Maddocks

Date: 3 October 2018

Amendment C276 to the Stonnington Planning Scheme

Council Submission: Part A

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Introduction

1. This submission is made on behalf of Stonnington City Council (**Council**).

2. Council is the Planning Authority for Amendment C276 (**the Amendment**) to the Stonnington Planning Scheme (**the Scheme**). Council has prepared and is the proponent of this Amendment. The Amendment makes changes to the Schedule 1 to the Activity Centre Zone (**ACZ1**) as it applies to the Chapel Street Activity Centre (**CSAC**). A key part of the Amendment relates to the Forrest Hill precinct in the **CSAC.**

3. In accordance with the directions of the Panel, this Part A submission:
   - provides an overview of the background, preparation and exhibition of the Amendment;
   - provides an overview of the strategic context and assessment of the Amendment;
   - explains the background and function of the undated document "Urban Design Advice (updated)", as prepared by Hansen Partnership Pty Ltd for Council;
   - identifies the issues raised in submissions and its response (this will be expanded on in detail in Council's Part B submission);
   - confirms that no changes have been made to the Amendment as a result of the exhibition process;
   - identifies the documentation that Council intends to rely upon at the Hearing;
   - includes a chronology of events.

4. Together with this Part A submission, Council has circulated the expert evidence of Craig Czarny of Hansen Partnership. Mr Czarny's evidence speaks to the preparation of the amended planning controls outlining the urban design rationale for the proposed changes. Mr Czarny's evidence has also considered submissions to the Amendment.

5. Council's Part B submission will:
   - provide a summary of key issues raised in submissions;
   - put Council's key arguments concerning the matters in issue in the Amendment;
   - provide a response to the key matters raised in expert evidence or material circulated by the parties prior to the Panel Hearing;
   - provide Council's final position on the Amendment.

6. Council will present and rely upon the evidence of Mr Craig Czarny of Hansen Partnership at the Panel Hearing.

Overview of the Amendment

7. The Amendment applies to the area known as the **CSAC** which incorporates the Prahran/South Yarra Activity Centre and the Toorak Road and Windsor Neighbourhood Activity Centres. The Activity Centre boundary is shown in the **ACZ1**.

8. The Amendment proposes to change the Scheme as it affects the **CSAC**, as follows:

- Rezone the following properties (currently included in two zones) to the Activity Centre Zone:
  - (a) 87 High Street/8 Charles Street, Prahran
  - (b) 72-76 High Street, Prahran
  - (c) 122 Commercial Road, Prahran
  - (d) 65-67 Commercial Road, Prahran.
- Rezone the following Council owned properties to the Public Park and Recreation Zone:
  - (a) 15 Izett Street, Prahran
  - (b) 55 Porter Street, Prahran
  - (c) 22 Grattan Street, Prahran
  - (d) 18-20 Regent Street, Prahran
  - (e) 22 Regent Street. Prahran.
- Make the consequential changes to Planning Scheme Maps 1 and 4.
- Amend Clause 21.04 Economic Development to identify the Prahran/South Yarra Activity Centre.
- Amend Schedule 1 to Clause 37.08 Activity Centre Zone to improve its operation including:
  - (a) at Part 1.0 Chapel Street Activity Centre Land Use and Framework Plan – amend the activity centre boundary and identify major and neighbourhood centres;
  - (b) at Part 3.0 Table of uses – amend condition about locations where use of land for Dwelling does not require a permit;
  - (c) at Part 4.0 Centre-wide provisions – amend buildings and works and design and development requirements;

(d) at Part 5.0 Precinct provisions – amend precinct maps to remove redundant pedestrian links and revise interface setbacks, street wall and buildings heights;

(e) at Part 7.0 Notice and review – amend requirements to improve clarity and correct minor errors.

9. Council submits that the proposed changes to the ACZ1 will better allow the vision for the **CSAC** to be realised particularly in sub-precincts FH-9 and FH-10 of the Forrest Hill precinct. Mr Czarny's evidence speaks to the proposed changes in this regard.

10. Council also submits that the proposed Amendment supports the ongoing delivery of Council's Strategies for Creating Open Spaces process.

Planning for Future Public Open space

11. One of the other components of Amendment C276 is the rezoning of Council owned properties to PPRZ. Council put in place an Open Space Strategy called the Strategies for Creating Open Space. The purpose of that strategy was to enable Council to acquire certain parcels of land to provide a network of public open space for the municipality, particularly in areas that were underprovided for and which were experiencing strong residential growth. That strategy has been (and is still in the process of being) implemented. Council also requires an 8% public open space contribution in South Yarra, Windsor, Prahran and Armadale (via Amendment C186). Consequently, Council has been successful in purchasing certain properties as planned by the strategy. The properties listed above (proposed to be rezoned to PPRZ) as part of C276 have been recently acquired to provide for future open space to support the functionality of the CSAC.

12. This process is consistent with the ongoing delivery of Council's Strategies for Creating Open Spaces process, which includes the identification and acquisition of land for the purposes of public open space.

13. In addition to rezoning the affected properties and consequent upon their rezoning to acknowledge their public open space function, the Amendment seeks to change the Interface Setback Requirements of the southern side of properties which abut the northern boundary of these future open spaces to "the Type 3 interface" in the ACZ1. The Type 3 interface is also being applied more broadly than to land the subject of rezoning.

14. The Type 3 interface was introduced into the ACZ1 by Amendment C172 to the Scheme. Its proposed application is consistent with its current application to all interfaces north of public open space throughout the ACZ1 presently applying to approximately 19 properties.

15. The Type 3 interface prescribes setback requirements in the order of a 9.5m street wall height with a 29 degree building envelope angle above the street wall from the southern

boundary to ensure that amenity and solar access to these public open spaces is not detrimentally affected should development occur to the north.

16. The Type 3 interface is a discretionary control and can be assessed in detail during a development application process.

Strategic Context and Assessment

17. Council provided a response to the Strategic Assessment Guidelines within the Explanatory Report exhibited with the Amendment. Having regard to the changes to the Scheme introduced by VC148 an updated assessment is provided at Appendix #1.

18. A response to the strategic issues raised in the objections to the Amendment and more particularly, those that questioned the strategic merit of particular aspects of the Amendment will be addressed in the Part B submissions.

19. This section will now provide an overview of the strategic background to the Amendment, more specifically by reference to earlier strategic work undertaken for what is now known as the **CSAC** and the background to updating the ACZ1 controls post Amendment C172.

Chapel Street Activity Centre strategic planning

20. Council has a long history of preparing and refining its Planning Scheme to ensure the vision for the **CSAC** is realised.

21. Council has undertaken significant strategic planning work to develop, monitor and refine the controls and policies relating to the **CSAC.** This includes the following planning scheme amendments as detailed below:

22. **Amendment C55** (Forrest Hill interim planning controls) which was gazetted on 20 April 2006 consisted of changes including a new local policy at Clause 22.17 for the Forrest Hill Precinct and the inclusion of the Forrest Hill Structure Plan, December 2005, as a reference document in the Scheme.

23. **Amendment C58** which was gazetted on 25 June 2009 replaced the interim structure plan controls for the Forrest Hill Precinct with permanent controls by introducing the Design and Development Overlay - Schedule 8 at Clause 43.02.

