

## Appendix "A"

### Melbourne Planning Outcomes (Applicant's planning consultant) submission regarding "two-storey v's three-storey" built form under the Design and Development Overlay - Schedule 8 provisions

*"With regard to Council's policy position regarding three storey development only being supported in Subprecinct A where a minimum 1,800 sqm lot size is met, the particular point to be made is that the support of two storey development in this case is not a mandatory control and that Council has the procedural freedom to determine that a development with a three-storey component can be approved on this site. Clause 21-05 (Residential) can be quoted as follows with reference to Subprecinct A (DDO8-2):*

*"In this sub-precinct, if a lot has an area less than 1,800m<sup>2</sup>, a townhouse style development proposal only will be considered, but development should be a maximum of two storeys. All development in sub-precinct A should have a maximum site coverage of 60 percent."*

*The language, after careful consideration through and including the panel process, has been kept as "should" rather than "must" and does not therefore create a prohibition on three-storey components of a development in Subprecinct A. (Even if it did, the efficacy of using the Municipal Strategic Statement as a directly prescriptive device would be questioned.)*

*This is reiterated in the objectives of DDO-8, the most relevant of which, for this discussion, are as follows:*

- To increase residential densities and provide a range of housing types around activity centres and along main roads.*
- To encourage development that is contemporary in design that includes an articulated built form and incorporates a range of visually interesting building materials and façade treatments.*
- To support three storey, 'apartment style', developments within the Main Road subprecinct and in sub-precinct A, where the minimum land size can be achieved.*
- To support two storey townhouse style dwellings with a higher yield within subprecinct B and sub-precinct A, where the minimum land size cannot be achieved.*
- To ensure new development is well articulated and upper storey elements are not unduly bulky or visually intrusive, taking into account the preferred neighbourhood character.*
- To encourage spacing between developments to minimise a continuous building line when viewed from a street.*
- To ensure the design and siting of dwellings have regard to the future development opportunities and future amenity of adjoining properties.*
- To ensure developments of two or more storeys are sufficiently stepped down at the perimeter of the Main Road sub-precinct to provide an appropriate and attractive interface to sub-precinct A or B, or other adjoining zone.*

- Higher developments on the perimeter of sub-precinct A must be designed so that the height and form are sufficiently stepped down, so that the scale and form complement the interface of sub-precinct B or other adjoining zone.
- To ensure overlooking into adjoining properties is minimised.
- To ensure the design of carports and garages complement the design of the building.

The development is certainly consistent with the majority of these objectives, in particular the headline objective of supporting increased densities around Activity Centres and along main roads.

With particular reference to objective 4 and the term “to support”- this does not mean to actively “not support” where a particular requirement is not met. It does not follow that when a two storey development is “supported” does not, and should not mean, that a proposal is then simply dismissed out of hand simply because a particular component is not two storeys.

The reason that the prescriptive component of the control (as found in the table at DDO8-2) is not expressed in storeys is to allow an independent assessment of the actual built form impacts of a development. This in turn, may lead to a determination that, while not actively supported, the actual built form outcome is acceptable relative to the expressed controls in DDO8 and in Rescode and above all to its site-specific context.

This is consistent with the findings of the independent panel report to the Minister for Amendment C96 which implements DDO8, which explained that height should, first and foremost, be expressed in metres (clause 7.2 at page 23) and that storeys should not in fact be used as part of any prescriptive control. Storeys should rather only be used as “commentary on proposed outcomes”. To quote the Panel report (end of page 23):

“Height should generally be specified in metres, with an additional commentary on the number of storeys permitted to help communicate the intent or outcomes of controls”

Council’s own submission to the Panel is quoted here reiterating this position. This thankfully informed the final gazetted DDO8 table which does not use storeys as a prescriptive device. It is therefore respectfully submitted that it is inappropriate to raise to the level of prescription a policy tool (storeys) that has only ever intended to provide commentary toward communicating a desired outcome.

It is worthy of note that this determination was reached in Council’s assessment of 5-7 Curlew Court (PL11/021877) and 97 Whittens Lane (PL10/020852) - both developments in DDO8-2 (Subprecinct A) where the 1,800 sqm lot size was not met and yet three storey developments were approved – Curlew Court being an apartment development no less. Each is a prime example of a detailed, site-specific assessment showing that an acceptable built form outcome could be achieved with three-storey components involved.”