



AMENDMENT C309: EVIDENCE STATEMENT OF ANDREW SPENCER



SGS Economics and Planning Pty Ltd
ACN 007 437 729
www.sgsep.com.au
Offices in Canberra, Hobart, Melbourne, Sydney

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SUMMARY

1. I have been instructed by Brigid Ryan, Legal Counsel at the City of Melbourne (Council), to provide expert evidence in relation to the City of Melbourne Planning Scheme Amendment C309 (the Amendment).
2. A summary of the key points from my evidence is provided below.
3. My evidence is primarily concerned with the impact of the Amendment on the feasibility of development in West Melbourne.
4. I have also provided some commentary on the wording of the feasibility review mechanism which is a 'matter for consideration' when assessing the discretionary affordable housing contributions. In doing so, I also considered the potential shortcomings of the proposed approach and outlined a potential alternative approach.
5. SGS was engaged by Council in March 2017 to provide advice on the demand for employment floor space, development feasibility and implementation options to assist Council in the preparation of the West Melbourne Structure Plan (the *West Melbourne Structure Plan - Stage 2 report*).
6. The feasibility testing in this Stage 2 report considered the impact of floor area ratios (FARs), land use mix, affordable housing requirements and development contributions on development feasibility in the different precincts in West Melbourne.
7. The approach used involved estimating the residual land values (RLV) of hypothetical developments and comparing these to the existing value of potential development sites.
8. This analysis suggested that most residential and mixed-use development scenarios, based on similar planning controls to those proposed in the Amendment, were likely to be feasible. Commercial only developments, and two mixed-use scenarios in the Adderley precinct were found to be either marginal or not feasible.
9. When a 6% affordable housing requirement was factored into the feasibility assessment, 8 of the 10 feasible scenarios remained feasible.
10. Since preparing the SGS Stage 2 report feasibility analysis, the Structure Plan has been finalised and the Amendment prepared. As a result, some adjustments were required to the scenarios considered in the Stage 2 report feasibility testing to align with the proposed planning controls.
11. In preparing this evidence statement, I sought additional advice from Robyn Cowie, Associate Director, Residential Development at m3property. Ms Cowie reviewed the assumptions in the SGS feasibility testing and provided advice on whether they were fit for the purpose of informing development feasibility testing for the West Melbourne Structure Plan.
12. Ms Cowie recommended changes to several assumptions used in the modelling, including changes to revenue and cost assumptions.
13. A revised feasibility analysis was prepared for this evidence statement that takes account of the changes to the planning controls and the advice provided by m3property. This revised development feasibility analysis supersedes the feasibility findings in the Stage 2 report. I was not asked to, and have not attempted to, update the feasibility analysis using current values.

14. The revised feasibility testing compared the revised RLVs to two ranges of existing use values: lower existing use value for industrial sites and a higher average existing use value range.
15. Based on the assumptions that have informed the revised feasibility analysis, the redevelopment of sites with lower existing use values with the nominated FARs and mandatory non-residential floor space requirements was found to be:
 - feasible in the Flagstaff precinct under all scenarios tested
 - feasible in the Spencer precinct under both mixed-use scenarios tested, and marginal for a commercial-only scenario
 - feasible in the Adderley precinct under a residential scenario and mixed-use scenario with retail, marginal under a mixed-use scenario without retail, and not feasible for a commercial-only scenario.
 - feasible in the Station precinct for all scenarios tested other than a commercial-only scenario.
16. The development of lower existing use value sites with 6% gifted affordable housing was found to be:
 - feasible in the Flagstaff precinct under both scenarios tested
 - feasible in the Spencer precinct under a mixed-use scenario including retail, and marginal for a mixed-use scenario without retail
 - feasible in the Station precinct under a residential-only scenario or a mixed-use scenario including retail, and marginal under a mixed-use scenario without retail.
17. For sites with higher existing use values, development with the nominated FARs and mandatory non-residential floor space requirements was found to be:
 - feasible in the Flagstaff precinct under both mixed-use scenarios tested, and not feasible for a commercial-only scenario
 - feasible in the Spencer precinct under a mixed-use scenario with retail, marginal under a mixed-use scenario without retail, and not feasible for a commercial-only scenario
 - marginal in the Adderley precinct under a residential scenario and mixed-use scenario with retail, and not feasible under a mixed-use scenario without retail or commercial-only scenario
 - feasible in the Station precinct for all scenarios tested, other than a commercial-only scenario.
18. Factoring in the aspiration for 6% of dwellings to be gifted as affordable housing on these higher value sites, redevelopment was found to be:
 - feasible in the Flagstaff precinct under mixed-use scenario including retail, and marginal for a mixed-use scenario without retail
 - marginal in the Spencer precinct under a mixed-use scenario including retail, and not feasible for a mixed-use scenario without retail
 - feasible in the Station precinct under a residential-only scenario or a mixed-use scenario including retail, and not feasible under a mixed-use scenario without retail.
19. Having revised the development feasibility analyses and considering the feasibility with reference to sites with both lower and higher existing use values, I conclude that, redevelopment of sites with lower existing use values would be feasible, with the FARs nominated in the Amendment and with the mandatory non-residential floor space requirements, for 10 of the 14 development scenarios tested. In general, commercial-only developments are not feasible, based on the revenue assumptions for office floor space used in the feasibility testing.
20. The redevelopment of lower existing use value sites with the 6% gifted affordable housing requirement was found to be feasible in the Flagstaff (in 2 of 2 scenarios

tested), in 1 of 2 scenarios tested in the Spencer precinct and in 2 of 3 scenarios tested in the Station precinct.

21. For sites with average existing use values, I conclude that, redevelopment would be feasible, with the FARs nominated in the Amendment and with the mandatory non-residential floor space requirements, in 6 of the 14 development scenarios tested. Feasibility was assessed as marginal for three scenarios. The remaining five scenarios were found to be not feasible.
22. The redevelopment of higher value sites with 6% gifted affordable housing was found to be feasible in the 1 of 2 scenarios in Flagstaff and in 2 of 3 scenarios tested in the Station precinct.
23. The 6% gifted affordable housing requirement is therefore more likely to make the development of sites with higher existing use values unfeasible. Of the scenarios considered, three of seven were assessed as being feasible with the full 6% requirement.
24. Based on the revised feasibility analysis I do not believe that the Amendment will prevent new development from occurring in West Melbourne. The estimated RLVs generated by development scenarios that comply with the controls in the Amendment are typically higher than the estimated existing use values of potential development sites plus a margin of 25%. Provided there are sufficient sites with lower value existing uses, development feasibility should not be a barrier to their redevelopment in the short to medium term. Analysis of existing development in West Melbourne suggests that 81% of non-residential properties host relatively low-scale existing development of either 1 or 2 storeys. These sites with modest existing improvements are likely to have lower existing use values.
25. This difference in the relative feasibility of sites with lower and higher existing use value is to be expected in a precinct that is in transition: lower land value uses are likely to be replaced first, then, as the precinct matures, sites with higher existing use values and more substantial existing investments will eventually be replaced.
26. In relation to the wording of the Use for Dwellings Application Requirements (Section 2.0 of the proposed Schedule 6 to the Clause 37.01 Special Use Zone), a number of elements might be improved so the requirements operate in the manner intended. I have suggested that the wording of the second dot point of the requirements be amendment to:
 - Clarify that it is the intention that the Application Requirement at dot point one only applies when the 'dual tests' (i.e. at least 6% affordable housing, and provided at no cost to an affordable housing provider) are both met,
 - Clarify that the detailed report sought is an open book feasibility assessment, being details of estimated project revenues and costs, including land costs and an appropriate margin for profit and risk,
 - Suggest that the Responsible Authority's assessment of the information provided in the detailed report will be to compare it against current industry benchmarks, and
 - Remove the reference to a Quantity Surveyor.
27. In reviewing this wording, I have also considered the likely effectiveness of the affordable housing contribution mechanisms in the Amendment. I conclude that there is a risk that the combination of the discretionary affordable housing requirement and the open book feasibility test could undermine the objective of providing affordable housing in West Melbourne and suggest an alternative mechanism.

1. INTRODUCTION

28. Credentials

29. My full name is Andrew Frank Spencer and I am an Associate of SGS Economics & Planning Pty Ltd (SGS), based in the firm's Melbourne office at Level 14, 222 Exhibition Street, Melbourne, Victoria.
30. I hold the following academic qualifications:
- Bachelor of Science (Geography) University of New South Wales, 2001
 - Bachelor of Arts (Comparative Development) University of New South Wales, 2001
 - Master of Urban Design, Sydney University, 2009
 - Master of Analytics, RMIT University (in progress)
31. I am an urban planner and urban designer with expertise in urban economics. Over the past 19 years I have contributed to a wide range of housing, employment, strategic planning, urban design and urban economics assignments for local, state and federal governments and the private sector. I have worked in this capacity in New South Wales for ten years and Victoria for the past nine years.
32. I have previously presented expert evidence at Planning Panels Victoria hearings.
33. Additional information regarding my qualifications and experience is included in Attachment B.

34. Instructions

35. I have been instructed by Brigid Ryan, Legal Counsel at the City of Melbourne (Council) to provide expert evidence in relation to the City of Melbourne Planning Scheme Amendment C309 (the Amendment).
36. In these instructions, I have been asked to:
- review the Amendment and exhibited background documents generally;
 - review the submissions;
 - review the Amendment provisions updated by Council with recommended changes in response to submissions (attachment 5 to the officers' report to the FMC meeting of 7 May 2019);
 - undertake a detailed review of the exhibited controls (as proposed to be amended), particularly the provisions of the SUZ6 and the schedules to the Design and Development Overlay, and the relevant background reports; and
 - prepare an expert report setting out your opinion in relation to key issues relating to the Amendment that are within your area of expertise, including the particular controls noted above, and a response to submissions.
37. I was not asked to undertake new feasibility analysis using current values but, rather, to review feasibility analysis undertaken in 2017, and to provide opinion on whether it is fit for the purpose of informing the West Melbourne Structure Plan.
38. The full instructions are reproduced at Appendix C.

39. Background

40. SGS was engaged by the Council in March 2016 to provide advice on the West Melbourne structure plan area. The findings from this engagement are documented in the West Melbourne Economics and Employment Study Stage 1 Report, dated November 2016.
41. SGS was subsequently engaged by Council in March 2017 to provide advice on the demand for employment floor space, development feasibility and implementation options. The findings from this engagement are documented in the West Melbourne Structure Plan Stage 2 Report, dated June 2017 (the 'Stage 2 report'). Chapter 3 of the report considers the matter of development feasibility. I was responsible for preparing this development feasibility analysis.
42. The development feasibility testing assessed the residual land values (RLV) for a series of hypothetical development scenarios and compared them to existing land values. Various iterations of the feasibility testing were undertaken based on the existing DDO areas, proposed character areas (precincts in the Structure Plan) and floor area ratios (FARs).
43. The third iteration of the testing in the Stage 2 report is of most relevance to the Amendment as the combinations of character areas, FARs, non-accommodation floor space requirements and affordable housing rates tested in this iteration generally align with the planning controls proposed in the Amendment.
44. The feasibility assessment was generic and high-level: it was not intended to assess the development feasibility of specific development proposals on specific sites. It assumed a hypothetical development of a hypothetical site to provide a high-level indication of the impact of planning controls on development feasibility. I believe that this approach is appropriate for informing the development of the West Melbourne Structure Plan and subsequent planning scheme amendment.
45. SGS sourced all inputs to the feasibility modelling from existing models, desktop research or data provided by Council.
46. As this work was undertaken prior to the finalisation of the Structure Plan, there are some minor differences between the scenarios considered in the Stage 2 report and the planning controls in the Amendment. These differences include a reduced share of mandatory non-residential floor space in the Adderley precinct and the application of the 6% affordable housing provision to residential floor space only (rather than all floor space).
47. In preparing this evidence statement I sought additional advice from Robyn Cowie, Associate Director, Residential Development at m3property. Ms Cowie reviewed the assumptions in the SGS feasibility testing and provided advice on whether they were fit for the purpose of informing development feasibility testing for the West Melbourne Structure Plan.
48. As a consequence of the minor changes to planning controls since the Stage 2 report work was completed and the advice provided by m3property, I have revised and updated the feasibility analysis for this evidence statement. This revised feasibility analysis supersedes the feasibility findings in the Stage 2 report.