24. **Amendment C73** (Clause 22.17 extension of time) which was gazetted on 24 April 2008. This amendment was approved by the Minister for Planning under section 20(4) of the Planning and Environment Act 1987. Amendment C73 extended the operation of the interim local policy 'Forrest Hill Precinct Policy' at Clause 22.17 until 31 March 2009.

25. **Amendment C81** (Forrest Hill interim height controls) which was gazetted on 1 May 2008. This amendment was also approved by the Minister under section 20(4) of the Planning and Environment Act 1987. Amendment C81 introduced a new Design and Development Overlay (Schedule 8) - Forrest Hill Precinct Interim Height Controls. It also amended the existing Clause 22.17 (Forrest Hill Precinct Policy) to remove the specific provisions in relation to height. Amendment C81 introduced interim height controls for the Forrest Hill Precinct until 31 March 2009. The Panel was advised that the height controls brought in by Amendment C81 are the same as those exhibited in Amendment C58.

26. **Amendment C78** (**CSAC** Interim controls) introduced and applied a new local planning policy at Clause 22.19 and a new Schedule 7 to DDO at Clause 43.02, which provided interim built form guidance for the Prahran/South Yarra and Windsor Activity Centre until 31 October 2012. The amendment also made associated changes to the Local Planning Policy Framework at Clauses 21.01, 21.04, 22.02 and the Schedule to 34.02 of the Planning Scheme. The Amendment reflected the objectives of the Chapter Vision Structure Plan, adopted by Council in December 2007.

27. **Amendment C106** was gazetted on 12 March 2009 and extended the operation of the Local Policy Forrest Hill Precinct Policy at Clause 22.17 and Schedule 8 to the Design and Development Overlay at Clause 43.02 by an additional six months until 30 September 2009.

28. **Amendment C162** (**CSAC** Interim controls) was gazetted on 4 October 2012 and provided for an extension to the interim controls for the **CSAC**. This amendment was approved by the Minister for Planning under section 20(4) of the Planning and Environment Act 1987.

29. **Amendment C171** (**CSAC** Interim controls) was gazetted on 17 October 2013 and provided for a further extension to the interim controls for the **CSAC**.

30. **Amendment C184** was gazetted on 17 September 2015 and applied a Public Acquisition Overlay Schedule 3 to land at 22, 25 Regent Street, 22, 27 Mount Street and 34 Clifton Street Prahran.

31. **Amendment C231** was gazetted on 30 August 2016 and applied a Public Acquisition Overlay (Schedule 3) to the land at 55 Porter Street, Prahran and part of 18-22 Grattan Street, Prahran.

Amendment C172 – Chapel Re-Vision

32. **Amendment C172,** which was gazetted on 10 August 2017, applied permanent planning controls to the **CSAC** to implement the Chapel reVision Structure Plan. The planning controls include the introduction of the **ACZ1** to direct built form, height and preferred land use outcomes.

33. Prior to the gazettal of the **ACZ1**, no planning controls existed in the Planning Scheme for the Chapel Street Activity Centre as the interim controls expired in 2015.

34. Amendment C172 had an extensive history of preparation over a number of years.

35. The Chapel reVision Structure Plan was commissioned in 2012 to review Chapel Vision in order to inform permanent planning controls for the Chapel Street Activity Centre. The Structure Plan and associated background documents were adopted by Council in July 2014 after an extensive three stage community consultation process.

36. The Amendment sought to give effect to the objectives and strategies contained in the Chapel reVision Structure Plan 2013-2031, which replaced Chapel Vision 2007 as the guiding strategic framework for future land use and development in the Chapel Street Activity Centre.

37. The Chapel reVision Structure Plan provides a long term strategic plan which aims to guide a range of important aspects including development, land use, movement, public realm, open space, strategic opportunities, economic and social planning and sustainability.

38. The Chapel reVision Structure Plan sets out the future land use and development vision for the Chapel Street Activity Centre. It divided the Activity Centre into four precincts as follows:
    - Precinct 1: Forrest Hill;
    - Precinct 2: South Yarra, including Toorak Road;
    - Precinct 3: Prahran; and
    - Precinct 4: Windsor.

39. The Panel report considering Amendment C172 had specific regard to River Street in the Forrest Hill precinct which Council will return to in its Part B Submission.

40. **Amendment C271** was gazetted on 30 November 2017. It constituted a corrective amendment to Amendment C172 and remedied a number of minor wording, drafting and map errors and inconsistencies with the ACZ1. Amendment C271 was prepared, adopted and approved pursuant to Section 20A of the Planning and Environment Act 1987.

Background to the development of Amendment C276

41. As outlined in the previous section, Amendment C172 introduced the ACZ1 into the Scheme. However, as illustrated above, Amendment C172 was years in the making and followed a series of amendments which saw the extension of interim controls. The panel report for C172 is dated June 2015 however C172 was not approved until August 2017.

42. Prior to the approval of Amendment C172 (post the panel hearing), Council officers conducted a policy neutral appraisal of the adopted version of the ACZ1 at the request of the Department and the Minister for Planning.

43. The background to this is as follows:

43.1 In October 2016, Council received a letter from DELWP stating that prior to the Minister considering Amendment C172, the Minister sought that Council undertake a review of the ACZ1 to '*reduce repetition, complexity and length*'.

43.2 The letter specifically acknowledges that Council has already adopted the amendment and is not being asked to change its decision.

43.3 The letter from DELWP states that consideration needs to be given to addressing the following matters:

- Reducing the number of sub-precincts
- Consolidating and simplifying maps for clarity
- Absorbing the sub-precinct objectives contained within the Forrest Hill Precinct into general precinct objectives
- Reducing the overall number of objectives
- Removing repetition
- Using plain English for clarity and greater certainty.

43.4 Council officers prepared an approach for the review as follows:

- Internal review of adopted ACZ1 against the letter from DELWP (this included review by Statutory and Strategic Planning)
- Drafting suggested revisions to the ACZ1
- Testing the suggested revisions to the ACZ1 on live planning applications
- Peer review of suggested revisions to the ACZ1 by a planning consultant
- Review of ACZ1 maps by (separate) planning consultants
- Peer review of suggested changes to the ACZ1 (including maps and figures) by DELWP officers

43.5 DELWP officers endorsed this approach.

44. Some of the proposed C276 changes, including providing guidance in respect of rear setbacks, were identified through this process.

45. In addition to the above, issues/changes were identified through a continued, ongoing review and monitoring of the ACZ1 planning control by Council officers post the gazettal of Amendment C172.

46. To this end, Council officers continued to maintain a detailed spreadsheet providing an internal working document to inform potential changes. As they were identified, a range of major and minor issues were captured to inform potential changes to the ACZ1.

47. Minor adjustments and anomalies have been incorporated into the proposed Amendment C276 documentation and are considered to result in policy neutral changes.

48. But, some changes are more significant.

49. One of the key observations made by Council officers, including Council's urban designer in the course of assessing development proposals in River Street noted:

    49.1 the particular site context in the northern section of River Street with the existing context recognised as consisting of predominantly low-rise residential developments of up to 3-storeys;

    49.2 developments of 5 storeys in this northern section of River Street would be significantly out of character with this physical context;

    49.3 the need for a 2-metre front setback to provide for consistency with comparable residential developments;

    49.4 the potential for upper level front and rear setbacks to be employed to better respect the site context.

50. Council officers also raised concern with:

    50.1 the absence of guidance for rear setbacks in the Forrest Hill precinct;

    50.2 the need for guidance regarding the interface measures to be applied where land is situated to the south, east or west or existing or proposed open space.

