

PRESTON MARKET PLANNING SCHEME AMENDMENT

SUBMISSION ON BEHALF OF PRESTON MARKET
DEVELOPMENTS PTY LTD

1. INTRODUCTION

Preston Market Developments Pty Ltd (PMD) is the landowner of the site known as the Preston Market, adjacent to Preston Train Station, within the City of Darebin (Council).

The market site makes up the majority landholding within the Preston Market Precinct – 5.1 hectares of privately-owned land generally bounded by Murray Road in the north, Cramer Street to the south, the rear of the High Street shops to the east and St Georges Road to the west.

The following submission has been prepared in respect to the exhibition of Draft Amendment C182 to the Darebin Planning Scheme (the Draft Amendment).

1.1. THE DRAFT AMENDMENT

The exhibited Draft Amendment proposes to rezone the land within the Preston Market Precinct (the Precinct) from Priority Development Zone Schedule 1 (PDZ1) to Activity Centre Zone Schedule 1 (ACZ1) and apply various overlays to facilitate and guide development of the Precinct in accordance with the Preston Market Precinct Structure Plan (the Structure Plan), prepared by the Victorian Planning Authority (VPA).

PMD commend the VPA's intention for the Structure Plan to guide future growth in the Preston Market Precinct in line with the strategic intent expressed in *Plan Melbourne* and other state and local policies.

The Preston Market Precinct is one of the most strategically located urban renewal sites in Melbourne – with excellent public transport access, in a desirable and rapidly growing locality only 8 kilometres north of the CBD.

The continued operation of a thriving fresh food market on the site, and its continued contribution to the amenity and character of the locality, is also supported as being a critical element of the Precinct, noting that this is an outcome called for under the current *Preston Market Incorporated Plan 2007*.

PMD also supports the VPA's aspirations for the Precinct to provide significant housing and non-residential floorspace growth, including the anticipated 2,200 dwellings to be delivered in the Precinct and an additional 32,500 square metres of commercial / retail floorspace. These aspirations are appropriate and commensurate with the many locational attributes of the Precinct.

2. SUBMISSION

There is significant alignment between PMD's aspirations for the future redevelopment of the Precinct and the VPA's vision as expressed in the Structure Plan.

Notwithstanding, the exhibited Draft Amendment documents include a number of matters that require further consideration and refinement. In their current format, PMD are of the view that the proposed controls will likely stifle the delivery of the desired urban renewal outcomes identified for the Precinct. These matters are discussed below.

It is noted that the following submissions have been formulated and directed to key matters for consideration, with the view to assisting the VPA in further progressing the Draft Amendment. These submissions are not directed to a detailed, microscopic review of the language / wording adopted within the various exhibited documents. Such a review is required but is considered premature at this time.

2.1. ZONING AND LAND USE

The exhibited ACZ is an appropriate tool to guide the redevelopment of the Precinct, notwithstanding that the aspirations identified in the Structure Plan could be readily delivered under the current PDZ, or under a Specific Control Overlay.

There are some constraints in the exhibited Table of uses at clause 3.0 of the draft ACZ Schedule that are unreasonably restrictive and may impact the ability to achieve the best outcomes for the site:

- i. The Amendment includes a form of "vertical zoning" within section 1 of the Table of uses: The proposed restriction of residential uses on ground and first floor levels is overly onerous and is not necessary in delivering appropriate street activation.

The desire for an activated ground plane is supported by PMD, but we do not believe that the restrictions to residential use on first floor is necessary. The condition in the Table of Uses – Section 1 should be amended to delete reference to accommodation not being located on the first floor.

