

7.1.4 AMENDMENT C167 MOUNT WAVERLEY STRUCTURE PLAN - ADOPTION

Responsible Manager:	Sean McNamee, Manager Strategic Planning
Responsible Director:	Peter Panagakos, Director City Development

RECOMMENDATION

That Council:

1. **Notes and receives the Panel report for Monash Planning Scheme Amendment C167 at Attachment 1.**
2. **Having considered the Panel report under s 27 of the Planning and Environment Act 1987 (Act), adopts Amendment C167 to the Monash Planning Scheme in accordance with s 29 (1) of the Act with the changes set out in Attachments 2 and 3 to this report.**
3. **Authorises officers to submit the adopted Amendment C167 in accordance with this report to the Minister for Planning for approval in accordance with s 31(1) of the Act.**
4. **Writes to all submitters advising of this decision.**

INTRODUCTION

The purpose of this report is to:

- Consider the recommendations of the Planning Panel Report for Monash Planning Scheme Amendment C167 which proposes to implement the planning scheme recommendations of the Mount Waverley Structure Plan 2021; and
- Recommend that Council adopt Amendment C167 with changes outlined in this report and submit the Amendment to the Minister for Planning for approval.

COUNCIL PLAN STRATEGIC OBJECTIVES

Sustainable City

Ensure an economically, socially, and environmentally sustainable municipality.

Enhanced Places

Improve public spaces and local employment by revitalising our employment hubs, activity centres and neighbourhood shops.

Prioritisation of pedestrians and active transport over vehicles.

Pursue a planning framework that meets Monash needs.

BACKGROUND

Planning Scheme Amendment C167 proposes to implement the planning scheme recommendations of the Mount Waverley Structure Plan (MWSP).

The adopted MWSP provides for planned growth for the activity centre, at a scale and intensity that complements its role in the hierarchy of centres across Monash, whilst maintaining the village feel of the centre, particularly the central fine-grain areas around Hamilton Place.

The changes proposed by Amendment C167 are:

- Amending clause 21.06 - Activity Centres.
- Introducing a new local policy at clause 22.16 - Mount Waverley Activity Centre.
- Rezoning commercially used land in the Activity Centre to the Commercial 1 Zone (C1Z), most notably the southern carparks between Virginia Street and Winbourne Avenue.
- Applying a new Design and Development Overlay Schedule 17 (DDO17) to all commercial land in the Activity Centre, including the application of preferred height limits.
- Rezoning land around the Mount Waverley Activity Centre, currently in the General Residential Zone – Schedule 2 (GRZ2) to the General Residential Zone Schedule 11 (GRZ11) and General Residential Zone Schedule 13 (GRZ13).
- Rezoning land around Sherwood Park from the current General Residential Zone Schedule 3 (GRZ3) to the Neighbourhood Residential Zone Schedule 5 (NRZ5).
- Making changes to the Design and Development Overlay Schedule 3 (DDO3) that applies to residential land surrounding Sherwood Park.

The amendment was exhibited from 9 June 2023 to 4 August 2023.

A total of 21 submissions were received to the amendment, including two late submissions.

On 26 September 2023, Council resolved to request the Minister for Planning appoint an independent planning panel to consider Amendment C167 and endorsed a number of changes to the amendment to support at the panel.

DISCUSSION

The Panel held hearings between 30 November 2023 and 7 December 2023. The hearing was held in person and streamed via Microsoft Teams.

Only three parties requested to be heard at the hearing.


These were:

- Woolworths Pty Ltd.
- Ritchies IGA, tenant of 275-283 Stephensons Road Mount Waverley.
- The owner of 275-283 Stephensons Road Mount Waverley.

As such the key matters at the hearing related to floorspace and building design and form, specifically:

- The maximum preferred height of the IGA site, 275-283 Stephensons Road.
- The concept of the pedestrian spine, particularly in the area south of Winbourne Road.
- Activation of buildings, particularly how building walls along footpaths should be treated, and the extent of blank walls allowable facing car parks or roads.
- Overshadowing of public areas.