51. To consider the merit of these potential strategic changes, Council engaged the urban design and planning consultancy, Hansen Partnership Pty Ltd (**Hansen Partnership)**. **Hansen Partnership** were instrumental in preparing the Chapel reVision Structure Plan. This is the basis of the *Urban Design Advice (updated)* memo that we will now turn to.

Background and Function of the Hansen Urban Design Advice (Hansen Memo)

52. Panel Direction #1 requires Council to describe the background and function of the undated document *Urban Design Advice (updated).* A copy of the document is to be appended to Council's Part A Submission. A copy of the Urban Design Advice (updated) is attached [Appendix #2].

53. The **Hansen Memo** was a document prepared to assist Council officers in the preparation of the Amendment C276 documentation. More specifically, the document was commissioned to inform whether or not amendments were warranted to the ACZ1 in light of concerns raised by Council officers.

54. The **Hansen Memo** does not form part of the planning scheme amendment. As such, it did not officially form part of the Council's exhibited documentation. It did not appear on:

    54.1 Council's website during the exhibition period;

    54.2 the DELWP's planning scheme amendment website.

55. However, the **Hansen Memo** was:

55.1 lodged with the authorisation documentation provided to the DELWP;

55.2 on the amendment file that was made available for public viewing purposes during the exhibition;

55.3 submitted in the hard copy materials supplied to the Planning Panel.

56. As for the content of the **Hansen Memo**, it is apparent that the memo responds to specific queries in relation to the **CSAC** as follows:

56.1 Is the height in precinct FH-9 (applying to Activity Centre land in River Street, Forest Hill) appropriate or is a lower height more suitable?

56.2 Should a rear setback requirement be established for Forrest Hill and/or the Activity Centre?

56.3 Should the street wall heights be 11 or 12 metres in FH-9 and FH-10?

56.4 Should an alternative setback requirement be applied to properties to the south, east and west adjoining existing or future open space?

56.5 Whether it necessary for designated interface setback types to be provided for some specific properties.

57. In response to Council officers' queries, **the Hansen Memo** advised:

57.1 A reduction to the preferred building height for the FH-9 precinct is considered appropriate for the area north of Malcolm Street in acknowledgement of the existing topography and surrounding low rise heritage properties to the east. A three storey preferred height is to serve as a 'transitional' precinct between parts of Forrest Hill anticipated to accommodate 'significant growth' to the existing, more sensitive residential precinct;

57.2 A 2m or greater upper level setback would achieve a more desirable street based response and should be applied in the transition area between the Forrest Hill Precinct and the NRZ2 residential precinct;

57.3 A 2m ground level setback to River Street for properties at 86-96 River St and 2 Victoria Terrace is appropriate;

57.4 The *Rescode* Standard B17 envelope could be utilised for the FH-9 properties north of Malcolm Street to calculate the rear setback. In the context of the building height reduction and additional setbacks (ground or upper), the application of the Standard B17 calculation should be taken from the adjoining property boundary across the laneway;

57.5 Extending the Interface setback requirements to apply to the rear setback of properties, including in the Forrest Hill area, is appropriate;

57.6 A street wall height of 12 metres is appropriate within the FH-9 and FH-10 precincts;

57.7 Additional rear setback provision is not required adjacent to Lovers Walk and 529 Chapel Street, South Yarra;

57.8 Based on the built form and shadow modelling undertaken that appropriate access to sunlight for open spaces would be achieved with no change required.

58. On the advice of Hansen Partnership as per the **Hansen Memo**, Council officers have not proposed changes through Amendment C276 on *Item 2. Sites Adjoining open space* or *Item 5. Sub Sites adjacent to Lovers Walk and 529 Chapel Street* as reflected in the **Hansen Memo**.

59. Mr Czarny's evidence speaks to the background to the **Hansen Memo** insofar as it relates to the amendments proposed by Amendment C276. It also explores in more detail the urban design rationale for the proposed changes to the ACZ1 building on the reasons identified in the **Hansen Memo**.

60. Informed by the **Hansen Memo**, Council prepared the planning controls comprising Amendment C276. The extent to which the proposed ACZ1 aligns with the advice in the **Hansen Memo** is outlined in the expert evidence of Mr Czarny and will be further expanded upon in Council's Part B submission.

Preparation and Exhibition of the Amendment

Request to prepare the Amendment

61. At its Ordinary Meeting of 9 April 2018, it was resolved that Council:

> Applies to the Minister for Planning in accordance with section 9(3) of the Planning and Environment Act 1987 to obtain authorisation to prepare Amendment C276 which provides refinements to the planning controls for the Chapel Street Activity Centre to improve their operation.
>
> Authorise Council officers to prepare the relevant amendment documentation.
>
> Once authorisation is received, exhibit the amendment in accordance with Sections 17-19 of Planning and Environment Act 1987

Authorisation

62. By email dated 16 April 2018, Council wrote to the Minister and sought authorisation to prepare Amendment C276, following the 9 April 2018 resolution.

63. Ministerial Authorisation to prepare the Amendment was granted on 1 May 2018.

Exhibition

64. The Amendment was exhibited between 17 May until 18 June 2018. Exhibition followed the statutory process prescribed by the Act and involved:

- Direct notice to all owners within the area affected by the Amendment as well as prescribed authorities on 14 May 2018.
- A notice in the Stonnington Leader newspaper, published on 15 May 2018.
- Notice of the Preparation of an Amendment, published on Council's website and in the Government Gazette on 17 May 2018.
- Full amendment documentation on the Department of Environment, Land, Water and Planning and City of Stonnington's websites.
- A public viewing file of amendment documentation at Council's Planning Counter located at Council's offices at 311 Glenferrie Road, Malvern.

Submissions

65. At its ordinary Council meeting of 6 August 2018, Council considered the submissions received to Amendment C276.

66. Council received a total of 26 submissions in response to the exhibition of the Amendment. Of these submissions,

    66.1 15 submissions support the amendment;

    66.2 7 submissions object to the amendment;

    66.3 4 submissions do not take a position on the exhibited amendment.

67. A detailed officer response to each submission was provided at Appendix A to the Council Report of 6 August 2018. Council's response will be expanded upon as relevant in Council's Part B submission.

68. A range of issues were identified in the submissions received to Amendment C276. The key issues are identified as relating to:

    68.1 the proposed changes to the River Street built form controls;

    68.2 the proposed changes to the interface setback to the north of open space;

    68.3 the preferred maximum building height exceedance;

    68.4 key strategic development sites.

69. A late submission was received (submission 27) before the Directions Hearing.

70. The late submission has been accepted by Council officers and Council considers this 'late submission' for the purposes of section 22 of the Act.

71. Submission 27 objects to the Amendment. The submitter asserts:

    71.1 the amendment lacks cohesion having regard to Amendment C172;

    71.2 the proposed height reduction from 18 metres to 12 metres should not be supported;

    71.3 the changes to the interface requirements of the ACZ1 will compromise the ability to develop the land;

    71.4 the modification to the street setback requirement to 2 metres is inconsistent with the area.

72. In response, Council maintains the appropriateness of the exhibited ACZ1 and considers the proposed changes to the amendment are appropriate.