- ii. Table 1 proposes, in Section 1, a minimum gross floor area of 12,700 sq. m for a market use. The proposed market gross floor area is unsustainable and potentially unnecessary. The combined operation of the Table of uses, related Framework Plan, land use and development objectives and application requirements are sufficient tools to deliver a substantive fresh food market outcome for the Precinct. That said, if nomination of a minimum gross floor area is thought to be necessary, PMD are of the view that this should be in the order of up to 9,600 sq. m, this being the approximate area nominated on the Framework Plan for market use on the east side of Mary Street. PMD does not support the Framework Plan's nomination of market use on the west side of Mary Street, noting however that PMD does not own all of that part of the Precinct located on the west side of Mary Street.

The remaining land uses as expressed in the Table of uses at clause 3.0 of the ACZ1 schedule are supported.

2.2. BUILT FORM

DELWP's *Planning Practice Note 60 – Height and setback controls for activity centres* stipulates that mandatory height and setback controls "*will only be considered where they are supported by robust and comprehensive strategic work or where exceptional circumstances warrant their introduction*".

PMD does not think that exceptional circumstances apply here. The physical and planning context of the Precinct does not warrant mandatory controls, either for height and setback or for other built form related matters.

It is appropriate that the ACZ1 schedule applies discretionary controls to the Preston Market Precinct, noting that the Precinct is generally self-contained and without sensitive abutments. As a Precinct that has been expressly identified in State and local policy for transformative renewal, the ability for future development to respond innovatively to the objectives set out in the planning framework through appropriate discretion is critical in order to achieve the various aspirations for the Precinct.

Furthermore, and notwithstanding the work undertaken by the VPA in preparing the Structure Plan, our modelling of the built form parameters contained in the Structure Plan and exhibited ACZ1 schedule indicate that the aspiration for some 2,200 dwellings within the Precinct could not be achieved in a compliant development, with this preliminary modelling suggesting that some 370 fewer dwellings (some 16% less) would be achieved. It is therefore critical that a level of discretion is available to enable the redevelopment of the Precinct to achieve its strategic aspirations, whilst still ensuring amenity is maintained. Accordingly, we propose that all built form requirements (refer to clause 4.4 of the exhibited ACZ1) are discretionary, employing the word 'should' instead of 'must'.

PMD is also open to consideration of a Floor Area Ratio (FAR) control for the Precinct, which may be an appropriate mechanism to facilitate the delivery of the anticipated yield and capitalise on the attributes of the site without the need to specify a number of dwelling and floorspace targets. A density (FAR) control, allied with built form related guidelines (including appropriate shadow controls), would provide flexibility for an architect to shape the built form to optimise amenity outcomes while avoiding unreasonable visual bulk.

Further, PMD considers that Plan 1 at clause 4.4 of the draft ACZ1 should include a range of building heights given that other parameters such as overshadowing controls are able to address particular amenity concerns (and noting that the anticipated development yield is unlikely to be achieved at the preferred exhibited Framework heights). The height at the southern end of the precinct will be restricted by overshadowing controls protecting Preston City Oval, and PMD therefore propose that the height at the northern parcel be indicated as a range in the order of 23-27 storeys, together with a range of 14-20 storeys in the middle of the Precinct. Further, PMD are of the view that the 12-metre height nominated east of Mary Street (on the southern part of the market) should be recast as 3-4 storeys, noting the importance and significance of the entry to the Market at Cramer Street.

We consider that preferred street wall heights should relate to the width of the street. A maximum 4 storey street wall is considered an appropriate response on Murray Road. However, it is unclear why Cramer Street has a maximum street wall of only 3 storeys when it is the same width as Murray Road.

Accordingly, we consider that a maximum 4 storey street wall on Cramer Street would be appropriate. A 3-storey street wall may be appropriate on the narrower links to be created internally within the Precinct.

Further, we are concerned about the specificity of the parameters shown on Plan 1 at clause 4.4 of the ACZ1, which are stipulated in both storeys and metres. For example, the stipulation for a 4 storey or 15.9 metre podium height is considered to be unnecessarily specific in the circumstance and context of the Precinct.