49. Overview of evidence

50. My evidence is concerned with the potential impact of the Amendment on the feasibility of development in West Melbourne, which includes the impact of floor area ratio (FAR) controls, non-accommodation floor space requirements, and the discretionary affordable housing requirements. These matters are addressed in Chapter 3 of my evidence.

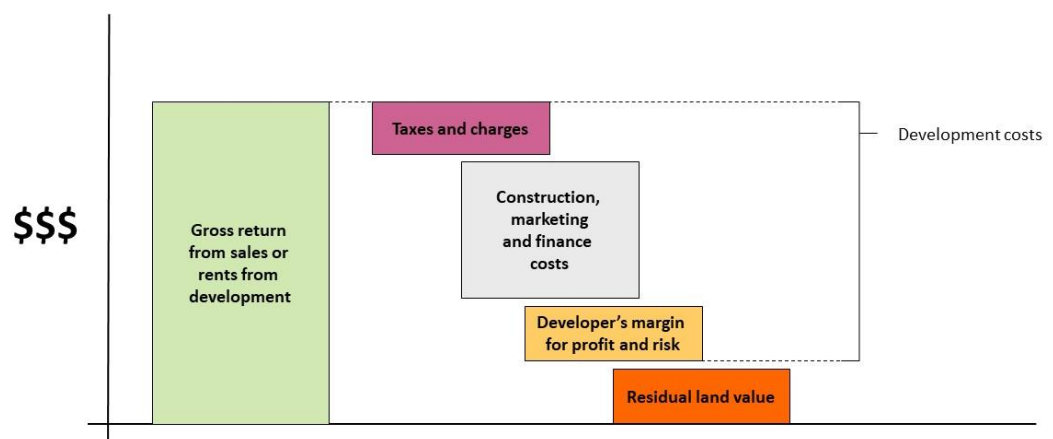
51. In Chapter 4 I provide commentary on the clauses under the heading "Use for Dwellings" (Section 2.0 of the proposed Schedule 6 to the Clause 37.01 Special Use Zone) and suggest changes to the wording. While reviewing this wording I have also considered the likely effectiveness of the affordable housing contribution mechanisms in the Amendment. I briefly outline an alternative approach to affordable housing contributions for West Melbourne that might avoid the shortcoming I see in the proposed approach.
52. Finally, I address some issues raised in submissions on the Amendment in Chapter 5.
53. The Panel Directions (dated 6 June 2019) have directed Council to consider "the impact on development viability of the floor area ratios, affordable housing requirements and mandatory minimum floor areas for non-accommodation uses in each precinct." And to "Include sensitivity testing based on developer contributions, outlining the assumptions made about the likely amount of developer contributions." My evidence statement addresses these matters.
54. The Department of Environment, Land, Water and Planning's pre-authorisation letter (dated 18 September 2018) recommended that, in relation to feasibility, further sensitivity testing would be useful. My evidence statement provides revised feasibility testing that considers a range of existing use values, lower and higher, and sensitivity testing that considers the impact of development contributions.
55. The opinions in this expert evidence statement are my own.

2. PRELIMINARIES

56. This section includes an overview of the elements of the Amendment that are most relevant to my evidence, describes the approach taken to the feasibility analysis, and describes how I have compared land values to determine development feasibility.
- 57. Overview of Amendment C309**
58. Amendment C309 seeks to implement the West Melbourne Structure Plan by introducing a series of changes in the City of Melbourne Planning Scheme (the Scheme), including:
- Amending the MSS by inserting new clause reflecting the Structure Plan vision
 - Making the West Melbourne Structure Plan as a reference document
 - Rezoning most of the Mixed Use Zoned area to a Special Use Zone (SUZ6)
 - Within this zone, introduce requirements for a minimum proportion of non-accommodation floor space, affordable housing, and active ground floor uses on parts of Spencer Street
 - Amending Schedules 28, 29 and 33 to the Design and Development Overlay
 - Adding a new Schedule to the Design and Development Overlay (DDO72)
 - The introduction of mandatory floor area ratio (FAR) controls through the DDOs
 - Introducing a new schedule to the Parking Overlay with a maximum parking rate of 0.3 spaces per dwelling.
59. The strategic justification for the Amendment in the explanatory report states that the Amendment is required to, among other things:
- Support a genuine mix of uses, including retail and commercial uses
 - Encourage the development of Spencer Street as a local high street
 - Encourage the delivery of around 200 affordable housing dwellings
 - Respond to the character of West Melbourne's precincts, and
 - Encourage sustainable transport use and more efficient use of parking spaces.
60. The planning controls that are most pertinent to my evidence due to their impact on development feasibility are the Mandatory floor area ratios (FAR) which determine the maximum density of development, the mandatory non-accommodation floor space requirements, and discretionary affordable housing planning controls. The mandatory non-accommodation floor space requirements only apply to land within the Special Use Zone. The discretionary affordable housing requirement applies to land within the Special Use Zone in the Flagstaff, Spencer and Station precincts.
61. The proposed mandatory maximum floor area ratios are:
- 5:1 in the Station Precinct (Schedule 28)
 - 3:1 in Adderley Precinct (Schedule 29)
 - 6:1 in Flagstaff Precinct (Schedule 33)
 - 4:1 in Spencer Precinct (Schedule 72)
62. The mandatory share of non-accommodation floor space requirements for developments in the Special Use Zone are:
- 25% of the gross floor area in the Spencer Precinct
 - 16.6% of the gross floor area in the Flagstaff and Adderley Precincts, and
 - 20% of the gross floor area in the Station Precinct.

63. The discretionary affordable housing contribution applies to sites in the Special Use Zone in the Flagstaff, Spencer and Station precincts. This control states that “one in sixteen dwellings in a development (at least 6%) should be affordable housing ... provided to an affordable housing provider, including Registered Housing Agencies, at no cost or to be held in an affordable housing Trust for the sole purpose of affordable housing, unless otherwise agreed to by the Responsible Authority”.
64. Furthermore, the Amendment includes two Application Requirements that apply to applications to use land for Dwellings that relate to affordable housing contributions. These requirements are for a report describing how the proposal will contribute to the 6% affordable housing goal, or, alternatively, a detailed report justifying why this cannot be achieved without “rendering the project economically non-viable”.
- 65. Development feasibility analysis**
66. The test of development feasibility that has been applied in my evidence compares the residual land value (RLV) associated with a hypothetical development that is permissible under the Amendment with the existing use value (EUV) of a hypothetical development site.
67. RLV is calculated by deducting all development costs, including the developer’s margin for profit and risk, from all revenues. This is shown conceptually in the figure below.

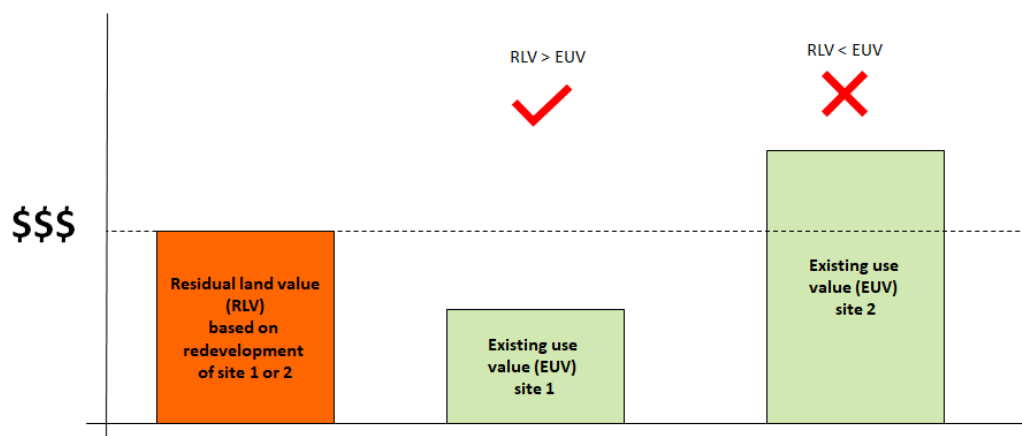
FIGURE 1: CALCULATING RESIDUAL LAND VALUE



68. In the figure above the gross return, represented by the green area of the chart, is the total anticipated revenues from the sale of the completed floor space in the development. The cascading components to the right represent the various costs incurred in the design, approvals, marketing and construction of the development. The residual land value, represented by the orange bar, is the amount left over (the ‘residual’) after the anticipated costs are deducted from the anticipated revenues.
69. The redevelopment of a site is feasible when the RLV of that development is higher than the existing use value (EUV) of the site in question. The EUV is the capitalised value of the site assuming the net revenue stream from the existing use were to continue in perpetuity. Where the RLV exceeds the EUV a developer can offer the incumbent landowner a price premium for the sites. That is, selling the site would yield a financial gain, relative to retaining the existing use. If a developer cannot afford to pay at least the existing use value (i.e. if $RLV < EUV$) an incumbent landowner would retain the site and the development would not take place.
70. This feasibility test is illustrated conceptually in the figure below. Let us assume there are two identical and adjoining sites (site 1 and site 2) that are both subject to identical planning controls. Both sites can accommodate the same new development. The RLV

for both sites will, therefore, be the same and is represented by the orange bar on the left. Site one is occupied by a single storey warehouse. Site two is occupied by an office building. Site one yields a relatively low rent, which, when converted in a capitalised value (assuming the same revenue stream into the future) is shown by the first green bar in the middle of the chart. Site two yields a higher rent per square metre and has more floor space. The capitalised value of this site is therefore significantly higher, reflected by the larger green bar on the right. As a result of the difference in existing improvements on each site, the existing use value differs considerably.

FIGURE 2: FEASIBILITY TEST – RESIDUAL LAND VALUE (RLV) VS EXISTING USE VALUE (EUV)



71. When we compare the RLV to the EUV for each site, we find that for site 1 the RLV exceeds the EUV and redevelopment of this site would be feasible. We draw this conclusion because the landowner would receive a significant premium over the EUV and rational landowner would accept this price as it provides a higher return than the current use. For site 2, the RLV is less than the EUV. In this case the land owner would not sell to a developer for the RLV, and therefore the redevelopment of this site is not feasible. Thus, redevelopment of the warehouse site is feasible, whereas the redevelopment of the office site is not.
72. The fact that the second site is not feasible does not necessarily suggest a deficiency with the planning controls. It reflects the fact that sites with significant existing improvements have a higher existing use value and are less likely to be redeveloped than sites with a lower value of improvements.
73. Any assessment of RLV and EUV will reflect specific market conditions at a point in time. It is conceivable that the relative values of the existing and prospective land uses will change over time. If the margin between the RLV and EUV of site 2 were to decrease and the RLV were to overtake the EUV, redevelopment of this site would then become feasible.
74. It is evident from this discussion that both the RLV and EUV of potential development sites are critical considerations in determining development feasibility.
75. **Land sellers require an enticement to sell their land for redevelopment**
76. In practice, enticing an incumbent landowner to sell their land requires developers to provide a price premium above the EUV. The level of enticement required will depend on a range of factors including the relative difference between the RLV and EUV, how motivated the land owner is to sell, and the level of competition in the particular land market. In a competitive land market, with multiple potential buyers, land sellers may command a price close to the RLV.

