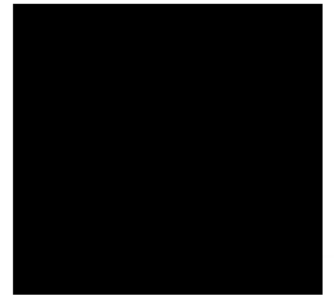


11<sup>th</sup> October 2021



**RE: ARDEN STRUCTURE PLAN AND DRAFT AMENDMENT C407MELB**

We refer to the recent public consultation of the Arden Structure Plan (ASP) and draft Amendment C407melb which proposes to implement the Arden Structure Plan, August 2021 by introducing new planning controls into the Melbourne Planning Scheme.

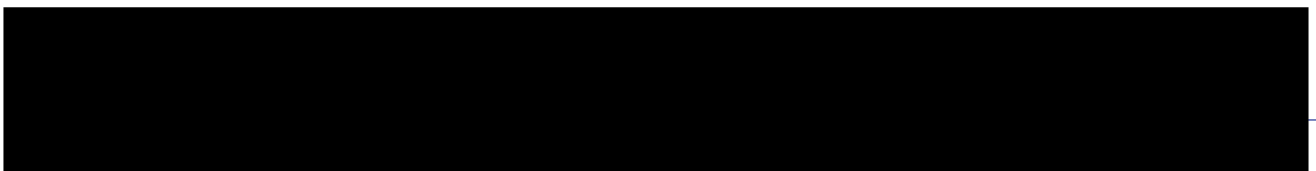
We acknowledge that the VPA has together with DoT communicated and consulted with us on a number of occasions in relation to the previous Draft Arden Structure Plan to which we made a detailed submission.

Whilst we also acknowledge that the proposed Structure Plan and new Special Use Zone provisions take account of the need to produce a mix of land uses in Arden North, together with supporting continued operation of existing commercial uses, we remain concerned that the Special Use Zone does not adequately protect our existing business from restrictions which might be brought about from encroachment by sensitive uses on adjacent and nearby land.

As you are aware, [REDACTED] which is affected by the proposed Planning Scheme Amendment. The property is currently occupied by a building supplies business that provides the construction industry with timber, flooring, decking, lining, cladding and a wide range of other associated materials. It is a business that plays an integral role to the supply of materials and equipment to the building industry in inner Melbourne.

This letter outlines Bowens submissions to the Arden Structure Plan and draft Planning Scheme Amendment C407melb.

Noting that proposed dates have been provided for these submissions to be considered at an Advisory Committee, we would also be happy to discuss these submissions with you.



Our submissions are provided as follows:

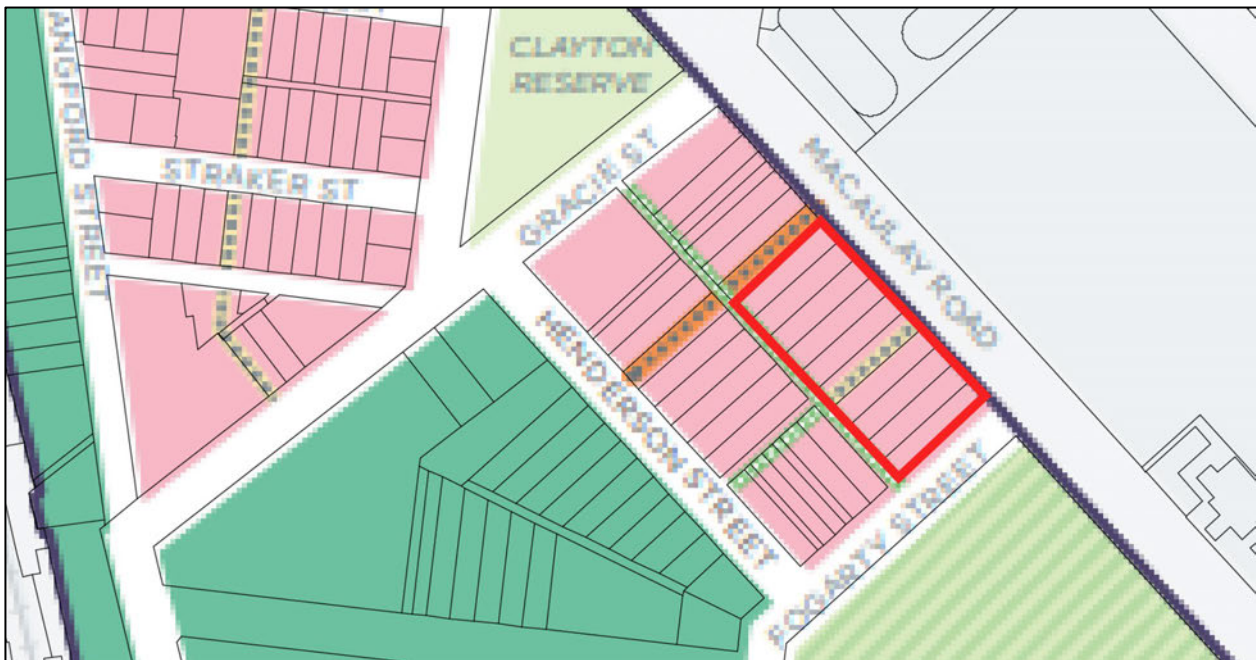
Overall, it is considered that insufficient consideration has been given to the potential for land use conflicts and in particular where the establishment of new residential uses in and around the subject site may be detrimentally affected by the off-site impact arising from the existing use.

