



Statement of Expert Evidence:
Urban Design

Amendment C123 to the Moreland
Planning Scheme

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Council

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1.0 Introduction

My name is Simon Joseph McPherson. I am a Director of SJB Urban Pty Ltd, an independent urban design practice based in Melbourne.

I am a registered Architect and practicing urban designer. SJB Urban's work includes strategic plans and frameworks, master plans, design advice for developments and independent reviews.

I have been a member of Moreland City Council's Central Coburg Design Review Panel for over five (5) years, reviewing development proposals and permit applications for Council on a semi-regular basis. I am also a member of the Design Review Panel for South Australia, and Central City Design Review Panel for Adelaide.

SJB Urban has not been involved in any development projects or permit applications in the C123 area. However SJB Urban has been recently commissioned (on 19 June 2014) by Kangan Batman TAFE to prepare concept sketch plans and yield studies for the potential redevelopment of the TAFE's Coburg site east of Sydney Road, between The Grove and The Avenue, adjoining (but outside of) the Amendment C123 area. I understand that this proposal will be presented to the C123 Planning Panel, by others. This engagement has been communicated to Council officers.

I was engaged by Moreland City Council in May 2014 as an expert witness for the Planning Panels Victoria hearing of Amendment C123 to the Moreland Planning Scheme, to carry out two primary tasks:

- Peer Review of selected background documents, as follows:
 - *Colours of Coburg Built Form and Land Use Strategy (December 2010)*
 - *Coburg Built Form Rationale (June 2012 and February 2014)*
 - *Council's resolution of 11 December 2013 to reduce the maximum building height specified for some precincts.*
 - *Central Coburg 2020 (August 2006) as it relates to Precincts 5, 7 and 10 specifically:*
 - *Part 5 Structure Plan policies*
 - *Part 7 Precinct guidelines*
- Expert Witness statement and presentation to the Panel.

In carrying out this work, I have:

- Visited the Central Coburg area
- Met with Council officers on several occasions
- Met with Council's Planning expert witness for, Mr Robert Milner
- Met with Council's legal representative, Mr Terry Montebello

In response to my instructions and brief, I have structured the Statement of Evidence under the following questions or considerations:

- **Is the methodology for establishing built form controls appropriate?**
- **Are the built form provisions appropriate?**
- **Are mandatory controls supported?**
- **Is the Schedule appropriate and effective?**

2.0 Summary reviews of background documents

The content of this section is taken from my Peer Review of applicable background documents to Amendment C123, prepared as part of my scope as expert witness for this Amendment.

The current Amendment C123 and associated planning provisions reflect the 'culmination' of an extended period of strategic planning work. My understanding of the relative status and sequence of the background documents is as follows:

The Coburg 2020 Structure Plan was completed and adopted in 2006 and provides directions relating to public realm and built form that have been carried through to this Amendment C123.

The Coburg Initiative (TCI) reviewed the built form recommendations in the Structure Plan, with a view to Coburg functioning effectively as a Principal Activity Centre (PAC), and through comprehensive testing of three scenarios, arrived at a recommended framework for increased built form height and massing, above that proposed in the Structure Plan. The TCI study area is smaller than the Structure Plan area, focusing on the central core area.

This review will therefore consider Precincts 5, 7 and 10 of the Structure Plan specifically (as instructed), which are not addressed by TCI.

TCI resulted in the *Colours of Coburg Place Framework* document, and supporting Strategy reports. This review will consider the *Place Framework* and the *Built Form and Land Use Strategy* (with reference to other Strategies).

The *Built Form Rationale and Building Envelopes document* (2012, updated in 2013 and 2014), builds on the TCI work, and provides detailed guidance for built form (heights, setbacks and profiles) across the area.

The proposed Schedule 1 to the Activity Centre Zone (ACZ) replicates the guidance in the *Built Form Rationale* document (2014), in tabular form, as well as the guidance in the Structure Plan for Precincts 5, 7 and 10.

2.1 Colours of Coburg Place Framework

The Place Framework forms the 'lead' document setting out the master plan developed through The Coburg Initiative. It is supported by a suite of more specific and technical documents, as follows:

- *Built form and land use strategy*
- *Public realm strategy*
- *Economic development strategy*

This document provides key summary points for:

- The challenges facing Central Coburg, and why change is required;
- How the community is being engaged;
- The work process being undertaken (partnership, building on the Structure Plan);
- The strategic 'big picture'; and
- The economic context.

2.1.1 Issues and recommendations

The key issue identified for this Place Framework document concerns the way in which the Concept Plan is presented and communicated. This document relies on the supporting Strategies to provide the rationale and

explanation for the content of the framework (built form and public realm), but does not make this clear, and so the transition from high-level principles and directions, into a specific plan, is somewhat confusing and appears ungrounded.

Perhaps to address this, it would be better to exclude the Concept Plan from this Place Framework, retaining just a high level Precincts Plan or similar (or a 'Place Framework' identifying the public realm system), and referring to the Built Form and Land Use Strategy for information regarding the proposed built form outcomes.

Currently the Concept Plan and 3D massing views focus too much attention on built form, rather than the 'places' between buildings, given that this document is a Place Framework.

Notwithstanding the above comments, this document does not present any significant issues for the overarching methodology towards establishing the proposed Amendment C123 built form controls.

2.2 The Coburg Initiative: Land Use and Built Form Strategy

This Strategy builds on the content of the Place Framework, providing a greater level of detail and explanation for the preferred built form and public space outcomes, through a series of plans and sections explaining various aspects of the framework, as well as detailed and comprehensive guidelines for development.

This document is set out as follows:

- Vision and Principles (from Place Framework)
- Land Use Objectives, and Precinct Plan (repeated in Place Framework)
- Built Form Objectives, and Built Form Plan, as well as cross-sections to explain heights and setbacks
- Plans for new streets and pedestrian links, and active frontages
- Built Form Guidelines
- Precinct Guidelines, including Role (generally mixed uses), Preferred heights, and Other Specific Requirements
- Other Objectives: ESD, Transport etc.

The key aspect of this document relating to the overarching methodology is that of the process of arriving at the preferred built form outcomes.

The 'Building Heights and Setbacks Justification' is set out at the end of the document, in Attachment 1. This section forms a key aspect of my consideration of these documents, as it presents the method and rationale used to arrive at the preferred building envelopes (noting that some envelopes have since been altered, as discussed below).

Attachment 1 provides the following explanation sequence:

1. Three Concept Plans were developed, with varying degrees of development intensity (low, medium, high);
2. The *Economic Development Strategy* identified the 'extent' of change required for Coburg to function efficiently as a Principal Activity Centre (PAC), benchmarked against two successful PACs – Box Hill and Subiaco (WA);
3. The sustainability performance of the three Concept Plans was also tested;
4. The Concept Plan – High was selected as preferred, providing a total quantum of development yield (set out in the *Economic Development Strategy*);
5. Building heights and setbacks were developed based on the principles of: locating highest density in the core, rational building envelopes, managing overshadowing of public space, appropriate building separation and defining street enclosure and character.
6. The building heights have been established to accommodate the development yields necessary to provide for the quantum of change and diversity of uses identified by the TCI project to realise

the Principal Activity Centre status of Coburg (based on the yields associated with Concept Plan – High)

7. The building setbacks are designed to minimise impacts on public spaces (with requirements for key spaces specified, and shadow diagrams provided), as well as consideration of residential interfaces.