77. To account for the requirement for some level of enticement for landowners to sell to developers, I have assumed that a margin of 25% of the existing use value is required for a hypothetical development to be feasible. That is, if a developer can offer a 25% higher price than the existing use value, a rational land seller is more likely than not to accept this offer.
78. In practice, landowners may anticipate a higher margin or accept a lower margin. It is not possible to know in every case what their price expectation might be. From the perspective of assessing development feasibility, is it sufficient to know that a hypothetical redevelopment, based on the proposed planning controls, will provide a reasonable enticement to the landowner to release the site for development, compared to retaining it with the existing use.
79. While some landowners may decide to 'hold out' in anticipation of extracting a higher land price at a future date, it is not appropriate to calibrate the feasibility assessment to any specific landowner's price expectations. Similarly, high prices paid for development sites assuming that a development approval will be granted, should not be used as a benchmark for current land values.
- 80. Note on approach used to estimate existing use values in Stage 2 report**
81. The development feasibility testing set out in the SGS Stage 2 Report compared the residual land value (RLV) for hypothetical developments to existing land values, derived from Council rates data (specifically the Capital Improved Value or CIV). For reasons that will be explained below this approach led to the use of a high benchmark for average existing use values in the Stage 2 report.

3. IMPACT OF THE AMENDMENT ON DEVELOPMENT FEASIBILITY

- 82. This chapter of my evidence describes my assessment of the likely impact of the Amendment on the feasibility of development in West Melbourne.
- 83. It starts with an overview of the specific feasibility analyses findings in the SGS Stage 2 Report that are pertinent to the Amendment.
- 84. In reviewing the Amendment, I have noted some inconsistencies between the assumptions that informed the Stage 2 report feasibility analysis and planning controls in the Amendment. These include a reduction in the share of mandatory non-residential floor space in the Adderley precinct and the application of the 6% affordable housing provision to residential floor space only. These changes will impact the findings of the feasibility analysis.
- 85. In preparing this evidence statement, I have sought a peer review of the cost and revenue assumptions used in the modelling to ensure that the feasibility assessment is fit for purpose for informing the West Melbourne Structure Plan.
- 86. I have subsequently revised the feasibility assessment to align with the planning controls in the proposed Amendment and respond to the findings of the m3property peer review.
- 87. I was not asked to, and have not attempted to, update the feasibility analysis using current values.
- 88. In response to the Panel Directions request for sensitivity testing on impact of development contributions, I have also included revised sensitivity testing that considers the impact of both development contributions and the affordable housing requirements on development feasibility.
- 89. **Summary of the development feasibility analysis findings in the SGS Stage 2 report**
- 90. This feasibility testing assessed residual land values (RLV) for a series of hypothetical development scenarios and compared them to existing use values. Various iterations of the feasibility testing were undertaken based on DDO areas and then character areas. A range of sensitivity tests were also undertaken. Finally, higher FARs were tested for two character areas.
- 91. I have limited my discussion below on findings of the Stage 2 report to the feasibility testing of hypothetical development scenarios that either directly reflects, or closely align with, the particular combinations of planning controls proposed in the Amendment.
- 92. Since the Stage 2 report was prepared specific names have been adopted for the precincts described in that report as 'character areas'. For convenience, I have used the Structure Plan precinct names rather than the character area names. Therefore, the South character area in the Stage 2 Report is referred to below as the Flagstaff precinct; the Central character area is the Spencer precinct; the West character area is the Adderley precinct; and the Station character area is the Station precinct.

93. The North character area (Historical Hilltop precinct) is not reported on below as no changes to the controls for this precinct are proposed in the Amendment.
94. For following FAR assumptions were applied in the final iteration of the feasibility testing:
 - Flagstaff precinct: 6:1
 - Spencer precinct: 4:1
 - Adderley precinct: 3:1
 - Station precinct: 5:1.
95. To explore the impact of land use mix on development feasibility, four land use scenarios were tested for each precinct:
 - A development of all residential floor space
 - A development of all commercial floor space
 - A mixed-use development of retail (0.5:1 FAR), commercial (0.5:1 FAR) and residential floor space (the remainder of the maximum FAR for the precinct)
 - A mixed-use development of commercial (1:1 FAR) and residential floor space (the remainder of the maximum FAR).
96. The feasibility analysis in the Stage 2 report compared the estimated RLV to the average of the Capital Improved Value (CIV) in each precinct for current commercial and industrial sites deemed potential development sites by the City of Melbourne. Council rates valuation data was provided for this purpose. This approach provided an estimate of the land value of potential development sites in each precinct and therefore does not reflect the fact that the existing use value will vary from site to site, based on the site size, specific location in the precinct, and existing improvements.
97. The existing development site values assumptions used in the Stage 2 report feasibility testing are set out in the table below.

TABLE 1: EXISTING LAND VALUE ASSUMPTIONS USED IN STAGE 2 REPORT FEASIBILITY TESTING

Precinct	Average land value for development site per sqm
Flagstaff	\$8,500
Spencer	\$5,000
Adderley	\$5,000
Station	\$5,000

Source: SGS (2017) West Melbourne Structure Plan – Stage 2 Report

98. CIV was used as a proxy for existing use value (EUV) due to the fact that rates data was readily available. A more accurate test of feasibility would be to compare the estimated RLV to an estimated EUV for potential development sites. This matter is discussed in the next section.
99. In the feasibility testing, a 25% margin was added to existing development site values assumption. This was described in the report as the 'threshold value' and reflects the fact that landowner are likely to seek a premium for their sites, above the current value, to entice them to sell their land to a developer.
100. The feasibility results from the SGS Stage 2 report area summarised in the table below which compares the RLV to the average CIV as a ratio. A ratio of 1.25 or greater than suggest the RLV is at least 1.25 times the average CIV, that is, the RLV provides a margin over the CIV of at least 25%. A traffic light colour coding approach has been used to indicate the relative likelihood of each scenario being feasible. Green indicates the scenario is likely to be feasible as the ratio is greater than 1.25; amber indicates marginal feasibility as the ratio between 1 and 1.25; red indicates that the scenario is unlikely to be feasible as the ratio of RLV to CIV is less than 1. These ranges are used

based on the principle that a 25% increase on the existing land value reflects a feasible development. A landowner might accept a lower margin at 25%, but is unlikely to accept a lower value than the existing use value.

TABLE 2: FEASIBILITY FINDINGS, SGS STAGE 2 REPORT – RATIO OF RLV TO AVERAGE CIV

Scenario	Flagstaff	Spencer	Adderley	Station
Residential only	1.68	1.90	1.42	2.37
Commercial only	0.88	1.00	-0.15	-0.25
Mixed use 1: retail, comm, residential	1.72	1.90	1.20	1.89
Mixed use 2: comm, residential	1.54	1.67	0.90	1.85

Source: SGS (2017) West Melbourne Structure Plan – Stage 2 Report

101. The feasibility analysis in the Stage 2 report suggested that, based on the FARs specified above, the residential development scenarios were likely to be feasible in all precincts.
102. The mixed-use development scenarios were also found to be feasible in the Flagstaff, Spencer and Station precincts. The mixed-use scenarios in the Adderley precinct were found to be marginal or not feasible. The less favourable feasibility findings for this precinct reflects the lower FAR of 3:1 compared to higher FARs for the other precincts (e.g. 5:1 in Station and 4:1 in Spencer).
103. Commercial only developments appeared unlikely to be feasible. This finding reflects lower revenues from commercial office development relative to residential development, which were assumed to be 20% to 40% lower than residential floor space on a per square metre basis.
104. When a 6% affordable housing requirement was factored into the feasibility assessment, 8 of the 10 scenarios that were feasible without this requirement remained feasible or became 'marginal' (see Table 3).

TABLE 3: FEASIBILITY FINDINGS, SGS STAGE 2 REPORT, WITH AH – RATIO OF RLV TO AVERAGE CIV

Scenario	Flagstaff	Spencer	Adderley	Station
Residential only	1.32	1.49	1.12	1.86
Commercial only	0.52	0.59	-0.46	-0.76
Mixed use 1: retail, comm, residential	1.36	1.49	0.89	1.64
Mixed use 2: comm, residential	1.18	1.27	0.59	1.34

Source: SGS (2017) West Melbourne Structure Plan – Stage 2 Report

105. Capital Improved Values vs existing use values of potential development sites

106. As noted above, to estimate the existing land values of potential development sites in the Stage 2 report, I used the Capital Improved Value from Council rates data. Specifically, I calculated the average of the Capital Improved Value (CIV) for commercial and industrial sites designated as potential development sites, in each precinct.
107. On reflection, I believe this approach resulted in the adoption of relatively high benchmarks for the land values of potential development sites.
108. Council's assessment of CIV reflects the market value of the property. In determining this market value, Council will consider recent sales evidence of sites with similar characteristics. In areas that are in transition from lower to higher value land uses, these recent transactions will reflect the residual land value assuming redevelopment of the site to a higher value use. Therefore, where planning controls allow for higher value land uses than the existing use, and recent sales reflect these development opportunities, the assessed CIV of a site will be higher than the existing use value.

109. Therefore, the approach taken in estimating the benchmark value for development feasibility in the Stage 2 report – the average CIV plus 25% – has generated relative high values. The peer review of key assumptions provided by m3property (outlined below) confirms that there is likely to be a wide variety of existing use values for sites in West Melbourne. The review suggested that the values used in the Stage 2 report would be at the upper of land values for sites that might be redeveloped.
- 110. Inconsistencies between the assumptions used in the Stage 2 report feasibility analysis and the planning controls in the Amendment**
111. The Stage 2 report feasibility assessment was completed prior to the finalisation of the Structure Plan. As a consequence, there are some slight differences between the planning controls in the Amendment and those assumed in the Stage 2 report feasibility testing. These are described in the table below.

TABLE 4: ASSUMPTIONS IN STAGE 2 REPORT VS CONTROLS IN AMENDMENT C309

Issue	Assumption used in Stage 2 report feasibility testing	Planning control in Amendment C309
Share of non-accommodation floor space in the Adderley precinct	33%	16.6% and applies only to land zoned Special Use
Affordable housing requirements rate	6% of all floor space in the hypothetical development	At least 6% (1 per 16 dwellings) applied to dwellings only
Locations where affordable housing requirements apply	All precincts	Only applied to land zoned Special Use in the Flagstaff, Spencer and Station precincts

112. These changes will impact the findings of the feasibility analysis and I have subsequently revised the feasibility assessment to align more closely with the requirements of the proposed planning controls.
113. In the revised feasibility testing presented below I have:
- Reduced the non-accommodation floor space in the mixed-use scenarios in the Adderley precinct from 33% to 16.6%
 - Applied a 6% affordable housing contribution to residential floor space only
 - Removed the assessment of a 6% affordable housing contribution from the Adderley precinct.
- 114. m3property peer review of SGS feasibility modelling assumptions**
115. Ms Cowie, Associate Director, Residential Development at m3property reviewed the cost and revenue assumptions used in the feasibility testing to determine whether they were fit for the purpose of informing feasibility testing for the West Melbourne Structure Plan. Ms Cowie's advice is attached at Appendix D.
116. Ms Cowie's review recommended changes to both the assumptions used to estimate RLVs in the hypothetical development scenarios and to the existing use values.
117. In relation to assumptions used to estimate RLVs, Ms Cowie's review suggested the following changes:
- Lowering the revenue assumptions to reflect the gross floor area approach of the feasibility modelling
 - Lowering the revenue assumptions for residential floor space to reflect the GST exclusive approach of the feasibility modelling
 - Increasing the allowance for marketing, financing and holding costs

- Lowering the allowance for the developer's margin for profit and risk, and
- Include a cost item for public open space contributions.

118. In relation to existing use values in the precinct, Ms Cowie's review concluded that:

... based on a high level review, we would expect existing use values for commercial office use to range between \$5,000 and \$8,500 per square metre of land area and lower values of circa \$2,500 to \$3,500 to apply to 'industrial' use sites. Given the age and condition of industrial buildings in the area we would consider that these sites are the most likely to be offered to the market for redevelopment. To reflect the mix of uses and provide an average land value we would consider Existing Use Values to fall between circa \$3,000 and \$5,000 per square metre of land area.

119. The advice provides three range estimates for existing use values in West Melbourne: a lower range for 'industrial' use sites (\$2,500 to \$3,500 per sqm), a high range for site with commercial office uses (\$5,000 and \$8,500 per sqm) and a third range that is intended to reflect the average of the mix of uses in the precinct (\$3,000 to \$5,000 per sqm). It also notes that the lower existing use value sites are the most likely to be redeveloped.

