 3 Alfred Square and Acland Street	28 of the following pro-forma objections have been submitted.
	<ul style="list-style-type: none"> • Object to Becton' proposed changes to the amendment and request Council to consider the following points:
	<ul style="list-style-type: none"> • Esplanade Hotel and Baymor Flats be preserved, restored and maintained to an acceptable standard.
	<ul style="list-style-type: none"> • Development on the remainder of the site be in accordance with Council's criteria; especially setbacks and Preferred Maximum Heights.
	<ul style="list-style-type: none"> • That the Absolute Maximum Height be deleted and that an Absolute Maximum Height shall be the Preferred Maximum Height.
	<ul style="list-style-type: none"> • That large monolithic/slab type buildings not be permitted.
	<ul style="list-style-type: none"> • That no new structure shall result in significant loss of sunlight to existing buildings.
	<ul style="list-style-type: none"> • That buildings adjacent to the site shall not be overshadowed by any new structure nor be subject to wind tunnel impacts.
	<ul style="list-style-type: none"> • That any new structure not interrupt the existing views of water, sky, sunsets which have been enjoyed for more than 30 years.
	<ul style="list-style-type: none"> • That any additional development on the site must include additional traffic access/egress by the allocation of more street width at the expense of the site, that access/egress should not have to rely on adjoining properties (as currently occurs), and that access points are sited to minimise noise from vehicles.
	<ul style="list-style-type: none"> • Loading/unloading of vehicles occurs exclusively on site so as not to be a continuing nuisance to adjoining residents.
	<ul style="list-style-type: none"> • All mechanical services be sited and designed so that their existence and operation minimally impact on adjoining residents.
	<ul style="list-style-type: none"> • That in any approval for development, the developer/operator will submit to all matters related to the development to the jurisdiction and requirements of Council. There should be no further reliance by a developer/operator on historic rights or continued use.

	<ul style="list-style-type: none"> • Council move in a way that demonstrably gives all residents the right to the quiet enjoyment of their property, acts to preserve the value of all existing properties and require full financial and other mitigations where the Council is obliged to approve a development where it forms the view that such development is not in keeping with the intent of the first two points in this paragraph.
Absentee property owners	<ul style="list-style-type: none"> • Concerned with Becton's proposed changes as there appears to be a dilution of the importance of the Esplanade Hotel as a specific site of cultural significance and the heights on Becton's plan appear to be higher than those in the amendment.
	<ul style="list-style-type: none"> • Council should not bow to pressures which would see the area lose its historic significance and the natural resources of the foreshore.
	<ul style="list-style-type: none"> • Agree with Council's amendment; in particular in relation to the Esplanade Hotel – safeguard what remains. Oppose Becton's proposed changes. By all means clean it up, make it safe, even develop it to make it financially viable but in a modest and sensitive way as is done in the amendment.
National Trust of Australia (Victoria)	<ul style="list-style-type: none"> • The Trust's greatest concern is ensuring the retention of the fabric Esplanade Hotel and ensuring its landmark qualities are not overwhelmed by new development and sympathetic to the efforts by Council to ensure that the cultural use of the Hotel continues. Also concerned over the fate of Baymor Flats.
	<ul style="list-style-type: none"> • Some policies in relation to the Hotel and its role should be maintained however, the policies in the amendment may be overly detailed and specific for an MSS.
	<ul style="list-style-type: none"> • Becton's proposed changes to the design objectives of the DDO are strongly opposed. They become non-specific as to become disingenuous. And the deletion of objectives in relation to Baymor Flats and heritage matters are particularly opposed.
	<ul style="list-style-type: none"> • Trust supports Council's height, setback and design provisions. Clearly a design has been prepared and Becton's response would facilitate it. Without the design itself, it is impossible to say whether this unseen design meets any of the proposed criteria. The criteria are needed to assess whether a new development is appropriate.
	<ul style="list-style-type: none"> • Becton's' proposed changes clearly envisage the demolition of Baymor Flats. This is not acceptable and the significance of the Baymor Flats should not be seen as lesser than the Esplanade Hotel.