- **The key directions should acknowledge the ongoing operation of existing businesses, such as Bowens. The objectives do not recognise or seek to minimise land use conflicts, particularly where new sensitive uses are sought to be established as part of a “highly liveable, mixed-use precinct”.**
- **Revised or additional objectives should be included that properly outline the need to ensure Bowens can continue to operate and to ensure that future land use conflicts are minimised.**
- **The purpose and character of the Arden North precinct (p.28 of ASP) should be modified to recognise and seek to actively protect the ongoing operation of existing commercial and industrial operations.**
- **Reference to minimising potential for future land use conflict should also be included.**

Plan 2 comprises Arden’s future urban structure (p.32). As it relates to the Bowens land, the plan identifies:

- Arden North as a mixed-use precinct
- An indicative through block link
- A proposed laneway type one immediately to the north of the Bowens land (pedestrian only, 9 metres)

The map below identifies the Bowens land and general lot layout relative to the Future urban structure plan.



Extract of Plan 2: Arden’s Future Urban Structure

- **We interpret the associated objectives to imply that there would be no requirement to provide a new laneway as part of the ongoing operation of the Bowens business. This should be clearly stated.**

- **Solar controls are proposed to avoid significant overshadowing of the North Melbourne Recreation Reserve. It is noted that these controls are discretionary which we consider to be an appropriate requirement that allows for future redevelopment proposals to provide a site-specific response.**

Plan 5 provides a visual representation of Arden's flood management strategy (p.3 or 62). Plan 5 identifies:

- An overland flow path along Fogarty Street
- Storage capacity designed into streetscape

The 'Arden flood management strategy' at page 5 goes further to state that the works include:

*Defining flow paths along key streets and in the landscape, including Fogarty Street and Queensberry Street. There is the opportunity to integrate flow paths with water sensitive urban design to capture, store, treat and convey water. (p.5 or 64)*

- **The documentation should be amended to indicate that overland flow paths are managed without impact to existing commercial vehicle access to the Bowens land.**
- **Any future flood mitigation infrastructure works should not reduce the ability for heavy vehicles of varying sizes to deliver goods to and from the subject land.**

Objective 29 relates to managing the impacts of change on existing uses as follows:

*Objective 29: Make Arden adaptable to change while managing the impacts of existing uses that need to transition from the precinct. (p.34 or 93)*

...

*There are existing air quality and noise standards that apply to industry, however the onus is on new sensitive land uses to ensure that they are not unduly impacted by emissions from existing industries. (p.34 or 93)*

*Planning controls will be critical to embed design standards for industrial buffers to existing industrial land uses prior to their transition out of the precinct. Collaboration with key landholders and businesses will be essential to ensuring new development is staged and located appropriately as the adverse land uses within the precinct transition out. (p.34 or 93)*

- **Objective 29 does not adequately recognise the ongoing operation of existing uses and implies that there will be 'a need to transition from the precinct'.**
- **It should be noted that Bowens have no intention to 'transition from the precinct'.**
- **Objective 29 should be amended to specifically recognise that some businesses, such as Bowens, may not seek to transition from the Arden precinct and propose to continue current operations indefinitely.**
- **The draft planning provisions include requirements for new uses to describe the "...likely effects on the neighbourhood, including noise levels, air-borne emissions and emissions to land and water, rubbish removal and storage, the hours of delivery and despatch of goods and materials, hours of operation and light spill, solar access and glare". Such an application would be exempt from third party notice and review rights and as such, Bowens would have no opportunity to provide comment in relation to the potential impact (or otherwise) on its existing operation. This should be rectified by removing the exemption from third party notice and review rights.**