120. Revised development feasibility analysis

121. The feasibility analysis was updated to account for changes to the planning controls since the SGS Stage 2 report was prepared (as outlined above at paragraph 113) and recommended changes to the assumptions used in the initial feasibility modelling to estimate the RLVs for the hypothetical developments, from the peer review (as outlined above at paragraph 117).

122. The revised feasibility testing compared RLVs to estimates of the existing use value (rather than the average CIV used in the Stage 2 Report modelling). The revised RLVs are compared to two existing use value ranges provided by m3property: the existing use values range for industrial sites and the average existing use value range. I have chosen these ranges as they reflect the existing use values of sites that are likely to be candidates for redeveloped in the short to medium term. The specific land value assumption from these ranges that has been applied to each precincts are set out Table 5 and Table 6 below.

123. The same four land use scenarios were tested for each precinct: residential, commercial and two mixed-use development scenarios. The FAR assumptions reflect those in the Amendment.

124. This revised development feasibility analysis supersedes that of the Stage 2 report.

125. Findings of revised development feasibility analysis

126. The results of the revised testing are set out in the two tables below. This first table (Table 5) compares the RLVs of the hypothetical development scenarios to the lower estimates of existing use values for each precinct. The second table (Table 6) compares the RLVs of the hypothetical development scenarios to the average estimates of existing use values for each precinct.

127. In both tables, the first section shows the estimated existing use values per square metre of site area and for a hypothetical 1,000 sqm site. The second section shows the estimated RLV for each hypothetical development. The third section shows the ratio of RLV (from section 2) to EUV (from section 1). The fourth section of each table shows the estimated RLVs assuming 6% of the dwellings are gifted as affordable housing. The final section shows the ratio of RLV to EUV when this affordable housing requirement is taken into account.

128. The values and colour coding of the sections containing the ratio of RLV to EUV are the same as those outlined earlier: a ratio of 1.25 or greater suggests the RLV is at least 1.25 times the EUV and indicates the hypothetical development scenario is likely to be

feasible; a ratio between 1 and 1.25 indicates that the feasibility is marginal; and a ratio of less than 1 indicates the RLV is less than the EUV and the development scenario is unlikely to be feasible.

129. Based on the assumptions that have informed the revised feasibility analysis, for sites that currently host lower value existing uses, most residential and mixed-use development scenarios are likely to be feasible (see Table 5, Section 3). The majority of development scenarios in the four precincts return RLVs that are higher than the estimated existing use value plus 25%.
130. Specifically, redevelopment of sites with lower existing use values with the nominated FARs and mandatory non-residential floor space requirements was found to be:
 - feasible in the Flagstaff precinct under all scenarios tested
 - feasible in the Spencer precinct under both mixed-use scenarios tested, marginal for a commercial-only scenario
 - feasible in the Adderley precinct under a residential scenario and mixed-use scenario with retail, marginal under a mixed-use scenario without retail, and not feasible for a commercial-only scenario.
 - feasible in the Station precinct for all scenarios tested other than a commercial-only scenario.
131. Commercial office development is less likely to be feasible than residential and mixed-use development. Although new commercial development might be feasible in the Flagstaff and Spencer precincts, the other development scenarios would generate considerably higher RLVs and are therefore likely to be favoured.
132. The impact of 6% of dwellings being gifted as affordable housing has been assessed for the mixed-use and residential scenarios in the Flagstaff, Spencer and Station precincts. The modelling has assumed that the cost to a developer of providing these dwellings, gifted, is their full market value (rather than their production cost). The affordable housing requirements therefore reduces the RLVs by the market value of 6% of the dwellings floor space in the hypothetical development (Table 5, Sections 4).
133. Developments in the Adderley precinct and commercial only development in all precincts are unaffected by the affordable housing requirements and, therefore, RLVs with affordable housing for these scenarios have not been calculated.
134. Of seven scenarios that were assessed as being feasible without the affordable housing requirements, two would become 'marginal' with the affordable housing requirement while the other five remain feasible, albeit with lower RLV (see Table 5, Section 5).
135. Specifically, the development of lower existing use value sites with 6% gifted affordable housing was found to be:
 - feasible in the Flagstaff precinct under both scenarios tested
 - feasible in the Spencer precinct under a mixed-use scenario including retail, and marginal for a mixed-use scenario without retail
 - feasible in the Station precinct under a residential-only scenario or a mixed-use scenario including retail, and marginal under a mixed-use scenario without retail.

TABLE 5: REVISED FEASIBILITY FINDINGS – LOWER EXISTING USE VALUE SITES

Existing use value	Flagstaff	Spencer	Adderley	Station
Existing site value (EUV) per sqm site area	\$ 3,500	\$ 3,000	\$ 2,500	\$ 2,500
Existing site value (EUV) for 1000 sqm site	\$ 3,500,000	\$ 3,000,000	\$ 2,500,000	\$ 2,500,000

RLV (1000 sqm site)	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	\$ 3,714,000	\$ 6,190,000
Commercial only	\$ 4,789,000	\$ 3,192,000	-\$ 1,770,000	-\$ 2,950,000
Mixed use 1: retail, comm, residential*	\$ 8,569,000	\$ 5,732,000	\$ 3,584,000	\$ 5,930,000
Mixed use 2: comm, residential**	\$ 6,989,000	\$ 4,512,000	\$ 2,814,000	\$ 4,390,000

Ratio of RLV to EUV	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	1.49	2.48
Commercial only	1.37	1.06	-0.71	-1.18
Mixed use 1: retail, comm, residential*	2.45	1.91	1.43	2.37
Mixed use 2: comm, residential**	2.00	1.50	1.13	1.76

RLV with 6% affordable housing	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	\$ 4,333,000
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential*	\$ 6,711,000	\$ 4,618,000	na	\$ 4,445,000
Mixed use 2: comm, residential**	\$ 5,131,000	\$ 3,398,000	na	\$ 2,905,000

Ratio of RLV to EUV (with 6% AH)	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	1.73
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential*	1.92	1.54	na	1.78
Mixed use 2: comm, residential**	1.47	1.13	na	1.16

Source: SGS (2019), based on m3property advice. * FAR: 0.5 retail, 0.5 commercial, remainder residential; except Adderley: 0.25 retail, 0.25 commercial, remainder residential. ** FAR: 1.0 commercial, remainder residential; except Adderley: 0.5 commercial, remainder residential.

136. Turning now to the feasibility analysis based on higher existing use values for each precinct (see Table 6) of the 14 scenarios considered, 7 scenarios generated feasible outcomes, 2 scenarios are marginal and 5 scenarios are unlikely to be feasible.
137. Specifically, for sites with higher existing use values, development with the nominated FARs and mandatory non-residential floor space requirements was found to be:
 - feasible in the Flagstaff precinct under both mixed-use scenarios tested, and not feasible for a commercial-only scenario
 - feasible in the Spencer precinct under a mixed-use scenario with retail, marginal under a mixed-use scenario without retail, and not feasible for a commercial-only scenario
 - marginal in the Adderley precinct under a residential scenario and mixed-use scenario with retail, and not feasible under a mixed-use scenario without retail and commercial-only scenario
 - feasible in the Station precinct for all scenarios tested other than a commercial-only scenario.
138. The analysis suggests that residential and mixed-use development scenarios are more likely to be feasible. New commercial only developments are unlikely to be feasible on these higher existing use value sites, based on the revenues assumptions for commercial floor space used in the feasibility analysis.

TABLE 6: REVISED FEASIBILITY FINDINGS – AVERAGE EXISTING USE VALUE SITES

Existing use value (EUV)	Flagstaff	Spencer	Adderley	Station
EUV per sqm site area	\$ 5,000	\$ 4,000	\$ 3,000	\$ 3,000
EUV for 1000 sqm site	\$ 5,000,000	\$ 4,000,000	\$ 3,000,000	\$ 3,000,000

Residual land value (RLV: 1000 sqm site)	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	\$ 3,714,000	\$ 6,190,000
Commercial only	\$ 4,789,000	\$ 3,192,000	-\$ 1,770,000	-\$ 2,950,000
Mixed use 1: retail, comm, residential*	\$ 8,569,000	\$ 5,732,000	\$ 3,584,000	\$ 5,930,000
Mixed use 2: comm, residential**	\$ 6,989,000	\$ 4,512,000	\$ 2,814,000	\$ 4,390,000

Ratio of RLV to EUV	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	1.24	2.06
Commercial only	0.96	0.80	-0.59	-0.98
Mixed use 1: retail, comm, residential*	1.71	1.43	1.19	1.98
Mixed use 2: comm, residential**	1.40	1.13	0.94	1.46

RLV with 6% affordable housing	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	\$ 4,333,000
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential*	\$ 6,711,000	\$ 4,618,000	na	\$ 4,445,000
Mixed use 2: comm, residential**	\$ 5,131,000	\$ 3,398,000	na	\$ 2,905,000

Ratio of RLV to EUV (with 6% AH)	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	1.44
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential*	1.34	1.15	na	1.48
Mixed use 2: comm, residential**	1.03	0.85	na	0.97

Source: SGS (2019), based on m3property advice. * FAR: 0.5 retail, 0.5 commercial, remainder residential; except Adderley: 0.25 retail, 0.25 commercial, remainder residential. ** FAR: 1.0 commercial, remainder residential; except Adderley: 0.5 commercial, remainder residential.

139. Factoring in the aspiration for 6% of dwellings to be gifted as affordable housing on site with higher value sites: three scenarios that were feasible without the affordable housing requirement remain feasible with the contribution; two scenarios shift to marginal; and the remaining two scenarios are unlikely to be feasible.
140. Specifically, a requirement for 6% of dwellings to be gifted as affordable housing on these higher value sites, redevelopment was found to be:
 - feasible in the Flagstaff precinct under mixed-use scenario including retail, and marginal for a mixed-use scenario without retail
 - marginal in the Spencer precinct under a mixed-use scenario including retail, and not feasible for a mixed-use scenario without retail
 - feasible in the Station precinct under a residential-only scenario or a mixed-use scenario including retail, and not feasible under a mixed-use scenario without retail.
141. **Summary: impact of the Amendment on development feasibility**
142. Having revised the development feasibility analyses and considering the feasibility with reference to both site with lower and higher existing use values, I conclude that, redevelopment of sites with lower existing use values would be feasible, with the FARs nominated in the Amendment and with the mandatory non-residential floor space requirements, for 10 of 14 development scenarios tested. In general, commercial-only developments are less likely to be feasible.
143. The redevelopment of lower existing use value sites with the 6% gifted affordable housing requirement was found to be feasible in the Flagstaff (in 2 of 2 scenarios

tested), in 1 of 2 scenarios tested in the Spencer precinct and in 2 of 3 scenarios tested in the Station precinct.

