



Amendment C276 to the Stonnington Planning Scheme – 80-82 River Street

Expert Urban Design Evidence

Mark Sheppard
October 2018

Instructed by
Rigby Cooke Lawyers
On behalf of
Submitter 20



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1.0 Introduction

- [1] I am a Principal of town planning and urban design consultants David Lock Associates (Australia) Pty Ltd. I hold qualifications in architecture and urban design. I have over twenty-five years' professional experience and have practised exclusively in the field of urban design since 1993. Further details of my qualifications and experience are outlined in Appendix A.
- [2] In 2015, I gave evidence on behalf of the City of Stonnington at the Panel hearing for Amendment C172 to the Stonnington Planning Scheme, which sought to apply the Activity Centre Zone Schedule 1 (ACZ1) to the Chapel Street Activity Centre. I concluded that the proposed ACZ1 schedule was soundly based and that the preferred maximum height of 18m (5 storeys) for Forrest Hill Precinct 9 (FH-9) was appropriate. However, I recommended the introduction of a preferred maximum street wall height of 11m (3 storeys), which was adopted by the Panel. The 5 storey preferred maximum height and 11m preferred maximum street wall height were included in the ACZ schedule that has since been gazetted.
- [3] In September 2018, I was requested by Rigby Cooke Lawyers, on behalf of Submitter 20, to provide an independent urban design assessment of proposed Amendment C276 to the Stonnington Planning Scheme as it relates to 80-82 River Street, South Yarra.
- [4] Amendment C276 seeks to make a number of 'policy neutral' changes to improve the clarity of ACZ1. It also seeks to change a number of height and setback requirements in sub-precinct FH-9. As 80-82 River Street falls within this sub-precinct, these changes are the focus of this evidence.
- [5] I recently provided evidence to VCAT on behalf of the applicant for a 5-storey proposal at 94-96 River Street. VCAT directed that a permit be issued for this proposal.
- [6] I have organised my assessment in the following sections:
- Context
 - Building height
 - Rear interface