Resolution to appoint the Panel

73. Pursuant to section 22 of the Act, all submissions (except late submission 27) were considered by Council at its Ordinary Meeting of 6 August 2018. It was resolved that Council:

> Requests that the Minister for Planning appoint a Panel pursuant to Section 23 of the Planning and Environment Act 1987 to hear and consider submissions to proposed Amendment C276 to the Stonnington Planning Scheme.
>
> In its submission to the Panel Hearing, adopts a position in support of Amendment C276, generally in accordance with the Officer's response to the submissions as contained in this report and Attachment 1.
>
> Refers the submissions and any late submissions received prior to the Directions Hearing to the Panel appointed to consider Amendment C276.
>
> Advises the submitters to proposed Amendment C276 of Council's decision.

74. On 9 August 2018, Council formally requested the appointment of an Independent Panel to consider the submissions received to Amendment C276.

75. On 16 August 2018, Council was advised of the appointment of a Panel under section 153 of the Planning and Environment Act 1987.

76. A chronology of events is provided at Appendix #3 of this submission.

Changes to the Amendment

77. Consistent with the Council resolution, Council confirms that it has not proposed any post-exhibition changes to the Amendment.

78. However, Council has recognised, as noted in its 6 August 2018 report, that:

- a mapping anomaly exists in the Forrest Hill Precinct Map whereby a line is missing where a 4 metre preferred setback above the street wall height is to be shown.

79. It is recommended that this mapping anomaly be corrected as part of the Amendment process. DELWP advised that this matter could be dealt with as part of the panel process.

Conclusion

80. This completes the Part A submission for the Council.

Appendices

Appendix 1 – Strategic Assessment

The Amendment will support the relevant objectives of the PPF, introduced by Amendment VC148, as follows:

Planning Policy Framework (PPF)

State Planning Policy Framework

The Amendment supports and/or implements the SPPF as follows:

Clause 11 (Settlement) which requires planning to recognise the need for, and as far as practicable contribute towards: economic viability; and a high standard of urban design and amenity. The Amendment is broadly consistent with this Clause.

Clause 11.02-1S (Supply of Urban Land), which seeks to ensure that sufficient land is available to meet forecast demand. The Amendment is broadly consistent with this Clause.

Clause 11.03-1S (Activity centres) which aims to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. The Amendment responds positively to this Clause by seeking to improve the social performance and amenity of the activity centre by refining the ACZ1 as proposed.

Clause 11.03-1R (Activity centres - Metropolitan Melbourne) which aims to support the development and growth of Metropolitan Activity Centres by ensuring they are able to accommodate significant growth for a broad range of land uses. The Amendment is consistent with the metropolitan strategy by refining the ACZ1 to provide for a high level of amenity, particularly in the Forrest Hill precinct of the CSAC.

Clause 15 (Built Environment And Heritage), which states that "*Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context."* The Amendment responds directly to this state objective by seeking to modify the ACZ1 in direct response to the specific local context identified along River Street in the Forrest Hill precinct.

Clause 15.01-1S (Urban design) which seeks to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. Similarly, the Amendment seeks to amend the ACZ1 to deliver on urban form outcomes, such as increased front setbacks and upper level front setbacks to provide for an improved public realm, particularly along River Street in the Forrest Hill precinct.

Clause 15.01-1R (Urban design – Metropolitan Melbourne) which has the objective to create a distinctive and liveable city with quality design and amenity and **Clause 15.01-4R (Healthy neighbourhoods - Metropolitan Melbourne)** which aims to create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home. The Amendment maintains consistency with Plan Melbourne 2017-2050 by refining the key planning control that seeks to deliver on the urban design, amenity and healthy neighbourhood objectives contained within the metropolitan strategy.

Clause 15.01-5S (Neighbourhood character) which seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place. The Amendment specifically seeks to facilitate development that is more responsive to its context and can reinforce a sense of place and the

valued features and characteristics of this northern part of the Forrest Hill precinct. It does this by having particular regard to the pattern of local urban structure and subdivision, recognising the natural characteristics of the area and pattern of existing built form.

Clause 17 (Economic Development) which recognises that *"Planning is to provide for a strong and innovative economy, where all sectors are critical to economic prosperity, and is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential."* The Amendment is broadly consistent with this Clause.

Clause 18 (Transport) which states that "*Planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe."* The Amendment is broadly consistent with this Clause.

Clause 19.02-6S (Open space) which has the objective to establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community. A range of strategies are listed. The Amendment is consistent with this Clause by planning for open space and ensuring that land is set aside and developed in residential areas for local recreational use.

Local Planning Policy Framework

The Amendment supports and/or implements the LPPF, including the Municipal Strategic Statement, and gives effect to the following objectives and strategies as referred to below:

Clause 21.03 (Vision) sets out how the City of Stonnington will see to the realisation of its vision by achieving a sustainable balance of environmental, economic and social outcomes for the City based on the following 5 strategic themes:

- Economic Development
- Housing
- Built Environment and heritage
- Environment and open space
- Infrastructure.

The Amendment is broadly consistent with this Clause.

Clause 21.04 (Economic Development) provides the local content to support Clause 11.01 (Activity Centres), Clause 11.02-3 (Structure Planning), Clause 17 (Economic Development) and Clause 19.02-3 (Cultural Facilities) of the State Planning Policy Framework. The Amendment will support the future of the **CSAC** by refining the **ACZ1** to ensure appropriate development outcomes can be realised within the Activity Centre.

Clause 21.05 (Housing) provides the local content to support Clause 11.02-1 (Supply of urban land) and Clause 16 (Housing) of the State Planning Policy Framework. It includes objectives which seek to accommodate the projected population to 2026, to direct the majority of new housing development to Activity Centres, such as the **CSAC**, to encourage residential use in activity centres particularly upper floors of existing buildings, to maintain housing diversity and provide housing choice to meet the future needs of Stonnington's population and to support the provision of well-designed housing for specific needs groups in appropriate locations. The Amendment is consistent with this local policy maintaining the ability for the ACZ1 to see to the realisation of new housing opportunities within the **CSAC**.

Clause 21.06 (Built Environment and Heritage) provides the local content to, among other things, support Clause 15 (Built Environment and Heritage) of the State Planning Policy Framework. The Clause provides for direction on the overall urban structure, landscape character, amenity, built form character, public realm and pedestrian areas, solar access and wind protection, noise and air quality, designing for safety, universal access and social inclusion, and heritage.

The Amendment seeks to facilitate development that provides for an appropriate built form response in the CSAC. It seeks to do this by modifying particular urban form controls relating to the FH-9 and FH-10 precincts in the ACZ1. These adjustments to the ACZ1 are proposed in recognition of the specific site and urban context at the northern edge of the Forrest Hill precinct where the land has a sensitive residential, heritage protected neighbourhood interface.

Clause 21.07-1 (Open Space) has the objective *to provide an equality of public open space quality and quantity across the municipality, sufficient to meet future needs and which improves the accessibility, safety and environmental sustainability of the open space system*. One of the strategies to realise this objective is to *manage development in and beside public open space to ensure it is compatible with the values of the public space and makes a positive contribution to the accessibility, usability, safety, environmental values and amenity of the public space.* The Amendment seeks to directly respond to this Clause by rezoning Council owned land into a PPRZ and applying the existing Type 3 interface setback control in the ACZ1 to the southern boundaries of sites to the north of future open space.