I see this process as an appropriately robust methodology for developing preferred built form envelopes.

2.2.1 Discussion

Through discussion with Council officers, I understand that the Concept Plan – High incorporated basic/assumed built form profile assumptions (moderate street wall height with full site coverage, standard setback above podium, up to nominated height), to reflect the total yield envisioned. I also understand that a highly ‘conservative’ or ‘generous’ approach to floorspace provision was taken.

These ‘crude’ envelopes were then ‘refined’ to establish preferred building envelopes, by reference to several principles, as noted at item 5 above, but to retain the quantum of floor space required, as established under the Concept Plan – High.

2.2.2 Issues and recommendations

I have identified a number of specific issues associated with this document, as follows:

The Vision and Objectives in this document identify **transformation** and **high density**, but don’t really discuss retention of local character or aspects of the established urban fabric, or the reason for maintaining reasonably consistent mid-rise heights across the centre, as opposed to greater heights, or greater variation in heights. The **TCI Public Realm Strategy** does not fully explain this aspect either. It identifies the relevant public realm challenges including creation of a network of walkable, interconnected and permeable streets of **varying scale and character**.

While the overarching built form intent is evident from the concept plans in these documents, in my view the direction towards mid-rise development, in keeping with the established built form character, should be clearly articulated in the Vision and Objectives.

The rationale for **street frontage heights** is also unclear in this document. While the sections indicate a generally consistent street frontage height of 3-4 storeys, the basis for this is not explained in the *Land Use and Built Form Strategy*.

The *Built Form Rationale and Building Envelopes* (2014) document (reviewed below) states that *generally 4 storeys is identified as an appropriate maximum podium height for the Coburg PAC for the following reasons:*

- *up to 4 storeys maintains a visual connection with the street.*
- *4 storeys provides an appropriate scale/proportion to the average street width.*

I understand through discussion with Council officers that this approach was informed by earlier studies by Gehl Architects, provided at section 6.1 of *The Coburg Initiative Baseline Research* document (draft April 2009), but from my brief review of this I did not see a specific recommendation on street wall heights.

I am supportive of these principles for retaining an appropriate ‘human scale’ frontage condition. In my opinion frontage heights of approximately 6-7 storeys can also achieve a visual connection with the street, however it is clear that a 3-4 storey frontage presents a lower-scale and less prominent street wall condition than 6-7 storeys.

The **Building Heights plan** (Fig 3, page 12) presents a clear logic (lower height along Sydney Road core retail area, higher at Bell Street and ‘bookends’, with lowest at the residential interface areas), but is somewhat confusing, for example:

- The colours are unclear, in terms of differentiating the heights and aligning with the legend;
- The heights are not defined as preferred maximums, or recommended building heights; and

- The legend indicates 5, 6, 8 and 10 storeys, but it is unclear whether this would preclude 7 or 9 storey buildings.

Also, lower heights in the core (6-storey blocks bookended by two 10-storey blocks) may be seen as contrary to the objective of locating the highest density in the core (noting that density is not necessarily proportionate to height). However I understand the 'core' of the C123 area to be the area of Precinct 1 approximately, which contains the highest density and built form scale, when seen within the full extent of the C123 area.

I would suggest it is better to use broader height ranges within a strategic document, rather than five (5) different specific heights, with suggested height ranges as follows:

- 2-4 storeys (low height, walk ups etc)
- 5-7 (lower mid-rise)
- 8-10 (higher mid-rise)

However I note that the Amendment proposes mandatory maximum building heights, as discussed below, so in that context, height ranges are likely to be less appropriate than specific heights.

The Heights Plan also raises the issue of consistency and continuity of built form envelopes. There is a potential risk with mandatory heights that extensive redevelopment would lead to excessive consistency across large areas or corridors, rather than more 'natural' variations. However I do not consider this a significant risk or potential because:

- A 'full build out' scenario is unlikely to occur, even in the very long term;
- Discretionary upper level setbacks will lead to a varying built form profile, even with consistent heights;
- Some sites, such as very narrow allotments, may not present feasible development potential up to the height limit, so may remain in their current state or undergo lower-scale additions or redevelopment.
- Some developments may seek lower heights, due to other constraints such as car parking ratio and construction costs.

However, as discussed further below, it is my opinion that the Amendment should more rigorously consider local characteristics and 'valued aspects of Central Coburg, and explain how the controls will support the retention and reinforcement of local characteristics such as diversity, richness, grain and texture, through new development.

I will discuss local character below.

The specific guidance for building heights and setbacks raises a number of questions and concerns, as follows:

- Setting heights based on *exactly* 3.6m floor-to-floor heights (as an assumed average):
 - Creates very specific height limits (28.8m, 21.6m etc) which may cause confusion;
 - 28.8m is based on 8 floors (8 x 3.6) but could comfortably fit a 9-storey apartment building (4m ground floor + 8 x 3 = 28.0m)
 - Some commercial buildings, particularly with high ESD performance, may require greater floor to floor heights, and may therefore be 'penalised' for providing increased ceiling heights or ESD systems.
 - If a building's floor height was 3.6m, opportunities for parapets or other variations at roof level are restricted.
- The provision of specific solar access requirements to key public spaces, as well as specific height and setback provisions, may be seen as 'doubling up' unnecessarily. Further, built form profiles other than those suggested could achieve the same solar access outcomes. The relationships between the built form profiles and solar access requirements is discussed in more detail later in this report.
- The height controls in metres may encourage residential over commercial, by allowing up to two additional floors within a 10-storey/36m envelope (36m could fit 11-12 residential storeys).
- As noted above, the controls could potentially lead to long streetscapes of very consistent building heights and profiles, rather than allowing for limited variation, diversity and 'grain'.

Therefore it may be more effective to specify the number of floors (if the same number of floors applies regardless of use or floor heights), as well as an maximum height range, to allow for limited flexibility and variation.

Also, specific performance requirements such as those provided for solar access to nominated public spaces, are more effective than specific envelope requirements for stepped buildings, which are too narrow in terms of understanding the potential built form outcomes.

I have not reviewed the **Built Form Guidelines** in this document in detail but note that these are very lengthy and detailed, and need to be understood in the context of other available guidance (including the Victorian Design Guidelines for Higher Density Residential Development and the Moreland Higher Density Design Code). In one sense this type of design guidance is valuable for 'lesser' designers, but achieving the guidelines will not necessarily ensure a good design outcome, as many are just suggestions and possibilities. Some also may overlap (or potentially conflict) with building regulations etc, so are unnecessary in a strategic document (e.g. *Within car park areas, provide directional signage to lifts, stairs and exit points, p26, Bicycle signage that directs cyclists to bicycle facilities should be provided, p25*).