It should be noted that no submitters or any of the four experts called at the hearing raised any fundamental issues with the amendment or sought to have the amendment abandoned. All



experts broadly supported the MWSP whilst advocating for changes that generally were beneficial to their clients.

The full panel report is included as **Attachment 1** to this report.

Panel reports are an independent review of the strategic alignment of the amendment with State Policy and an assessment of the overall merits of an amendment. Although panels are appointed by the Minister for Planning, unlike a VCAT decision on a planning permit application, their recommendations are not binding on Councils or the Minister.

Councils are required to consider the recommendation of the Panel when determining the next steps for a proposed amendment. Panel recommendations can be accepted in total, in part or rejected.

Where a Council does not accept all or part of the Panel's recommendation, clear rationale for doing so is required to be provided when the amendment is submitted.

Attachment 2 contains all amendment documents showing proposed changes when compared the exhibited amendment.

Attachment 3 is a complete version of the final recommended amendment as a clean version without changes shown.

Panel Report - Overall

Overall, the Panel found that the amendment was strategically justified, particularly the increase in Commercial 1 Zone land in the activity centre.

The Panel found that a key objective of the Amendment was for future development to maintain the human scale of the centre and views to the sky, the "village character", but that it was unnecessary to replicate the existing low profile of buildings to continue the village feel or character.

The Panel also found that the planning policy framework proposed for the Mount Waverley Major Activity Centre (MWMAC) by the Amendment provided sufficient capacity to meet forecast demand for new housing demand, and in fact provides the potential for more than forecasts.

An issue raised by Ritchies IGA was whether additional Commercial 1 Zone (C1Z) land was required, and whether supermarket floorspace should be capped or the number of supermarkets limited. The Panel found that the C1Z rezonings were appropriate, the MWMAC is underprovided with supermarket floorspace, and there is no basis for capping supermarket floorspace or the number of supermarkets.

The Panel found that overall, the building heights proposed were appropriate for a Major Activity Centre. However, in response to submissions, the Panel took the view that there was one exception to this being the 5-storey height limit proposed for the current IGA site at 275-283 Stephenson's Road.

The Panel also recommended that the proposed pedestrian spine should be included in the Monash Planning Scheme north of Virginia Street, but not to the south (linking to Sherwood Park) as it is not sufficiently resolved to warrant recognition as part of the principal pedestrian network.

Panel Report - Recommendations

The panel report makes recommendations across 3 parts of the Amendment:

- Design and Development Overlay changes – built form controls.
- Policy areas of the planning scheme
- Minor consequential changes should the Amendment be approved.

The detail of these recommendations is discussed thematically below.

Panel recommendations are in *italics*.

Design and Development Overlay - Built form controls.

The most contentious issues at the Panel hearing were those around built form controls and urban design outcomes contained in the proposed Design and Development Overlay – Schedule 17.

Building Heights – Panel recommendations

Increase the preferred height for land at 275-283 Stephenson's Road, Mount Waverley from 18.5 metres to 29 metres.

The panel recommended increasing the maximum height from 5 storeys to 8 storeys on the IGA site.

Officer comments

Mount Waverley, Glen Waverley, Brandon Park, Oakleigh and Clayton are all classified by Plan Melbourne as Major Activity Centres. However, in the context of Monash, Glen Waverley, Clayton and Oakleigh all service larger catchments, and are expected and planned to have a much higher level of population growth and activity when compared to Mount Waverley.

The MAC's in Monash are generally facilitating a higher level of intensification than is generally supported across the south-eastern region of Melbourne, and while Mount Waverley is supporting a lower level of intensification than our other MAC's. Consequently, 5 storeys is still a substantial height in the local and regional context. Particularly as it effectively provides for substantial four-fold increase in building heights and floorspace from what is currently provided in the centre. Whilst the original draft Mount Waverley Structure Plan in WSP 2020 was exhibited with an 8 storey maximum height for this site, however further investigation was undertaken following the public exhibition of the draft structure plan.

