Prepared for
Hightower Pty Ltd

Prepared by
David Crowder
October 2017

Town Planning Expert Evidence
Amendment C223
Stonnington Planning Scheme
## Table of contents:

<table>
<thead>
<tr>
<th>Chapter / Section</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Introduction / Witness Statement:</td>
<td>4</td>
</tr>
<tr>
<td>1.1 Introduction</td>
<td>4</td>
</tr>
<tr>
<td>1.2 Name and Address</td>
<td>4</td>
</tr>
<tr>
<td>1.3 Qualifications and Expertise</td>
<td>4</td>
</tr>
<tr>
<td>1.4 Relevant Expertise</td>
<td>4</td>
</tr>
<tr>
<td>1.5 Declaration</td>
<td>4</td>
</tr>
<tr>
<td>1.6 Summary Opinion</td>
<td>5</td>
</tr>
<tr>
<td><strong>2</strong> The Study Area and Surrounds:</td>
<td>6</td>
</tr>
<tr>
<td>2.1 Physical Context</td>
<td>6</td>
</tr>
<tr>
<td><strong>3</strong> Existing Planning Policy Context - Overview:</td>
<td>10</td>
</tr>
<tr>
<td>3.1 State Planning Policy Framework (SPPF)</td>
<td>10</td>
</tr>
<tr>
<td>3.2 Local Planning Policy Framework (LPPF)</td>
<td>12</td>
</tr>
<tr>
<td>3.3 Zone Controls</td>
<td>15</td>
</tr>
<tr>
<td>3.4 Overlay Control</td>
<td>17</td>
</tr>
<tr>
<td>3.5 Other Strategic Initiatives</td>
<td>18</td>
</tr>
<tr>
<td><strong>4</strong> Amendment C223:</td>
<td>19</td>
</tr>
<tr>
<td><strong>5</strong> Planning Issues / Considerations:</td>
<td>23</td>
</tr>
<tr>
<td>5.1 Introduction / Overview</td>
<td>23</td>
</tr>
<tr>
<td>5.2 Meritorious Aspects of the Amendment</td>
<td>23</td>
</tr>
<tr>
<td>5.3 Specific Commentary – ‘design requirements’ of DDO19</td>
<td>25</td>
</tr>
<tr>
<td>5.4 Other Matters</td>
<td>29</td>
</tr>
<tr>
<td><strong>6</strong> Conclusion / Recommendations:</td>
<td>31</td>
</tr>
</tbody>
</table>
1.1 Introduction

1.1.1 I have been requested by Darrer Muir Fleiter Lawyers on behalf of Hightower Pty Ltd to undertake a town planning assessment with respect to the merits of Amendment C223 to the Stonnington Planning Scheme.

1.1.2 I have been engaged to appear as an expert witness and provide my opinion on Amendment C223 and the controls proposed and, in particular, how they relate to No. 1087-1095 High Street, Armadale, with a view to providing expert town planning evidence at the Panel Hearing.

1.1.3 My office made submissions in relation to this Amendment on behalf of the owner of No. 1087-1095 High Street, Armadale and I was the author of a letter dated 5 April 2017 regarding same. I have also provided separate advice to the owner of the property regarding its development potential, and had input regarding draft plans that are being prepared for the proposed redevelopment of the site.

1.2 Name and Address

1.2.1 My name is David Charles Crowder. I am a Director at Ratio Consultants Pty. Ltd., which conducts its business at 9 Clifton Street, Richmond.

1.3 Qualifications and Expertise

1.3.1 I am a qualified Town Planner and have practiced town planning since 1987. My experience includes positions as Team Leader of Statutory Planning at the City of Casey and the former City / Shire of Cranbourne. I also worked at the London Borough of Hackney for 18 months, and joined Ratio Consultants in June 2000.

1.3.2 I hold a Bachelor of Town and Regional Planning (Hons) Melbourne University.

1.3.3 I am also a member of the Victorian Planning and Environmental Law Association (VPELA) and the Planning Institute of Australia (PIA).

1.4 Relevant Expertise

1.4.1 As a Team Leader in local government for some 7 years, and more recently as a Director at Ratio Consultants Pty Ltd, I have had to assess and provide strategic and land-use planning advice on a wide range of town planning issues. This experience has included the giving of evidence at Planning Tribunals and Panels.

1.5 Declaration

1.5.1 I have made all the enquiries that I believe are desirable and appropriate and no matters of significance that I regard as relevant have, to my knowledge, been withheld from the Panel.

1.5.2 I further advise that:

   — I was asked by Darrer Muir Fleiter Lawyers on behalf of Hightower Pty Ltd on about 13 September 2017 whether I would be prepared to give evidence in relation to this Amendment. Subject to an acknowledgement that I have had prior involvement in this Amendment on behalf of the client, I agreed to do this.

   — I was formally engaged by Hightower Pty Ltd in relation to preparing an evidence statement for the Amendment on 16 October 2017.
— I inspected the site and surrounds on different occasions, but most recently on 18 October 2017.
— I was assisted by Alice Maloney of this office in preparing this evidence statement.
— As stated above, I have had previous involvement with this Amendment and the site at No. 1087-1095 High Street, Armadale on behalf of Hightower Pty Ltd.

1.6 Summary Opinion

1.6.1 In summary:
— I commend the City of Stonnington in reviewing the various town planning provisions as they relate to the Glenferrie Road and High Street Activity Centre.
— I support the proposal to have discretionary provisions as part of proposed DDO19.
— I believe some of the proposed (discretionary) provisions are too onerous, and do not achieve the right balance between realizing the strategic potential of sites in the activity centre whilst also seeking to achieve acceptable character (including heritage) and amenity outcomes.
2.1 Physical Context

2.1.1 The Glenferrie Road and High Street Activity Centre comprises land along both High Street and Glenferrie Road, and surrounds, in Armadale / Malvern.