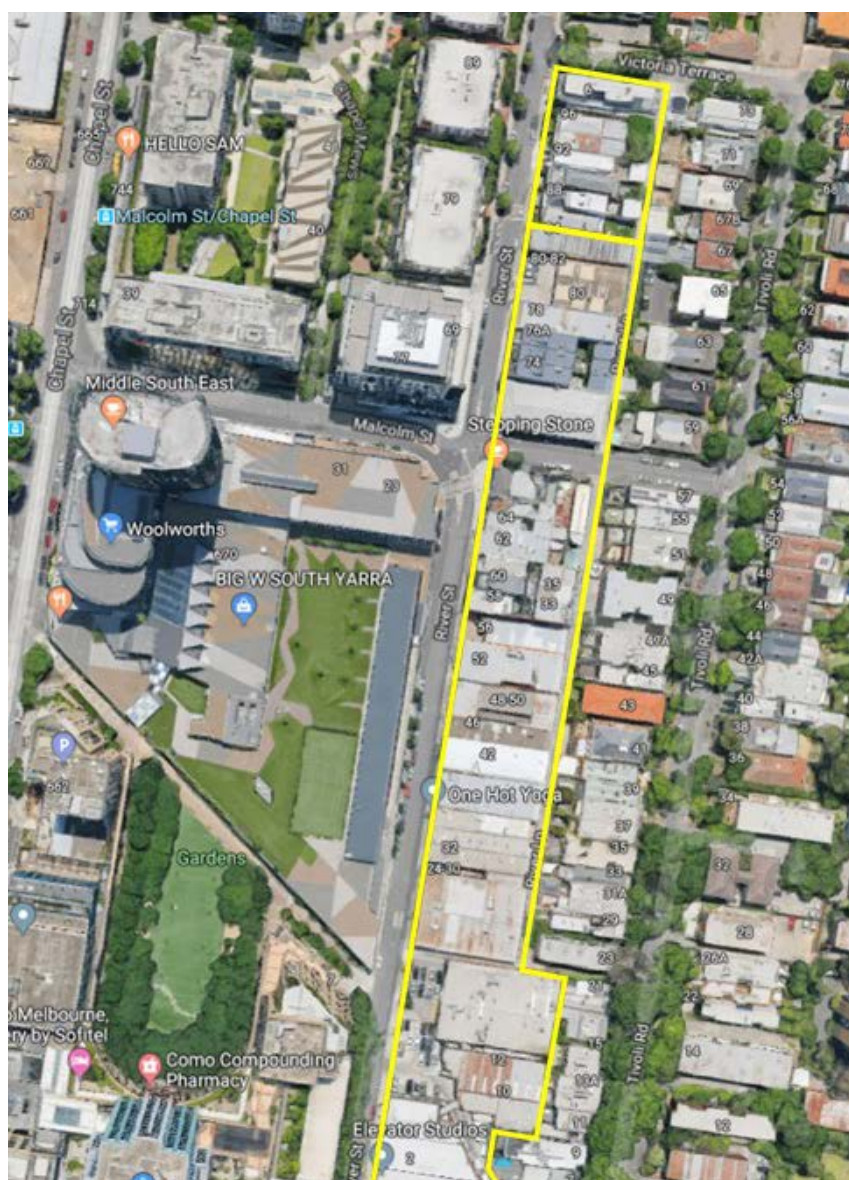
2.0 Planning context

- [7] This section provides a summary of the planning context of sub-precinct FH-9.
- [8] The area of land subject to this Amendment is known as the Chapel Street Activity Centre and includes the Prahran/ South Yarra Major Activity Centre (MAC) and the Toorak Road and Windsor Neighbourhood Centres.
- [9] Sub-precinct FH-9 is located within the 'Forrest Hill Precinct' of the Prahran/ South Yarra Major Activity Centre and is well serviced by a range of public transport options.
- [10] The strategic policy context for the Amendment land is set at a State level through State planning policies and Plan Melbourne, and at a local level by the Stonnington Planning Scheme.
- [11] Plan Melbourne encourages the redevelopment of underutilised land close to jobs, services and public infrastructure, to provide new housing, jobs and services.
- [12] The Planning Policy Framework supports development at higher densities in and around activity centres to support the growth and diversification of activity centres. Policy also seeks outcomes that contribute positively to the existing or preferred local urban character.
- [13] The MSS supports development and land uses that contribute to the self-sufficiency of activity centres, by ensuring that medium and higher density development is located within substantial change areas. Clause 21.05 defines Principal Activity Centres such as Prahran/ South Yarra as substantial change areas. The MSS also seeks to ensure a high standard of urban design outcomes (refer to Clauses 21.03, 21.04, 21.05 and 21.06).
- [14] In other words, the planning policy framework clearly seeks the creation of a new, higher density character within the Prahran/ South Yarra MAC to accommodate growth, given its strategic location and nomination as a major activity centre.
- [15] The Chapel Street MAC has been the subject of a significant amount of strategic planning and urban design work, which culminated in its rezoning to the ACZ. This began with the Chapel Vision Structure Plan (2007-2031), which led to DDO7. Chapel Vision was superseded by the Chapel Street ReVision Structure Plan (2013-2031) (the Structure Plan).
- [16] The Structure Plan is a reference document to the Stonnington Planning Scheme and was the basis for Amendment C172 to the Planning Scheme, and the provisions within the ACZ schedule (ACZ1). The ACZ provisions were tested through an independent Planning Panel process, before being formally gazetted into the Planning Scheme on 10 August 2017.

- [17] The preferred future character for the Prahran/ South Yarra MAC is clearly defined by the provisions of the ACZ schedule. Notably, it seeks substantial change to accommodate growth, rather than the preservation of the existing character, consistent with the planning policy framework.
- [18] The purposes of the ACZ include:
- *To encourage a mixture of uses and the intensive development of the activity centre ...*
 - *To deliver a diversity of housing at higher densities to make optimum use of the facilities and services.*
 - *To facilitate use and development in accordance with the Development Framework for the activity centre.*
- [19] ACZ1 places the site within Forrest Hill Precinct 9 (FH-9). It contains general and precinct-specific design objectives, and nominates the following built form provisions for FH-9:
- 18m (5 storey) preferred maximum height;
 - 11m preferred maximum street wall height;
 - Zero front setback; and
 - Rear setbacks that ensure development does not encroach beyond a 45° angled plane above a height of 12m on the rear boundary.
- [20] In summary, the preferred future character for this part of South Yarra has been the subject of a significant amount of strategic thinking and independent testing. The provisions of ACZ1 define the built form aspirations for this part of South Yarra. ACZ1 is consistent with State and local planning policy, which seeks substantial change in this part of South Yarra to accommodate increased density.