Consequently, the Mount Waverley Structure Plan was amended, and the height was reduced to 5 storeys in order to retain a consistent height along Stephenson's Road, reduce overshadowing, particularly over the main entrance to the centre, and to reduce the visual dominance of any building on an island site that is the IGA at 275-283 Stephenson's Road.

Council adopted a 5 storey height limit to the IGA site, and the amendment was prepared and exhibited with a 5 storey height limit, reflecting the intent and direction of the structure plan. This issue was discussed at Panel.

Over the course of the panel hearing there was considerable discussion about the appropriate height for the IGA site, particularly in response to the potential overshadowing issues on the Hamilton Place car park and entry area. As part of these discussion both independent experts agreed that eight storeys could be accommodated on the site without inappropriate

overshadowing of the public areas of the Activity Centre. There were some variances in what was required to achieve 8 storeys on the site, subject to structure planning for the site and Council's carpark or requiring further building setbacks above five storeys.

The Panel accepted the proposition that of increased height on the IGA site recommended building heights for this site of 29 metres (or 8 storeys). However, it should be noted that the focus of discussions at the hearing however was predominantly on the impacts of overshadowing of public areas, rather than the potential impact of higher 8 storey development of an island site siting in its broader context of Mount Waverley as a MAC, and the 5 storey height limit of all other site along Stephenson's Road.

Officer recommendation

Officers are of the view that overshadowing of the car park area is only a minor issue in terms of establishing an appropriate height limit for the IGA site. Of greater importance is the prominence of the location, as an island site along Stephenson's Road and located centrally in the Activity Centre. The application of an 8 storey height limit in this location is inconsistent with the adopted Structure Plan and would be out of context with the balance of the Activity Centre and the 5 storey urban form proposed along Stephenson's Road.

The recommendation of the Panel to increase the preferred height for land at 275-283 Stephenson's Road to 29 metres (or 8 storeys) is not supported.

Express preferred building heights only in metres

Officer comments

Building heights in the Amendment were expressed in both storeys and metres. Building heights in planning schemes are traditionally expressed as both metres and storeys. The inclusion of height as the number of storeys provides a broader understanding of the height expected through the planning controls and is particularly helpful for the community and applicants understanding potential development outcomes.

In this instance the Panel has recommended just applying metres in order to remove ambiguity and provide greater clarity. This change is essential one of drafting conventions and has no practical effect on the outcomes of the Amendment.

Officer recommendation

This proposed change is accepted.

Replace the requirement for floor to floor heights at each level with "Buildings should have a minimum floor to floor dimensions of 4.2 metres at ground floor"

Officer comments

The Amendment as exhibited change encompasses two components. Firstly, removing the range when referring to minimum, and secondly removing minimum floor to floor heights for upper levels.

Historically, these floor to ceiling ranges were included to ensure appropriate amenity and daylight provision in apartments. However, with the introduction of apartment standards setting out minimum floor to ceiling heights this requirement can be removed from the Amendment.

Officer recommendation

These changes are accepted.

Interface and urban design issues

Replace the primary and secondary active frontage requirements with:

“Development should maximise use of clear glazing at ground level adjacent to a primary active frontage on Figure 1. Development should use clear glazing at ground level adjacent to a secondary active frontage on Figure 1 where practical”.

Officer comment

As noted throughout the Mount Waverley Structure Plan and the Amendment, one of the key objectives is the maintenance of the village feel and accompanying human scale.

To this end, the built form controls of the amendment contain the following requirements for new buildings:

- Development on sites identified with a primary active street frontage in Figure1 to this schedule should utilise permeable and transparent façade treatments and provide for active, customer focused uses at ground level of all primary frontages.
- Development on sites identified with a secondary active street frontage in figure1 to this schedule should contribute to activation of the street at ground level of all secondary frontages.

The Panel recommends deleting those detailed design requirements and replacing them a generic “clear glazing” requirement.

Whilst clear glazing is a key component of activation, limiting design activation requirements to just glazing is bad urban design and will more than likely lead to poor community outcomes not meet the overall objectives of the “village feel” of the Structure Plan.