2.1.2 It includes land typically bound by the railway to the west / Armadale Station stretching east along High Street to Malvern Public Gardens / De La Salle College and from north of Malvern Town Hall south down Glenferrie Road to Dandenong Road, plus along Wattletree Road from the railway east to Cabrini Hospital.

Figure 1
Location Map

2.1.3 The precinct is ideally located in terms of its proximity to a range of commercial, community, transport and recreational services due to its location proximate to:

- Armadale and Malvern train stations;
- Tram routes along Malvern Road (#72), Glenferrie Road (#16), High Street (#6), Wattletree Road (#5), Dandenong Road (#64);
- Bus route along Kooyong Road;
- Education facilities including Lauriston Girls School, De La Salle College, Malvern Central School, St Josephs Catholic Primary School; and
- Parks / reserves including Malvern Public Gardens, Malvern Cricket Ground and Milton Grey Reserve.

2.1.4 I have been requested to have particular regard to the relevance of the proposed town planning provisions relative to High Street and the property at No. 1087-1095 High Street, Armadale.
2.1.5 This property is located on the northwest corner of High Street and Huntingtower Road and is developed with a two storey office / retail development built to both street frontages.

2.1.6 The site is also identified within the Heritage Overlay (HO400), with the eastern portion (No. 1093-1095 High Street which has a frontage to Huntingtower Road) being graded ‘contributory’ and the western portion (No. 1087-1091 High Street) being ungraded.

*Figure 2*

Site context

2.1.7 Angled car parking is located along the rear of the site, accessible from the rear laneway, which is approximately 3.6 metres wide, from Huntingtower Road.
2.1.8 Development within the High Street corridor typically comprises one and two storey Victorian shopfronts built to the street frontage. Awnings / verandahs are provided to a number of buildings, but do not form a consistent streetscape character.

2.1.9 North of the review site is a residential area along Huntingtower Road. This area comprises a mix of single dwellings and multi-unit developments, with Lauriston Girls School located at the northern end of Huntingtower Road.
Photo 3
Aerial photograph of review site and surrounds

Source: www.nearmap.com (31 August 2017)
3.1 State Planning Policy Framework (SPPF)

3.1.1 There are various SPPF provisions that are relevant to this proposal. These include:

- Clause 9 Plan Melbourne interpretation
- Clause 11.02-1 Supply of Urban Land
- Clause 11.03-1 Activity Centre Network
- Clause 11.03-2 Activity Centre Planning
- Clause 11.06-1 Jobs and Investment
- Clause 11.06-2 Housing Choice
- Clause 11.06-3 Integrated Transport
- Clause 11.06-4 Place and Identity
- Clause 11.06-5 Neighbourhoods
- Clause 11.06-6 Sustainability and Resilience
- Clause 14.02-3 Water Conservation
- Clause 15.01-1 Urban Design
- Clause 15.01-2 Urban Design Principles
- Clause 15.01-4 Design and Safety
- Clause 15.01-5 Neighbourhood Character
- Clause 15.02-1 Energy and Resource Efficiency
- Clause 15.03-1 Heritage Conservation
- Clause 16.01-1 Integrated Housing
- Clause 16.01-2 Location of residential development
- Clause 16.01-3 Housing Opportunity Areas
- Clause 16.01-4 Housing Diversity
- Clause 16.01-5 Housing Affordability
- Clause 17.01-1 Business
- Clause 18.01-2 Transport System
- Clause 18.02-1 Sustainable Personal Transport
- Clause 18.02-2 Cycling
- Clause 18.02-3 Principal Public Transport Network
- Clause 18.02-5 Car Parking

3.1.2 The various SPPF provisions that relate to the proposed development state the need:

- To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses (Clause 11.02-1).
- To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres (Clause 11.03-1).
- To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community (Clause 11.03-2).
- To create a city structure that drives productivity, attracts investment, supports innovation and creates jobs (Clause 11.06-1).
- To provide an integrated transport system connecting people to jobs and services, and goods to market (Clause 11.06-3).
- To create a distinctive and liveable city with quality design and amenity (Clause 11.06-4).
— To create a city of inclusive, vibrant and healthy neighbourhoods that promote strong communities, healthy lifestyles and good access to local services and jobs (Clause 11.06-5).
— To create a more sustainable and resilient city that manages its land, biodiversity, water, energy and waste resources in a more integrated way (Clause 11.06-6).
— Encourage the use of alternative water sources, including rainwater tanks, stormwater and recycled water (Clause 14.02-3).
— To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity (Clause 15.01-1).
— To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties (Clause 15.01-2).
— To improve community safety and encourage neighbourhood design that makes people feel safe (Clause 15.01-4).
— To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions (Clause 15.02-1).
— To ensure the conservation of places of heritage significance (Clause 15.03-1).
— To promote a housing market that meets community needs (Clause 16.01-1).
— To locate new housing in or close to activity centres and in urban renewal precincts and sites that offer good access to jobs, services and transport (Clause 16.01-2).
— To identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne (Clause 16.01-3).
— To provide for a range of housing types to meet increasingly diverse needs (Clause 16.01-4).
— To deliver more affordable housing closer to jobs, transport and services (Clause 16.01-5).
— To encourage development which meets the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities (Clause 17.01-1).
— To coordinate development of all transport modes to provide a comprehensive transport system (Clause 18.01-2).
— To promote the use of sustainable personal transport (Clause 18.02-1).
— To integrate planning for cycling with land use and development planning and encourage as alternative modes of travel (Clause 18.02-2).
— To facilitate greater use of public transport and promote increased development close to high-quality public transport routes in Metropolitan Melbourne (Clause 18.02-3).
— To ensure an adequate supply of car parking that is appropriately designed and located (Clause 18.02-5).