The building separation requirements at clause 4.4 of the ACZ1 should incorporate further flexibility, taking into account the actual height of a proposed building. By way of demonstration, under the exhibited draft ACZ1 schedule, the requirement for a 20-metre separation would apply to the lower towers contemplated in the southern parts of the Precinct, as it would to the taller towers contemplated in the northern part of the Precinct, thus further restricting ability to deliver the strategic outcomes intended by the PSP.

2.3. OVERSHADOWING

A critical limitation on built form are the proposed mandatory overshadowing controls requirements set out at clause 4.4 of the exhibited ACZ1 schedule.

The provision of sunlight access is an important factor in the design and provision of public open space, including in an urban context where built form intensification and population growth is coinciding.

In principle, the introduction of planning controls to protect the amenity of parks and maintain reasonable sunlight access is supported. However, it is submitted that the proposed mandatory

shadow controls do not achieve an appropriate balance when considering competing policy objectives which include promoting investment in the Preston Market, the urban renewal of the site, and general growth aspirations of the Preston Market Precinct.

The use of the winter solstice for measurement of overshadowing is not appropriate in respect to the two proposed 'key public spaces' nominated within the Precinct.

Further, the proposed shadow control with respect to public space internal to the site makes little sense, as it implies that 100% of these 'additional' public open spaces must not be overshadowed between 11am and 2pm on 22 September, precluding any built form on their northern edge. This is notwithstanding PMD's further submissions below that the three 'additional public open spaces' are not necessary and may detract from the quality and delivery of the two 'key public spaces' nominated on the Framework Plan.

To this end PMD submit that the shadow controls must be discretionary and equinox based. This will still provide for high quality open space outcomes whilst ensuring the development potential of the Precinct is realised.

2.4. HERITAGE

The exhibited Draft Amendment proposes the inclusion of a Heritage Overlay in the form of an individual heritage place (HO315) which includes both external and internal conservation controls in respect to the Preston Market. The Draft Amendment proposes three related documents for incorporation in the Planning Scheme, comprising:

- Statement of Significance: Preston Market 2020;
- Heritage design guidelines: Preston Market 2020;
- Preston Market Permit Exemptions 2020.

In addition to the proposed heritage controls, and further complicating the exhibited suite of controls, the draft ACZ1 incorporates various objectives, permit requirements and application requirements that are directed to the conservation and retention of a market use within the Precinct. The ACZ1 controls are directed to heritage built form outcomes, and also to consideration of how the market use will function and operate into the future, including, as one example, how existing traders will continue and transition during all phases of the development.

PMD note that it is imperative that market heritage considerations not be considered and addressed in isolation. If this occurs, there is a very real risk that the heritage controls will undermine the future commercial viability of the market.

To be clear, PMD remain committed to deliver on a substantive and commercially viable fresh food market operating into the future. However, in order to effectively deliver on this outcome, it is imperative that the Amendment deliver on a suite of planning controls that provide for a greater level of certainty in relation to the future market. In this regard PMD question the use of the Heritage Overlay as the appropriate statutory tool. This is further discussed below.

The extent of the existing market fabric to be retained needs to be addressed by this Amendment with a high level of certainty. The extent of work already undertaken to date, including by GJM, RBA and others provides the opportunity to consider a more targeted approach to provide a greater certainty of outcomes.

Indeed, GJM notes the following in the introduction to the Heritage Design Guidelines appended to its report of 12 June 2020:

That the application of the Heritage Overlay may not be the best tool to protect the cultural heritage values of the place, and that instead the VPA should explore the option of using an Incorporated Document, with carefully tailored Heritage Design Guidelines, instead of or in combination with the application of the Heritage Overlay.¹

¹ Heritage Design Guidelines: Preston Market, GJM, 12 June 2020, p. 4

The use of the Heritage Overlay as a more general tool to successfully manage the redevelopment of the Precinct is considered limited, and likely to cause confusion in terms of operation and implementation in future permit applications and therefore is not warranted.

Greater clarity is required between the requirements of the ACZ, proposed HO and Guidelines, and how each of those controls integrate and interact with one another.

