



Friends of Moonee Ponds Creek Inc

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To ensure the preservation, restoration, environment protection and ecologically sensitive development and maintenance of the Moonee Ponds Creek and adjoining catchment areas.

31/8/24

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SUBMISSION - MELBOURNE PLANNING SCHEME AMENDMENT C417 MACAULAY STRUCTURE PLAN 2021

The Friends of Moonee Ponds Creek is a long-established (35 years) community organisation with key objective:

- *to ensure the preservation, restoration, environment protection and ecologically sensitive development and maintenance of the Moonee Ponds Creek and adjoining catchment areas.*

These aims are supported by the Creek's **Significant Landscape Overlay SLO1** in the Melbourne Planning Scheme clause 42.03 and its statement is relevant to AmC417:

Statement of nature and key elements of landscape

The Moonee Ponds Creek (Moonee Moonee) forms part of the connected system of rivers, wetlands and creeks of the lower Yarra catchment. While the river has been modified in places and adapted to respond to urbanisation, it is still a significant and valued natural system in the urban landscape and there are opportunities to repair and enhance the river and its interfaces through careful management of future development.

Under AmC417, provisions set out for three DDOs are relevant to the Moonee Ponds Creek: DDO 75 - Boundary Precinct, DDO 77 - Chelmsford Precinct and DDO 78 – Stubbs Precinct. We are concerned that provisions under these DDOs will detrimentally impact the Creek, its natural values and amenity and detract from its interfaces. Our concerns are detailed below.

In our comments, we define the Moonee Ponds Creek corridor as including the waterway, banks of the waterway, benches, levee banks and flood walls (concrete or earthen).

SCHEDULE 75 TO CLAUSE 43.02 DESIGN & DEVELOPMENT OVERLAY (DDO75)

BOUNDARY PRECINCT

This precinct runs along the eastern side of the Creek corridor from Racecourse Rd to Macaulay Rd. The elevated CityLink structure is situated between the waterway and the urban renewal area. There a mandatory minimum 20m setback for buildings and works from the eastern edge of CityLink. For buildings closest to the Creek corridor, under the DDO, building height *should* not exceed a *preferred* maximum 15 storeys (Area 4). However, building heights could well exceed 15 storeys under the floor area ratio provision of 4:1 and the non-binding height control. Minimal upper storey setback of 3m is of little mitigating relevance.

Under the above provisions, overshadowing of the Creek corridor over and beyond CityLink is a likely scenario. Yet there is no consideration about protecting the amenity of the Creek corridor – not under the Built Form Outcomes described for building height, street wall or building setback, and there is NO consideration of solar access/overshadowing of the Creek corridor. Yet the Moonee Ponds Creek corridor is set to be a key open space area for the urban renewal areas of both Macaulay and Arden! And as set out in the Council’s own **Moonee Ponds Creek Strategic Opportunities Plan 2019:**

“The Arden and Macaulay, Dynon and E-Gate urban renewal precincts, along with Docklands are opportunities to enhance the inner city’s liveability, sustainability and affordability; set benchmarks for smart, sustainable development; and strengthen the city’s biodiversity. However, those opportunities for economic, social and environmental renewal cannot be fully realised without the revival of the Moonee Ponds Creek corridor.

Renewing the creek corridor will support a new inner city of existing and developing neighbourhoods – as well as creating urgently needed public spaces for the inner city’s rapidly growing population. Ignoring the Creek corridor will dislocate local suburbs and urban renewal precincts – and harm Melbourne’s liveability, sustainability and prosperity.”

and that the Opportunities Plan will:

- revitalise an ancient and vital waterway
- reconnect the creek corridor to its Aboriginal heritage and local history
- create new, high quality and restorative public spaces
- connect new and established communities
- protect and enhance opportunities for biodiversity
- reduce the severity and impacts of a changing climate
- enable the region’s urban renewal projects to set new benchmarks for water management and sustainable development

If DDOs 77 and 78 can protect the Creek corridor with their Built Form Outcomes: “does not cast additional shadow” and “limit overshadowing of the Moonee Ponds Creek corridor”, DDO 75 must also. The Council must amend/mandate height, setback and solar access provisions for DDO 75 so that developments do not visually dominate the Creek and do not overshadow it. Production of overshadowing diagrams would demonstrate how amended provisions/built form outcomes would protect the Creek corridor’s public open space amenity, biodiversity and other natural values.