144. For sites with average existing use values, I conclude that, redevelopment would be feasible, with the FARs nominated in the Amendment and with the mandatory non-residential floor space requirements in 6 of 14 development scenarios tested. Feasibility was assessed as marginal for three scenarios. The remaining five scenarios were found to be not feasible.
145. The redevelopment of higher value sites with 6% gifted affordable housing was found to be feasible in the 1 of 2 scenarios in Flagstaff and in 2 of 3 scenarios tested in the Station precinct.
146. The 6% gifted affordable housing requirement is therefore more likely to make the development of sites with higher existing use values unfeasible. Of the scenarios considered three of seven were assessed as being feasible with the 6% affordable housing requirement.
147. Based on the revised feasibility analysis I do not believe that the Amendment will prevent new development from occurring in West Melbourne. The estimated RLVs generated by development scenarios that comply with the controls in the Amendment are typically higher than the existing use values of potential development sites plus a margin of 25%. Provided there are sufficient sites with lower values existing uses in West Melbourne suitable for redevelopment, development feasibility should not be a barrier to their redevelopment in the short to medium term.
148. A significant proportion of properties in West Melbourne host relatively low-scale existing development many of which are likely to have relatively modest existing use values. The City of Melbourne data suggests that of 331 non-residential properties in West Melbourne, the scale of the existing development of 81% of these properties is only 1 or 2 storeys in height.¹ 111 properties (34%) feature single storey development, 157 properties (47%) host 2 storey development, 39 (12%) host 3 storey development and the remaining 24 properties have development 4 or more storeys.
149. This difference in the relative feasibility of lower and higher value sites is to be expected in a precinct that is in transition: lower land values uses are likely to be replaced first, then, as the precinct matures, sites with higher land values and more substantial existing investments will eventually be replaced. Sites that currently host low-scale office uses in West Melbourne are likely to become candidates for redevelopment as they become 'run down' or no longer meet market expectations.
- 150. The impact of the Amendment on land values over time**
151. The current planning controls in West Melbourne are largely discretionary and, by design, are not intended to provide definitive guidance on the quantum of development permissible on a particular site. While discretionary planning controls have the advantage of allowing flexibility, they can also result in the bidding up of land prices. For example, where there is strong competition to purchase potential development sites, prospective developers will endeavour to maximise their bid for the land. In order to do so, they will be encouraged to speculate on securing an ambitious development outcome. Such speculation will be particularly strong where past development approvals exceeding discretionary planning controls have set a precedent.
152. The introduction of mandatory FAR controls and minimum non-accommodation floor space requirements would moderate this speculation. With greater certainty concerning the likely quantum of development permissible on land in West Melbourne,

¹ City of Melbourne (2017) Census of Land Use and Employment (CLUE). Accessed at: <https://data.melbourne.vic.gov.au/Property-Planning/Building-information-2017/qabw-suvb>

buyers and sellers should value land based on similar assumptions about the development potential. This increased certainty of potential development outcomes is likely to improve the efficiency of development site transactions.

- 153. Incumbent landowners are likely to resist the introduction of new planning control where they believe this will result in a reduction of the RLV of a site compared to the current controls. It is logical for landowners to endeavour to retain or enhance the potential value of their land when changes to the planning controls are mooted.
- 154. A reduction in the potential RLV does not necessary mean that development under those new controls will not be feasible. A rational land seller would still sell their land for redevelopment provided the price offered exceeds the existing use value by a sufficient margin.

155. Comments on generic vs site specific development feasibility testing

- 156. The development feasibility analysis presented in my evidence is high level and not site specific. It has not accounted for the unique characteristics of specific sites or building designs. The assumptions used in this assessment are averages and may not reflect specific circumstances on individual sites. Development feasibility will vary from site to site depending on the nature of the existing use, the site and shape of the lot, and land owner motivation. Furthermore, specific developers will have different cost structure and target markets which affect feasibility outcomes.
- 157. That said, it follows that a finding of 'not feasible' for a particular precinct and land use mix combination does not mean that *all* sites in that precinct will not be feasible. Similarly, a finding of 'feasible' doesn't mean that all such sites would be feasible. The feasibility of each site will depend on the combination of the existing use, its relative attractiveness and suitability for alternative use, its size, shape and orientation, and how motivated the landowner is to sell the site.
- 158. This generic feasibility assessment exercise has been undertaken to provide a high-level indication of the impact of planning controls on development feasibility. It should not be viewed as definitive in every case. It is not possible to account for the wide variety of individual circumstances that might impact sites and developers.
- 159. Notwithstanding these comments, I believe that this approach I have used is appropriate for informing the development of the West Melbourne Structure Plan and subsequent planning scheme amendment.

160. Sensitivity testing based on development contributions

- 161. In response to the Panel Directions request for sensitivity testing on impact of development contributions I have also considered the impact of development contributions in the revised feasibility analysis.
- 162. I note that no development contributions are proposed in the Amendment.
- 163. This matter was addressed in the Stage 2 report using both lower and higher contribution rates being \$3000 per dwelling and \$30 per sqm of retail or commercial floor space and \$6000 per dwelling and \$60 per sqm of retail or commercial floor space.
- 164. In considering what are appropriate DCP rates for West Melbourne, I have reviewed the recently adopted City of Yarra DCP (Amendment C238). These contribution rates in this DCP range from \$3.42 to \$30.30 per sqm for retail floor space, \$2.41 to \$41.03 per sqm for commercial floor space and from \$1,173 to \$3,654 per dwelling.
- 165. For the purpose of this sensitivity testing, I have adopted the lower development contribution rates adopted in that Stage 2 report (\$3000 per dwelling and \$30 per sqm of retail or commercial floor space) as these rates reflect the upper range of contributions in the recently adopted Yarra DCP.

166. As per the approach above, I have considered development feasibility for both lower and higher existing use value sites in two separate tables. Each table is in four parts and shows the ratio of RLV to EUV for four permutations of affordable housing requirements and development contributions:
- Section 1: without affordable housing or development contributions
 - Section 2: with development contributions but without affordable housing
 - Section 3: with affordable housing (at 6% gifted) *but without* development contributions
 - Section 4: with affordable housing (6%) *and* development contributions.
167. For both the lower and higher existing use value sites the introduction of development contributions has a relatively modest impact on development feasibility. RLVs are slightly lower as a result of the additional contributions and the ratio of RLV to EUV is lower as a result.
168. Development contribution requirements, at the level assumed in this analysis, could make projects that are at the margins of feasibility unfeasible but are unlikely to affect projects where there is a reasonable buffer between the RLV and EUV.

TABLE 7: REVISED FEASIBILITY RESULTS WITH AND WITHOUT AFFORDABLE HOUSING REQUIREMENTS AND DEVELOPMENT CONTRIBUTIONS (RLVs COMPARED TO LOWER EXISTING USE VALUE SITES)

Ratio of RLV to EUV	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	1.49	2.48
Commercial only	1.37	1.06	-0.71	-1.18
Mixed use 1: retail, comm, residential	2.45	1.91	1.43	2.37
Mixed use 2: comm, residential	2.00	1.50	1.13	1.76

Ratio of RLV to EUV with DCP*	Flagstaff	Spencer	Adderley	Station
Residential only			1.45	2.42
Commercial only	1.32	1.03	-0.74	-1.24
Mixed use 1: retail, comm, residential	2.39	1.87	1.40	2.31
Mixed use 2: comm, residential	1.94	1.46	1.09	1.69

Ratio of RLV to EUV with 6% AH	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	1.73
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential	1.92	1.54	na	1.78
Mixed use 2: comm, residential	1.47	1.13	na	1.16

Ratio of RLV to EUV with 6% AH and DCP	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	1.68
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential	1.86	1.50	na	1.71
Mixed use 2: comm, residential	1.41	1.09	na	1.10

Source: SGS (2019). * DCP rates: \$3000 per dwellings; \$30 per sqm of retail/commercial floor space.

TABLE 8: REVISED FEASIBILITY RESULTS WITH AND WITHOUT AFFORDABLE HOUSING REQUIREMENTS AND DEVELOPMENT CONTRIBUTIONS (RLVS COMPARED TO AVERAGE EXISTING USE VALUES)

Ratio of RLV to EUV	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	1.24	2.06
Commercial only	0.96	0.80	-0.59	-0.98
Mixed use 1: retail, comm, residential	1.71	1.43	1.19	1.98
Mixed use 2: comm, residential	1.40	1.13	0.94	1.46

Ratio of RLV to EUV with DCP*	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	1.21	2.02
Commercial only	0.92	0.77	-0.62	-1.03
Mixed use 1: retail, comm, residential	1.68	1.40	1.16	1.92
Mixed use 2: comm, residential	1.36	1.10	0.91	1.41

Ratio of RLV to EUV with 6% AH	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	1.44
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential	1.34	1.15	na	1.48
Mixed use 2: comm, residential	1.03	0.85	na	0.97

Ratio of RLV to EUV with 6% AH and DCP	Flagstaff	Spencer	Adderley	Station
Residential only	na	na	na	1.40
Commercial only	na	na	na	na
Mixed use 1: retail, comm, residential	1.30	1.12	na	1.43
Mixed use 2: comm, residential	0.99	0.82	na	0.92

Source: SGS (2019). * DCP rates: \$3000 per dwellings; \$30 per sqm of retail/commercial floor space.

4. COMMENTS ON THE AFFORDABLE HOUSING APPLICATION REQUIREMENTS

169. I have been asked to review the wording of the two dot points under the heading "Use for Dwellings" within the Application Requirements of the schedule to the Special Use Zone and provide expert opinion on whether the wording "is fit for purpose, assuming that the purpose of the provision is to enable the Responsible Authority to make an informed judgment about whether it is viable to deliver the affordable housing."
170. My opinions on the wording are set out below including recommended changes to the wording.
171. In reviewing this wording, I have also considered the likely effectiveness of the affordable housing contribution approach proposed in the Amendment. My opinions on this matter are also set out below. I briefly outline an alternative approach to affordable housing contributions for West Melbourne that might avoid the shortcoming I identify in the proposed approach.
- 172. Review of application requirements for affordable housing contributions**
173. Schedule 6 to Clause 37.01 of the Amendment includes provisions that describe the expected affordable housing contributions on land when land is developed for dwellings in the Special Use Zone. These specific provisions from Part 2.0 'Use of land', from Council's amended version of the Amendment, read:
- Use for Dwellings – Affordable Housing*
- For land located in the Flagstaff, Spencer and Station Precincts, as shown on Figure 1, where a permit is required to use land for Dwellings, one in sixteen dwellings within the development (at least 6%) should be an affordable housing dwelling unless otherwise agreed to by the Responsible Authority.*
- This should be provided to an affordable housing provider, including Registered Housing at no cost or to be held in an affordable housing Trust and managed for the sole purpose of affordable housing, unless otherwise agreed to by the Responsible Authority.*
- If in calculating the affordable housing requirement the result is not a whole number, the affordable housing requirement is to be rounded up to the nearest whole number.*
174. The provision has three elements: the anticipated rate of provision; an expectation that the affordable housing dwellings will be gifted to an affordable housing provider; and a qualification that the rate of provision will be calculated by rounding up to a nearest whole number of dwellings.
175. These are discretionary requirements and these provisions suggest the Responsible Authority can exercise discretion in relation to both the rate of provision (at least 6%) and the ownership arrangements.
176. I understand that the basis for exercising this discretion is outlined in the provisions under Use for Dwellings in the Application Requirements in the Schedule. Two application requirements are listed:

- *An application to use land for Dwellings must be accompanied by a report which addresses how the proposal contributes to the goal of delivering 6% of housing as affordable housing in West Melbourne.*
- *An application to use land for a Dwelling that does not achieve at least 6% affordable housing, must be accompanied by a detailed report prepared by a Quantity Surveyor or other suitably qualified professional to the satisfaction of the Responsible Authority. The report must set out indicative profit margins for the project, and substantiated findings demonstrating why the proposed number of affordable housing dwellings within the development, to satisfy the applicable requirement, cannot be delivered without rendering the project economically non-viable. The Responsible Authority may require this report to be analysed by a suitably qualified independent third party at the applicant's cost.*

177. I understand that the intent of these provisions is to require applicants to furnish either a report that demonstrates to the Responsible Authority how the affordable housing contribution requirements will be met, or a detailed report demonstrating to the Responsible Authority why the affordable housing requirement cannot be met without making the development unfeasible ('economically un-viable').
178. I have assumed that the intent of this wording is to suggest that for the Responsible Authority to accept a report under the first dot point, the proposed development would need to meet each of the criteria listed at Part 2.0 'Use of land' (that is, at least 6% affordable housing, and provided at no cost to an affordable housing provider). However, this is not clear in the current wording, which simply makes reference to the goal of delivering 6% of housing as affordable housing. Amending the second dot point (discussed below) would remove this ambiguity.
179. Where a proposed development does not include at least 6% affordable housing, provided at no cost to an affordable housing provider, the second dot point of the Application Requirements suggests the Responsible Authority will seek what might be called an "open book feasibility assessment". This assessment would set out the revenue and cost assumptions for the proposed development, including the land price and the developer's margin for profit and risk. For a project to be viable, a developer needs to achieve a reasonable financial return. The assessment would need to demonstrate that the costs associated with the requirement to include affordable housing would render the project unfeasible, that is, the developer cannot afford to provide affordable housing whilst still achieve a reasonable return on investment through the development.
180. Where this might be the case, the Responsible Authority would presumably consider a proposal for a reduced rate or value of affordable housing contributions that would not make the project unviable. For example, a rate of less than 6%, or provision via an alternative mechanism to gifting to an affordable housing provider, or via some combination of these alternatives.
181. I am aware of a similar approach to open book feasibility assessments being used in relation to affordable housing contributions in England. The approach is therefore not unprecedented. In London, for example, major new developments are expected to provide a minimum level of affordable housing (35% - 50% of dwellings), unless it can be demonstrated these requirements would render the project unviable. Applicants can justify a lower level of provision, if required to make the project feasible, by providing the planning authority with an open book feasibility assessment.
182. It has been reported that, in some instances, this feasibility-based approach to assessing affordable housing contributions has led to deliberate manipulation of the open book feasibility assessment. Specifically, the justified level of affordable housing contributions has been lowered by inflating profits or using conservative revenue

estimates.² In an effort to address these issues the Mayor of London issued detailed guidance on viability assessments in relation to affordable housing obligations.³