Activation also includes doorways, accessways and openings, particularly pedestrian entrances, as well as weather protection, effectively encouraging people movement and interaction between both sides of the frontage. The detailed design elements encourage a sense of community safety, engagement and ownership of place. Simply adding a continuous glazed façade does not address this objective. On larger sites, such as the IGA site it would likely result in a “big box” approach to development on the site, akin to a Dan Murphys or Harvey Norman style design response.

While windows are required, good activation outcomes are also often achieved with prominent and detailed building forms, and smaller glazing openings. This is particularly evident in Hamilton Place where the shop fronts themselves encourage and create activation and in older buildings where vertical columns or tiled upper and lower sections form a feature of the building. Maximising glazing can lead to many of these features being lost.

Officer recommendation

Officers do not support changes as proposed by the Panel. Rather a modification of the exhibited wording is proposed:

Development should maximise activation and create opportunities for street-based interaction through methods such as clear glazing, maintaining views into and out of buildings, pedestrian entrances, human scale building detail and weather protection, such as eaves, verandahs or other appropriate forms of shelter to at ground level adjacent to all primary active frontages identified on Figure 1.

Development should use clear glazing, create opportunities for street-based interaction maintaining views into and out of buildings, and/or pedestrian entrances at ground level adjacent to a secondary active frontage on Figure 1.

The revised wording is similar to the Panel recommendation but shifts the emphasis from maximising the amount of glazing, to detailed design for maximising activation and street interaction as well as providing guidance on how this can be achieved.

Retention and planting of canopy trees on development sites

The Panel recommended the deletion of the planning requirements for the retention and planting of canopy trees and replacing these requirements with a decision guideline.

Officer comment

The Panel concluded:

- The proposed requirement to retain existing trees or plant new trees is impractical in areas designated for intensification.
- The requirement should be redrafted as a decision guideline.

The Panel has recommended the removal of the requirements relating to canopy trees and the requirements drafted to retain canopy trees or plant replacement canopy trees in the Virginia Street car park as part of the Council resolution of 26 September 2023.

The Panel has proposed inserting the following decision guideline:

Whether development retains existing canopy trees or provides for the establishment of new canopy trees.

The recommended provision removes canopy tree retention as a requirement and makes it a permit consideration. The Panels recommended provision also expands its application significantly from just significant trees and the Virginia Street car park to the whole of the commercial area.

It should be noted that the landscaping and amenity issues in the surrounding residential area of the activity centre remain as proposed.

Officer recommendation

Whilst the removal of the landscaping requirements is disappointing, the Panel's view is that as commercially zoned land development should effectively have a zero front setback – removing the opportunity for landscaping in most cases.

The Panel has left opportunity for landscaping to be considered but on an individual case by case basis as development permits are lodged.

Council will still have opportunities to manage landscaping in the public realm, and land that Council owns in the Virginia Street car park.

As such it is recommended that this proposed change be accepted.

Removal of overshadowing requirements, and replacement with a decision guideline in the DDO17

The Panel has recommended deletion of the proposed overshadowing requirements in the DDO17, and insertion of the decision guideline:

Whether development overshadows public spaces or the principal pedestrian network between 11am-2pm at the equinox

Officer comment

The proposed overshadowing requirements of the DDO and were intended to separate overshadowing of public places into two categories where the extent of acceptable overshadowing would vary depending on the role of the public space.

Over the course of the panel hearing legal advocates identified potential technical issues with the drafting of these provisions. The overall consensus being that the “as drafted” form could be interpreted prohibition of overshadowing, rather than the intended limiting and consideration of overshadowing.

Consequently, the Panel has recommended the overshadowing provisions be removed from the requirements section and included as a decision guideline for consideration at permit application stage.

Officer recommendation

As the intention of the provision was not to prohibit overshadowing outright Officers accept these changes.

Delete the ‘primary active frontage’ from the western boundary of 275-283 Stephenson's Road (IGA site) and the western boundary of 1-9 Hamilton Place.

Officer comments

1-9 Hamilton Place is the western side of Hamilton Place backing onto the Council laneway and Alexander Street car park. The amendment proposed that redevelopment of any of these sites would require primary activation to the carpark. The Panel recommends removal of any activation requirement to this laneway carpark interface.