3.0 Building height

- [21] Sub-precinct FH-9 has two distinct character areas. The majority of FH-9, as far north as 84 River Street, is characterised by 2-3 storey light industrial/commercial buildings. This area also contains a 4-storey residential development at 74-76a River Street and a recent approval for a 7-storey building at 72 River Street. It lies opposite tall buildings on the west side of River Street, including the Vogue Apartments which reach a height of 7 storeys at this interface, and the 16-storey development at 77 River Street.



Aerial photo identifying two distinct character areas within FH-9

- [22] North of 84 River Street is characterised by 1-3 storey residential buildings. This area contains a 3-storey residential development at 2-6 Victoria Terrace, the recent approval for a 5 storey apartment development at 94-96 River Street and a 2-3 storey dwelling at 92 River Street. The remaining three properties (at 86-90 River Street) contain original dwellings, two of which have rear 2 storey extensions and one of which is the subject of a current planning application for a 5-storey development. Therefore, the northern part of FH-9 does not have a consistent character. It sits opposite 3½-storey apartment buildings.



Mixed character of River Street north of Malcolm Street, including (from left to right) contemporary 2-3 storey dwelling at 92 River Street, three remnant dwellings at 86-90 River Street, 2-3 storey commercial/ light industrial buildings at 78-84 River Street and 4-storey apartment development at 74-76a River Street



West side of River Street, including 16-storey building at 77 River Street (opposite 72-78 River Street) and 3½-storey apartment buildings further north

[23] As it relates to 80-82 River Street, the Amendment proposes that the built form provisions for FH-9 in ACZ1 be modified to:

- Reduce the preferred maximum height from 18m (5 storeys) to 12m (3 storeys); and
- Increase the preferred maximum street wall height from 11m to 12m ('Type 2' interface setback).

[24] The Council report and Hansen Partnership memo in relation to the proposed Amendment identify the following reasons for the changes in Sub-Precinct FH-9, which I interpret as relating to the lowering of the preferred maximum height north of Malcolm Street:

1. The distinctly different character at the northern end of the Sub-Precinct ("*fine grain residential allotments and contemporary lower rise residential development ...*" compared with "*remnant light industrial warehouse/ non-residential forms and recent mid-rise development (up to 4 storey)*" [sic.]).
2. The higher natural ground level at the northern end of the Sub-Precinct.
3. The heritage values of the adjacent residential area.

4. The distinctly different character on the west side of River Street opposite the northern end of the Sub-Precinct (*“mid rise (4-5 storey) medium density apartment ... compared to the more mixed use, high density character to the south ...”*)

- [25] Notably, this analysis does not refer to the strategic planning direction for the area (as contained within the MSS), which is to accommodate substantial change (being part of a principal activity centre). I do not consider that 3 storeys represents substantial change in an area with existing buildings ranging from 1 to 4 storeys.
- [26] The analysis also ignores the emerging character north of Malcolm Street, which contains an existing 4-storey development and approvals for 5- and 7-storey buildings.
- [27] Hansen Partnership correctly notes that the change in character within the Sub-Precinct occurs between 84 and 86 River Street. Therefore, it is unclear why the Amendment seeks to reduce the preferred maximum height at 72-84 River Street. Notably, the part of River Street between Malcolm Street and 84 River Street contains the existing 4-storey development and 7-storey approval.



Change in character at 84-86 River Street

- [28] Although the adjacency to HO149 extends as far south as Malcolm Street, this has not been seen as a reason to refuse applications for 4, 5 and 7-storey development within FH-9. I assume that this is because the heritage values have been appropriately protected through rear setbacks.
- [29] Similarly, the topography has not been seen as a reason to refuse developments higher than 3 storeys. Notably, the properties at the southern end of the area north of Malcolm Street are substantially lower than the hilltop at Victoria Terrace (the northern end of FH-9).
- [30] Therefore, I do not consider the reasons put forward by Council as representing a sound basis for the proposed reduction in preferred maximum height, particularly at the southern end of the area north of Malcolm Street (72-84 River Street).
- [31] I note that the height and massing guidelines in the ACZ include *“The preferred maximum building height may not be achievable on every site, particularly smaller sites and/or constrained sites”*. This means that it is not necessary for every property in FH-9 to be suitable for 5-storey development for this to be the preferred maximum height. However, I note that all the properties within sub-precinct FH-9 north of Malcolm Street (which are proposed to have reduced height) have the same depth as most of those in the southern block of sub-precinct FH-9. They also have no more sensitive interfaces than most properties in this sub-precinct from an amenity perspective. Therefore, I do not consider that the land immediately north of Malcolm Street (including 80-82 River Street) has unusually greater constraints warranting a height reduction, as proposed by the Amendment.
- [32] Notably, ACZ1 has an objective *“To avoid the underdevelopment of land in the Activity Centre”*. This reinforces the importance of not needlessly constraining development potential within the activity centre.
- [33] I have undertaken an assessment of the proposed height reduction against the relevant ACZ1 precinct specific objectives and guidelines, as follows:

Precinct objectives

- *To achieve a vibrant, higher density, true mixed use precinct.*
- *To encourage appropriate scale, setbacks, built form, materials, articulation, landscaping and integration with the surrounding built form.*
- *To develop a predominantly higher density precinct where new buildings are of a pedestrian friendly scale and design at ground*

floor, with upper levels setback where necessary so as to minimise off site amenity impacts.

- *To ensure new development contributes to the preferred character and land use function of each Sub-Precinct.*
- *To preserve sunlight penetration to the street and avoid loss of sky views.*

- [34] I consider that the proposed reduction in the preferred maximum height to 3 storeys will detract from the area's ability to achieve the higher density sought in the precinct objectives. The appropriate built form scale is that which optimises density while providing a transition (see below), maintaining an appropriate relationship with the street and avoiding unreasonable impacts on the neighbouring residential properties.
- [35] I consider that the proposed 3m upper level setback is sufficient to preserve sunlight penetration into and sky views from the street, and to provide a pedestrian scale, without the need to reduce height. Further, there is no reason why a different public realm amenity outcome is needed north and south of Malcom Street.
- [36] I also consider that the proposed upper level setback is sufficient to mediate the relationship between the existing, generally low-rise character, and new 5-storey buildings, in the context of policy seeking substantial change.
- [37] I am satisfied that the proposed increase in street wall height will not adversely affect these outcomes.
- [38] Finally, I consider that unreasonable impacts on adjoining residential amenity can be avoided through rear setbacks, without the need for a height reduction, as illustrated by the approvals in the area and consistent with the 10th precinct objective.

Precinct guidelines for Sub-Precinct FH-9

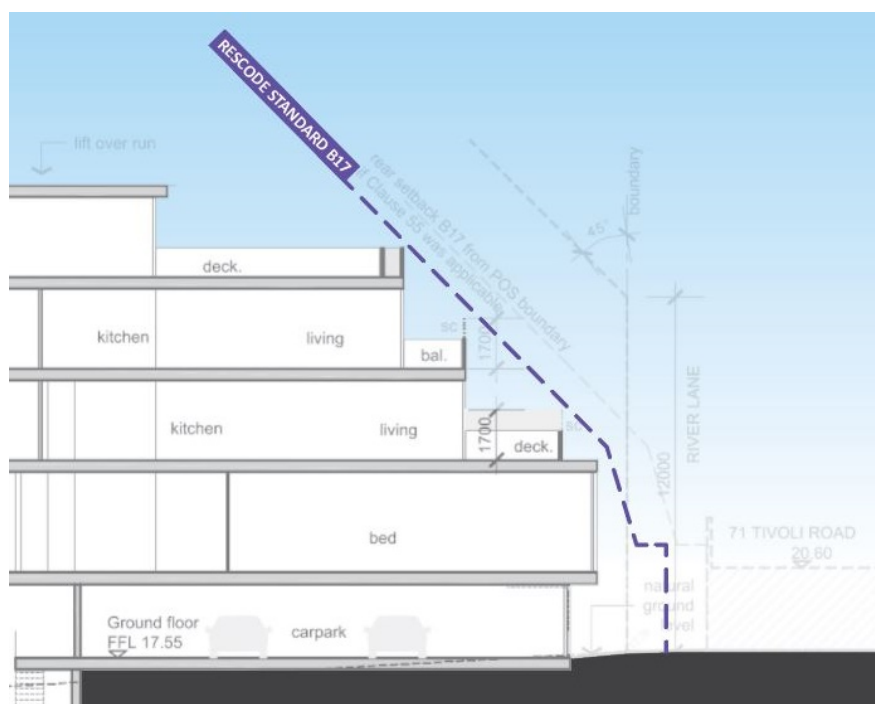
- *Provide a transition in built form between the higher built forms to the west and the lower built forms to the east.*
 - *Provide a sensitive response to the adjoining lower scale residential area.*
- [39] A sensitive built form transition to the neighbouring residential properties is also sought by the ACZ's height and massing guidelines, due to their heritage values.