Clause 21.08 Infrastructure provides the local content to support, among other things, Clause 18.01 (Integrated Transport) and Clause 18.02 (Movement Networks). The Clause sets out a range of issues, objectives and strategies relating to integrated infrastructure planning, sustainable transport, roads and parking, drainage and utility services, community infrastructure and social impact assessments. The Amendment is broadly consistent with this Clause.

MINISTERS DIRECTIONS

The Amendment is consistent with the following Ministerial Directions:

Ministerial Direction on the Form and Content of Planning Schemes [Section 7(5) of the Act]

The proposed ordinance and map changes have been prepared in accordance with the relevant requirements of the 9 April 2017 Ministerial Direction.

Ministerial Direction No. 9 – Metropolitan Planning Strategy

The Amendment is consistent with Minister's Direction 9 – Metropolitan Planning Strategy under Section 12(2) of the Act, by implementing Plan Melbourne 2017- 2050 objectives and outcomes at the municipal level:

Plan Melbourne 2017-2050
Plan Melbourne 2017-2050: Metropolitan Planning Strategy outlines principles that underpin a long term vision for Melbourne, outcomes to drive Melbourne as a competitive, liveable and sustainable city, directions which set out how these outcomes can be achieved and policies which outline how each outcome will be approached, delivered and achieved.

The Amendment is consistent with the key principles and the accompanying directions and policies, in particular:

- Outcome 2 – Melbourne provides housing choice in locations close to jobs and services.
- Outcome 4 - Melbourne is a distinctive and liveable city with quality design and amenity.
- Outcome 5 – Melbourne is a city of inclusive, vibrant and healthy neighbourhoods.

Ministerial Direction No. 11 – Strategic Assessment of Amendments

Ministerial Direction No. 11 seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces.

Compliance with Ministerial Direction 11 forms part of the Explanatory Report that was prepared for the amendment. This assessment is adopted for the purpose of Council's submissions.

PRACTICE AND ADVISORY NOTES

The Amendment is also considered to be consistent with the following Practice and Advisory Notes:

PPN46 - Strategic Assessment Guidelines, August 2018
Minister's Direction No. 11 Strategic Assessment of Amendments requires a planning authority to evaluate and discuss how an amendment addresses a number of strategic considerations. This planning practice note explains what should be considered as part of the direction. The Amendment is consistent with this practice note consistent with its compliance with the Ministerial Direction No. 11.

PPN56: Activity Centre Zone, June 2015

PPN56 provides guidance on how to apply the ACZ and identifies the Activity Centre Zone (ACZ) is the preferred tool to guide and facilitate the use and development of land in activity centres. Council demonstrated via the Amendment C172 process the ACZ1's consistency with PPN56. It is submitted that the redrafted ACZ1 maintains its consistency with the practice note.

PPN60 – Height and setback controls for activity centres, September 2018

This practice note provides guidance on the preferred approach to the application of height and setback controls for activity centres. Amendment C276 is consistent with PPN60 as it recognises that change in activity centres is anticipated and encouraged by state planning policy but needs to be managed carefully. The Amendment is consistent with the PPN60 as it seeks to facilitate good design outcomes by proposing modified height and setback provisions within the amended ACZ1.

Appendix 2 - "Urban Design Advice (updated)", as prepared by Hansen Partnership Pty Ltd for Council

hansen

Urban Design Advice (updated)

Re:	**Amendment C276**

Further to our recent conversation please find below our responses to queries in relation to the list of 'issues' on the incorporated Activity Centre Zone (ACZ) for your information and consideration.

1. *Guidance is not provided for rear setbacks*

Issue:

The adopted/approved versions of the Schedule still does not provide a requirement regarding rear setbacks. Determine if an appropriate rear setback requirement should be established for Forrest Hill and/or the Activity Centre.

Discussion:

To be clear S15 or Diagram 8 in the ACZ (adopted version) was established as a basis for ensuring suitable separation between habitable room windows and balconies in rising form within the Activity Centre. In the absence of any definitive measure relating to apartment separation, this approach sought to devise greater setbacks from boundary of 4.5m up to level 8 and up to 10m above. This was drawn from the recent Moreland Apartment Code and is only applicable to the side setbacks. As set out in Craig's evidence report (pages 30-31), there are instances where this control should be relaxed where there is support for attached 'party wall construction' around the Jam Factory for example. With this background we note:

- This measure should only apply where habitable room windows and balconies are a factor,
- This measure is applicable across the entirety of the Activity Centre, where there are no other site-specific setback requirements as set out in the Schedule,
- Matters of amenity and development equity are equally important to side and rear boundaries,

- These measures are applicable within Forest Hill, however I note that side and rear setbacks of 3m and 6m are specified in FH-2, FH-3 and FH-8 (which vary the common approach),
- It makes sense for a more uniform approach to be applied within Forest Hill, with taller forms rise above the podium. We prefer Forest Hill side and rear setbacks to be equalized as per Diagram 8.

2. Sites adjoining open space

Issue:

Determine if an alternative setback requirement/provision should be applied to properties east, west, south adjoining existing/future open space. If yes, apply appropriate interface setbacks in recommendation.

Discussion:

Overview of the existing overshadowing controls in the State Policy

- The Urban Design Guidelines for Victoria (2017) *Objectives 5.1.3 - To ensure buildings in activity centres provide equitable access to daylight and sunlight.* The Guidelines made reference to daylight and winter sun access to key public spaces. This is generally consistent with the Overshadowing Guidelines included in ACZ1 (gazetted version, page 10).

Overview of the existing overshadowing controls in Stonnington Planning Scheme

- *Clause 21.06-6: Solar access and wind protection*
  - *To ensure new development maintains appropriate levels of solar access and wind protection to existing and proposed footpaths and public spaces and surrounding developments.*
  - *Encourage new buildings to minimise overshadowing of existing and proposed public open space.*
- *Clause 37.08: Activity Centre Zone (ACZ 1) - Chapel Street*
  - *Buildings and works should minimise overshadowing of existing and potential future open space, village squares and urban plazas as shown on the Precinct Maps at the winter solstice.*
  - *Note: The overshadowing requirement and guidelines apply even if the buildings and works replace an existing building that already overshadows existing footpaths, or existing or potential future public open space, village squares, urban plazas or other public spaces.*
- We note the Panel's support for recognising the importance of daylight access to open space for