183. There is the potential for similar manipulation of the open book feasibility assessment in the approach proposed in the Amendment. The suggestion in the Application Requirements that the Responsible Authority can obtain an independent review of the detailed report is no doubt intended to ensure applicants provide accurate information in relation to costs, revenues and profits. However, in the current wording, it is unclear on what basis the Responsible Authority would test the validity of the information provided. The wording might be amended to make it clear that the Responsible Authority will compare the assumptions and values in the detailed report to current industry benchmarks.
184. I do not believe that it is appropriate to specifically nominate a Quantity Surveyor as a professional qualified to prepare this report. Quantity Surveyors are typically engaged to assess construction quantities and costs but would, in all likelihood, have limited exposure to other elements of feasibility assessments. It is perhaps not necessary to nominate a specific profession for the purpose of the provision. Many developers would routinely prepare their own feasibility assessment and may be able to provide the relevant information for the detailed report. Again, the suggestion that the Responsible Authority can seek an independent review of the feasibility assessment should provide sufficient incentive to ensure the report is accurate. It is likely that the Responsible Authority would need to retain the services of property advisory firms and/or quantity surveyors to determine whether the cost, revenue and profit margins used do indeed reflect current industry benchmarks and market conditions.
185. I suggest the wording of the second dot point under Use for Dwellings in the Application Requirements be amended to:
- Clarify that it is the intention that the Application Requirement at dot point one only applies when the 'dual tests' (i.e. at least 6% affordable housing, and provided at no cost to an affordable housing provider) are both met,
 - Clarify that the detailed report sought is an open book feasibility assessment, being details of estimated project revenues and costs, including land costs and an appropriate margin for profit and risk,
 - Suggest that the Responsible Authority's assessment of the information provided in the detailed report will be to compare it against current industry benchmarks, and
 - Remove the reference to a Quantity Surveyor.
186. For example, the second dot point in the Application Requirements might be re-worded as follows:

An application to use land for a Dwelling that does not achieve at least 6% affordable housing provided at no cost to an affordable housing provider, must be accompanied by a detailed report prepared by a suitably qualified professional that demonstrates, to the satisfaction of the Responsible Authority, why the requirement cannot be delivered without rendering the project economically non-viable. The report must set out details of all project revenues and costs including profit margins. The Responsible Authority will assess this information in the report against current industry benchmarks. The Responsible Authority may require this report to be reviewed by a suitably qualified independent third party at the applicant's cost.

² Wainwright O (2015) "Revealed: how developers exploit flawed planning system to minimise affordable housing.: The Guardian, 25 June 2015.

³ Mayor of London (2017) Homes for Londoners - Affordable Housing and Viability Supplementary Planning Guidance.

- 187. The viability loophole: how the feasibility test mechanism might be used to avoid affordable housing contributions**
188. There is a risk that the combination of the discretionary affordable housing requirement and the open book feasibility test could undermine the objective of providing affordable housing in West Melbourne.
189. Because the affordable housing requirements in West Melbourne are discretionary, developers and landowner may not factor the full cost of these requirements into their land value calculations. Where a developer and landowner agree to a price for land that does not account for an affordable housing contribution, the developer will be able to demonstrate to the Responsible Authority, through the open book feasibility assessment mechanism, that they are unable to provide affordable housing contributions without rendering the project unfeasible.
190. This dynamic can be more fully examined by way of example. Imagine a situation with two developers vying to purchase the same development site. The first developer assumes that they will be required by the Responsible Authority to provide 6% affordable housing, gifted to an affordable housing provider, and calculates the RLV for the site accordingly. The second developer assumes that they will be able to avoid any affordable housing contributions, through the open book viability assessment mechanism. This developer will calculate the RLV for the site assuming no affordable housing and the resulting RLV will be higher than that of the first developer. It follows that the landowner will be more likely to accept the higher price offered by the second developer.
191. Let us assume the second developer acquires the site for a price that did not account for an affordable housing contribution. The developer will now be in a position to demonstrate to the Responsible Authority, using the open book feasibility assessment, that any affordable housing contribution would make the development unfeasible. They would, therefore, legitimately avoid having to include any affordable housing in the development as a result of the price paid for the land.
192. In effect, a feasibility-based test for the discretionary requirement for affordable housing contributions would encourage developers to purchase land for a price that allows them to avoid making any affordable housing contributions. Furthermore, in a competitive land market, land sellers will endeavour to extract the highest possible price for their land.
193. Similar observations have been made in relation to the use of feasibility assessment to justify affordable housing contributions in England. One commentator has referred to this phenomenon as the 'viability loophole' referring to the practice of 'overpaying' for land to reduce or avoid affordable housing contributions.⁴
194. I conclude that the proposed approach is likely to result in economic incentives that undermine the objective of providing 6% affordable housing in West Melbourne. This dynamic is perhaps unavoidable where the affordable housing contribution is a discretionary requirement and the test for assessing this requirement is based on feasibility.
- 195. An alternative approach to affordable housing contributions at West Melbourne**
196. To avoid this shortcoming of the proposed approach, I have considered an alternative approach that retains both a discretionary approach to affordable housing contributions and mandatory maximum FARs.

⁴ Grayston R (2017) Slipping through the loophole: How viability assessments are reducing affordable housing supply in England, Shelter UK.

197. Affordable housing contributions in West Melbourne might be sought using a somewhat similar approach to the floor area uplift and public benefits planning control in operate in the CBD and Southbank (Amendment C270) or the floor area uplift and social housing planning controls adopted for Fisherman's Bend (Amendment GC81).
198. In each case the contributions are calibrated to the land value uplift associated with additional floor space above a nominated density threshold.
199. In the CBD and Southbank, the floor area uplift (FAU) scheme requires proponents to provide public benefits in return for development approvals that exceed the nominated density threshold of 18:1 FAR. Affordable housing, transferred as zero consideration, is one of the nominated forms of public benefit.
200. In Fishermans Bend, similar FAU arrangements take effect where developments exceeds nominated dwelling density thresholds, expressed as dwelling per hectare. In this case, approval of FAU is contingent on the composition of the additional floor space including one social housing dwellings for every 8 additional market dwellings.
201. A not dissimilar value capture-based affordable housing policy could be used for West Melbourne. This would require setting a threshold density above which affordable housing contributions are required. Maximum FARs could be retained as an upper density limits for each precinct. Affordable housing contribution could be sought for the floor space that is between the threshold FAR and the maximum FAR. The amount of these contributions could be determined using one of two methods: a 'public benefits' approach (as per Amendment C270), where contributions are calibrated directly to land value uplift associated with the floor space above the threshold FAR, or via a 'gifting ratio' approach (as per Fishermans Bend), where contributions are based on a ratio of market dwelling to gifted affordable housing dwellings.
202. Using a threshold FAR as 3:1 for all precincts, and the maximum FARs as proposed in the Amendment, I have estimated of effective rate of affordable housing contributions based on both the direct value capture and gifting ratio approaches, in the table below.
203. While these resulting rates are less than the at least 6% rate of provision in the Amendment, by removing the opportunity for a feasibility-based exemption from the affordable housing contribution requirements, the approach might yield a similar or higher rate of provision.
204. The approach also removes the incentive to bid-up the price of land to avoid affordable housing contributions that is a potential limitation of the approach proposed in the Amendment. The costs associated with meeting the affordable housing obligations under the alternative approach could be readily determined by developers and land sellers and factored into their feasibility assessments and investment decisions.

TABLE 9: AFFORDABLE HOUSING CONTRIBUTION RATES – ALTERNATIVE APPROACHES

Approach to calculating affordable housing contributions (based on precedents)	Effective rate of affordable housing provision (% of all dwellings) [Rate of affordable housing provision in floor space above 3:1]				Notes
	FAR 3:1	FAR 4:1	FAR 5:1	FAR 6:1	
"Public benefits" approach: Value of affordable housing calibrated to the residual land value of floor space above 3:1 FAR	0.0% [na]	2.2% [10%]	3.2% [10%]	3.7% [10%]	Based on public benefits approach to FAU floor space applied in Central Melbourne (Amendment C270)
"Gifting ratio" approach: 1 affordable dwelling for every 8 additional market dwellings, applied to floor space above 3:1 FAR	0.0% [na]	2.5% [11%]	3.6% [11%]	4.2% [11%]	Based on 'gifting ratio' approach applied to FAU floor space in Fishermans Bend (Amendment GC80)

Source: SGS (2019)

5. RESPONSES TO ISSUES RAISED IN SUBMISSIONS

205. Alternatives to gifting of affordable housing dwellings

206. Submission 18 raises the issue of co-contributions, referring to the prospect that community housing agencies may be able to leverage the equity in any gifted affordable housing dwelling to purchase additional dwelling in a development. The submission suggests that the Amendment “allow for flexibility in the gifting requirement in instances where a higher percentage of affordable housing is being proposed” (Submission 18, p3).
207. I do not believe that Amendment precludes this possibility although, given it is unclear to this submitter, there may be merit in provide further guidance on this matter. The benchmark requirement of at least 6% of dwellings as affordable housing, provided at zero consideration, might be amended to allow for alternative contribution arrangements that are of equivalent monetary value (for example, 12% of dwellings at 50% of market value).
208. This submission also raises the question of cash-in-lieu contributions. The submitter suggests that even gifted dwelling may not be appropriate or viable to operate as affordable housing and, the option of a cash-in-lieu contribution would be preferable in such circumstances. I believe there is merit in this suggestion, and, on face value, it would appear to be potentially advantageous to both community housing providers and developers.

209. Matters in relation to the SGS development feasibility assessment

210. Submitters 20 and 21 raises issues in relation to the assumptions use in the Stage 2 report feasibility assessment.
211. m3property reviewed the cost and revenue assumptions used in the Stage 2 report feasibility testing to determine whether they were fit for the purpose. m3property provided advice in revised assumptions, and revised feasibility testing was undertaken in the preparation of my evidence statement.
212. The specific assumptions use in the revised feasibility testing are set out at Appendix E.

213. Matters in relation to the assessment of affordable housing contributions

214. Submitter 20 suggests that there are no clear decision guidelines for assessment of what constitutes ‘economically non-viable’. I agree that the basis for this assessment is unclear in the Amendment in its current form.
215. I have addressed this matters above (paragraph 183) and suggested that the wording of the Application Requirements at Part 2 of Schedule 6 to Clause 37.01 be amended to clarify that the Responsible Authority will assess of the information provided in the feasibility assessment report by comparing it against current industry benchmarks.
216. Submitter 21 has suggests that the City of Melbourne provide guidance on a range of matter in relation to the proposed feasibility testing (Paragraph 16, Submission 21, and recommend that “Council consider publishing in advance the benchmark assumptions that it will accept and not require further validation”.

217. Given the feasibility-based approach to assessing affordable housing contribution is a novel approach, it is understandable that clarity concerning the specific processes, potential costs, and timelines of this assessment would be sought. To that end, Council should consider providing advice on these matters.
218. As to the question of publishing 'deemed-to-comply' benchmarks, I believe this would be difficult to compile such information that could be applied to the variety of developments that might occur in West Melbourne. For this reason, I have suggested that the feasibility assessment report would be reviewed against current industry benchmarks which would be determined by a suitable qualified professional, independent of Council, for each specific development.
219. Submitter 20 also suggests that a quantity surveyor is not an appropriate qualification to prepare the detail report on feasibility. I agree with this assessment and have recommended that the reference to a quantity surveyor be removed from the Application requirements at Part 2 of Schedule 6 to Clause 37.01.