275-283 Stephenson's Road (the IGA site) is the most prominent site in the centre, and its existing interfaces demonstrate extremely compromised and potentially unsafe design outcomes. Whilst it is recognised that the current development is in part a product of its time and desire to establish a

supermarket on that site, it is not a design outcome that should be perpetuated through new planning policy or any redevelopment of the site. From an interface point of view the IGA is similar in many respects to the Ikon site in Glen Waverley. The Ikon site has active interfaces to all frontages.

While supermarkets seek to have as much blank wall space as possible (allowing for maximum shelf space), urban and planning design provisions for places should not be drafted around the wishes of the current landowner to maximise the current use. The design provisions will only apply if the site is redeveloped, and a back of house wall facing Hamilton Place would be a very poor and unsafe design outcome for the centre.

Secondary activation will still require an improved pedestrian amenity well above the existing blank wall and loading dock.

Officer recommendation

Officers support the change to 1-9 Hamilton Place.

The change to the western boundary of 275-283 Stephenson's Road (IGA site) is not supported. Any redevelopment of this site should recognise the interfaces on all four sides. On this basis officers recommended identifying the frontage as a secondary active frontage.

Amend the western boundary interface type for the Woolworths site and the southern boundary for the Stephenson's Road Council car park – from Type 1 to Type.

Officer comments

These changes relate to the western interface boundaries of the current Woolworths store and the southern boundary Council car park at 331-334 Stephenson's Road.

Officer recommendation

Officers accept these changes, as they retain the more sensitive interface treatment to the rear of residential properties fronting Sherwood Road and allow for a slight increase in wall height to the western interface and the southern interface of the Council carpark that does not adjoin the residential properties on Sherwood Road.

Reword the requirement relating to view lines from Sherwood Park and remove the figure 2 from the DDO17.

Officer comment

At the hearing it was raised that the image used in the DDO gives the impression that any development on the current Woolworths site must not be visible when looking north from Sherwood Park. The intention was that views of development behind two storey houses should be minimised rather than prohibited when viewed from Sherwood Park. To address this, the Panel has recommended changes to wording, and deleting of the image.

Officer recommendation

Officers support this change in order to clarify the outcomes sought.

Pedestrian network

Make changes to the DDO17 to show public spaces, the principal pedestrian network, the central pedestrian spine between the Mount Waverley Train Station and Winbourne Road and show that part of the central pedestrian spine between Winbourne Road and Virginia Street as 'indicative – final alignment to be determined'.

Officer comments

As part of the Panel has recommending changes to the overshadowing provisions, they have recommended that the maps be modified to include the principal pedestrian network, and open space network. This consequential change allows for reference points and affected sites to be readily identified.

Officers recommend adding these to the existing map rather than proposing a new map so that all information is shown in one place.

Officer recommendation

Officers support the changes outlined above and have made the changes to the proposed DDO17 map.

Other drafting or administrative recommendations

The Panel also provided recommendation of a more administrative nature around writing style or technical changes. These are immaterial to the objectives of the Amendment.

Amend the built form policies in Clause 22.16 as shown in the Panel preferred version to delete content that duplicates other provisions of the Planning Scheme.


The Panel has recommended that some provisions in Clause 22.16 be deleted because they duplicate State policy, or the provisions proposed in the DDO 17. These relate to:

- a. Building design and safety,
- b. Pedestrian access to properties with secondary access to a carpark.
- c. Landscaping.
- d. Access and transport.

Officer comments

The proposed provision relating to building design and safety specifically includes a reference to ensuring that development promotes Crime Prevention Through Environmental Design (CPTED), a State Government policy document. Where a state government document is relevant to planning policy, it will only be referred to in state or regional policy. This document has not been referred to in State policy.

The other three provisions relate to provisions that are addressed in the proposed DDO17. While there are some minor drafting differences between the two, when combined with other provisions of the scheme, they seek the same outcomes.



The landscaping policies were added to clause 22.16 following Council's consideration of submissions that raised landscaping issues on 23 September 2023. This is discussed in further detail under the DDO17 recommendations below.