3.1.3 I note under Plan Melbourne 2017 the ‘Malvern / Armadale’ activity centre is nominated as a ‘Major activity centre’ and part of the Inner South East Region.
3.2 Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

Stonnington’s MSS acknowledges that the average household size in Melbourne is reducing and that there will be a consequential demand for an increase in the number of dwellings within the municipality.

— Clause 21.03 (Vision for the City of Stonnington) provides Council’s Strategic Framework Plan. As noted on the plan below, the wider Glenferrie Road / High Street activity centre is designated as a Major Activity Centre.

Figure 3
Strategic Framework Plan

Source: Clause 21.04 Stonnington Planning Scheme

— Clause 21.04 (Economic Development) classifies the Glenferrie Road, Malvern and High Street, Armadale activity centres as both being Group 2 / Major Activity Centres.

Sub-regional centre with both local and sub-regional roles accommodating a variety of goods and services to meet both everyday and specialty needs.

Strategic direction for Glenferrie Road MAC is:
Predominantly everyday and some specialty retailing, with a wider mix of office and service uses at the northern and southern ends.

Strategic direction for High Street MAC is:
Predominantly specialty retailing and food, particularly uses that attract tourists, visitors and weekend trade.

Relevant objectives at Clause 21.04-1 (Activity Centres) seek:
• To maintain and enhance a network of sustainable and viable activity centres.
• To provide clear direction on the preferred location, level and mix of uses for each activity centre in the City.
• To make provision for increased local employment in a broader range of commercial activities.
• To ensure new residential development in activity centres does not compromise the primary commercial and cultural role of activity centres.
— Clause 21.04-2 (Entertainment Uses) supports entertainment uses in activity centres which reflect the role and function of individual centres, whilst minimising adverse amenity impacts.

— Council's MSS, particularly at Clause 21.05 (Housing), seeks to maintain housing diversity and provide housing choice to meet the needs of Stonnington’s population. The clause seeks to direct the majority of new housing development to locations with the highest level of accessibility to both an Activity Centre and the Principal Public Transport Network, and away from the residential hinterland.

I further note pursuant to Clause 21.05, the review site is located within a “Substantial Change Area” due to the site’s location within the High Street MAC. Clause 21.05 seeks to direct medium and higher density housing to such areas. Clauses 21.05-4 and 21.05-5 seek to maintain housing diversity and provide appropriate accommodation and housing choice for the dominant demand groups (young people, smaller households and older aged groups) and providing more affordable housing for specific needs groups.

— Clause 21.05-3 (Housing in Activity Centres) seeks to:

> Provide for additional housing in activity centres and mixed-use areas where it respects the character and amenity of adjoining dwellings and the operations of nearby commercial uses, in accordance with adopted Structure Plans and Urban Design Frameworks.

The clause further seeks to maintain housing diversity and provide housing choice to meet the future needs of Stonnington’s population.

— Clause 21.06 (Built Environment and Heritage) seeks to protect and reinforce the key elements of the City’s overall urban structure and character and to protect and enhance all places which are significant and contributory to the heritage values of the City of Stonnington. Specifically:

> the human scale and fine grain Victorian-era heritage streetscapes of the City’s shopping centres;

— Clause 21.06 also outlines the built form and urban design objectives for the municipality. Relevant objectives of Clause 21.06-1 (Overall Urban Structure) are:

• To protect and reinforce the key elements of the City’s overall urban structure and character.

• To direct higher density development (residential and non-residential) to locations in and beside activity centres, beside the Principal Public Transport Network, and away from the residential hinterland.

— Clause 21.06-2 (Landscape Character) notes that a street wall character is preferred for land in a Commercial Zone. However, landscaping of open areas is encouraged with an appropriate balance of green space and hard surface.

— Clause 21.06-3 (Amenity) aims to ensure that high standards of amenity within new developments, and with adjoining developments, are achieved. Relevant strategies to achieve this include:

• Ensure new development does not unreasonably affect the amenity of any adjoining residential properties through overlooking, overshadowing or traffic and parking associated with the use.

• Ensure new development provides a sensitive transition with adjoining lower density development in terms of built form, scale, setbacks and visual bulk.
• Require high standards of internal amenity in multi-unit residential developments, particularly in relation to access to daylight and sunlight and noise environment.
• Require adequate provision of practical and useable private open space and encourage the provision of on-site communal open space where possible in multi-unit residential developments.
• Encourage developments which provide a lower standard of private open space to provide a higher standard of communal open space.
• Encourage the provision of private gardens and terraces in multi-unit developments to provide adequate space for private leisure and the opportunity for food growing.
• Allow roof top terraces and balconies only where their location and design is considered to have no unreasonable amenity impacts on neighbouring residential properties.

— Clause 21.06-4 (Built Form Character) has the following relevant objectives:
• To ensure that the qualities and attributes that define the City’s valued urban character are recognised and inform the design of new developments.
• To protect and enhance the individual character, identity and amenity of the different activity centres in the City.
• To protect and enhance the individual character, identity and amenity of the different activity centres in the City.
• To minimise the impact of vehicle crossovers and parking on the character of the area and the pedestrian experience.