APPENDIX A:

PLANNING PANELS VICTORIA

EXPERT WITNESS DECLARATION

a) The name and address of the expert

Andrew Frank Spencer
SGS Economics & Planning Pty Ltd
Level 14, 222 Exhibition Street
Melbourne

b) The expert's qualifications and experience

Bachelor of Science (Geography) University of New South Wales, 2001
Bachelor of Arts (Comparative Development) University of New South Wales, 2001
Master of Urban Design, Sydney University, 2009
Master of Analytics, RMIT University (in progress)

c) The expert's area of expertise to make the report

Andrew is an urban planner and urban designer with expertise in urban economics. Andrew's career spans 18 and a half years in consulting and public sector roles. Andrew has been responsible for preparing a wide variety of economic appraisals including feasibility studies, cost benefit analyses and policy advice on development contributions and value capture. Andrew has prepared a range of urban capacity studies and employment land studies for Council's and state government in New South Wales and Victoria over the past 10 years.

d) Other significant contributors to the report and where necessary outlining their expertise

In preparing this evidence statement I have been assisted Robyn Cowie of m3property.

Robyn is an Associate Director at m3property. Robyn has approximately 10 years' experience having commenced her career with m3property in February 2006 and becoming qualified as a valuer and admitted to the Australian Property Institute in 2008.

Robyn is a Certified Practising Valuer, Certified Practising Valuer, an Associate of the Australian Property Institute (AAPI). She holds the degrees of Bachelor of Business (Property) RMIT, Bachelor of Arts (Youth Affairs) Phillip Institute of Technology and a Graduate Certificate in Housing Management and Policy.

Robyn specialises in advising on residential unit/apartment developments across Melbourne predominantly for mortgage purposes. Robyn has extensive experience in the management of non-government community housing organisations providing rental accommodation to low income tenants.

e) Instructions that define the scope of the report

I have been instructed by Bridget Ryan, Legal Counsel at the City of Melbourne (Council) to provide expert evidence in relation to the City of Melbourne Planning Scheme Amendment C309 (see Appendix C).

f) The facts, matters and all assumptions upon which the report proceeds

All these matters are detailed in my evidence statement.

g) Reference to those documents and other materials the expert has been instructed to consider or take into account in preparing the report, and the literature or other material used in making the report

All these matters are detailed in my evidence statement.

h) Provisional opinions that have not been fully researched for any reason (identifying the reason why such opinions have not been or cannot be fully researched)

These matters are detailed in my evidence statement.

i) Questions falling outside the expert's expertise and also a statement indicating whether the report is incomplete or inaccurate in any respect

None.

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

Name: Andrew Spencer

Date: 14 June 2019

APPENDIX B: CV



Andrew Spencer

Senior Associate

Bachelor of Science (Geography) (UNSW)

Bachelor of Arts (Comparative Development) (UNSW)

Master of Urban Design (Sydney University)

Master of Analytics (in progress) (RMIT)

Andrew's expertise spans strategic planning, urban design and urban economics, with 19 years' experience in both consulting and public sector roles.

Andrew has been responsible for preparing a wide variety of economic appraisals includes feasibility studies, cost benefit analyses and policy advice on development contributions and value capture. Andrew managed cost benefit analyses of two key policy initiatives for the Victorian State Government: the Better Apartment Design Standards and the proposed changes to the built form controls and value capture arrangements for central Melbourne (City of Melbourne Planning Scheme Amendment C270). Both projects demonstrated a net community benefit as a result of these policy initiatives.

Andrew has also contributed to a range of employment land studies in New South Wales and Victoria over the past 10 years. Recent projects have included the West Melbourne Structure Plan for the City of Melbourne (2017), the Spatial Economic and Employment Strategy for the City of Yarra (2018) and the Gordon and Mephan Precinct Framework Plan for Maribyrnong City Council.

Andrew has taken lead roles in numerous housing policy projects in Victoria and New South Wales, including the Housing Capacity Assessment project, undertaken for the Victorian State Government. This project examined Melbourne's existing urban areas to understand the potential housing supply under existing policy settings.

In 2015 Andrew was seconded to the NSW Department of Planning and the Environment to assist in the development of Sydney's six District Plans. This role involved close liaison with departmental staff over a period of several months to collate various data sources into a unified set of long term housing projections.

Andrew was a central part of the team that delivered the influential State of the Market report for Landcom in New South Wales. This project involved analysis of the housing market and development conditions within the established areas of metropolitan Sydney. Research was undertaken to investigate barriers to infill housing supply in the metropolitan area and to identify the potential role for the government's development agency to unlocking housing supply in policy preferred locations.

Andrew also led a project for AHURI and the Residential Development Council which helped them gain a broader understanding of the issues affecting the performance of Australia's capital cities in achieving infill housing targets. Andrew conducted research to deepen the evidence base on factors that influence infill housing supply. The research used an Investigative Panel process designed to interrogate a specific question through direct engagement between expert panel members.

Other commission have included an assessment of options for funding affordable housing for the NSW Department of Premier and Cabinet, a wide range of site specific and strategic

feasibility assessment assignments for Councils in Victoria and New South Wales, and the preparation of policy advice and expert evidence.

Andrew has close ties with Melbourne University where he has taught planning theory and urban design studies. He contributed to 'Transforming Housing' a major research project on affordable housing, preparing a research paper on a range of planning mechanism that support social and affordable housing, including densities bonuses, value capture and inclusion housing policies.

Prior to working for SGS, Andrew held roles at the NSW Department of Urban Affairs and Planning, the Urban Design Advisory Service, HASSELL, COX Architecture, and the NSW Cities Taskforce.

Selected project experience:

Employment land studies

- Spatial Economic and Employment Strategy – City of Yarra (2018)
- Industrial land analysis for new zones – Launceston City Council (TAS) (2017)
- West Melbourne Structure Plan – City of Melbourne (2017)
- Peer review of Southport Priority Development Area Development Scheme – City of Gold Coast (2014)
- Implications of VPP employment zone changes – City of Yarra (2012)
- Strathfield Economic Land Use and Employment Study – Strathfield Council (NSW) (2009)
- Housing and Employment Study – City of Canada Bay (NSW) (2008)
- Strategic Planning Study – City of Botany Bay (NSW) (2007)

Capacity studies

- Residential Capacity in Activity Centres model, 2018, City of Yarra, Melbourne
- Monash Housing Capacity Assessment – Monash City Council (2016)
- Peer review of City of Yarra Capacity testing methodology, 2014, City of Yarra, Melbourne
- Housing Capacity Assessment, 2010, Department of Planning and Community Development Melbourne
- Housing Capacity Assessment Pilot Project Melbourne, 2009, Department of Planning and Community
- Housing and Employment Capacity Study, 2008, City of Canada Bay, Sydney
- Housing Capacity Study, 2007, City of Botany Bay, Sydney

Housing studies

- Cessnock Housing Study – Cessnock City Council (2016)
- Ballarat Infill Housing Study – Ballarat City Council (2014)
- Lower Hunter Urban Renewal framework – DP&I (NSW) (2013)
- State of the Market Report – Urban Growth NSW (2012)

Cost benefit analysis

- Economic Analysis of Apartment Design Policy – Department of Planning (WA) (2018)
- Passenger Rail Improvements Economic Analysis – Greater Shepparton Council (2017)
- Central City Built Form Review (Am C270) – DELWP (2016)
- Increased greenfield minimum densities – cost benefit analysis – DELWP (2016)
- South Road Expressway Alignment Study – DIPTI (South Australia) (2015)

Feasibility studies

- Hobart building height and feasibility study – Property Council (2019)
- Moonee Ponds Activity Centre feasibility analysis – Moonee Valley Council (2018)
- Development Feasibility study – Regenerate Christchurch (2018)
- Housing Market Review – Penrith City Council (NSW) (2017)
- Impact of affordable housing and development contribution on development feasibility – Department of Planning and Environment (NSW) (2017)

Development contributions and value capture

- Impact of regional greenfield ICP levies – DELWP (2018)
- Peer review of ICP levy method and rates – DELWP (2016)
- Bankstown to Liverpool corridor: value capture options – Transport for NSW (2016)
- Funding options for CBD public realm improvements – City of Adelaide (2014)
- *Economics aspects of design*
- Valuing urban design on the Gold Coast – Gold Coast Council (2017)
- Better Apartments economic appraisal – DELWP (2016)
- Benefits of Wayfinding – City of Melbourne (2015)

Car parking

- Impact of parking on the public realm – City of Melbourne
- Impact of Paid Parking on the Viability of Activity Centres – City of Yarra
- Cash-in-lieu of parking for sustainable transport – Moonee Valley City Council
- Paid Parking Policy - City of Port Phillip
- Economic impacts of removing parking charges - City of Greater Geelong

Teaching and research

- Development economics and finance – 2018 (UNSW)
- Architectural Professional Practice – 2017 (RMIT)
- Transforming Housing – 2016 (Melbourne University)
- Planning Theory and History – 2011 to 2013 (Melbourne University)
- Economies of City and Regions – 2012 (Melbourne University)
- Housing intensification and multi-dwelling housing typologies – 2009 (Masters Dissertation, Sydney University)

Expert evidence experience (Planning Panels Victoria and Advisory Committees):

- City of Melbourne Amendment C308: Urban Design in the Capital City Zone
- City of Yarra Amendment C220: Johnston Street Structure Plan
- City of Maribyrnong Amendment C143: Gordon and Mephan Street structure plan
- City of Monash Planning Scheme Amendment C125: new residential zones and development standard (2016)
- Moonee Valley Planning Scheme Amendment C132: Moonee Ponds Activity Centre Parking (2016)
- Flemington Hill and Epsom Road Advisory Committee: Evidence on on municipal boundaries, development contributions and open space (2015)

Publications:

- Spiller, M., Mackevicius, L. and Spencer, A. (2018) *Development contributions for affordable housing: theory and implementation*. SGS Economics and Planning Occasional Paper.
- Spiller, M., Fensham, P. and Spencer, A. (2017) *Value capture through development licence fees*. SGS Economics and Planning Occasional Paper.
- Spencer, A. (2015) *Land capture, value sharing and inclusionary housing policies: Options for increasing the supply of affordable housing in Melbourne*. Prepared for Transforming Housing research project, Melbourne University.
- Sheko, S., Martel, A. and Spencer, A. (2015) *Policy, Planning and Financing Options for Affordable Housing in Melbourne*. Prepared for Transforming Housing research project, Melbourne University.
- Schmahmann, L., Gill, J. and Spencer, A. (2015) *Urban or suburban? Examining the density of Australian cities in a global context*. State of Paper presented at the State of Australian Cities Conference, Australian Cities Research Network.

APPENDIX C: INSTRUCTIONS



CITY OF MELBOURNE

CONFIDENTIAL

6 May 2019

By email to: Aspencer@sgsep.com.au

Andrew Spencer
Senior Associate
SGS Economics & Planning Pty Ltd

GPO Box 1603
Melbourne VIC 3001

Phone 61 3 9658 9658
Fax 61 3 9654 4854
www.melbourne.vic.gov.au

DX210487
ABN 55 370 219 287

Dear Andrew

Melbourne Planning Scheme Amendment C309

Melbourne City Council (**Council**) has prepared Amendment C309 (**Amendment**) to the Melbourne Planning Scheme in order to implement the West Melbourne Structure Plan (**Structure Plan**). The Structure Plan is intended to guide the planning and development of West Melbourne, as delineated on the plan below, which also shows the precincts within the plan area. The Amendment affects the same area as the Structure Plan.



