

Report to the Future Melbourne (Planning) Committee

Agenda item 6.3

Submission to the Central City Built Form Review – Amendment C270

17 May 2016

Presenter: Kate Vinot, Director City Strategy and Place.

Purpose and background

1. The purpose of this report is to seek Council endorsement of the proposed submission to Ministerial planning scheme amendment C270 prior to the commencement of Panel hearings.
2. In September 2015 the Minister for Planning introduced, via the Melbourne Planning Scheme, interim built form controls for the Central City in the form of planning scheme amendment C262. The Minister also proposed the Central City Built Form Review (CCBFR).
3. On 27 April 2016 the Minister for Planning announced his intention to prepare Melbourne Planning Scheme Amendment C270 (known as C270). The release of Amendment C270 is in response to the CCBFR.
4. Amendment C270 proposes the introduction of revised and permanent built form controls in the Central City and is on public exhibition until 30 May 2016, with the Panel hearing set to commence on 11 July 2016.

Key issues

5. The Minister for Planning has indicated that Amendment C270 proposes to introduce a number of built form requirements related to:
 - 5.1. street wall height of buildings
 - 5.2. street, side and rear setbacks (including setback requirements for buildings within the same site)
 - 5.3. overshadowing and wind
 - 5.4. floor Area Ratio (floor area of a building compared to its site area) and Floor Area Uplift.
6. Overall, management is generally supportive of Amendment C270. In response to Amendment C270 it is proposed that Council make submission in the form of attachment 2. The key matters proposed to be highlighted in the submission are:
 - 6.1. to ensure the application of the proposed uplift provisions deliver infrastructure outcomes that address need and are consistent with Council's community infrastructure policy and plans
 - 6.2. to seek to establish the council's role as responsible authority in decisions related to the uplift provisions, and in the approval of planning applications for developments up to 40,000 square metres
 - 6.3. to recommend to the State that it is more explicit about how the Minister incorporates the environmental, social and economic factors and the perspectives of various Government agencies, when applying his or her discretion. One way to achieve this would be for the State to exercise decision making authority in these instances through a Ministerial committee, comprising the Minister for Planning, an economic Minister and a Minister with social or environmental portfolio responsibility.

Recommendation from management

- 7 That the Future Melbourne Committee:
 - 7.1 endorses the City of Melbourne submission (attachment 2) to the Minister for Planning in response to Planning Scheme Amendment C270
 - 7.2 endorses the Administration's intention to appear at the Amendment C270 Panel Hearings and put forward Council's submission supported by more detailed evidence and advice consistent with the submission.

Attachments:

1. Supporting Attachment (Page 2 of 5)
2. Submission to the Minister for Planning – Planning Scheme Amendment C270. (Page 3 of 5)

Supporting Attachment

Legal

1. Part 3 of the *Planning and Environment Act 1987* (Act) sets out the procedure for planning scheme amendments.
2. Section 8(1)(b) of the Act provides that the Minister may prepare amendments to any provision of a planning scheme.
3. Section 20(4) of the Act provides that the Minister may exempt himself or herself from the requirements of the Act which govern the normal statutory process for amending a planning scheme:

“...if the Minister considers that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate.”

Finance

4. The costs for preparing and presenting Councils submission to Panel are unknown but estimated at around \$50,000 and are provided for within the 2015-16 budget.

Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

6. The Department of Environment, Land, Water and Planning (DELWP) staged two public workshops on May 3 and 10.
7. The City of Melbourne also hosted a developer forum on 12 May providing an opportunity for developers to meet with DELWP representatives about Amendment C270.
8. The public exhibition process commenced on 28 April and concludes on 30 May 2016.
9. The Directions Hearing is set for 10 June 2016. The Panel hearing commences on 11 July 2016 and is anticipated to run for eight weeks.

Environmental sustainability

10. A review of the proposed built form controls of amendment C270 indicate the potential for improved environmental outcomes.
11. However, it is noted as part of the proposed submission to the Minister that further work should be undertaken to better understand and evaluate these benefits, prior to Amendment C270 being approved by the Minister.

City of Melbourne Submission to Ministerial planning scheme amendment C270

Overview

The City of Melbourne welcomes and is broadly supportive of the proposed Planning Scheme Amendment C270.

It is the City of Melbourne's view that C270 generally proposes built form controls that will deliver improved built form outcomes and contribute to further enhancing the urban environment of the Central City.