2.5. PUBLIC REALM AND PUBLIC OPEN SPACE

PMD is supportive of linkages through the Site and the 'active frontage guidelines' currently included within the ACZ.

In terms of the supporting material, PMD would prefer that purpose and character descriptions are included for each linkage to assist in the achievement of preferred interface outcomes for each linkage.

This would provide for greater flexibility and guidance as to the different purposes of each of those linkages which would be of great assistance during detailed design stage to allow a more tailored and nuanced approach to each linkage.

We also support the proposed key public spaces, but do not agree with the need for 'additional' public open spaces.

PMD believes that the provision of two high quality spaces combined with the existing and adjoining Preston City Oval along with proposed Rail Corridor landscape is more than sufficient for a precinct of this size and provides a broad mix of spaces for the community.

PMD is supportive of a public open space land contribution of 5%, subject to the above mentioned key public spaces being designated as such within key strategic documents to avoid any future debate on this issue. PMD notes that this is in addition to the significant public laneways and pathways that will be delivered in the future development of the Precinct.

2.6. AFFORDABLE HOUSING AND DEVELOPMENT CONTRIBUTIONS

There is currently no mandatory requirement within the Scheme for the provision of affordable housing. To our knowledge, the affordable housing requirements contained at clause 4.2 of the proposed ACZ Schedule will be the first mandatory provisions relating to affordable housing within the Scheme. Accordingly, there are no benchmarks within the municipality to consider what an appropriate level of affordable housing might be for the Site.

PMD supports the provision of affordable housing. PMD believes that the provision of affordable housing should both reflect the level of affordable house provided on similar sites elsewhere in Melbourne while also providing for flexibility of any model ultimately adopted. It must also be set at a level that does not place significant financial hurdles on a development, such as that proposed within the exhibited documents.

The current wording for the provision of affordable housing contained within clause 4.2 of the draft ACZ Schedule is unclear, confused, cumbersome and unnecessarily prescriptive. To that end, PMD disagrees with the way in which clause 4.2 is presently drafted.

PMD has commissioned independent research to consider the needs of current and future populations in Darebin, which indicates that dwellings are required for very low-, low- and moderate-income earners.

The research has further indicated that the provision of 5% affordable housing is sufficient, while also noting that several recent panel reports have recognised and acknowledged that a 5% contribution of affordable housing is appropriate in most cases.

On the basis of our targeted research, PMD would agree to the delivery of up to 5% of the Site's total residential yield as affordable housing, but on the proviso that this provision would not operate as a 'flat' requirement to the satisfaction of Council but would instead provide flexibility within the context of one of several predetermined options pursuant to an affordable housing plan.

PMD will be in a position to comment on the proposed development contributions following a further and more rigorous assessment undertaken by Cardno as set out in section 2.8 below, noting it is not possible to properly comment on those matters until traffic and access arrangements are properly resolved.

2.7. CONSTRAINTS ON MARKET FORM AND OPERATION

As discussed above, we agree with the VPA's proposal that the market be shifted further east, as this will assist in protecting the market's viability for both landowner and its traders.

The Framework Plan (Figure 4 in the Structure Plan and replicated in the ACZ1) presently depicts a significant portion of the market located on the western side of Mary Street.

In addition to the shift further east, we also believe that the size of the total market floorspace could be rationalised and designed and laid out in a more efficient manner, contained to the eastern side of Mary Street (acknowledging that PMD does not own all of the land on the west side of Mary Street).

There are also a number of matters identified in the Structure Plan which reference the operation of the market, which could not be captured by the planning framework and are not supported.

These include (but are not limited to):

- Any legal instrument that limits the rent that can be charged to market tenants.
- Any reference to the range of goods to be sold at the market.
- Any reference to cultural background of market traders.
- Any other form of financial control that would affect commercial operation of the market and potentially lead to unequitable trading environment.