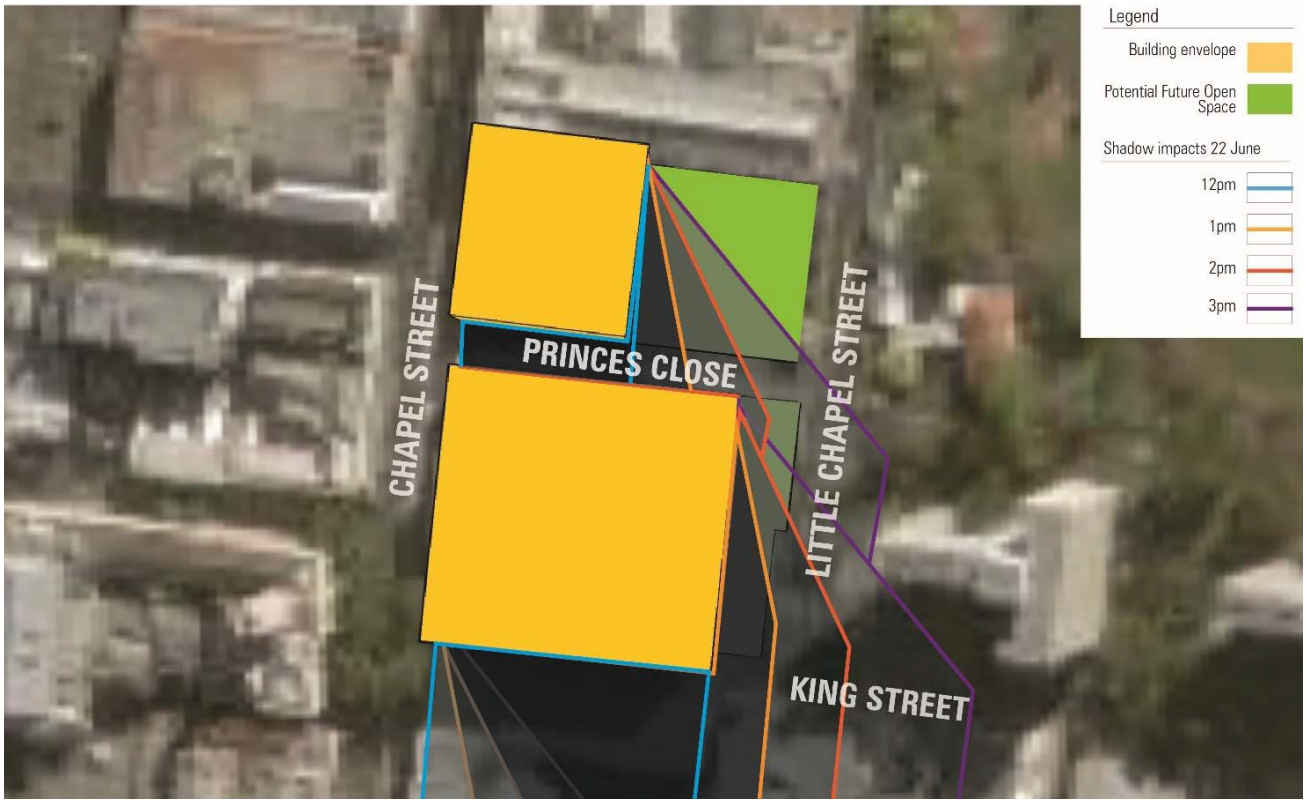
Chapel Street, measured at the winter solstice (June). Whilst future development envelope to north of open space will continue to be guided by Interface Type 3 as found in the ACZ (Adopted version), it is noted that this section represents solar angle taken at 12pm (22 June). When a similar measure is applied to sites located to east and west of open space, development scale of up to 8 storey (27m) result in minimal, or no overshadowing of open space.

- We have selected 4 existing and future open space to determine the overshadowing impact generated by built form parameters found in ACZ1 to ascertain whether additional provision is required for sites to east and west of open space.
- Our review of the built form and shadow modelling concludes that:
  - The proposed 8 storey development scale (27m) built to boundaries with no upper level setback is likely to retain sunlight to at least half of areas identified as open space between 11.00-14.00 on 22 June.
  - Introduction of 3-4m upper level setbacks above 3 storey (consistent to what can be anticipated along laneways/ side streets) does not reduce overshadowing impact onto open space significantly.
  - In a PAC context, where future growth and densification is encouraged, we consider protection of sunlight to majority of open space in winter between 11.00 to 14.00 (which includes the most important lunchtime period) to be an acceptable outcome.

Existing 4 storey development to east of Grattan Gardens

Test Case 01: Future open space at the junction of Princes Close and Little Chapel Street

Building Heights (ACZ1)	When overshadow is measured	Time of day	Comment
West of future open space: 27m (8 storey) No Setback/ No interface type	Winter solstice (22 June)	09.00	There is no, or minimal overshadowing of future open space between 09.00 to 13.00 (4 hours) in winter.
		11.00	
		12.00	
		13.00	
		14.00	Overshadowing of future open space is more noticeable after 14.00 and greater than half of the future open space will be overshadowed at 15.00. Introduction of upper level setback (3-4m) above 3 storey has little improvement to overshadowing impact at 15.00.
		15.00	



Indicative shadow diagrams of preferred maximum building envelope on 22 June, between 12.00 to 15.00

Test Case 02: Grattan Gardens and Cato Street car park

Building Heights (ACZ1)	When overshadow is measured	Time of day	Comment
East of Grattan Gardens/ West of Cato Street car park: 12m (3 storey) to 18m (5 storey) & No Setback/ No interface type West of Grattan Gardens/ Grattan Street: 18m (5 storey) & Interface Type 2 East of Cato Street: 27m (8 storey) & Interface type 2	Winter solstice (22 June)	09.00 11.00 12.00	Most of the southern portion of Grattan Gardens will be overshadowed between 09.00-12.00, noting existing mid-rise buildings (up to 5 storey) east of Grattan Gardens at 23A and 25C Izzett Street. The Cato Street car park open space will likely be in shadow at 9.00am for a brief period, retaining daylight to most area after 10am.
		13.00 14.00 15.00	Between 12.00 to 14.00, there is minimal overshadowing impact onto Grattan Gardens and Cato Street car park. Between 14.00 to 15.00, there is overshadowing impact of a small portion of south western part of Cato Street parking,

Indicative shadow diagrams of preferred maximum building envelope on 22 June, between 12.00 to 15.00

3. *FH-9 Discrepancy*

Background:

Forrest Hill Built Form Requirements map (approved version) shows FH9 as Type 1, which has a preferred max street wall height of 12m. However, Preferred Maximum Street wall height shows the preferred max street wall height as 11m.

Discussion:

- Vertical zoning is a key objective of the Chapel Revision Structure Plan, importantly along main roads such as Toorak Road. It is imperative that the built form recommendation facilitate this land use ambition.
- There is a 0.6m discrepancy between a 3 storey street wall (considering building adaptability) and street wall height recommended by independent urban design expert.
- A 0.6m-1.0m increase in street wall heights along the eastern side of River Street is unlikely to result in unreasonable amenity impact and is not likely to be visually noticeable considering the preferred development scales recommended for FH-9 (5 storeys).
- We consider a consistent 12m street wall, or interface condition Type 1 is supportable for FH-9.

4. *Sub Precinct FH-10 Street Wall Heights*

Background:

Has a minimum streetwall height of 12 m but no maximum. It could be read that the streetwall height could be anything above 12m?

Discussion:

- This part of Toorak Road sits outside the Forrest Hill core 'growth area', with a preferred development scale up to 6 storey (18m).
- We consider a 12m street wall (3 storey) is a commensurate measure to existing 2 storey street wall that define this part of Toorak Road. There is also logic in applying a similar built form profile recommended for Toorak Road (west) to establish a consistent streetscape presentation.

- A 12m (3 storey) street wall is a proportionate urban form response for preferred 6 storey development scale. It is also considered a contextually responsive urban design proposition, where existing streetscape along this part of Toorak Road is dominated by 2-3 storey street walls.
- Future built form and its street wall presentation will continue to be guided by Overshadowing impact of footpath on the south side of Toorak Road on 22 September between 10am to 3pm. Noting the width of Toorak Road (20m), development scale of up to 18m (up to 5 storey) will not

result in overshadowing of southern footpath.