— Clause 21.06-5 (Public realm and pedestrian areas) seeks to ensure that new development addresses the public realm, without privatising or borrowing from its amenity and does not attempt to shield itself from the public realm. Relevant strategies include:
• Seek opportunities to improve, expand and extend existing, or create new, public spaces, hubs, links, paths and streets, particularly having regard to the recommendations in the City of Stonnington Public Realm Strategy 2010 and in adopted Structure Plans.
• Seek opportunities for widened or new pedestrian links that are attractive, accessible, identifiable, well-connected and safe for both day and night-time users and meet the standard requirements for access for all.
• Seek opportunities to facilitate widening of rear laneways, particularly laneways behind activity centres.
• In the case of large developments which increase density, encourage developers to make a contribution towards streetscape / infrastructure improvements.
• Ensure new development addresses the public realm, without privatising or borrowing from its amenity and does not attempt to shield itself from the public realm.
• Encourage commercial, retail and large-scale residential developments to provide on-ground public amenity that connects directly to the streetscape and provides on-site opportunities for social interaction.

— Clause 21.06-6 (Solar access and wind protection) seeks to ensure that new development does not compromise access to sunlight, daylight and weather protection of adjoining sites.

— Clause 21.06-7 (Noise and air quality) aims to minimise the impacts in relation to noise and air quality emissions from and on new development.
— Clause 21.06-8 (Energy, water and waste efficiency) encourages environmentally sustainable design and innovative waste and recycling management practices.

— Clause 21.06-9 (Designing for safety, universal access and social inclusion) encourages new building design to be safe and accessible for all members of the community.

— Clause 21.06-10 (Heritage) seeks:
  
  To protect and enhance all places which are significant and contributory to the heritage values of the City of Stonnington.

— Clause 21.07 (Open Space and Environment) seeks opportunities to provide local links between public and private open space and through large private developments.

— Clause 21.08 (Infrastructure) encourages sustainable transport in preference to private vehicle use. This is assisted through siting land use and development which increases housing density, employment and visitation to locations with good access to public transport. It will also be assisted through the reduction of provision of on-site car parking in developments close to public transport.

LPP’s

3.2.1 Clause 22.04 contains the Heritage Policy. The various ‘objectives’ seek to:

— To recognise, conserve and enhance places in the City identified as having architectural, cultural or historic significance.

— To ensure that any additions, alterations and replacement buildings are sympathetic to the heritage area and / or surrounds.

— To ensure that the cultural significance of a site, involving the aesthetic, historic, scientific or social value of a place to past, present and future generations, is assessed and used to guide planning decisions.

3.2.2 The policy references (inter alia) the ‘Heritage Guidelines City of Stonnington 2002’.

3.3 Zone Controls

3.3.1 The review site is located within the Commercial 1 Zone, pursuant to Clause 34.01.

Figure 4

Zone Control

Source: www.land.vic.gov.au

3.3.2 Purposes of the C1Z include:
• To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
• To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
• To provide for residential uses at densities complementary to the role and scale of the commercial centre.
3.4 Overlay Control

3.4.1 The review site is affected by Heritage Overlay, Schedule 400.

Figure 5

The ‘purposes’ of the overlay include:

— To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
— To conserve and enhance heritage places of natural or cultural significance.
— To conserve and enhance those elements which contribute to the significance of heritage places.
— To ensure that development does not adversely affect the significance of heritage places.
3.5 Other Strategic Initiatives

3.5.1 The Council has prepared Amendment C132 to the Stonnington Planning Scheme, which seeks to:

— Replace Clause 22.04 Heritage Policy with a new Clause 22.04 Heritage Policy.
— Amend 21.06 Built Environment and Heritage to update references to the objectives and strategies regarding heritage.
— Amend Clause 21.09 Reference Documents to change a reference document name to the “City of Stonnington Heritage Design Guidelines”.

3.5.2 The Amendment has been considered by an Independent Panel; adopted by Council, and forwarded to the Minister for Planning for approval. It is therefore ‘seriously entertained’.

3.5.3 I have considered the Panel’s report, which deals with (amongst other matters) the potential conflict between metropolitan planning policy to accommodate growth, and heritage considerations.

3.5.4 In particular I note the Panel recommended that the Amendment be adjusted to incorporate Mr Raworth’s recommendations that ‘concealment’ of upper levels (as advocated ‘sightline envelopes’) in commercial areas is unnecessary and does not properly balance conflicting policy objectives for such areas.
4.1.1 Amendment C223 seeks to give effect to the Glenferrie Road and High Street Structure Plan. This is to be achieved through the following:

- Rezone various properties to the Commercial 1 Zone, General Residential Zone, Schedule 15 (new) or Residential Growth Zone, Schedule 3 (new)\(^1\).
- Apply Design and Development Overlay, Schedule 19 to the activity centre.
- Apply Development Plan Overlay, Schedule 3 to Malvern Central site and adjoining railway land.
- Amend Clause 21.04 (Economic Development) and 21.06 (Built Environment and Heritage) to reference Glenferrie Road and High Street Structure Plan and DDO19.
- Amend Clause 21.09 (Reference Documents) to include Glenferrie Road and High Street Structure Plan.

4.1.2 I have been requested to focus on proposed DDO19.

4.1.3 DDO19 includes general design objectives at Clause 1.0 as follows:

- To protect and enhance the existing heritage built form and fabric.
- To encourage a modest scale of development in High Street and Glenferrie Road, which complements the existing heritage fabric.
- To encourage higher density development on land south of the railway corridor and on strategic development sites.
- To facilitate the redevelopment and/or revitalisation of identified strategic development sites consistent with the requirements of this Schedule.
- To increase activation of laneways.
- To improve the appearance of public spaces including streetscapes, public car parks and laneways.

4.1.4 Clause 2.0 includes definitions, which means that the review site is classified as a large site by virtue of its 19 metre + frontage to High Street (34.61 metre frontage).