SCHEDULE 77 TO CLAUSE 43.02 DESIGN & DEVELOPMENT OVERLAY (DDO77)

CHELMSFORD PRECINCT

This precinct runs from Macaulay Rd to Arden St, on the western side of the Moonee Ponds Creek corridor. It abuts the revegetated 'Kensington Embankment' along the waterway – a key open space corridor of good environmental and social amenity, especially for the local residential community, and for biodiversity and habitat. Value adding will be the development of the Chelmsford Open Space Reserve in the adjoining former warehouse at 70-90 Chelmsford St.

DDO77 recognises the importance of the Moonee Ponds Creek in the Design objective:

To ensure new development responds with appropriate building heights and setbacks to protect winter sunlight access to parks and open spaces and is set back from the interface with the Moonee Ponds Creek to protect sunlight access to the creek corridor.

and in Built Form Outcomes, the DDO stipulates:

- Building height: Limits overshadowing of Moonee Ponds Creek corridor
- Site setback: Delivers a setback along the Moonee Ponds Creek with a design that considers the potential for a shared path and prevents overshadowing of the creek corridor.
- Street wall height: Limits overshadowing of Moonee Ponds Creek corridor

However, like DDO75, use of '*should not exceed*' and '*preferred*' maximum heights and street wall heights are non-mandatory. So, for the land directly adjoining the Creek corridor, building height 6+ storeys, street wall height 6+ storeys with FAR of 3:1 and no upper storey setback could well lead to much higher 'brick blocks' on the Creek interface and visual domination and overshadowing of the Creek, detrimentally impacting on its open space amenity and natural values.

We believe that a mandatory street wall height of 3 storeys along the Creek corridor interface, with mandatory maximum building height of 4 storeys (cf the Stubbs Street/Creek interface provision in DDO78), setback of upper storey 5m and retaining the site setback of 15m would meet the criteria to prevent overshadowing of the Creek corridor, i.e. preventing detrimental environmental and social impacts on the Creek corridor and allowing "high quality pedestrian amenity in the public realm" (including open spaces) (cf Decision guidelines). We believe the Design outcome provision in DDO78 – Stubbs Precinct (Table 7: Building mass) should equally apply in this DDO:

- Reduces the visual impact and perception of building bulk from both near and afar.

Relevant to the comment above, not addressed in the DDO, is the issue of Melbourne Water flood risk/Land Subject to Inundation Overlay (LSIO) requirements, which could see 1 to 2m or more added to the building heights. A commensurate decrease in maximum and mandatory building heights and street wall heights must be built in to the DDO provisions.

Imprecise terminology and definitions do not assist in achieving the Built form outcomes:

- What measure is used to determine "*limits*" overshadowing of the Moonee Ponds Creek corridor? Are 5%, 10%, 30%, 50% overshadowing acceptable limits?
- Mandatory site setback from the Creek corridor is cited (Table 2): '15 metres from the boundary of the Moonee Ponds Creek'. But what constitutes the 'boundary' – the existing concrete flood wall or the top bank of the waterway itself – which are

significantly different measures. This must be clarified so as to be consistent with the diagram and should read:

15 metres from the western boundary of Moonee Ponds Creek as defined by the concrete flood wall.



Table 2: Site setback

- Why is there provision for *Solar access protection* for the public park (Chelmsford St Reserve), but none for the Creek corridor’s public open space? Again, this flies in the face of recommendations in the Council’s Moonee Ponds Creek Strategic Opportunities Plan 2019 and the Creek’s Significant Landscape Overlay SLO1 in the Melbourne Planning Scheme. Also, it ignores the Built Form Outcome under Site setback that “.... and prevents overshadowing of the creek corridor.”

AmC417 must recognise that the Creek corridor should be treated as a public interface, given that under the Strategic Opportunities Plan above, the open space within the Creek corridor will become public open space.

For this DDO, the Council must mandate the relevant height, street wall height and solar access provisions for buildings and works at the Creek interface, so that developments do not visually dominate the Creek corridor and do not overshadow it, detrimentally affecting its public open space amenity and natural values. The solar access provision applied must be: ‘does not overshadow the Creek corridor between 10am and 3pm on the 21 June.’