## **Specific comment in relation to the proposed planning scheme provisions**

### **Proposed Special Use Zone (Schedule 7)**

1. Include clearer support within the Zone purpose for the prevention of land use conflicts between existing non-residential uses and future sensitive uses. This should be achieved through appropriate siting and design of new buildings that will contain sensitive uses.
2. Re-draft the 'Table of uses' such that 'Trade supplies' is a Section 1, permit not required use in the Arden North precinct. This is considered to support the objectives for the precinct which seek to provide a '*true mix of industries*'.
3. It is not clear as to whether 'Retail premises (Other than Adult sex product shop, Gambling premises, Landscape gardening supplies, Motor vehicle, boat, or caravan sales, Supermarket, Trade supplies)' within Arden North are intended to be a Section 1 permit not required use. This should be confirmed.
4. Introduce a permit requirement for all 'Accommodation' within the Arden North precinct so that the potential for land use conflicts can be properly considered. As currently drafted, an application for Accommodation in or around the Bowens land would not require planning approval if it were above the first six stories and included a frontage at ground floor level that did not exceed 4 metres. As currently drafted, there would be no trigger to consider the appropriateness of the introduction of a sensitive use, having regard to the ongoing operation of the Bowen's business.
5. The application for planning permit requirements associated with an application for Accommodation should be expanded to consider potential impacts from existing uses such as traffic, light spill and airborne emissions.
6. The exemption from third party notice and review rights should be deleted, or at the very least amended to require notice be given or comment be sought from nearby non-residential landowners and operators.
7. In relation to permit requirements for buildings and works, it is noted that a permit is not required to *Externally alter a building by making changes to the glazing of an existing window and the new/modified window has no more than 15 per cent reflectivity*. Further exemptions should be included in relation to existing buildings, such that a permit would not be required for minor buildings and works such as alterations to a façade or fencing etc.
8. The decision guidelines are not clear in that they require the responsible authority to consider whether the buildings and works appropriately respond to Plan 1 of the Schedule which is the sub-precinct plan. It is not clear whether this was intended to be the future urban structure plan.
9. If an application includes dwellings, the decision guidelines should be amended to require consideration of potential land use conflict and whether or not the proposal provides adequate amenity protection for future occupants from nearby non-residential uses.
10. Bowens remains concerned to ensure that kerbside parking remains available for visitors and staff attending the site. The planning scheme should include a requirement for future approvals to prepare a Construction Site Management Plan which specifically includes arrangements to maintain an adequate supply of kerbside parking which continues to remain available for short term and staff use.

### **Proposed Design and Development Overlay (Schedule 82)**

1. The recognition of ensuring equitable development rights is supported.
2. Section 2.1 sets out exemptions for buildings and works. It is suggested the reference to 'internal' works be deleted so that a planning permit is not required for all buildings and works that do not increase the gross floor area and overall building height. This exemption should also be translated to the proposed Special Use Zone.
3. The exemption relating to alterations to an existing building façade should be broadened to avoid the provisions being triggered by relatively minor buildings and works.
4. Public interface and design detail matters are set out at Section 2.9. Fogarty Road is identified as a proposed Weather Protection and Traffic Conflict Frontage. Vehicle and loading bay ingress or egress points are strongly discouraged on this frontage. This requirement should be clarified to ensure that ongoing vehicle access associated with the Bowens business can continue to be provided from Fogarty Road.

5. Applications for planning permit under this overlay are proposed to be exempt from third party notice and review rights. Applications for new sensitive uses should be required to give notice to nearby non-residential properties.

### **Development Contributions Plan Overlay (Schedule 3)**

It is noted that an exemption for development contributions is provided where the proposed works are associated with an existing use provided the gross floor area of the development is not increased by more than 1000 square metres.

This exemption should be further extended to provide that all additions and alterations associated with an existing use are exempt from development contribution requirements.

In summary, we thank the VPA for providing the opportunity to review and comment on the proposed Arden Structure Plan and associated draft Planning Scheme Amendment.

Please contact the undersigned to arrange a meeting to discuss our submission.

Kind regards,

Andy Bowen

A solid black rectangular box used to redact the signature of Andy Bowen.