The determinant of **upper level setback** depths is also unclear. While solar access requirements to key public spaces (established in this document at page 21) appear to inform the applicable building envelopes, the setback depths at other locations is not explained to my reading.

2.2.3 Contribution to overarching methodology

While the above issues represent relatively minor matters relative to the overarching methodology for C123, this document does not present significant challenges to this methodology or strategic process, but provides comprehensive guidance for built form and land use based on clear principles.

While it leaves some questions unanswered, such as the rationale for some upper level setback distances and the very specific floor heights and building heights, the more recent Built form rationale and building envelopes document is intended to further clarify the basis of the proposed controls.

2.3 Built form rationale and building envelopes (February 2014)

This document is a key report for the Amendment, providing explanation of the rationale for the proposed built form controls, the proposed mandatory nature of the controls, and detailed explanation of the proposed built form outcomes.

2.3.1 Discussion

The content of this document (2014 version) has been translated directly into the ACZ Schedule for Amendment C123, noting that there are two (2) superseded versions of this document (2012 and 2013).

The **Built form rationale and building envelopes** document builds upon the built form provisions in the TCI documents (above). This document states that the preferred option was **refined** in accordance with built form principles as follows, stating that *this process provided confirmation of building heights and setbacks, that were then included in the Land Use and Built Form Strategy*:

1. locating highest density in the core;
2. creation of **rational** building envelopes;
3. managing overshadowing of key public spaces; and
4. creating a defined streetscape character.

This commentary (on page 14) is re-stating the explanation in the TCI *Land Use and Built Form Strategy*, but does not explain why the heights and some setbacks are different in these two documents. It is unclear to what extent the previous envelopes were refined (noting that some built form heights have been reduced).

This is an important question, as it relates to two key factors:

- The robustness of the analysis and its translation into built form, or how strategic requirements (accommodating employment growth etc.) have informed the built form recommendations
- The ‘tension’ between, on the one hand, identifying the centre’s under-performance, and sub-standard PAC level, boosting the centre, selecting the ‘high’ scenario and encouraging change towards a vibrant, diverse and prosperous city centre, and on the other hand, placing fixed limits on built form throughout.
- The role of mandatory provisions, justified on the basis of comprehensive analysis and rationale, in terms of the rigour with which the analysis was applied to establish the built form provisions.

Notwithstanding the above comments, I have been informed by Council officers that the refined built form provisions comfortably achieve the preferred floorspace areas for the Concept Plan – High scenario (from the TCI Economic Development Strategy).

2.3.2 Issues and recommendations

I note that Figure 5: Maximum Building Heights on page 15 is incorrect, and was erroneously not updated to reflect the changed heights shown elsewhere in this document (as confirmed to me by Council officers).

The above four (4) principles may raise questions as follows:

1. This is a logical principle, but is not deterministic or measurable, and as discussed above, has not been strictly applied, as lower building heights are specified in the central core area, but is applicable when considered across the broader C123 area.
2. This principle could be questioned in some cases (such as 1.2, 1.11), and it is unclear as to how this was measured or assessed (noting that Council officers have advised me that ‘test fit’ exercises were carried out for some sites, to investigate feasible development scenarios). I also note that these envelopes do not necessarily represent building forms. However the document states that: *Further work and extensive community engagement refined the Structure Plan in respect of the core of the Activity Centre with the main aim of testing the commercial deliverability of the Plan and establishing an implementation plan to achieve that end – this work is known as ‘The Coburg Initiative’.*

Council officers have provided me with a series of ‘test fit’ plans showing how mixed-use developments may be configured on several of the core development sites. While these appear to reflect reasonable development propositions, they are quite ‘broad-brush’ and I was not provided with any associated financial/feasibility information to support the plans. Also, some of the height controls have since been reduced which would affect the development proposition’s form and feasibility.

3. This principle is measurable, based on specific requirements, so clearly understood. But the basis for determining these particular requirements is also unclear. Further, these requirements could be addressed through building forms other than those prescribed by the envelopes.
4. As discussed above, the actual identified or preferred streetscape character is not clearly defined or stated.

The main content of the report comprises **3D views** of each individual sub-precinct, of which there are many. While these views clearly communicate the building envelope, heights and setbacks, they may cause some confusion due to:

- Each block or sub-precinct is seen in isolation of the surrounding blocks;
- The sub-precincts are ‘viewed’ from a range of different angles or orientations; and
- The setbacks and built form profiles are quite complex in some cases.

Council officers have provided me with the 3D CAD model file for this work, to allow integrated viewing and testing of the envelopes.

The **Shadow diagrams** from page 67 utilise the 3D model to demonstrate how the built form envelopes achieve the solar access requirements. In considering these, I note the following:

- Civic Square Market site: The shadow extent at 2pm appears to potentially cover more than ½ the space, whereas the requirement is for no more than ½ the space to be in shadow at these times. However I have been advised by Council officers that the recent increase in size of this space, by 25%, is not reflected in the 3D modeling, but is likely to result in a greater proportion of sunlight access.
- Victoria Street Mall: the shadow appears to reach the building opposite (south side) rather than retaining sunlight to the southern footpath, as required. I also note that in this report the clearance is 2m between 12:00 and 2:00pm, whereas in the Land Use and Built Form Strategy, the requirement is for 3m, between 11:00am and 2:00pm.

I have been instructed by Council officers to further investigate this apparent discrepancy, and this investigation is set out below (2.3.3).

Appendix 2 shows the shadows to streets at the equinox. These diagrams appear to show that:

- Many east-west streets will experience shadow effects all the way across
- Most north-south streets enjoy good sunlight access, especially across the middle of the day (as would be expected)

This Appendix 2 does not provide any explanation or rationale. It would be beneficial if this section was used to explain and demonstrate how the building envelopes achieve solar access to streets, especially to the southern footpath areas of east-west streets, to support the rationale for mid-rise development, as opposed to taller forms.

2.3.3 Testing of built form massing and solar access to Victoria Street

Utilising the 3D CAD file (SketchUp software) provided by Council officers, my colleagues and I at SJB Urban have:

- Reviewed and confirmed the setup and base parameters of the model (geo-location, orientation, floor heights);
- Tested the shadow implications for Victoria Street Mall, between the train station/bike path to the east, and Sydney Road to the west (the Civic Square Market Site is located centrally in this stretch);
- Identified any areas of overshadowing beyond the solar access requirements set out in the ACZ Schedule; and
- Manipulated the 3D form (setbacks) of the buildings along the northern side of Victoria Street, to identify the maximum building envelope and setback profile to achieve the requirements in the ACZ Schedule.

