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Date: Monday, 11 October 2021 3:24:59 PM



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Please refer to attachment containing submission of Gracie Street Holdings Pty Ltd

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Attn: Mr Stuart Mosley
Victorian Planning Authority
c/- Arden Precinct
Level 25, 35 Collins Street
MELBOURNE VIC 3000

Date: 11 October 2021

**Re: Submission of Gracie Street Holdings Pty Ltd to Amendment C407melb and Arden
Structure Plan
56-92 Langford Street – North Melbourne**

Dear Mr Mosley,

We act on behalf of Gracie Street Holdings Pty Ltd, the owner of the land at [REDACTED]
[REDACTED] [the subject land].

Our client's land is located within "Arden North" sub-precinct and is directly affected by proposed Amendment C407 to the Melbourne Planning Scheme [the Amendment].

We advise that our client is broadly supportive of the State Government's vision for urban renewal in Arden. We also acknowledge and appreciate the changes to the draft Structure Plan, in particular, the changes to the location, extent and alignment of the integrated water management open space.

However, it is our client's submission that the vision, draft Structure Plan and associated planning controls proposed by the Amendment, are not properly resolved and our client does not support the Amendment in its current form.

We advise our client requests changes to the Amendment and respectfully submit that the Amendment should be the subject of review by a Standing Advisory Committee [SAC] to give submitters an opportunity for concerns to be properly ventilated and considered.

We now set out our client's concerns with the Amendment and specific matters which must be further resolved to achieve proper and orderly planning outcomes for the area:

1. General

The Structure Plan and the Amendment set out lofty aspirations for the transformational renewal of Arden. These are underpinned by a desire to deliver a more sustainable, equitable, resilient and affordable future Arden.

Whilst laudable, ambitious planning frameworks for urban renewal areas must be careful to not be so ambitious as to fundamentally constrain and prevent the realisation of the very renewal it seeks to achieve. A balance is required; one that reconciles the need to provide for the future but also acknowledges the constraints of the present.

It should come as no surprise to the VPA, City of Melbourne and the Council that the State Government's framework for Arden imposes significant costs on new development. The combined financial impact of:

- impact of a 6% affordable housing requirement (at a prescribed 50% discount) and charging development contributions on this housing;
- certified 6 Star Green Star development;
- design excellence for all development irrespective of scale, intensity or purpose;
- extensive and costly development contributions;
- limited ability for on-site parking provisions where contemporary expectations of end users (residents and workers) is not reflective of the proposed maximum parking requirements;
- additional, unspecified Melbourne Water charges for flood mitigation works;
- contamination clean-up costs;
- Metropolitan Planning Level charges;
- building cladding levy charges;
- rezoning uplift taxes; and
- potential VCAT dispute and associated costs;

may present an insurmountable challenge to development in the precinct which would stymie the realisation of the Structure Plan. It follows that development costs have a flow on effect to the affordability of new housing, new commercial floor area and vacancy rates of new retail premises.

It is well established that there is scope for the planning system to shape the market and not leave the market to shape the planning system and its outcomes. However, we respectfully submit that the Structure Plan and Amendment has tipped the balance too far in the opposite direction. This will likely result in the desired urban renewal not being realised.

We therefore request that careful consideration be given to limiting the Amendment's more ambitious and lofty aspirations to land within Arden Central precinct that is controlled by the Government, rather than applied in blanket fashion across the entire Arden Structure Plan area. This would be a more effective way to shape the development market and for Government to set an example, without the attendant unintended consequences of potentially holding back the development of land outside of the Government's control.

2. Future of Reynolds Road

It is submitted that Reynolds Road could (and should) be removed from the Structure Plan's proposed urban structure and consolidated into the adjacent land north and south.