- [40] The maximum height 'regime' of the ACZ defines the built form transition sought in this area, with the maximum height of 5 storeys mediating between the existing height of 3½-16 storeys on the west side of River Street and the 1-3 storey scale of development in Tivoli Road.
- [41] The proposal to reduce the preferred maximum height north of Malcolm Street to 3 storeys will not allow for an appropriate transition from the 3½-16 storeys on the west side of River Street to the heritage area in the east on Tivoli Road.
- [42] Hansen Partnership notes that the buildings on the west side of River Street opposite the northern end of FH-9 are lower than those to the south. However, this is not a new condition.
- [43] The appropriate transition of height in this section of the precinct has already been considered in the C172 Panel Report and in VCAT decisions.
- [44] The Panel Report for Amendment C172 states:
- *The Panel notes that Sub-precinct FH-9 abuts the rear of residential properties in Tivoli Road to the east. For this reason the Panel accepts the preferred maximum building height of 18 metres (5 storeys). The Panel accepts that on some larger sites, greater height may be achieved on the River Street frontage to the site, but that is best addressed at the permit stage, where site and context specific factors can be taken into account.*
- [45] The VCAT decision in relation to a proposed 5-storey development at 94-96 River Street states:
- *I accept the submissions made that the proposed development at five storeys in height, will fail to transition between the four storey building on the opposite side of River Street, and the two storey buildings to the east of the review site. However, I do not read the ACZ1 as requiring the transition to be assessed in this way. Rather, a five storey height limit has been nominated as appropriate to achieve a transition between the range of taller built forms on the western side of River Street, which include buildings at 16 and 8 storeys respectively, and the lower scale development to the east. I accept that the transition between five storeys on the review site and two storeys to the east is a fairly robust and abrupt transition, one that will cause these taller buildings to be highly visible from surrounding land. However, the ACZ1 encourages and facilitates a robust transition in heights on many locations throughout the activity centre, and for the reasons I set out below, I am satisfied that this type of transition is a thoroughly considered approach in this very location.*

- [46] The Panel Report and VCAT decision above highlight that the current preferred maximum height for this section of FH-9 is well considered and appropriate, in the context of the aspiration for a transition in height.
- [47] As noted above, I consider that the precinct guideline seeking a sensitive response to the adjoining residential area is addressed by the rear setback requirements.
- [48] In summary, I do not consider the proposed reduction in the preferred maximum height of this section of FH-9 to be necessary to achieve the precinct objectives or precinct guidelines. Nor do I consider it to be justified by the existing character, topography or adjacent heritage values.

4.0 Rear interface

- [49] The rear of the properties in sub-precinct FH-9 are separated by a narrow lane from the rear gardens of low-rise residential properties fronting Tivoli Road. The Tivoli Road properties are mostly zoned NRZ and, north of Malcom Street, affected by HO149. This is a sensitive interface, although I note that many of the Tivoli Road properties north of Malcolm Street have garages adjacent to the lane.
- [50] ACZ1 currently requires rear setbacks to ensure development does not encroach beyond a 45° angled plane above a height of 12m on the rear boundary.
- [51] The Amendment proposes to change the rear set back provision for FH-9 north of Malcolm Street to ResCode Standard B17.
- [52] I consider this to be an appropriate amendment given the sensitivity of this interface.
- [53] The approved development for 94-96 River Street demonstrates that a 5-storey building can appropriately transition to, and protect the amenity of the neighbouring properties to the east, by adopting ResCode Standard B17 as a guide (see figure below).



Extract of Section CC with ResCode Standard B17 set on the lane centreline for the approval at 94-96 River Street (Source: Buckerfield Architects with emphasis added)

- [54] I note that in 'Urban Design Advice (updated)', Council's Urban Design advisor supports the "... *application of ResCode B17 from adjoining property boundary across the laneway*". I agree that this is an appropriate way to use the Standard (as a guide), given that its objective is to protect the amenity of the neighbouring properties, not the lane. (Indeed, the relevant decision guidelines refer to consideration of any intervening lane.)
- [55] In summary, I consider the amendment of the rear interface provision for part of the FH-9 sub-precinct to be appropriate. However, I recommend that consideration be given to specifying that the Standard B17 envelope be set on the residential boundary.