The results of this process are as follows:

- The built form profiles result in overshadowing exceeding, or not meeting, the requirement in the ACZ Schedule (for sunlight to the southern footpath in winter), by a significant margin, as shown below (Figure 1);

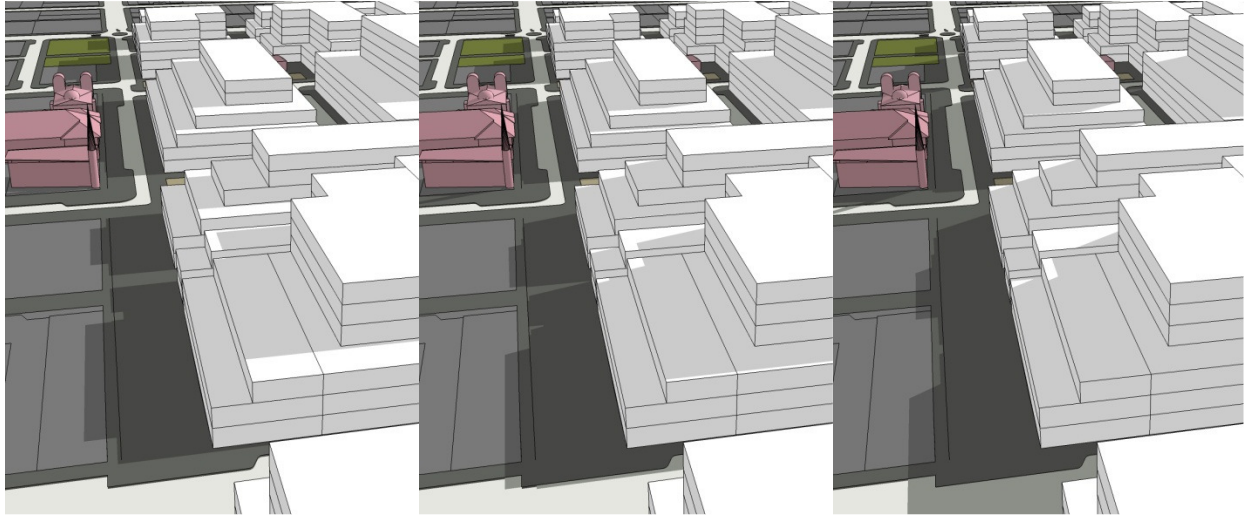


Figure 1: Views of Victoria Street looking west (12pm, 1pm and 2pm, 21 June) with **current** built form profiles as proposed in the Built Form Rationale 2014 document and ACZ Schedule. Overshadowing exceeds the requirement for sunlight to the southern footpath (no overshadowing within 2m of southern building line, 12-2pm, 21 June).

- The 'set-forward' alignment of the built form west of Waterfield Street, relative to that east of Waterfield Street (and so narrowing of the street), based on current subdivision alignments, results in excessive overshadowing beyond the requirements, caused by the 2-storey podium form alone, regardless of upper level setbacks. This suggests that to achieve the stated requirement, a 1-storey street wall would be required, or the building frontage should be set back approximately 2m to align with that to the east of Waterfield Street.
- To achieve the solar access requirement, the overall building heights can be retained, as well as the 2-storey street wall height (noting the point above), but upper level setbacks need to be increased, as shown below Figures 2 and 3).

Based on this testing, it is recommended that the other requirements for solar access to key public realm spaces also be tested and confirmed.

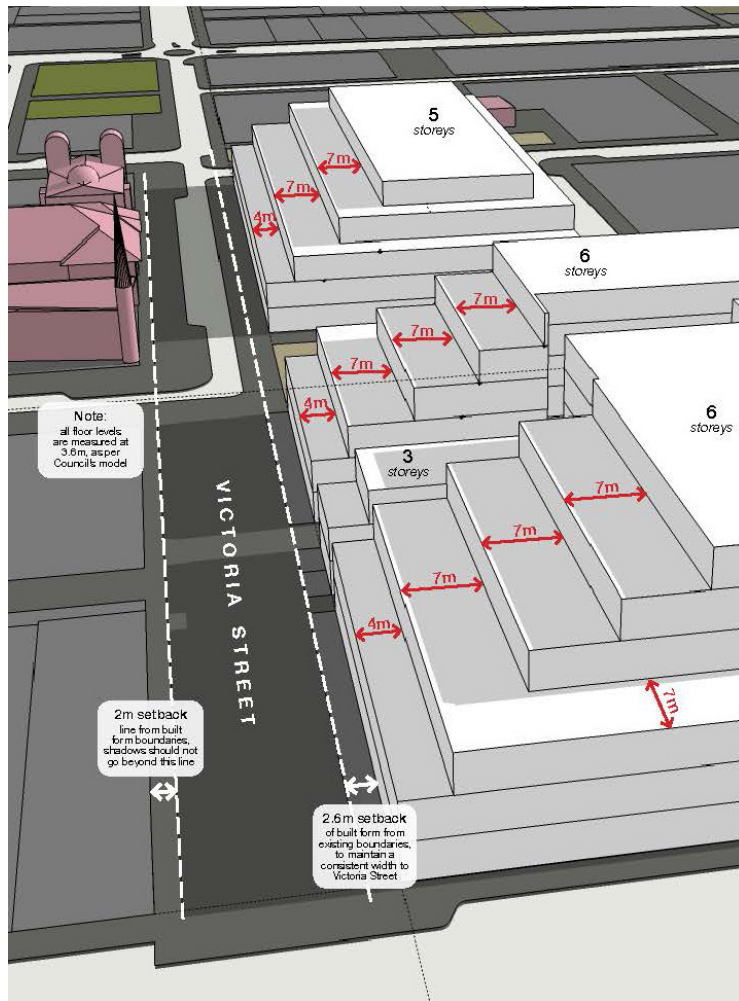


Figure 2: Same view of Victoria Street looking west with dimensions for modified built form profiles, to achieve the requirement for sunlight to the southern footpath (no overshadowing within 2m of southern building line, 12-2pm, 21 June).