The Arden North sub-precinct is well served by east-west connections north of Gracie Street. The "loss" of Reynolds Road will not undermine the Structure Plan's pedestrian permeability and legibility objectives. Its closure would also ensure land bounded by Gracie, Straker and Langford Streets and Boundary Road can be effectively consolidated and efficiently developed within the parameters of the proposed planning scheme controls. The result is a range of benefits that assist with timely delivery of the vision for the precinct with no adverse consequences.

The benefits of subsuming Reynolds Road into the adjacent land and its development is supported by the VPA's own analysis accompanying the Amendment. The Arden Built Form Testing prepared by HAYBALL and dated 23 April 2021, demonstrates the significant efficiencies which arise from the closure of Reynolds Road (pages 17-21).

If Reynolds Road is closed and developed, it is accepted that the through-block pedestrian link between Straker Gracie Streets can be accommodated. However, should the VPA decline to agree to closing and developing Reynolds Road, it is submitted that this through-block link should be removed from the plan. The retention of Reynolds Road and accommodating this link will unreasonably constrain land which is already constrained by its triangular shape and location to the north and northwest of the proposed integrated water management open space. The absence of this link in these circumstances will not compromise the area's pedestrian permeability. At the southern end of Arden North, the distance between alternative north-south connections is substantially less than at the northern end at Macaulay Road.

It is therefore requested that the Amendment be altered to either:

- I. Close and remove Reynolds Road with the roadway to be consolidated into the adjacent developable land; or
- II. If not closed and developed, the through-block pedestrian link south of Straker Street to Gracie Street removed from the Structure Plan and the Amendment.

3. Proposed Local Policy Changes – New Clause 22.28

It is appropriate to apply a new local policy specific to the Arden Structure Plan. This is not in issue. However, some elements of it are.

Clause 22.28.3.5 (Environmentally sustainable design) and its "Policy guidelines" set out an expectation that development of the scale and intensity envisaged by the Structure Plan is to achieve a certified 6 Star Green Star rating. We submit the requirement for certification is an unnecessary and unreasonable impost without attendant benefits.

For many years, development across Victoria has integrated various sustainability initiatives, features and strategies in design, construction and operation, without the need for formal certification. Instead, permit conditions have been utilised to ensure that a project's sustainability features are delivered and maintained. The requirement for certified buildings simply imposes an additional cost (of the certification process) without and commensurate benefit – as the sustainability aspects are and will continue to be delivered in development.

It is submitted that the requirement for certification should be removed from the policy.

Further, we query the practical reality and prescriptive nature of the following requirement:

For all new buildings, providing a minimum of 40 per cent total surface area should be provided as green cover (green wall, rooftop, canopy and understorey planting, native and indigenous planting or maximises adjacent public realm cooling benefits).

It is assumed, in the absence of anything clarify it, that "total surface area" is a reference to new building facades and not site area. It is difficult to reconcile the effects of this outcome on other similarly important design outcomes sought for the area such as active frontages, sufficient window openings to deliver acceptable daylight to internal spaces and maintenance obligations on future occupants and owners.

Our client does not oppose the intent of design directed at maximising cooling benefits however this policy guideline is considered to be overly ambitious bordering on impossible to achieve. It should be re-drafted to capture the intent without seeking to impose or express a minimum requirement.

4. Proposed Special Use Zone

We support the use of the Special Use Zone as the single zone provision for the Structure Plan area's developable land.

However, we respectfully submit that the proposed schedule to the zone requires changes in order to provide an appropriate and effective control once implemented. These concerns and requested changes, relate to the following:

- The condition imposed on Accommodation in Table of Uses in Clause 1.0 requiring a permit where accommodation uses in Arden Central or Arden North are located within the first six storeys of development should be altered for Arden North. It is clear that proposed Clause 22.28 and the Arden Structure Plan are seeking to *"Prioritise employment generating floor space within lower levels in Arden Central-Innovation sub-precinct"* (Clause 22.28-3.1). It is submitted that this condition in Table 1 should remove reference to Arden North and enable more flexibility for a mix of uses with less overt need for lower-level non-residential land uses, to respect the primacy of Arden Central as the focal point for the precinct's employment generating land uses. A potential unintended consequence of leaving the condition as proposed may be that new employment floor space competes with the Arden Central sub-precinct to the detriment of Clause 22.28's express desired outcome.
- Further to this, we question the underlying floor space : employment number assumptions in the Structure Plan. It should be noted that the work which underpinned these figures occurred prior to the onset of the Covid-19 global pandemic which has seen significant changes to how (and where) people work. It is likely that the future workplace environment will not go back to the previous way of working and will be both more flexible and likely require less physical floor space than previously.

In the circumstances, we submit that the floorspace required to realise the Structure Plan's employment generation aspirations will be lower than what's presently assumed. Further, that the balance of floor space should be redirected to accommodating residential development to support the area's urban renewal, take advantage of the area's enviable locational attributes and make a further contribution to accommodating Melbourne's growth – which is likely to boom once internal travel restrictions are lifted and migration can resume.

- The requirements at clause 4.0 of the SUZ, which apply to the "construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings" should be further clarified. It is assumed that this requirement is intended to apply to proposed developments that are less than 5 storeys in scale. It is noted that pursuant to Clause 55, the provisions would not apply to land in the Special Use Zone. To avoid future uncertainty regarding what requirements do and don't apply, this issue must be resolved/changed.

5. Proposed Schedule 82 to the Design and Development Overlay (DDO82)

We support the use of the DDO to guide the design and development of the area. It is the appropriate tool under the Victorian Planning Provisions. We also support the schedule's notice

and review rights exemptions, in the context of the very specific objectives and requirements proposed.

However, we respectfully submit that Schedule 82 requires changes in order to provide an appropriate and effective control for the area. These concerns and requested changes, relate to the following:

- Definitions – the Floor Area Ratio (FAR) definition should be revised to apply above the requisite flood level rather than from “ground”. Arden North, as the Structure Plan explains in detail is subject to extensive flooding issues that will see the ground level of development projecting anywhere between 800mm to 1500mm above footpath level. This is likely to result in the raising of basement levels above “ground level”. This will create floorspace included within the FAR – on its current definition – and further limit the realisation of habitable floor area that contributes to the Structure Plan’s built form, scale and intensity aspirations. The FAR definition should be amended to reference “ground” and “ground or the applicable flood level whichever is the higher”.
- Clause 2.6 (Building Height and FAR) the boundaries of the two different areas (Lots A and B) must be clearly defined in Map 1. As presently drafted, a number of sites straddle the boundary between two different FARs. Map 1 is not scaled and therefore, it will be impossible for applicants and decision makers to properly establish (i) the requirement and (ii) whether it has been achieved. Where a mandatory requirement of this nature is proposed, there can be no uncertainty regarding what land is subject to what FAR requirement. It is requested that the boundaries between the two FAR requirements of DDO82 are defined by existing lot boundaries.
- Clause 2.7 (Overshadowing) – this discretionary requirement is not opposed in principle. However, it is submitted that the exercise of discretion would be assisted by the inclusion of the phrase “unless the Responsible Authority is satisfied that the additional shadow will not cause any unreasonable impacts on the amenity of the open space”. This is to account for shadows to sections of open space which are less reliant on sunlight for amenity. It will also assist decision makers with exercising discretion when considering future permit applications, without undermining the solar access expectations for the area’s open space.
- Clause 2.9 (Public interface) - the role and function of through-links as pedestrian thoroughfares needs to be clarified and confirmed to accord with anticipated outcomes sought by Plan 4 of the Structure Plan. The present drafting is imprecise and may lead to confusion. Reliance on the Structure Plan to clarify this is not appropriate where there is an opportunity for the statutory ordinance to provide this clarity.
- Clause 2.10 - Adaptable Buildings – it is submitted that the minimum floor-to-floor heights of 5 metres at ground level and 3.6m for office uses is outdated and excessive. A 4 metre minimum requirement for ground and 3.6 metres for office uses above ground is more consistent with retail and office user requirements; two sectors which are evolving and will continue to do so in the future. This change should be reflected in the DDO’s requirements. It is noted that this will not prevent higher floor to floor heights. Instead, it sets a benchmark more in keeping with contemporary expectations and requirements.