In keeping with our statements above, need to add to:

6.0 Decision guidelines

General

Whether the cumulative effect of the proposed development in association with adjoining existing and potential development supports a high quality of pedestrian amenity in the public realm (public parks, open spaces, footpaths and key pedestrian routes), in relation to human scale and microclimate conditions including overshadowing and wind impacts.

SCHEDULE 78 TO CLAUSE 43.02 DESIGN & DEVELOPMENT OVERLAY (DDO78)

STUBBS PRECINCT

Design objectives relevant to the Moonee Ponds Creek corridor for this DDO state:

To ensure new development responds with appropriate building heights and setbacks to protect winter sunlight access to parks and open spaces and responds to adjacent low scale residential areas

To ensure development delivers a high amenity public realm with a human scaled interface

Limits overshadowing of the Moonee Ponds Creek

For the Moonee Ponds Creek corridor **interface**, i.e. the eastern side of Stubbs Street, *preferred* maximum building height (Area 5) is 4 storeys, street wall height (Area F) is 4 storeys and upper storey setbacks are non-mandatory and FAR is 3:1. This could mean higher 'brick blocks' buildings on the Creek corridor interface (cf DDO 77) – detrimentally impacting on its open space amenity and natural values ... and not meeting the Design objectives above or the Design outcome (Table 7: Building mass):

- Reduces the visual impact and perception of building bulk from both near and afar

The Friends of Moonee Ponds Creek thus believes the same criteria should be applied for the east Stubbs Precinct DDO as to the Chelmsford Precinct interface with the Creek corridor - DDO 77 - with mandatory maximum 4 storey buildings and mandatory maximum street wall heights of 3 storeys.

Solar protection (cf * below) must apply to the length of the Creek corridor's open space (Racecourse Rd to Macaulay Rd), not just the designated parks: Stubbs North Reserve and Macaulay Terraces. Open space (quantity, quality) is going to become a critical factor in liveability and amenity with the significant increase in population occurring in the Stubbs Precinct.

Thus, 'Moonee Ponds Creek corridor' must be added to Table 5 – Parks and Open Space. The potential for the whole length of this section of the Creek corridor to provide public open space/encourage habitat and biodiversity should be applied to its full length.

* Buildings and works must not cast additional shadow onto the park (Creek corridor open space) between 10am and 3pm on June 21 beyond the existing shadow, or allowable shadow, or the combination of the existing shadow and allowable shadow (whichever is the greatest).

For the western side of Stubbs Street, the development horse has bolted! Permits already given and buildings built/under construction do not conform with provisions of DDO78; they are taller (Areas 2 and 3 preferred maximum 6 storeys); have higher street wall height (Areas F and G: 3 to 4 storeys); minimal setbacks and cover much of the sites, thus exceeding the mandatory FAR 3.5:1. And fail in meeting DDO Design outcome (Table 7: Building mass):

- Reduces the visual impact and perception of building bulk from both near and afar

These developments along Stubbs Street have led locals to call it 'The Great Wall of Stubbs Street' (and adjoining Macaulay Road – 'The Macaulay Road Canyon').

The current developments along the western side of Stubbs Street highlight the problem of achieving designated Built Form Outcomes and Design Outcomes with the unacceptable use

of discretionary terms such as: *preferred* maximum height and street wall height and *should not*, rather than mandatory provisions that could ensure Built Form Outcomes and Design Outcomes would be met. Also unacceptable are imprecise subjective terms such as *limits* overshadowing to the Moonee Ponds Creek.

As for DDO77, DDO78 does not address the issue of increased overall building heights (one-two-more metres) that arise due to any Melbourne Water flood risk and Land Subject to Inundation Overlay LSIO requirements. Such increased building heights/street wall heights will mean the Design objectives to 'protect winter sunlight access to parks and open spaces' and Built Form Outcomes may not be achieved and detrimental impacts, such as overshadowing of the Moonee Ponds Creek corridor will be increased.

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The Friends of Moonee Ponds Creek would appreciate the opportunity to participate in the continuing AmC417 planning process.

Yours sincerely,

A handwritten signature in blue ink that reads "John Kavanagh". The signature is written in a cursive style with a large initial 'J'.

John Kavanagh
President