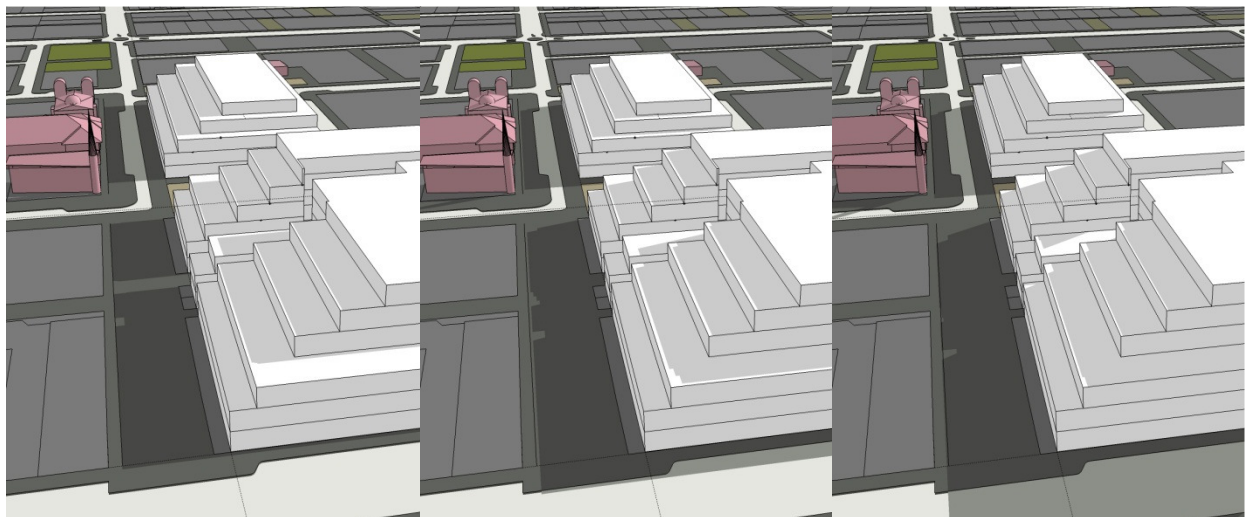


Figure 3: Same views of Victoria Street looking west (12pm, 1pm and 2pm, 21 June) with modified built form profiles, to achieve the requirement for sunlight to the southern footpath (no overshadowing within 2m of southern building line, 12-2pm, 21 June).

2.3.4 Contribution to overarching methodology

The *Built Form Rationale and Building Envelopes* (2014) document, despite its title, provides very limited further rationale or explanation than its predecessor, the Land Use and Built Form Strategy.

While I am aware that Council decisions in the time between these two documents resulted in reduced heights in some areas, the reasoning for these changes is not explained in the 2014 document (which does not specifically state that there have been changes, just 'refinements' to the original Concept Plan).

Other specific issues noted above call into question some aspects of the controls, particularly the rationality of the building envelopes and responses to solar access requirements.

These issues, in turn, challenge the basis of establishing such complex and varied built form controls, with 26 Sub-Precincts in Precinct 1 alone, each with a specific envelope of heights and setbacks at all interfaces.

3.0 Is the methodology for establishing built form controls appropriate?

It is important that the built form provisions in the proposed ACZ Schedule are supported by a robust and clear methodology which explains how these provisions have been established, for two key reasons:

- Establishing a strong basis for the controls, in the context of the breadth of background work carried out, reflecting considered planning and community inputs; and
- Providing support for mandatory controls. The 2014 Built Form Rationale document explains that rigorous analysis is a key foundation for applying mandatory controls.

Therefore it is essential to analyse and test the methodology that has resulted in the current provisions in Amendment C123.

The general sequence of actions provides an appropriately robust methodology, as follows:

- Structure Plan prepared in consultation with community;
- Structure Plan tested against benchmarks and economic targets, resulting in new framework for increased building heights (also through consultation through TCI); and
- Refinement of building envelopes, to achieve desired public realm outcomes.

However this process incorporates a number of 'gaps' or questions, which prevent a direct linear relationship between the strategic work and current provisions. The table below seeks to demonstrate where various aspects of the built form controls have originated from, and where there are gaps in these relationships.

ACZ Schedule		Built form Rationale		The Coburg Initiative					Structure Plan
				Economic Development	Land Use and Built Form	Place Framework	Public Realm / Infrastructure		
Solar access requirements to key public spaces	←	Yes (direct translation with minor changes), and shadow studies provided (but some are questioned)	←		Yes		No	←	
Solar access requirements to streets (4.4: No overshadowing at equinox of primary pedestrian routes)	←	No (but shadow studies provided)	←		No		No	←	
Building massing/volume	←	Yes (specified, direct translation). Massing was 'refined' against built form principles.	←	Yes (yields), but total floor space achieved not stated. Refinement of envelopes based on principles including 'rational' envelopes. No evidence of feasibility testing.	Yes (Heights Plan and Sections)	No		←	Superseded
Building frontages: Streetscape character	←	Yes (frontage heights specified, direct translation), but no explanation of streetscape character/form	←		Yes (shown in sections) but no direct rationale provided		No	←	
Building heights	←	Yes, but modified by Council decisions 2013	←		Yes, but lower heights in core are counter to stated principle of highest density in core			←	
Bldg envelopes and upper level setbacks	←	Yes (direct translation to ACZ)	←		Yes, but refined in 2014			←	

Building on this analysis, the primary issues that I have identified through the extended methodology or strategic process are as follows:

- Recent changes to height provisions by Council, in response to community concerns, despite the strategic/analytical basis of the previous provisions, and extensive community engagement that informed them;
- Lack of clarity regarding the 'carrying through' of the economic yield projections for the Centre, and to what extent these yields are achieved in the envelopes;
- The lack of demonstrated testing of preferred building envelopes, in terms of building configuration and the commercial feasibility of development (noting that this work would not be provided within strategic planning documents, but would support the case for mandatory controls in this instance); and
- Minor gaps in explanation of some aspects of the provisions (such as solar access requirements and times, street frontage wall heights and upper level setback distances).

While the background documents demonstrate a wealth of detailed and rigorous work in planning for Central Coburg, they do not currently reflect a 'seamless' translation into the proposed controls under Amendment C123.

4.0 Are the built form provisions appropriate?

This section considers the proposed built form controls, as set out in the ACZ Schedule, for their appropriateness in achieving the desired outcomes. In assessing the provisions, the key considerations are:

- **Do the controls support the stated vision and objectives?**
- **Will the controls facilitate development and transformation, and therefore support achieving the vision?**

The Vision as set out in the TCI *Land Use and Built Form Strategy* is summarised as follows:

Central Coburg develops as the prime shopping, living, employment and activity precinct in Moreland. The centre is transformed into an attractive system of streets and spaces. Central Coburg becomes a sought-after living environment, offering a range of housing choices, including high density housing. Most people arrive at the centre on foot, by bike or public transport. The provision of a range of services enables people to conduct a number of different activities based on the one trip. Central Coburg is linked with networks of green space.

The TCI Principles are:

- *Central Coburg will revive and capitalise on its sense of Place*
- *Central Coburg will support a vibrant, safe, diverse, connected and harmonious community*
- *Central Coburg will be an exemplar eco-city of the 21st century*

In terms of capitalising on the sense of place, it is worthwhile considering the aspects that contribute to or form this 'place'. The Structure Plan states in its discussion on sense of place that while the centre's identity and attractiveness has been eroded, the valued character derives from the remnant boom era shops on Sydney Road and the significant civic and institutional complexes and buildings. The Structure Plan seeks to generate a new 'sense of place' which builds on this character.

More specifically, the Structure Plan states that a *two-storey scale has been retained on Sydney Road through a number of remnant period buildings, with varying scale and quality of infill development. Behind Sydney Road, the environment and streetscapes are poorly defined and uncoordinated.*

It is clear that the noted erosion of historic built form, the low quality of some buildings in the centre, and the large areas of at-grade car parking, have left Central Coburg with limited definable character. However my observations of the Sydney Road corridor in particular reflect a character of diversity and visual richness, aided by the colour and signage of retail and café activities.