4.1.5 The review site is located within Precinct B (High Street) at Clause 5.2. The Design Objectives for this precinct include:

- To retain the consistent two storey built form of significant heritage places with pronounced parapets.
- To enhance streetscape diversity with slightly taller street walls for development not subject to a Heritage Overlay.
- To maintain an openness to the sky when viewing new development from street level.
- To recognise and maintain the prominence of the Malvern Town Hall and clock tower as a municipal landmark and gateway.
- To maintain a modest scale of infill development within High Street and Glenferrie Road, which complements the existing heritage fabric.
- To retain and improve the appearance and safe function of the pedestrian arcade between High Street and Armadale Railway Station.

\(^1\) Zoning of review site to remain unchanged.
Table 2 includes preferred built form outcomes:

- Preferred maximum building height (inclusive of large sites): 18 metres / 5 storeys\(^2\);
- Preferred maximum street wall height: N/A\(^3\);
- Preferred street level setback: 0 metres
- Preferred minimum setback above street wall: N/A
- 8-10 metres

Clause 6.0 incorporates Interface and Setback Guidelines. Diagram 2 is applicable to the review site, given it has a rear laneway and residential zoned land to the north of same.

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\(^2\) Preferred maximum building height is whatever the lesser (metres or storeys) and excludes rooftop plant and lift overruns provided they are well set back from the edge of the roof.

\(^3\) Preferred maximum street wall height to be determined by the retention of the heritage building or guided by the provision of the Heritage Policy at Clause 22.04.
4.1.8 I note Council amended this cross-sectional diagram for the purposes of the Panel hearing. In essence, it now shows a 4.5m setback for all levels above Level 2.

4.1.9 Relevant guidelines include:

- For corner sites, active frontages should extend along the Local Street Interface to create a sense of address with clear glazing and allow for side entry where appropriate.
- Street wall height should be extended along the Local Street Interface as indicated on Map 2.
- Balconies, terraces and decks should be contained within the building envelope to maintain building separation and minimise overlooking.
- Development should provide adequate separation to provide for equitable development opportunities and privacy of habitable rooms and balconies.
- Development should avoid unreasonable visual bulk when viewed from the private and public realm by ensuring appropriate scale, form and articulation.
- Development should incorporate sufficient setbacks at the rear interface to achieve separation between building lines and primary outlooks.
- Include a minimum 1.5 metre rear lane offset at ground level and first level, from the rear property boundary, to facilitate the ongoing function of the laneway with all vehicle access from the rear lane. The width of rear laneways should be sufficiently wide to accommodate building servicing and car park access.
- Development with a rear interface to residential zoned land (Interface Diagram 2 and 3 and 4) should incorporate a mid block setback for the top level to mitigate visual bulk.

4.1.10 Map 2 indicates that the review site has a local street interface to Huntingtower Road⁴.

⁴ Along with a laneway interface to its rear boundary.
Figure 8
Interfaces
5.1 Introduction / Overview

5.1.1 My role in this matter is to review the proposed Amendment with respect to my town planning expertise, and with respect to the property at No.1087-1095 High Street, Armadale.

5.1.2 Ultimately what is important is that the proposed planning scheme provisions provide clear direction for the future development of land in the Amendment area, based on reasonable design and development parameters. This involves a balancing of sometimes competing objectives.

5.1.3 Specifically, the ‘tension’ for this amendment relates to:

— The ‘Major Activity Centre’ status of the ‘Glenferrie Road, Malvern’ and ‘High Street, Armadale’ activity centres under State and local planning policy, and the unequivocal strategic encouragement for more intense mixed-use development and urban consolidation in activity centres and proximate to public transport, and

— The heritage values of much of the Amendment area, including the relatively intact two-storey period heritage scale of the main road streetscapes, and various policy references in the planning scheme which seek to protect and enhance these assets and the fine grain human scale of the traditional retail strips.

5.1.4 There are also other related issues such as reasonable amenity expectations for land proximate to the Amendment area.

5.1.5 Whilst the provisions in DDO19 are proposed to be ‘discretionary’, in some instances I believe too much emphasis has been given to the ‘heritage’ values of the locale and protecting the status quo. In my opinion this will lead to an imbalance of competing strategic objectives, and the potential underdevelopment of some sites.

5.1.6 I also believe there could be greater clarity with respect to some of the proposed of DDO19 provisions, and there is potential to improve the structure and content of others to provide greater certainty for all stakeholders moving forward.

5.1.7 I will expand upon these matters below.

5.2 Meritorious Aspects of the Amendment

General

5.2.1 In a general sense I support and applaud the initiative that the City of Stonnington has undertaken in providing a strategic framework for the future use and development of Glenferrie Road and High Street Major Activity Centres.

5.2.2 Recognising the strategic value of the precinct as a whole and its surrounds to the local and broader communities, and establishing a framework for the coordinated future development of same, is a commendable strategic initiative.

Mandatory v Discretionary Provisions

5.2.3 Guidance on the application of mandatory controls can be found in Practice Note 59 – ‘The role of mandatory provisions in planning schemes’. I have also reviewed various Panel reports dealing with the issue of ‘mandatory vs discretionary’ controls.

5.2.4 As a general principle I am of the opinion that discretionary / ‘performance based’ provisions are to be preferred over mandatory provisions unless
there are exceptional circumstances to justify mandatory provisions. In my opinion a ‘performance based’ approach is better able to accommodate variation, innovation, unforeseen uses and development, and / or circumstances peculiar to a particular site or locale.