The requirement in Table 7 that “Any proposed parking structures above ground level must be designed to be sleeved with active uses to streets” is a laudable but impractical requirement. Many sites in Arden will be developed to four (or more) street frontages. It is not practical to expect sleeving to all four (or more) street frontages whilst achieving all the other competing design objectives and requirements of the Structure Plan, policy, DDO, zone etc. This provision should be changed to prioritise sleeved parking areas to key streets but contemplate some un-sleeved parking areas to some less critical public realm interfaces.

- Clause 5.0 (Application requirements) – the following is an application requirement of the DDO:

- *Scaled shadow diagrams to show existing and proposed shadows diagrams at hourly intervals to demonstrate the effect on identified spaces to provide solar protection including an analysis against the Winter Solstice (22 June) to demonstrate the degree of sunlight to the playing surface.*

Inclusion of a requirement to provide winter solstice shadow diagrams is, respectfully, inappropriate. The DDO sets out the solar access requirement for new development and applies an Equinox measure, not the Winter Solstice. The application requirement is not relevant to determining a proposal's compliance with the control. It has the potential to undermine the certainty provided by the requirement, as well as confuse expectations for new development. This application requirement must be deleted.

- A review of the DDO82 provisions reveals a number of spelling grammar and cross-referencing to correct, maps and tables must be resolved prior to the control's approval.

6. Development Contribution Plan Overlay

Given the transformational renewal envisaged for Arden, it is accepted that a Development Contribution Plan Overlay will be necessary to assist with funding requisite infrastructure. This is not in issue, in principle.

However, the quantum of contributions is significant and, as set out above, has the potential – when coupled with the other significant costs imposed on future development – stymie and delay the very renewal sought by Government in the area.

A particularly troubling aspect of this is affordable housing components of development are not exempt from development contributions. Nor are registered Australian charities and not-for-profit organisations. It is respectfully submitted that these aspects of development and organisations should be excluded from development contributions and Government should accommodate the apportioned cost, not the development industry.

We also note that in addition to the DCPO is the Melbourne Water Urban Renewal Cost Recovery Scheme foreshadowed in the Structure Plan. Despite the extensive strategic work and consultation completed, these costs are not quantified in the Amendment. This is unsatisfactory and should be rectified before the Amendment is implemented.

Lastly, we note that a fundamental short coming of the DCPO is that the funding for infrastructure is collected at the end of the development cycle which inevitably delays the delivery of this infrastructure. This “lag” further discourages waves of investment which in turn further delays the delivery of the infrastructure. The Structure Plan and various requirements of the Amendment essentially require the development community to innovate to deliver on Government's lofty aspirations for this area. It is disappointing that the Government has not taken this opportunity to likewise develop an innovative funding and delivery of infrastructure framework for an urban renewal area of State significance. This will be to the detriment of the Arden, Melbourne and broader Victorian community.

We trust the above clearly establishes which aspects of the Structure Plan and Amendment are opposed by our client and what changes are required in order to address its concerns.

Our client reserves its rights to further elaborate on its concerns, including before a SAC appointed to consider this matter.

We thank you for the opportunity to make a submission in respect of this important strategic planning project and look forward to working collaboratively with all stakeholders in the next stages of the planning scheme amendment process.

Should you have any questions regarding our client's submission, please do not hesitate to contact me on [REDACTED].

Yours sincerely

A handwritten signature in black ink, appearing to read 'H.S.' followed by a stylized flourish.

Hugh Smyth

[REDACTED]