The relevant Objectives for Land Use and Built Form are summarised as follows (from the *Land Use and Built Form Strategy*):

- *To create a **high density, mixed use centre** with a diversity of land uses, equivalent to its role as a Principal Activity Centre.*
- *To **facilitate development** that contributes to the achievement of the dwelling and land use floor space targets established for the TCI, as detailed in the Economic Development Strategy.*
- *To establish an overall built form pattern of **tallest buildings in the core** and fronting Bell Street, transitioning down to more modest scale buildings at the fringes*
- *To ensure buildings **enhance public spaces** (and) connect well to streets*
- *To ensure built form makes provision for identified new streets and pedestrian links.*
- *To ensure new development contributes to the safety, visual interest and vitality of streets, pedestrian links and public spaces.*
- *To ensure development **maximises solar access in public spaces** relative to their role and function, and helps create microclimate conditions that provide a high level of pedestrian amenity.*

- To ensure development **contributes to improved streetscapes**, in accordance with the TCI Streetscape Masterplan.

The clear message from this strategic context is the imperative to facilitate and encourage significant change through redevelopment, while also limiting the scale or degree of change, with regard to the public realm and place character of the Central Coburg area. This 'tension' between development 'facilitation' and development 'control' encapsulates the essential challenge for Amendment C123.

4.1 Do the controls support the stated vision and objectives?

It is evident that the proposed controls seek to achieve a balance between supporting and facilitating change and transformation, while responding to local characteristics and avoiding dramatic changes in built form character.

It is my opinion that if developed to the extent indicated by the illustrations, in line with the established parameters and guidance, there is strong potential and likelihood that this would reflect the centre's 'transformation' into a primary hub for shopping, living, employment and activity precinct, comprising an attractive system of streets and spaces, in line with the vision.

The controls reflect high-density, mid-rise, mixed-use development, facilitating an intensive yet moderately-scaled redevelopment framework. Mid-rise development (in the range of 6-10 storeys) typifies 'traditional' urban design evident in many European cities, which provides for several urban design principles:

- Human-scaled streetscapes, and visual interaction with the public realm;
- Definition of streets and spaces, through zero-setbacks;
- Relatively open streetscape proportions (height to width);
- High-density, without high-rise; and
- Sunlight/daylight to streets and spaces.

Therefore it is my opinion that the proposed built form controls do effectively support the vision and objectives.

4.2 Will the controls facilitate development and transformation, and therefore support achieving the vision?

To answer this question, given that the provisions in a general sense are aligned with the established Vision and Objectives, one must consider whether the provisions place unnecessarily restrictive requirements or limitations on development, and therefore constrain or discourage development activity, which then reduces the prospect of achieving the vision. I will consider this matter through reference to specific aspects of the provisions, as set out below.

4.2.1 Mid-rise development and building heights

The built form controls provide for mid-rise development across the central Coburg area, with a prevalence of buildings of 6-8 storeys. The alternative to this in a major urban centre would be to provide for significantly taller buildings, as is beginning to occur in locations such as Footscray and Box Hill. It is also noteworthy that Box Hill is one of the locations against which Coburg was benchmarked, from a land use perspective, through the TCI *Economic Development Strategy*.

In my opinion, mid-rise is an appropriate built form model for established low-rise centres such as Coburg, where a strong grid/network of streets and lanes is being reinforced, and where an existing built form character and 'grain' is evident in some locations.

Mid-rise also provides for a more 'human scale' streetscape condition, and is appropriate to establishing continuous street wall frontages, and 'perimeter block' development configurations.

However appropriate mid-rise development, in my understanding, can be difficult to achieve in more marginal development locations, from a commercial feasibility perspective. This is often due to the challenges of accommodating sufficient car parking, which in large developments can occupy approximately the same amount of floorspace as the habitable areas of the building, and the additional cost and complexity of basement car parking, especially on smaller sites.

However, I am supportive of the direction towards mid-rise development in Central Coburg.

4.2.2 Street frontages

The built form provisions generally provide for zero-setbacks or direct street frontages, which is appropriate in this context. Existing and traditional built form in Coburg typically displays this characteristic, and future frontage development will serve to define and reinforce the street grid.

The street wall frontage heights are generally set at 3-4 storeys (with taller frontages along Bell Street for example). As stated above I am supportive of retaining an appropriate 'human scale' frontage condition.

In terms of streetscape proportions (building height relative to street width), a ratio of approximately 1:1 is considered appropriate in an urban/town centre context. Several of the streets in the core area are marked as 17m wide (with some narrower, and Sydney Road and Bell Street being wider). Four-storey frontages (at 3.6m per floor) would equate to 14.4m high frontages, so slightly less than 1:1 ratio, while a six-storey frontage would equate to 21.6m frontages, so slightly more than 1:1.

However in the context of generally 6-8 storey future built form, and the low-rise existing character, I am supportive of the proposed 3-4 storey street wall condition generally.

4.2.3 Upper level setbacks

As noted above, the rationale for the depth of upper level setbacks above the street frontage, or additional setbacks further up, is not clearly stated in the background information.

It is understood that some setback profiles have been influenced by the related solar access requirements to streets or key public spaces. However in these cases, other setback profiles could achieve the same outcome, and so the particular setback profile provided is not supported by a clear rationale.

Upper level setbacks are important for several reasons:

- Reinforcing the street wall condition;
- Creating upper level forms which are visually distinct from the podium or street frontage form;
- Reducing the visual 'presence' of upper level forms in the streetscape;
- Expressing built form transitions, such as at interface areas; and
- Creating private or communal open space at upper levels.

I note that the upper level setbacks in the ACZ Schedule are not mandatory controls (whereas the height limits are mandatory). Therefore there is some flexibility in setbacks. These matters are discussed below.

To conclude, I am unable to definitively state to what extent the proposed controls will support or unnecessarily constrain development, from a commercial feasibility perspective (and therefore likelihood of development).

It would be reasonable to expect that private sector developments would seek to 'push' the non-mandatory aspects of the proposed controls (being upper level setbacks).

If development were to occur across the Centre over time, generally within the preferred building envelopes, then the outcome would reflect a transformation of the area, in line with the vision. However there may be a need for further testing of the provisions to ensure that they will support and encourage private-sector, mixed-use development which supports the overall vision.

5.0 Are mandatory controls supported?

I would commence my consideration of mandatory controls with several key statements:

- Statutory planning is beyond my area of expertise, and I have very limited experience of consideration of mandatory versus discretionary controls;
- Mandatory versus discretionary controls is not a matter of urban design opinion; and
- I have on numerous occasions advised on and expressed support for development proposals which exceed the applicable discretionary controls.