The timeframe for the Minister to consider the proposed amendment is acknowledged. We anticipate that a more detailed understanding of the built form controls will emerge during the exhibition and panel processes.

The City of Melbourne intends to undertake further analysis of the proposed amendment during that period and is willing to further support the Panel process through the presentation of more detailed analysis and possible further submission to the Panel in July 2016.

At this stage the City of Melbourne wishes to raise in submission just a few matters for initial consideration by the Minister.

Social, economic and environmental assessment

It would appear that Amendment C270 has the potential to improve built form outcomes in the Central City and in doing so deliver on a range of economic, social and environmental benefits. However, there are also economic risks from a change of this nature, especially the potential for the changed controls and additional discretion to significantly change developer behaviour and outcomes.

It is understood that a detailed assessment of the economic, social and environmental impacts and benefits will be undertaken in parallel with the public exhibition process. Amendment C270 will benefit from such an assessment being undertaken prior to any final decision making by the Minister.

Decision making processes

Amendment C270 provides a uniform set of built form controls that are intended to support better decision making and provide greater consistency and clarity for the community about the outcomes being sought by Government for built form in the Central City. City of Melbourne would like to take this opportunity to ensure that this clarity for the community is further enhanced through the eventual application of the new controls.

There are three areas where the City of Melbourne considers that decision-making processes could be further clarified:

- The community benefits from uplift need to be guided by the need for different types of community assets in the city.
- The number of developments approved at State level has grown significantly, and the process could be simplified and further devolved to Council.

- Application of Ministerial discretion on State significant development proposals is complex, and requires explicit input on the social, economic and environmental implications.

Each of these is expanded upon below:

1. Decision-making on community benefits

Council, as the local authority, is responsible for the planning and delivery of services and infrastructure under the Local Government Act. The uplift provision is designed to contribute significantly toward meeting the community demand for infrastructure as a result of growth.

The calculation for uplift will require a strategic plan for the delivery of community infrastructure to be in place to guide the decisions of Council and/or the Minister. The current drafting of C270 has the potential for these decisions to be developer driven or with a significant element of developer discretion. The City of Melbourne needs to ensure that the uplift mechanism retains a capacity for integrated and co-located community infrastructure to be delivered consistent with both State and Local Government policy. Council wants to ensure the uplift mechanism is appropriate to addressing community need and delivering outcomes consistent with Council policy and planning.

There is also remaining ambiguity about the ability for Council to 'pool' contributions that can then be directed toward larger infrastructure or community facility projects that as a result may better meet the needs of the community and be more consistent with Government policy. This matter needs to be resolved as a matter of urgency.

2. Decision-making on major developments

In the Central City both the Minister and the City of Melbourne undertake the role of responsible authority, with the Minister assuming the role for developments over 25,000 square metres.

The arrangement began some decades ago, and developments of this scale are now significantly more common. As a result, the State is required to make decisions on a large number of developments compared with when the 25,000 square metres threshold was set, and on many developments that are not in any sense 'State significant'.

The City of Melbourne is readily equipped as responsible authority to administer these developments and seeks a review the current responsible authority arrangements within the Central City. This review would include whether a higher decision-making threshold is warranted to focus the State's decision-making back onto developments of State significance. The review would consider increasing the State significant development threshold to 35,000 or 40,000 square metres. This measure would reduce duplication and overlap, significantly improve efficiency in the development application process and ensure greater consistency in the application of planning policy within the City.

3. Application of Ministerial discretion

The City of Melbourne wants to better understand the extent, scope and application of the Ministerial discretion proposed in C270.

At present, Council is unclear how decisions about the nature and scale of uplift to be provided will be made. The Amendment currently proposes, we infer, that the Minister retain discretion in the application of decisions related to the uplift provisions on planning approvals for >25,000 square metres developments. There is obvious potential for misalignment between Council priorities and Ministerial decision-making in that process.

The City of Melbourne seeks to ensure that where the Minister applies his or her discretion, that mechanisms are in place to ensure this explicitly incorporates the perspectives of various

Government agencies and Ministers with an interest in the environmental, economic and social fabric of the Central City, and the City of Melbourne.

One way of achieving this would be for the State to exercise decision making authority in these instances through a Ministerial committee, comprising the Minister for Planning, an economic Minister and a Minister with social or environmental portfolio responsibility.