5.2.5 I am aware that mandatory provisions have been supported in limited circumstances in areas of consistently high heritage value and strong / consistent character, or in order to achieve specific amenity or environmental outcomes (such as along the coast). Previous Panels have determined that mandatory height provisions may be reasonable where, in the ‘vast majority’ of cases, buildings not in accordance with the mandatory requirements would have adverse impacts (on character, heritage, amenity, environmental values etc), and I believe this is a reasonable approach.

5.2.6 Ultimately I believe it needs to be determined whether there are ‘exceptional circumstances’ to justify proposed mandatory provisions, or whether the context of this locale is such that some design flexibility would achieve a greater net community benefit when one considers all relevant town planning considerations.

5.2.7 I have considered the various criteria outlined in Practice Note 59 – ‘The role of mandatory provisions in planning schemes’ that should be used to assess whether or not the benefits of any proposed mandatory provision outweigh any loss of opportunity and the flexibility inherent in a performance based system\(^5\). Notwithstanding the reasonably consistent street wall heights in the Amendment area, I note the desire in the Structure Plan\(^6\) to make provision for a street wall / parapet height discrepancy of 1 level\(^7\) to achieve ‘positive diversity’ in parapet height. On this basis, and given the other safeguards in the proposed DDO19 provisions\(^8\) to ensure acceptable street wall heights, I do not believe mandatory street wall heights are justified.

5.2.8 Similarly with the proposed overall height preferences expressed in DDO19, whilst (relative to Precinct B) the stated ‘preferred’ heights are broadly appropriate, there may be circumstances where additional heights are appropriate. No.1087-1095 High Street, for example, is an unusually large corner site with limited sensitive abuttals and mixed heritage values. It would be my expectation that a well design development on this site could exceed the stated ‘preferred’ maximum height of 18m / 5 storeys.

5.2.9 It follows that I support the proposed discretionary provisions in DDO19.

\(^5\) These include:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for a preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provision reduce administrative costs?

\(^6\) Glenferrie Road High Street Structure Plan 2015

\(^7\) That is, above (or presumably below) the typical period street wall height of 2 storeys / 10-12m, or three storey / 10-12m equivalent

\(^8\) And elsewhere in the planning scheme
5.3 Specific Commentary – ‘design requirements’ of DDO19

Introduction

5.3.1 With respect to ‘Precinct B – High Street’, I note Council has amended the error that previously referred to Precinct A1.

5.3.2 With respect to the other proposed ‘design requirements’ for this precinct (as outlined in Table 2 and Clause 6.0), I make the following observations (with particular emphasis on the implications to No’s 1087-1095 High Street).

Preferred Maximum Building Heights

5.3.3 Proposed DDO19 for Precinct B nominates preferred maximum building heights of:
— 14.5m / 4 storeys for ‘small’ sites\(^9\), and
— 18m / 5 storeys for ‘medium’ or ‘large’ sites\(^10\).

5.3.4 As alluded to above, in a general sense I believe the preferred heights are an acceptable generic ‘bench mark’ and reflect the strategic opportunities and objectives for an activity centre of this order.

5.3.5 I state this on the basis that they are ‘discretionary’ preferred heights, and that additional heights can be achieved where it is justified.

Preferred maximum street wall height

5.3.6 Proposed DDO19 for Precinct B does not specific a preferred maximum street wall height. Instead, via a notation (***) leading to a footnote, it states ‘Preferred maximum street wall height to be determined by the retention of the heritage building or guided by provisions in the Heritage Policy at Clause 22.04’.

5.3.7 I note there are then other references in DDO19 that allude to what a ‘preferred maximum street wall height’ may be. For example, a ‘design objective’ for Precinct B in proposed DDO19 references the ‘consistent two storey built form of significant heritage places with pronounced parapets’, and the 2015 Structure Plan\(^11\) references a 3 storey contemporary height as being compatible with this.

5.3.8 Also, as stated above, the Structure Plan\(^12\) makes provision for a street wall / parapet height discrepancy of 1 level\(^13\) to achieve ‘positive diversity’ in parapet heights.

5.3.9 I have no particular objection to proposed DDO19 in this regard (relative to Precinct B), because it enables a performance based approach to parapet heights based on individual merit.

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\(^9\) ‘Small’ defined as sites which have less than a 7m street frontage widths

\(^10\) ‘Medium’ defined as sites which have between 7m-19m street frontage widths, and ‘large’ defined as sites which have 19+m street frontage widths

\(^11\) At Page 33, relating to High Street (medium / large sites)

\(^12\) Glenferrie Road High Street Structure Plan 2015

\(^13\) That is, above (or presumably below) the typical period street wall height of 2 storeys / 10-12m, or three storey / 10-12m equivalent
5.3.10 However, given very little specific guidance is given in the Heritage Policy at the current Clause 22.04, I query whether greater guidance could be given\textsuperscript{14}. For example, the following words could be added to the abovementioned footnote (**):

\begin{quote}
Typical period / heritage parapet heights are two storeys and between 10m – 12m in height. This is equivalent to the height of a three storey contemporary street wall.
\end{quote}

**Preferred street level setback**

5.3.11 Proposed DDO19 for Precinct B recommends a ‘zero’ preferred street level setback.

I support this.

**Preferred minimum setback above street wall**

5.3.13 Proposed DDO19 for Precinct B recommends a preferred minimum setback above street wall of ‘8-10 metres’.

5.3.14 In my opinion an 8-10m setback for buildings above street wall / parapet height is unduly onerous and excessive. When extrapolated, it essentially results in an ‘invisible’ built form outcome above typical parapet heights when viewed from the opposite side of the road at an 18m / 5 storey height.