Existing 2 storey street wall and existing 2 storey buildings along Toorak Road (north side)

Existing tall 2 storey street wall along Toorak Road (south side)

5. *Sub Sites adjacent to Lovers Walk and 529 Chapel Street do not have designated Interface Setback types*

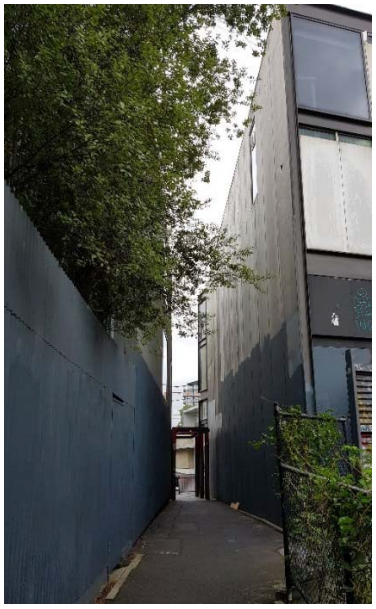
Background:

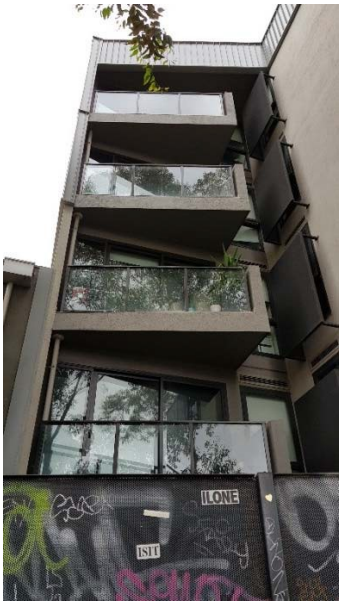
These properties sit within TRC-2, and do not have an Interface Setback type applied to them.

Discussion:

- 2-3 properties within the Activity Centre boundary define the northern and southern boundary of Lovers Walk (within TRC-2), occupied by 3 to 5 storey contemporary mixed use forms with primary address to Chapel Street (east) or Bond Street (north).

- In absence of sensitive heritage, or residential sensitivities and noting a more moderated level of change (preferred 5 storey) anticipated within this part of South Yarra, we do not think additional provision is required for rear setback to these properties.





Existing interface condition along Lovers Walk

6. *FH-9 Height Consideration*

Background:

The 5 storey preferred building height (with no prescribed front setbacks at upper levels) for sub-precinct FH-9 may not be appropriate within the context, and that a lower height may be more suitable. Is this something you can provide comment/recommendations on?

Discussion:

- Strategically, FH-9 serves as a 'transitional' precinct between parts of Forrest Hill anticipated to accommodate 'significant growth' to existing (and more sensitive) residential precinct. We note that built form recommendation found in Chapel Revision is underpinned by broad brush precinct approach, appreciating the magnitude of the Centre. Whilst the designated level of change for FH-9 is of a more moderate nature (preferred 5 storey), the urban form morphology has generally been underpinned by capacity and demand analysis provided by SGS Economics. Possible modification of preferred envelope in this precinct should be espoused in continued facilitation of redevelopment, albeit of a more modest nature.
- For the purpose of this review, we have undertaken a closer inspection of River Street condition as follows:
  - Remnant light industrial warehouse/ non-residential forms and recent mid-rise development (up to 4 storey) are commonly found south of Malcolm Street. Further east across the laneway are fine grain allotments in Neighbourhood Residential Zone (NRZ2), but not within any Heritage Overlay.
  - More fine grain residential allotments and contemporary low rise residential development (up to 3 storey) with ground level setback are more prevalent north of Malcolm Street, particularly between 86 to 96 River Street and 2 Victoria Terrace. Further east across the laneway are fine grain allotments in Neighbourhood Residential Zone (NRZ2) and within Heritage Overlay (HO149) with a greater level of sensitivity noting limited level of anticipated change in the long term.
  - Existing mid rise (4-5 storey) medium density apartment with notable landscape setback define the northern end of River Street (west side), representing a changing streetscape character compared to the more mixed use, high density character to the south. This shift in streetscape character is further accentuated by topographical shift along River Street as it rises towards Alexandra Avenue.

- Our assessment of the 'micro context' determines that consideration for 3 storey development scale (preferred measure) can be supported north of Malcolm Street. Noting existing topography, 3 storey forms perched on higher ground are likely to have a comparable effect to 5 storey forms further south. A lower development scale (3 storey) adjacent to low rise heritage residential properties can successfully transition without having to adopt repetitive setback.

Existing condition along River Street, north of Malcolm Street (looking north)

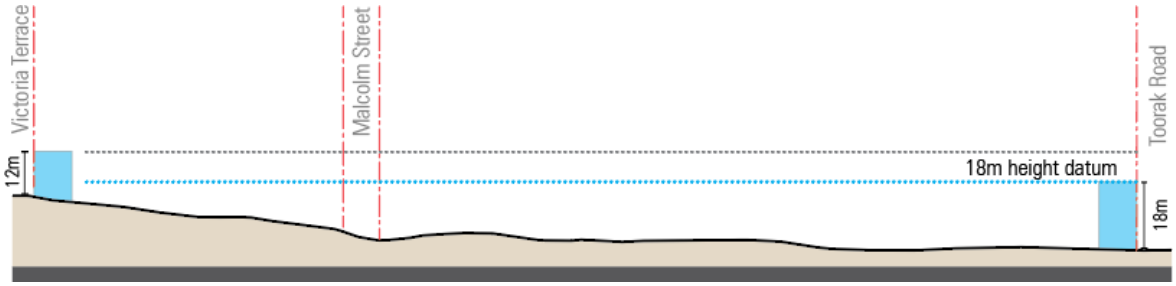
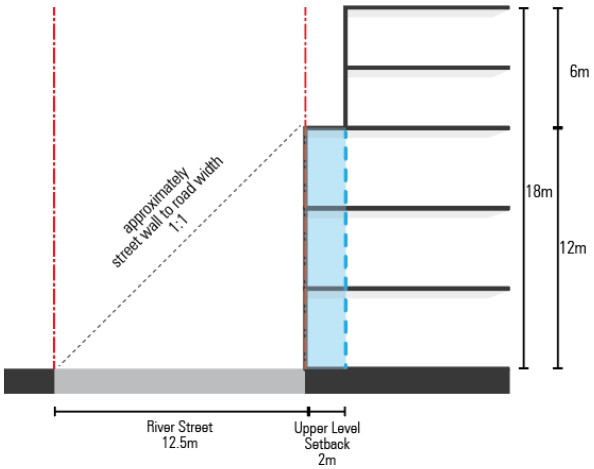


Diagram demonstrating consideration for topography in determining the preferred development scale along River Street

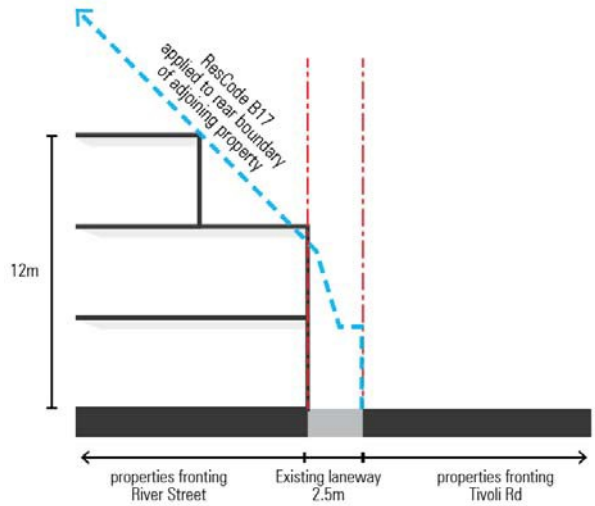
- Where existing buildings are not built to boundaries, there is merit in retaining ground level setback (2m) from River Street frontage on 86- 96 River Street and 2 Victoria Terrace in transition to residential setting further north. A lower development scale (3 storey), paired with ground level setback for landscaping opportunity is a supportable urban design proposition befitting a more open streetscape character for this part of River Street (refer to recommended new interface Type A diagram overleaf).