The Amendment:

- seeks to deliver a true mix of uses by rezoning most of the Mixed Use Zone in the Structure Plan area to a Special Use Zone (SUZ6). The SUZ6 includes provisions dealing with non-accommodation uses, affordable housing, and active ground floor frontages;
- implements built form controls and design recommendations in the Structure Plan via amendment of existing and new Design and Development Overlay Schedules (existing: DDO28, DDO29 and DDO33; new: DDO72), including introduction of a mandatory floor area ratio as well as provisions to encourage the retention of buildings identified as character buildings. The schedules include recommended maximum heights;
- applies a new schedule to the Parking Overlay (PO14) to introduce a maximum parking rate of 0.3 spaces per dwelling;
- applies an Environmental Audit Overlay to the Structure Plan area to ensure that potentially contaminated land is suitable for a sensitive use; and
- rezones recently expanded and existing new public open spaces to the Public Park and Recreation Zone.

SGS prepared three reports which informed the West Melbourne Structure Plan, namely:

- West Melbourne Economic and Employment Study Stage 1 (**Stage 1 Report**)
- West Melbourne Economic and Employment Study Stage 1 (**Stage 2 Report**)
- City of Melbourne Employment Forecast 2036 (**Employment Report**)

(SGS background reports)

The Amendment was exhibited from 22 November 2018 to 4 February 2019. 53 submissions were received, with 20 of the submissions relating to specific sites within the Structure Plan area.

Council officers have made a recommendation to the Future Melbourne Committee (**FMC**) to refer all submissions to a Panel. The FMC meeting is proposed to be held on 7 May 2019. Council will update you on the outcome of the FMC meeting.

A directions hearing is expected to be held on Tuesday 4 June 2019, and the Panel hearing is expected to be held in the weeks starting 8 and 15 July 2019. The hearing dates have not yet been confirmed, and there may be some flexibility, as discussed further below. Council will keep you updated.

Instructions

You are instructed to:

- review the Amendment and exhibited background documents generally;
- review the submissions;

- review the Amendment provisions updated by Council with recommended changes in response to submissions (attachment 5 to the officers' report to the FMC meeting of 7 May 2019);
- undertake a detailed review of the exhibited controls (as proposed to be amended), particularly the provisions of the SUZ6 and the schedules to the Design and Development Overlay, and the relevant background reports; and
- prepare an expert report setting out your opinion in relation to key issues relating to the Amendment that are within your area of expertise, including the particular controls noted above, and a response to submissions.

Your report does not need to deal with the submissions individually, but you should refer to specific submissions or categories of submissions if you consider it appropriate or necessary to do so.

Your report should be prepared in accordance with the relevant requirements of Planning Panels Victoria's guidelines for expert evidence (as updated in April 2019)¹ (**Expert Guidelines**).

We draw your attention in particular to the requirements of the **Expert Guidelines** where an expert has prepared an earlier report, as follows

Sometimes, an expert witness may have prepared an earlier report or advice that informed the Planning Scheme Amendment or proposal under consideration by the Panel. In these circumstances, the expert should not provide a revised version of that report. Instead, the expert's witness statement should include:

- *a clear reference to the earlier report(s)*
- *details of the expert's role in preparing or overseeing the earlier report(s)*
- *confirmation that the expert adopts the earlier report(s) and identifying:*
 - *any key assumptions made in preparing the earlier report(s)*
 - *any departure from findings or opinion expressed in the earlier report(s), and why*
 - *any questions falling outside the expert's expertise*
 - *whether the earlier report is incomplete or inaccurate in any respect*
 - *details of any changed circumstances or assumptions since the earlier report(s) were prepared, and whether these affect the opinions expressed in the earlier report(s).*

Council is also proposing to call Julian Szafraniec from SGS to give evidence on economic issues arising from the proposed Amendment. We request that you clearly set out in your statement of evidence the parts of the SGS Background Reports for which you were primarily responsible and direct any further work, and your response to

¹ See <https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>

submissions, only to those areas so as to minimise the potential for overlapping evidence with Mr Szafraniec.

In particular, we request that you provide expert evidence in relation to the feasibility work that is contained in the Stage 2 report. We do not require you to undertake a new feasibility assessment, using today's values. Rather, we request that you review the feasibility analysis that SGS did in 2017, as reported in the Stage 2 report, and provide an expert opinion on whether it was, and remains, fit for the purpose of informing the West Melbourne Structure Plan.

We request that you engage a specialist property advisor to undertake a review of the key assumptions that informed your feasibility work to and to comment on:

- whether the assumptions you adopted in 2017 were fit for purpose (namely to inform a feasibility assessment for the West Melbourne Structure Plan); and
- if not, what assumptions should have been adopted and why.

Please provide us with the peer review by the property advisor as soon as it is to hand, and by no later than Friday 24 May 2019.

Having regard to the property advisor's work and to your earlier work, we request that you provide your expert opinion on whether development in the West Melbourne Structure Plan areas is likely to be feasible, over the short, medium and longer term, in particular having regard to the mandatory Floor Area Ratio, the mandatory minimum non-accommodation floorspace requirement and the discretionary 6% affordable housing requirement in the proposed Amendment.

Please review the wording of the two dot points under the heading "Use for Dwellings" at p 4 of proposed schedule 6 to the Special Use Zone (cl 37.01) and provide your expert opinion on whether the wording that has been adopted is fit for purpose, assuming that the purpose of the provision is to enable the Responsible Authority to make an informed judgment about whether it is viable to deliver the affordable housing.

Please also provide a qualitative assessment of the economic consequences of introducing mandatory Floor Area Ratio controls and mandatory minimum non-accommodation floor space requirements into the planning scheme on the underlying land value over time, and the impact of those controls on the feasibility of development.

A list of documents that have been or will be provided to you is appended to this letter.

If you require any further information in order to prepare your report, please advise me in writing of your specific requirements as soon as possible.

Please provide a draft of your report as soon as possible, but no later than 6 June 2019.

Privilege

Your report is being obtained for the purpose of providing legal advice in anticipation of legal proceedings, and is subject to legal privilege. In order to maintain privilege, please:

- ensure that your draft report is provided to me, and that any questions are directed through me; and
- treat all drafts, correspondence and discussions in relation to your report as confidential.

Please contact me if you have any questions.

Yours sincerely



Brigid Ryan

Legal Counsel

Telephone 9658-9485

E-mail brigid.ryan@melbourne.vic.gov.au

Website www.melbourne.vic.gov.au

#124668656

Appendix: Documents

1. Amendment as exhibited
2. Exhibited documents supporting the Amendment
3. All submissions received by Council in relation to the Amendment
4. Council officers' report to the FMC regarding the Amendment, 7 May 2019, with attachments including Amendment provisions updated with recommended changes in response to submissions

APPENDIX D: M3PROPERTY ADVICE

29 May 2019

Mr A Spencer
SGS Economics and Planning
Level 14
222 Exhibition Street
Melbourne 3000

Email: aspencer@sgsep.com.au

Dear Andrew

RE: ADVICE
WEST MELBOURNE STRUCTURE PLAN

As per your instructions we have undertaken a peer review of assumptions adopted within the West Melbourne Structure Plan prepared by SGS Economics in June 2017.

More specifically we have been requested to review the key assumptions adopted in 2017 and comment on the following:

- Whether the assumptions adopted to inform the West Melbourne Structure Plan were fit for purpose, and:
- If, not what assumptions should have been adopted and why.

In respect to a review of cost and revenues assumptions we have included our review results within the following table. In addition, we recommend the inclusion of a cost assumption for Public Open Space.

West Melbourne Structure Plan Review	Flagstaff		Spencer		Adderly/Station/Hilltop		Comments
	Assessed Rate	Suggested Rate	Assessed Rate	Suggested Rate	Assessed Rate	Suggested Rate	
Existing Use Land Value	\$8,500	\$5,000	\$5,000	\$4,000	\$5,000	\$3,000 to \$4,000	Rate reduced to reflect ongoing existing uses and the mix of uses.
Gross Realisation \$/m ² of Gross Floor Area - Residential	\$8,500	\$6,500	\$8,500	\$6,500	\$8,500	\$6,500	Rate reduced to allow for GST exclusive and to reflect a Gross Floor Area.
Gross Realisation \$/m ² of Gross Floor Area - Retail	\$11,000	\$9,900	\$10,000	\$9,000	\$9,000	\$8,100	Rate reduced to reflect a Gross Floor Area.
Gross Realisation \$/m ² of Gross Floor Area - Commercial	\$7,000	\$5,950	\$7,000	\$5,950	\$5,000	\$4,250	Rate reduced to reflect a Gross Floor Area.
Site preparation (demolition/remediation/services) \$/m ²	\$250	No change	\$250	No change	\$250	No change	
Construction cost \$/m ²	\$3,000	No change	\$3,000	No change	\$3,000	No change	
Professional fees \$/m ²	\$325	No change	\$325	No change	\$325	No change	
Marketing/financing/holding costs, etc. \$/m ²	\$425	9% of GR	\$425	9% of GR	\$425	9% of GR	Assessed rate is low in comparison to generally adopted parameters.
Developers margin for profit and risk (% of GRV)	25%	20% of Costs + Land	25%	20% of Costs + Land	25%	20% of Costs + Land	Assessed rate is high in comparison to generally adopted parameters.
Public Open Space	Not included	5% of RLV	Not included	5% of RLV	Not included	5% of RLV	

In respect to the Existing Use land values, it is difficult to provide comment on the adopted rates with sales evidence within the study area generally reflecting potential development value rather than values assuming continuing use with no development potential. However, we have recently undertaken research within the Macaulay Precinct and assuming an underlying land use as ongoing industrial purposes the rates reflected between circa \$700 and \$1,800 per square metre with smaller sites reflecting the higher rates.

In comparison West Melbourne is considered superior in respect to location and comprises a mix of uses including older style industrial warehouses and modest two and three level office developments which provide a reasonable level of financial return. Adopting the average land area of 1,000 square metres and based on a high level review, we would expect existing use values for commercial office use to range between \$5,000 and \$8,500 per square metre of land area and lower values of circa \$2,500 to \$3,500 to apply to 'industrial' use sites. Given the age and condition of industrial buildings in the area we would consider that these sites are the most likely to be offered to the market for redevelopment. To reflect the mix of uses and provide an average land value we would consider Existing Use Values to fall between circa \$3,000 and \$5,000 per square metre of land area.

We trust the above provides assistance in respect to the exercise as instructed. Should you have any queries or wish to discuss our findings further please feel free to contact me.

Yours sincerely

m3property



Robyn Cowie

Associate Director

robyn.cowie@m3property.com.au

APPENDIX E: REVISED FEASIBILITY ASSUMPTIONS

TABLE 10: DEVELOPMENT FEASIBILITY ASSUMPTIONS USED IN REVISED FEASIBILITY TESTING

Assumption	Flagstaff	Spencer	Adderley and Station
Land value for potential development sites – lower existing use value (per sqm)	\$3,500	\$3,000	\$2,500
Land value for potential development sites – higher existing use value (per sqm)	\$8,500	\$5,000	\$5,000
Land value for potential development sites – average existing use value (per sqm)	\$5,000	\$4,000	\$3,000
Gross realisation value (GRV) per sqm GFA residential	\$6,500	\$6,500	\$6,500
Gross realisation value (GRV) per sqm GFA retail	\$9,900	\$9,000	\$8,100
Gross realisation value (GRV) per sqm GFA commercial office	\$5,950	\$5,950	\$4,250
Site preparation	\$250		
Construction cost	\$3,000		
Professional fees	\$325		
Marketing	4.5% of GR		
Finance Holding Costs	4.5% of GR		
Public Open Space	5% of RLV		
Developers margin for profit and risk (% of costs)	20%		



Contact us

CANBERRA

Level 2, 28-36 Ainslie Place
Canberra ACT 2601
+61 2 6257 4525
sgsact@sgsep.com.au

HOBART

PO Box 123
Franklin TAS 7113
+61 421 372 940
sgstas@sgsep.com.au

MELBOURNE

Level 14, 222 Exhibition St
Melbourne VIC 3000
+61 3 8616 0331
sgsvic@sgsep.com.au

SYDNEY

209/50 Holt St
Surry Hills NSW 2010
+61 2 8307 0121
sgsnsw@sgsep.com.au