5.3.15 Whilst I appreciate the heritage values of the Amendment area, and High Street in particular, this needs to be balanced with other important planning policy objectives which nominate activity centres and MAC’s as preferred locations for more intense mixed-use developments and urban consolidation. They are also the preferred locations in the LPPF for ‘substantial change’ and ‘higher density housing’\textsuperscript{15}.

5.3.16 Further, I do not believe invisibility (or ‘concealment’) needs to be achieved in order to ‘respect’ the heritage values of the locale. Much lesser setbacks, when combined with good quality contemporary design, can maintain the visual prominence of the heritage street wall parapets and the ‘human scale’ of the main road strip commercial corridors.

5.3.17 With respect to the 8-10m setback requirement, I note the Structure Plan nominates a preferred upper level setback of 3m for non-contributory built forms ‘to ensure reduced visual prominence, whilst accepting a degree of visibility’. For existing buildings of ‘heritage significance’ it defers to the Heritage Policy at Clause 22.04 for guidance in this regard.

5.3.18 I note the current Heritage Policy references (inter alia) the ‘Heritage Guidelines, City of Stonnington 2002’, which states first floor additions to single storey commercial buildings should be setback 8-10m from the principal façade of the building. It seems to me the age and different contexts referred to in this reference document brings into serious question the appropriateness of bringing forward this setback requirement.

\textsuperscript{14} I acknowledge the proposed new Clause 22.04, and associated reference document, provide more guidance in this regard. However, I think there would still be merit in adding the words as suggested.

\textsuperscript{15} Noting Clause 21.05-2 qualifies this classification where sites are subject to a non-residential heritage precinct, by stating the land should be capable of supporting higher density development under the Heritage Policy / Clause 22.04.
5.3.19 With respect to Amendment C132, which seeks to replace the heritage Policy with a new one (and a new reference document), there was considerable discussion before the Panel regarding whether ‘concealment’ was a reasonable or balanced approach in activity centres. I note Mr Raworth observed the increasing acceptance of more visible upper storey elements in activity centre contexts. It would appear the reference to an upper level setback of 8-10m was agreed to be removed from proposed Clause 22.04, although a sightline diagram remains.

5.3.20 Regardless, in my experience for contexts such as High Street Armadale (main road strip shopping strips with consistent period street wall heights) I would ordinarily expect that setbacks of about 3m\(^{16}\) above street wall / parapet height would be appropriate.

5.3.21 It follows that I believe this requirement should be varied to 3m.

5.3.22 Once concession I would make is that the following could be added as a footnote to the 3m requirement (eg - ‘****’):

\[
\text{A greater setback may be required to respect the significance of heritage sites or precincts, as guided by the provisions of the Heritage Policy at Clause 22.04.}
\]

5.3.23 It is not clear to me whether the 8-10m setback requirement above street wall height is intended to also apply to local side streets for corner sites, in addition to High Street. I note there are some references at proposed Clause 6.0 in DDO19 to ‘corner sites’ and ‘local street interfaces’ (as indicated on Map 2 to DDO19. However, they relate to streetscape activation and street wall height.

5.3.24 In the absence of any words to the contrary, it would appear that the 8-10m setback requirement for buildings above street wall height would apply to side streets. This would apply to the Huntingtower Road interface with respect to No’s 1087 – 1095 High Street.

5.3.25 It is commonly accepted that the sideages to corner developments can have lesser setbacks and will generally be more visually prominent than for the primary road frontage. As they bookend a street end and do not face the side street, this is a common urban design and character outcome for such sideages.

5.3.26 It follows that I do not believe the same upper level setback requirement as determined appropriate for High Street should also be applied to side street for corner sites. This would be unduly onerous for such sites, and unnecessary. Whilst there should be a distinction between the street wall and levels above this to side streets, this can be done through a combination of setbacks and design.

5.3.27 In my opinion it would be appropriate that proposed DDO19 is amended to make this clear\(^{17}\).

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\(^{16}\) Sometimes 5m, as in DDO15 to the Boroondara Planning Scheme, which deals with land in a similar context abutting Glenferrie Road, Hawthorn

\(^{17}\) Noting proposed Clause 22.04 under Amendment C132 was amended to make it clear that ‘principal façade’ means the front elevation facing the main road, and reference to ‘any side elevation facing a side road’ was deleted.
Preferred Interface and Setback requirements (Clause 6.0)

INTRODUCTION

5.3.28 Proposed Clause 6.0, combined with the preferred built form outcomes shown on Map 2 / Table 7, outline the preferred requirements for matters relating to side and rear boundaries.

5.3.29 Recommendations are also made regarding laneway widths and treatments.

SIDE BOUNDARIES

5.3.30 With respect to side street interfaces, as mentioned above proposed Clause 6.0 recommends the activation of both street frontages by way of sense of address and ‘active frontages’ (clear glazing, side entries etc). It also recommends that street wall heights (presumably to High Street) should be extended to the local street interface.

5.3.31 I support these provisions.

5.3.32 Other provisions in proposed DDO19 seek to avoid apartments with primary aspect to side boundaries, and to ensure equitable development outcomes vis-à-vis interfaces with neighbouring properties.

5.3.33 I support these provisions, providing it is clarified that primary aspect to a side street interface is acceptable.

REAR BOUNDARIES

5.3.34 With respect to rear boundary interfaces, typically to properties that are not commercially zoned or within the Amendment boundary, proposed DDO19 variously recommends the activation of laneways (including passive surveillance) and tempered / tailored building envelopes to avoid unreasonable amenity impacts. It also makes recommendations regarding laneway widths and treatments.

5.3.35 Dealing firstly with laneway widths, the recommendation is that a minimum 1.5m offset be provided at ground and first floor levels to facilitate the ongoing function of the laneway. By this I believe it means two-way traffic and the ability for service vehicles to use the laneway.