- Introducing a 3 storey (12m) street wall definition along a narrow street (12.5m), in a 'transition' area between Forrest Hill and residential precinct (NRZ2) is an acceptable response to mitigate possible overwhelming sense of enclosure. Our observation of other existing contemporary 3-4 storey forms have demonstrated how upper level setbacks (2m or greater) with private open space opportunities can achieve a more desirable street- based response. We consider a 12m street wall (refer to Item 3 above) and a preferred maximum building height of 5 storey is an appropriate response on non - residential sites on the east side of River Street (refer to recommended new interface Type B diagram).
- To the rear, along more sensitive residential interface, recent developments fronting River Street have typically adopted ResCode B17 envelope. We consider rear interface treatment akin to a ResCode B17 standard is an acceptable measure to manage the profile of new development to avoid adverse impact. Noting consideration of building height reduction and additional setbacks (ground, or upper), we recommend application of ResCode B17 from adjoining property boundary across the laneway (refer to recommended new interface Type C diagram).
- A summary of recommended updates is graphically represented overleaf.

Recommended new interface type A along River Street (north of Malcolm Street, from 86 to 96 River Street and 2 Victoria Terrace)



Recommended new interface type B along River Street (south of Malcolm Street)



Recommended new interface type C along rear interface for properties north of Malcolm Street where 3 storey development scale is preferred

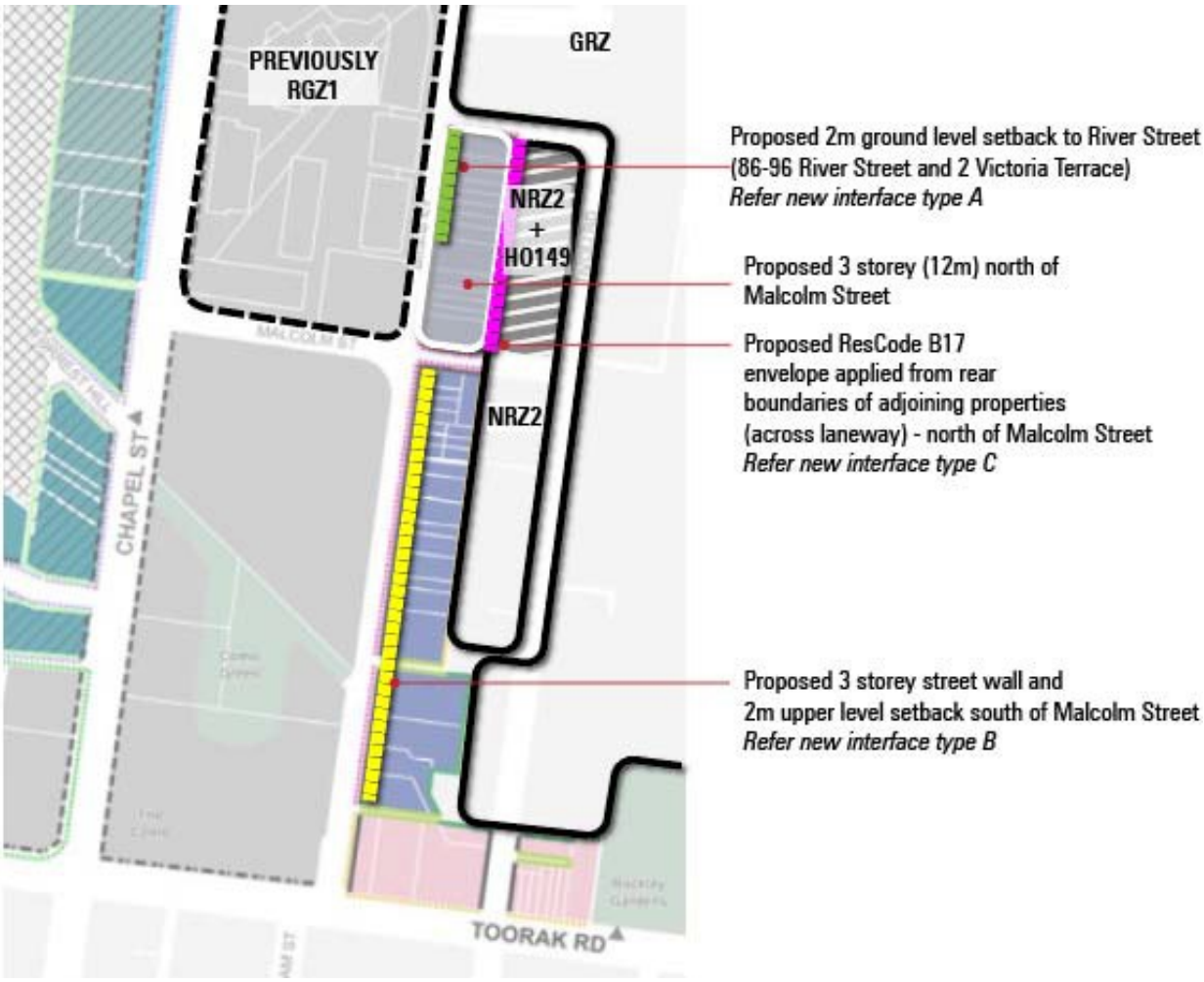


Diagram demonstrating recommended updates

Yours faithfully

Hansen Partnership Pty Ltd

Gerhana Waty | **Associate**

Appendix 3 – Chronology of events

Date	Event
From October 2016	Council receives letter from the Minister for Planning seeking a review of the proposed Amendment C172 planning changes. Council officers commence appraisal process and identification of potential changes to be incorporated into a future Amendment C271 and Amendment C276.
10 August 2017	Amendment C172 is gazetted
30 November 2017	Amendment C271 is gazetted
7 December 2017	Officers seek advice from Hansen Partnership in respect of list of concerns with the gazetted Activity Centre Zone 1 (ACZ1)
9 March 2018	Officers receive final Urban Design Advice (undated) from Hansen partnership (Hansen memo)
March 2018	Officers commence the preparation of Amendment C276 documentation
9 April 2018	Council resolution passed to request the Minister for Planning to authorise the preparation of the Amendment
16 April 2018	Council requests the Minister's authorisation to prepare the Amendment
1 May 2018	Ministerial authorisation is granted to prepare and exhibit the Amendment
17 May-18 June 2018	Amendment C276 is on public exhibition
6 August 2018	Council resolution passed to request the appointment of a Panel
9 August 2018	Council requests the appointment of a Planning Panel to consider Amendment C276
16 August 2018	Council advised of appointment of a Planning Panel to consider Amendment C276
30 August 2018	Council receives a late submission (submission 27)
4 September 2018	Directions Hearing held for Amendment C276