5.0 Conclusion

- [56] In conclusion, I do not consider that there is a sound basis for lowering the preferred maximum height in sub-precinct FH-9 north of Malcolm Street to 3 storeys.
- [57] I do, however, support amending the rear setback provision for this section of the FH-9 sub-precinct to ResCode Standard B17, given the sensitivity of this interface. I recommend that consideration be given to specifying that the Standard B17 envelope be set on the residential boundary.
- [58] I do not consider there to be any material impact of increasing the preferred maximum street wall height from 11m to 12m.

Appendix A: Summary of Experience & Personal Details

Name and Address

Mark Peter Sheppard
Principal
David Lock Associates (Australia) Pty Ltd
2/166 Albert Road
SOUTH MELBOURNE VIC 3205

Qualifications

- Recognised Urban Design Practitioner (Urban Design Group, UK), 2014
- Corporate Member of the Planning Institute of Australia, 2008
- MA Urban Design, Oxford Brookes University, UK, 1992
- Diploma Urban Design, Oxford Brookes University, UK, 1992
- Bachelor of Architecture, University of Auckland, NZ, 1990

Professional experience

- Director, David Lock Associates (Australia), 1997 to present
- Urban Designer - Associate, David Lock Associates, UK, 1993 – 1997
- Architectural Assistant, Sipson Gray Associates, London, UK, 1990 – 1993
- Architectural Assistant, Kirkcaldy Associates, Auckland, NZ, 1988 – 1990

Area of Expertise

I have over twenty-five years' experience in private practice with various architecture and urban design consultancies in New Zealand, England and Australia, and have practised exclusively in the field of urban design since 1993.

I am the author of *Essentials of Urban Design* (CSIRO Publishing, 2015).

Expertise to prepare this report

I have been involved in the design and assessment of numerous activity centre and urban infill projects in Victoria. These have included:

- Structure Plans for Montague, Preston Central (2007 National PIA Urban Planning Award), Highpoint, Forrest Hill, Wheelers Hill and three urban villages in Moreland;
- Urban Design Frameworks for Darebin High Street (2004 National PIA Urban Design Award), Highpoint, Central Dandenong, South Melbourne, Carlisle Street Balaclava, St Albans and Footscray;
- Built form controls for Victoria Street and Bridge Road in Richmond, the Brunswick Major Activity Centre, Port Melbourne and Ormond Road, Elwood; and
- Numerous independent urban design assessments of planning scheme amendments to inform Planning Panels.

Other significant contributors

I was assisted by Michael Mattner (Planner) in preparing this report.

Instructions which define the scope of this report

I am engaged by Submitter 20.

I have received verbal and written instructions from Rigby Cooke Lawyers and various documents relating to the proposal.

Facts, matters and assumptions relied upon

- Inspection of the subject site and surrounding area; and
- Review of planning controls and policies affecting the area.

Documents taken into account

- Stonnington Planning Scheme Amendment C276 documentation;
- Stonnington Planning Scheme and reference documents;
- Urban Design Advice (updated) by Council's Urban Design advisor Hansen;

- My evidence and the Panel Report for Stonnington Planning Scheme Amendment C172 Chapel Street Activity Centre;
- VCAT Decision P1937/2015 Machpaela Pty Ltd v Stonnington CC (72 River Street, South Yarra);
- Endorsed plans for 0073/15 - PC1 (72 River Street, South Yarra);
- VCAT Decision P628/2018 Whitemark Property & Planning Pty Ltd v Stonnington CC (94-96 River Street, South Yarra);
- VCAT Amended Plans prepared by Buckerfield Architects, dated 6 August 2018 (94-96 River Street, South Yarra);
- My evidence for 94-96 River Street, South Yarra; and
- Various correspondences relating to the proposed Amendment.

Summary of opinions

Refer to the conclusion of this statement (Section 5).

Provisional Opinions

There are no provisional opinions in this report.

*Questions outside my
area of expertise,
incomplete or inaccurate
aspects of the report*

This report does not address questions outside my area of expertise, and is complete and accurate to the best of my knowledge.

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



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