5.3.36 Notwithstanding that the giving over of private land for a broader public benefit would usually be required via a PAO\textsuperscript{18}, it is not uncommon in contexts like this and would not typically be an unreasonable impost on development outcomes. I therefore have no in principle objection to this, although I do not believe it should be required to achieve low level landscaping.

5.3.37 Above this, for the next 2-3 levels, Diagram 2 (which would apply to 1087-1095 High Street) recommends a 4.5m setback from the site boundary (abutting the laneway).

5.3.38 In light of the orientation of the abutting residential land (to the north, and with no primary outlooks towards land in the activity centre), in my opinion this is an acceptable outcome.

5.3.3 Proposed DDO19 also originally recommended that the rear half of the top levels of developments (referred to as ‘mid-block setback’) be eroded to achieve acceptable transition. The amended Council version now

\textsuperscript{18} Acknowledging there may be a nexus between the requirement and the details of a development application which may require the additional laneway width to, for example, achieve acceptable access or vehicle manoeuvrability outcomes
states that the rear interface to residential zoned land should ‘incorporate a setback for the top levels to mitigate visual bulk’.

5.3.2 I am more comfortable with this ‘performance based’ approach and, when combined with the various Diagrams at Table 7 to proposed Clause 6.0, this should provide sufficient guidance for future development proposals.

5.4 Other Matters

Proposed Clause 1.0 - General Design objectives

5.4.1 My comments are as follows:

— I query whether the listed objectives are broad enough and reflect the need to achieve built form outcomes that achieve the various strategic aspirations for activity centres such as this. For example, I would support a statement similar to this as the first objective:

  To achieve innovative, site responsive and high quality architectural outcomes that realise the strategic encouragement in the planning scheme for more intensive mixed-use development in and around activity centres and public transport facilities, while respecting the traditional streetscape characteristics of the locale and the amenity of nearby residential properties.

— I query whether reference to ‘protect and enhance’ the existing heritage built form and fabric should be replaced with ‘respect’ (noting the HO is the relevant planning ‘tool’ to guide heritage assessments).

— I query the use of the words ‘modest scale’ for development in High Street and Glenferrie Road, and the link between this and ‘complementing’ the existing heritage fabric. It is the massing of building height (in this case preferred heights of 4-5 storeys) that will lead to complementary (or respectful) built form outcomes. I would prefer something more like this:

  To encourage development in High Street and Glenferrie Road that is appropriately designed and massed to respect the significance of heritage sites and precincts.

Proposed Clause 3.0 – General Requirements

5.4.2 I believe there would be some value in bringing proposed Clause 8.0 – Application requirements forward and under this clause.

Proposed Clause 4.0 – General Design Requirements

5.4.3 For the reasons outlined above, I query the use of the word ‘substantial’ in describing setbacks behind the street parapet (ie - to maintain the prominence of the heritage form when viewed from the public realm etc). Setbacks are but one input that can assist in ensuring building elements above street walls respect the heritage streetscape qualities of the locale, and maintain a human scale. My preference would be for alternative wording, such as:

  Be appropriately setback, massed and designed to maintain the prominence and integrity of the traditional fine grain street walls, and maintain a human scale at pedestrian level.

5.4.4 I query the reference to ‘exemplary’ standard of internal amenity. Ultimately the planning scheme test is ‘acceptable’, but even the use of the word ‘high’ would be preferable.
5.4.5 I query the reference to incorporating ‘low level landscaping’ in laneways. ‘Lane-scapes’ are traditionally hard-edge and landscaping in not part of their character. It is also impractical if rear vehicular access is encouraged (as it is). That said, there may be some merit to upper level landscaping at such interfaces to achieve a softer transition to nearby residential areas.

Proposed Clause 5.2 – Precinct B – High Street ‘Design Objectives’

5.4.6 My comments are as follows:

— I query the wording of the first proposed dot point relating to two storey built form. Aside from potentially being inconsistent with the proposed second dot point (which encourages a diversity of street wall heights), the HO is the appropriate planning tool to determine whether two storey period parapet heights should be ‘retained’. I would prefer alternative wording which combined the first two dot points, such as:

To respect and enhance the consistent two storey scale (10-12m) of heritage street walls with pronounced parapets, whilst enabling slightly taller (up to 1 storey) street walls for new developments to enhance streetscape diversity.

— I query the reference to ‘openness to the sky’, which is at odds with other references which seek to achieve consistent street canopies treatments and weather protection for pedestrians\(^{19}\). Perhaps an alternative wording might be something like:

To ensure the siting, design and massing of new building elements above the street wall maintains a human scale and does not overwhelm the streetscape when viewed at street level.

— I make the same comments regarding the term ‘modest scale’ as I have referenced above. My preference would again be for alternative words like:

To encourage development in High Street and Glenferrie Road, that is appropriately designed and massed to respect the significance of heritage sites and precincts.

\(^{19}\) I note proposed Clause 22.04 under Amendment C132, and the associated proposed reference document, encourage verandahs over footpaths.
6.1.1 There are many positive aspects associated with proposed Amendment C223, and I applaud the Council in undertaking this important strategic initiative.

6.1.2 In particular I support the proposed discretionary provisions. It has certainly been my experience that a rigid and prescriptive approach to design rarely results in optimal design outcomes and is not necessary in order to achieve acceptable built form outcomes.

6.1.3 I have identified some aspects of the proposal as they relate to No.1087-1095 High Street and ‘Precinct B’ which I believe should be modified. Subject to these, and some other observations that I have made, I support the proposed Amendment.

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