Officer recommendation

It is recommended that the changes be accepted.

Revise the design objectives of the DDO17 to clearly direct the outcomes to be delivered by future development.

Officer comment

The Panel has redrafted the DDO17 objectives to be more succinct and focus more on the outcomes to be achieved.

Officer recommendation

It is recommended that the changes be accepted.

Revise the DDO17 to clearly set the limit of discretion that applies under each requirement.

Officer comment

The Panel has recommended changes above that clarify requirements, such as overshadowing, active frontages and the principal pedestrian network. These changes have been discussed earlier in this report.

Officer recommendation

No further changes are required to address this recommendation and they are all discussed earlier in this report.

Subject to the approval of Amendment C167mona, as a matter of priority, steps should be taken to ensure that Clause 22.03 does not apply to the Mount Waverley Major Activity Centre.

Officer comment

This is a minor housekeeping matter as the panel identified change required to update Clause 22.03 to reflect the development of C167.

Officer recommendation

Noted. No action is required as part of this Amendment.

Other administrative changes

While reviewing the amendment and preparing for panel, officers identified three minor errors in the amendment. It is recommended to make the changes listed below to address these

Wadham Pde shops

The rear interface was shown as Type 2 interface. However, there is a laneway located at the rear of these shops, meaning that Type 1 interface can be applied. Type 2 interface requires a three metre setback from the rear boundary adjoining a residential property to any development. Type one allows for development on the rear boundary as the laneway provides a three metre setback to the built form.

Design and Development Overlay – Schedule 3

A review of this schedule identified four instances where minor drafting changes could be made to be more consistent with the current drafting guidelines. These changes are all policy neutral.

General Residential Zone Schedule 11 and 13 and Neighbourhood Residential Zone Schedule 5.

Following exhibition of the amendment, the state government exhibited amendment VC243, which removed the need for a planning permit on lots of between 300 and 500 sqm. The three schedules have been updated to reflect this.

Mummery Street car park

Council owns the car park at 1-5 Mummery Street. The car park was shown with development provisions in the DDO17 schedule, however the DDO17 had not been applied to the site through the planning provisions of the amendment. It is proposed to rectify this by including the site in the DDO map to the Monash Planning Scheme, with DDO17 applied to the site.

FINANCIAL IMPLICATIONS

Adoption and submission of the amendment does not have any significant financial implications. All costs are contained within operational budget allocations.

POLICY IMPLICATIONS

The MWSP and Amendment C167 are consistent with State Policy, and Plan Melbourne. Plan Melbourne is the main strategic document to guide population growth across metropolitan Melbourne. Plan Melbourne sets out policy guidance for Major Activity Centre's such as Mount Waverley.

The MWSP and Amendment C167 are consistent with local policy and strategy, including:

- Clause 21.06 - Activity Centre's of the Monash Planning Scheme.
- Monash Housing Strategy.
- Monash Health and Wellbeing Plan 2021-2025.

CONSULTATION

There are no further opportunities for community consultation as part of this Amendment.

SOCIAL IMPLICATIONS

There are no social implications to this report.

HUMAN RIGHTS CONSIDERATIONS

There are no human rights implications to this report.

GENDER IMPACT ASSESSMENT

A GIA was not completed because this agenda item is not a 'policy', 'program' or 'service'.

CONCLUSION

Overall, the Panel was supportive of the Amendment. The Amendment is strategically based and will provide a sound platform for the managed growth of the Mount Waverley Activity Centre.

The main issue requiring change is the Panel's recommendation that the height of the current IGA site be increased from 5 to 8 storeys. Officers do not support this change as explained in this report.

It is recommended that Council adopt Amendment C167 generally in accordance with the Panels report with the exception of the change in height for the current IGA site and other minor issues as set out in this report.

ATTACHMENT LIST

1. Monash C 167 mona Panel Report [**7.1.4.1** - 73 pages]
2. C 167 amendment documents - Show changes [**7.1.4.2** - 39 pages]
3. C 167 amendment documents - Clean version [**7.1.4.3** - 38 pages]