It must be noted that almost all of the market is in private ownership. There is no legal ability for the planning system to control rents that may be charged to potential tenants, the goods that must be sold, or prices that may be charged, nor dictate their cultural background. That is simply not the place of planning, and PMD will not agree to the imposition of restrictive commercial terms on the future use of the market.

2.8. ACCESS, MOVEMENT AND PARKING

Although many of the traffic requirements contained within the Schedule to the ACZ are generally acceptable to PMD, there remains a number of critical elements included that require close consideration.

A development of the scale that is proposed at Preston Market, must have the ability to be delivered, eventually operate and function in a manner that meets its serviceability requirements.

There are a number of elements within the exhibited ACZ such as minimal road connections to internal parcels within the precinct, that we see as having a detrimental impact on the precinct's operation.

Further, whilst we align with the VPA's desire to have a Precinct that minimises vehicle movements within the precinct and promotes pedestrian and bicycle usage, the reliance on basement car parking and serviceability, places significant viability risk to the development.

We are very concerned that the Cardno report has not adequately assessed access, movement and parking impacts for the proposed redevelopment.

As a result, any subsequent documents have been prepared on a flawed basis.

For example, the Cardno report does not provide a robust justification for why the traffic generated by the market is assigned to any direction at a macro level (to the broader road network). It does not provide sufficient justification for the how the proposed increase in market area will affect traffic generation and parking.

Moreover, we are of the view that the work completed by Cardno lacks the robustness of the original GTA assessment previously completed for the market.

Some of our main concerns are as follows:

- The issue of car parking provision is inconsistently treated by the PSP and Cardno Report and likely does not provide adequate car parking for the market/retail uses:
 - The directives of the PSP are contradictory in terms of the guidance provided as to appropriate car parking rates.
 - The Cardno report is not consistent with the PSP directives.
 - A reduction in car parking from the Column B parking rates of Clause 52.06-5 which apply to the site is reasonable, however the Cardno report provides scant justification for the 50% reduction proposed.
 - The 50% reduction in car parking provision adopted in the Cardno assessment is not reflected anywhere else within the Planning controls.
 - The 50% car parking reduction is integral to the subsequent assessment of traffic impact, which assesses the traffic impacts of the redevelopment on a per car space basis.
 - The 50% car parking reduction places significant risk to the ongoing viability of the development uses, including the Preston Market, proposed in the PSP.
 - The Cardno assessment of car parking assumes the level of car parking supplied to the market is reduced compared to its current provision and that no additional car parking is provided for almost 30,000m² of additional retail space. This would appear unrealistic and contrary to the PSP.
- The traffic generation rates adopted are low (setting aside the car parking provision issue). Notably the assessment assumes that Preston Market will generate significant less traffic (approximately 10-40% less) than it did in 2013, even though the non-market retail floor space increases by 30,000m².
- The proposed vehicle access arrangements shift the 'weight' of vehicle access to the Market from Cramer Street to Murray Road. The Cardno assessment has not adequately considered whether this arrangement is the best transport outcome for the site and wider transport network.
- The traffic modelling is deficient in multiple areas, including:
 - All the intersections were modelled independently (not as a network) and there is no assessment of how each intersection interacts with adjacent intersections.
 - The traffic assessment does not extend to nearby impacted intersections along St Georges Road or High Street. These intersections will be impacted by:
 - the introduction of the new signalised intersections proposed;
 - the soon to be completed Level Crossing Removal project, and

- the redistribution of traffic due to the changing of vehicle access arrangements to Preston Market, specifically the downgrading of Cramer Street to a 'Peoples Street.'

- There is no modelling of how the Cramer Street pedestrian/cyclist crossing impacts

PMD submits that the VPA should require Cardno to either critically review the analysis underpinning its conclusions or should alternatively arrange for its analysis to be peer reviewed in order to ensure that this critical matter is appropriately resolved. Either way, that material should be provided to all submitters prior to any Panel process.