However, I also note that:

- I have read DPCD Practice Note 59: *The role of mandatory provisions in planning schemes*;
- With reference to this Practice Note, Council has established the extent and rigour of analysis in the background to C123 as the key justification for applying mandatory controls. The *Built Form Rationale* document states that *the extensive background work... serves to legitimise the use of mandatory height controls*.
- I have been instructed by Council to review the background work and test the robustness of the methodology for establishing the proposed controls, as set out above. Therefore the primary focus of my reviews for this Amendment, relates directly to the application of mandatory height controls.

Therefore, I understand the key questions for my consideration and opinion to be:

- Does the background analysis and rigour justify applying mandatory controls (by way of reference to the Practice Note)?
- Are the proposed mandatory controls effective in supporting the preferred outcomes (and more effective than discretionary controls would be)?

I will respond to these questions below.

5.1 Does the background analysis and rigour justify applying mandatory controls (by way of reference to the Practice Note)?

The 2014 Built Form Rationale document explains the basis for applying mandatory controls as follows:

- The desire to provide certainty to stakeholders (developers, community);
- Mandatory controls are justified by the extent and rigour of background analysis and testing (including reference to previous hearings and legal advice); and
- The need to protect sunlight access to key identified (existing or proposed) public spaces.

In principle I am supportive of the initiative to provide certainty in planning outcomes, notwithstanding that I have practiced professionally in the areas of discretionary, performance-based planning and assessment as stated above. There is clear urban design merit in establishing a preferred built form framework, which has been thoroughly tested and analysed, and firmly controlling the outcomes over time.

As explained above, while Amendment C123 is supported by a raft of strategic planning work, and a generally linear, understandable sequence of work leading up to the current proposed controls, the overarching methodology is affected by some key 'gaps' in the process, as follows:

- The lack of a stated principle or objective determining the overarching approach of mid-rise development;
- The lack of clarity around the 'refinement' of built form envelopes in between the TCI *Economic Development Strategy* and the *Built Form Rationale and Building Envelopes* documents, with reference to established built form principles;
- The apparent lack of clear rationale for some aspects of the controls;

- The apparent disconnect between the key principle of concentrating heights in the core, then applying lower heights in the central area; and
- Council's decisions to reduce heights in some areas in late 2013, in response to community concerns, apparently overriding the strategic work which had established the proposed heights and envelopes.

Therefore it is my opinion that the background analysis does not fully explain or 'lead to' the built form provisions, and this situation reduces the apparent rigour of the background analysis. It is beyond my expertise to assess or determine whether this background context sufficiently justifies mandatory building height controls, or not.

However the key consideration, in my opinion, is whether the proposed mandatory heights might constrain private sector development to the extent that the required change will not occur, or if other key principles (such as mixed-uses, sustainable development, building quality) will be affected or negated by the restrictive height controls.

It is important that the controls are sufficiently tested from a 'commercial' perspective, to ensure that they will facilitate and encourage the type of development outcomes envisaged to affect comprehensive change in the Centre, and that they do not compromise development quality or public realm outcomes, or preclude development altogether.

5.2 Are the proposed mandatory controls effective in supporting the preferred outcomes (and more effective than discretionary controls would be)?

I reiterate that in the proposed controls, only buildings heights are mandatory, while other aspects (upper level setbacks, solar access to key public spaces) are discretionary.

The mandatory height controls will establish clear limits and prevent any vertical encroachment, so retaining a mid-rise built form condition throughout, and potentially leading to very consistent building heights across large areas. However other aspects of the controls, such as solar access to public spaces, may not be achieved, because of the discretionary nature of the setback controls.

I note that the *Built Form Rationale* document also identifies the risk of underdevelopment, requiring that proposals of three storeys or more below the maximum height should demonstrate how the objectives can still be achieved.

In considering the potential of discretionary height controls, I acknowledge the risk that over time, individual developments may incrementally exceed the preferred heights, leading to an emerging built form that is significantly higher than originally envisioned, and thereby introducing a distinctly different urban character. However this reinforces the need for testing and monitoring the development economics conditions, to ensure that the mandatory controls are not preventing development, and therefore preventing the vision and objectives being achieved.

While I am not able to estimate the extent to which discretionary height controls might be exceeded, I am aware that in some locations, controls are being significantly exceeded, such as the CBD and city fringes, while I have been involved in a number of developments and applications in suburban locations at heights of 5, 6 and 9 storeys, for example, demonstrating the current potential of mid-rise development in suburban centres.

Therefore it is my opinion that the proposed mandatory controls will be very effective in supporting the preferred outcomes, unless they affect commercial feasibility to the extent that development is discouraged.

It is my opinion that in a relatively marginal or emerging locations for higher-density, mixed-use development, discretionary controls are likely to provide a more attractive environment for developers, and therefore may support more rapid and widespread development especially in the early phases.

Further, while development economics is beyond my own expertise, if mandatory controls lead to more marginal development feasibility situations, this is likely to lead to lesser design quality, lower construction standards and quality, and potentially lower amenity, as well as other reduced outcomes such as sustainability performance.

6.0 Is the Schedule appropriate and effective?

This section considers the proposed Clause 37.08, Schedule 1 to the Activity Centre Zone. While statutory planning is beyond my expertise, and I am aware that Mr Milner will address the ACZ Schedule in more detail from this perspective, it is important that I consider the communication and potential usage of the Schedule as part of my review. However I have not sought to review specific items within this Schedule.

I will consider the Schedule in terms of its content and communication, rather than the appropriateness of the controls, which have been addressed above.

The Schedule combines objectives across several categories, design and development guidelines and requirements for the Amendment area overall, as well as objectives, built form height and setback requirements and guidelines for each Precinct.

6.1 Mandatory and discretionary controls

I have been advised that the Schedule sets mandatory building heights, but other requirements (such as upper level setbacks and solar access requirements) are discretionary.

Noting my limited expertise in statutory planning, I found this distinction to be unclear in the Schedule. While the schedule states, for building height, that *a permit cannot be granted to vary this requirement*, other requirements are stated as 'must' actions such as:

- *Overshadowing of key public spaces and streets must meet the overshadowing standards set out in Table 2.*
- *Development must include, as appropriate, the upgrading of adjacent footpaths and laneways, to the satisfaction of the responsible authority.*

Other requirements are expressed as 'should' such as:

- *Development should not create large expanses of blank wall... along ground floor frontages.*
- *Building frontages should provide for direct access from the footpath with minimal change of level.*

However I have been advised that despite this distinction in language, these matters are all discretionary, except for building height. I am not aware if Council intended for setbacks and solar access provisions to be mandatory.

Further, the Sub-Precinct tables contain the following headings, so also do not identify which aspects are mandatory or discretionary (such as by using the term 'preferred'):

- Maximum building height;
- Maximum podium height;
- Minimum setback above podium; and
- Maximum building heights & minimum setbacks after podium setback.

