

Submission Summary Table for Planning Scheme Amendment C130

Submission Number	Date of Submission	Suburb	Submission summary	Response
C130:1	7/03/2014	N/A	No comments to make on Amendment	No response required.
C130:2	13/03/2014	N/A	No comments to make on Amendment	No response required.
C130:3	24/03/2014	Preston	General support, but request to change the PDZ2 to allow dwelling usage as of right at ground level for the site to avoid future permit requirements for the building currently under construction.	Submission resolved. The submitter was informed that use does benefit from existing use rights as the definition of use in Section 3 of the Act also includes a proposed use for which the land is being developed. A scheme amendment cannot prevent the use of any building for any purpose for which it was lawfully being erected (Section 6(3)(d) of the Act). Due to Permit D/641/2009 the building and associated residential use at ground floor level is lawfully under construction at the moment. VCAT case P1023/2009 (a Red Dot Decision) confirms this at paragraph 39: <i>"[...] Development for a dwelling has been commenced, which a new control requires a permit for. When the development commenced, the land acquired existing use rights for the purpose of residential use. A new planning control could not prohibit or restrict those existing use rights for the purpose of residential use because of section 6(3)(d) of the Act [...]."</i>
C130:4	11/04/2014	Preston	Of support; the amendment is a logical inclusion within the PDZ reflecting the site's significance and its position as a landmark site at the termination point of St Georges Road corridor.	No response required.