2.9. SUSTAINABILITY

PMD recognises the opportunity that a site the size of Preston Market provides for the delivery of precinct-wide sustainability objectives. Such objectives should be benchmarks and not mandatory requirements.

Further, we note that there are discrepancies between the various documents exhibited (Structure Plan, VPA Sustainability Report and the ACZ Schedule).

The wording within documents is critical, and the use of terms such as 'highest possible' are very difficult to practically apply and would cause significant viability issues.

Green Star and other sustainability benchmarking tools are generally assessed on a points-based system in different categories. This approach recognises that not all criteria, design features or technology can be achieved or are necessarily appropriate for every site or development.

We consider that the planning framework documents should follow this approach and while they may suggest examples of means by which certain objectives can be achieved, they should not stipulate specific outcomes, such as the use of energy storage solutions, for example.

We further note that a 30% tree canopy cover across the precinct is commensurate with expectations for suburban neighbourhoods and while aspirational, is considered to be an unreasonable expectation for an Activity Centre and should be scrapped entirely, in favour of the existing requirement for an appropriately designed landscape plan(s).

We also have concerns regarding the proposed implementation response in the Sustainability Report, including:

- Reference to the Green Star "Design and As Built" rating tool, which will be a legacy tool from December 2021 and has been replaced by the New Buildings tool.
- Reference to achieving and maintaining certain standards for a period of 12 month post-completion. Green Star As Built and NatHERS ratings are achieved at a point in time, and it is unclear whether there is an expectation for ongoing certification, or how standards would be measured post-completion.
- Opportunities for onsite energy generation are limited in higher density settings. We suggest that energy sources could be limited to electricity (rather than gas).

Notwithstanding, PMD is committed to achieving sustainable development outcomes on the site and seeks to target the following benchmarks:

Building Design

- 5 Star Green Star Design & AS Built benchmark only
- Minimum 7 Star NatHERS

Precinct Wide sustainability outcomes

- 6 Star Green Star Communities

2.10. DRAFTING AND OPERATION

We will be providing the VPA with a track changes version of the entirety of the planning ordinance/suite of controls in due course.


3. CONCLUSION

We commend the VPA's work in progressing a planning framework that capitalises on the unique qualities of the site and aspires to deliver an exemplar urban renewal project. PMD shares these aspirations for the Preston Market Precinct.

As stated above, we are generally supportive of the mechanisms and approach put forward by the VPA to guide the future development of the Precinct, but emphasise the importance that that some matters of detail, if not considered carefully would act to inhibit the delivery of the desired outcomes for the site.

We look forward to continuing to work with the VPA to refine the controls and further in the development of PMD's plans for the redevelopment of the Preston Market Site.

13 July 2021


Victorian Planning Authority
Level 25 / 35 Collins Street
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(Email - amendments@vpa.vic.gov.au)

Dear 

**Re: Draft Amendment C182dare / Preston Market Precinct Structure Plan
Preston Market Developments Pty Ltd – Submission**

Preston Market Developments Pty Ltd (PMD), the majority owner of the Preston Market, thanks the Victorian Planning Authority (VPA) for the opportunity to provide our submission.

We commend the VPA's work in progressing a planning framework that capitalises on the unique qualities of the site and aspires to deliver an exemplar urban renewal project. PMD shares these aspirations for the Preston Market Precinct.

The continued operation of a thriving fresh food market on the site, and its continued contribution to the amenity and character of the locality, is also supported as being a critical element of the Precinct.

As stated within our submission, PMD are generally supportive of the mechanisms and approach put forward by the VPA to guide the future development of the Precinct but emphasise the importance that that some matters of detail, if not considered carefully would act to inhibit the delivery of the desired outcomes for the site.

We look forward to continuing to work with the VPA to refine the controls and further, in the development of PMD's plans for the redevelopment of the Preston Market Site.

Please find **attached** the submission.

Please do not hesitate in contacting me should you have any queries regarding above.

Yours sincerely

Preston Market Developments Pty Ltd