The Schedule states that *new development must have minimum building setbacks as specified...* but also that *a permit may be granted to reduce the minimum building setbacks provided that the application demonstrates:*

- *How the overshadowing standards for key public spaces have been met; and*
- *There is no overshadowing of primary pedestrian routes on 21 March/September between 10:30 and 2pm...*

However this further confuses matters in that the overshadowing standards are also discretionary, and I am not aware of the origin of the second point above regarding overshadowing to primary pedestrian routes (and I assume this is also discretionary), nor which routes are considered 'primary'. For example, Sydney Road will be overshadowed between 10:30 and 2pm on one side or the other.

Given the work that has clearly gone into establishing street frontage heights, upper level setbacks and public realm solar access provision, and to specifying building envelopes in such detail, it seems surprising that setbacks would not be mandatory, along with heights.

Also, if rigorous background analysis is the key foundation for applying mandatory controls, then this should equally apply to setbacks as heights.

It is my opinion that in some locations, upper level setbacks will be equally, or more important than building height. For example in Sydney Road, site narrowness and depth is likely to limit building height, but establishing a lower-scale street frontage is as important as seeing a mandatory height limit only (within reasonable height range). That is, it would be preferable to see a 7-8 storey building (exceeding the height control) with a significant setback above the lower 3 levels, than a 6-storey building (which meets the height control) built to the street boundary for its full height, in my opinion.

In this context, my recommendations are as follows (if mandatory height controls are retained):

- Establish mandatory street frontage heights, at least along key streets and spaces;
- Retain discretionary controls for the depth of upper level setbacks;
- Establish mandatory solar access requirements for key public spaces (but with discretionary upper level setbacks, allowing flexibility in how the solar access standards can be achieved).

This approach would also assist in simplifying the controls. The complexity of the current controls is discussed below.

6.2 Communication

The format and structure of the schedule is appropriately clear, in my view, in setting overarching objectives and guidance, then specific guidance for each Precinct.

However the key challenge for this Schedule is the communication of the extensive height and setback information, across a large number of Sub-Precincts.

The key issues in my opinion are as follows:

- The Precinct map (showing height areas) and Precinct requirements map (showing sub-precincts) both include proposed streets and lanes which currently do not exist. Land ownership implications of these links is not addressed;
- Precinct 1 contains 26 Sub-Precincts, many of which are quite small;
- These aspects may lead to confusion in identifying where a particular property sits relative to the sub-precinct boundaries;
- The numbering of sub-precincts runs in sequence up and down the Precinct 1 area multiple times, so generally do not run sequentially along key streets, for example; and
- The tables of heights and setbacks, while providing a method for communicating the complex information contained in the 3d massing diagrams which have informed them, are complicated and confusing, even in the headings (as noted above), and particularly where envelopes present multiple setbacks to multiple interfaces.

7.0 Conclusion and recommendations

The extensive strategic work that supports Amendment C123 clearly constitutes a comprehensive and considered process of planning, consultation and testing, towards the establishment of preferred built form and public realm outcomes.

The proposed built form controls provide for extensive redevelopment to a mid-rise scale, with built form configured to respond to an intense urban core, key public realm spaces (existing and proposed), sensitive edges and transition areas beyond the core.

This scale and type of development will support active, vibrant streets, pedestrian amenity and a clearly defined public realm system, while retaining the essential qualities of the established core area, such as its grid of streets and lanes, frontage development and low/medium scale development, with opportunities for fine-grain character and expression. Therefore I would conclude that the built form controls are largely appropriate and effective in delivering the vision for Coburg to be transformed into a prime shopping, living, employment and activity precinct, with an attractive system of streets and spaces, which supports sustainable transport modes.

However as this Statement identifies, the background work and process of arriving at the proposed controls, contain a number of apparent 'gaps' or concerns, in terms of the rationale, feasibility and robustness of the provisions, and therefore their potential to deliver the vision. This has resulted in the proposed Schedule 1 to the Activity Centre Zone, which is the focus of Amendment C123, becoming quite complex and potentially confusing in its application.

7.1 Recommendations

In response to this situation, I would make the following recommendations to refine and consolidate the Amendment background work and proposed controls, but reiterating that statutory planning is not my area of expertise:

7.1.1 Revise the 'Built form rationale and building envelopes' document.

This is the key strategic/built form guidance document 'in between' The Coburg Initiative and the proposed controls, so plays an important explanatory role. This document could potentially be re-framed as a Master Plan or Urban Design Framework, with modifications including:

- Clear summary of the foundations for the work from The Coburg Initiative documents, and confirmation that the current provisions have been derived from this work;
- Removal of discussion on mandatory controls, as this is more a statutory planning matter;
- Explanation of the basis for mid-rise development as the overarching built form theme or character;
- Review and confirmation of all building envelopes, particularly in relation to solar access to key spaces;
- Refinement of the graphic/3D communication to be more consistent and legible, along key corridors in particular; and
- Consolidation or amalgamation of some Sub-Precincts, to reduce the complexity of the guidance, and to reinforce the notion of built form envelopes, rather than building forms.

7.1.2 Test and confirm solar access to public space requirements

The requirements for solar access to key public spaces should be tested and confirmed, and the basis for these clearly explained in the revised background document.

If 3D modelling is utilised in this document to explain the preferred building envelopes, the model should be tested to ensure that the built form controls achieve the stated requirements.

This revision may also consider making the solar access provisions mandatory in the controls, while building setbacks remain discretionary, to allow for flexibility in how the solar access outcomes are achieved through building design.

7.1.3 Test the commercial feasibility of the built form envelopes for larger sites

In order to ensure that the built form controls will facilitate and encourage high-quality development outcomes within the heights and envelopes specified, it would be useful to carry out some basic commercial feasibility testing of potential development outcomes on key sites.

This information would provide a level of certainty that mandatory controls will not unnecessarily stifle development or affect quality and performance, and that the built form provisions are aligned with the vision for redevelopment and transformation, in line with current market conditions.

There would also be benefit in monitoring and revisiting this testing over time.

This three-dimensional testing should also consider and review the implications of reduced upper level setbacks on streetscapes urban form outcomes, if this aspect of the controls (setbacks) is to remain discretionary. This review should then inform a revised ACZ Schedule.

7.1.4 Simplify the Sub-Precinct controls

Where possible, complex building profiles and unnecessary upper level setbacks should be simplified or removed, to provide for more legible and flexible controls. This may be achieved by:

- Merging or amalgamating Sub-Precincts where appropriate;
- Aligning Sub-Precincts along key streets and spaces; and
- Providing 'typical' built form profile cross-sections for key streets and corridors and spaces, to demonstrate preferred heights and setbacks.

7.1.5 Review the ACZ Schedule

The ACZ Schedule should be revised and simplified in line with the above recommendations. This Schedule should provide a revised Vision which relates closely to the built form and public realm outcomes envisaged, while clearly stating the priorities in terms of building forms.

It is expected that revised Sub-Precincts and simplified building profiles will result in more legible and less complex controls.

The vision and objectives should also reinforce aspects of local character that are to be retained and reinforced, as transformation through redevelopment occurs over time.