



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL
Ms Caroline Le Couteur MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair)
Mr Mark Parton MLA

Submission Cover Sheet

Draft Variation to the Territory Plan No 355 -
Calwell Group Centre

Submission Number: 1

Date Authorised for Publication: 22 May 2019

Calwell Centre

Submission on Inquiry into Draft
Variation to the Territory Plan
No. 355 – Calwell Group Centre

May 2019

Standing Committee on Planning and Urban Renewal

Contact: Pieter van der Walt



20 May 2019

The Committee Secretary
Standing Committee on Planning and Urban Renewal
GPO Box 1020
CANBERRA CITY ACT 2601

By e-mail: LACommitteePUR@parliament.act.gov.au

Dear Sir/Madam,

RE: Calwell Centre - Submission on Territory Plan Draft Variation 355

Thank you for the opportunity to provide this further commentary in relation to the Recommended Final Variation 355 (RV355) to the Territory Plan for consideration in the Public Submissions afforded. Canberra Town Planning is providing this submission on behalf of the Lessee for Blocks 12 and 41 Section 787 Calwell, the Tsoulias Group.

We have provided a representation to the Draft Variation (DV355) on 17 September 2018. We have also provided commentary in relation to the Draft Master Plan that predated the Draft Variation – this can be provided if the committee is interested as it provides further information and background to the Draft Variation comments.

For context we confirm that Block 12 Section 787 Calwell is currently developed as a single storey retail development occupied as the Calwell Shopping Centre, containing a Woolworths supermarket, health centre and a number of specialty stores. Block 41 Section 787 Calwell currently operates as a car wash facility.

The Lessee continues to consider future development opportunities for the sites and continue to express concern that the provisions as detailed in Recommended Variation 355 (as per the document dated March 2019) do not facilitate the development opportunities and/or the Master Plan outcomes envisioned.

The Lessees' concerns relate to the application of built form controls particularly to Block 41 Section 787 Calwell, which is intended for future redevelopment as well as some of the controls and outcomes detailed over and adjacent to Block 12.

Notwithstanding the detailed submission with explanations as to why the matters are unsatisfactory, it seems that Strategic Planning in the EPSDD shows little interest in the commercial reality that underpin development of a Master Plan outcome on the said sites. The changes made from DV355

to Recommended Variation 355 are generally contrary to supporting the outcomes set out in the Master Plan and will not deliver the Calwell Centre envisioned for the site.

For this submission, we do not dwell on the inclusions of DV355 as our commentary is included in Attachment 1. We comment on the Recommended Variation 355 as follows:

Summary of planning controls under the Calwell Precinct Code as per Recommended Variation 355

Block 12 and 41 will be included into the CZ1 zoning as a result of this variation – this change is welcome (assuming that Block 41 may be used for commercially viable uses at ground level, including residential use to the stormwater channel and pedestrian pathway).



FIGURE 1 OF THE CALWELL PRECINCT CODE (PRIOR TO 10 AUGUST 2018)

Below we again present our considerations on the site-specific precinct controls for the subject sites including building envelope areas, primary and secondary frontages, existing and proposed public pathways and public space networks and public parking areas to express our concerns. We reiterate that it is important to appreciate the impact of these controls on the potential for viable redevelopment of these sites over the life of the Master Plan (10 – 15 years) and the likelihood that the current problems of the Centre will be addressed by these Code changes.

For simplicity we again reproduce the draft rules and criteria of interest below with our commentary adjacent.

To further assist with interpretation we replicate some key figures from the code below:

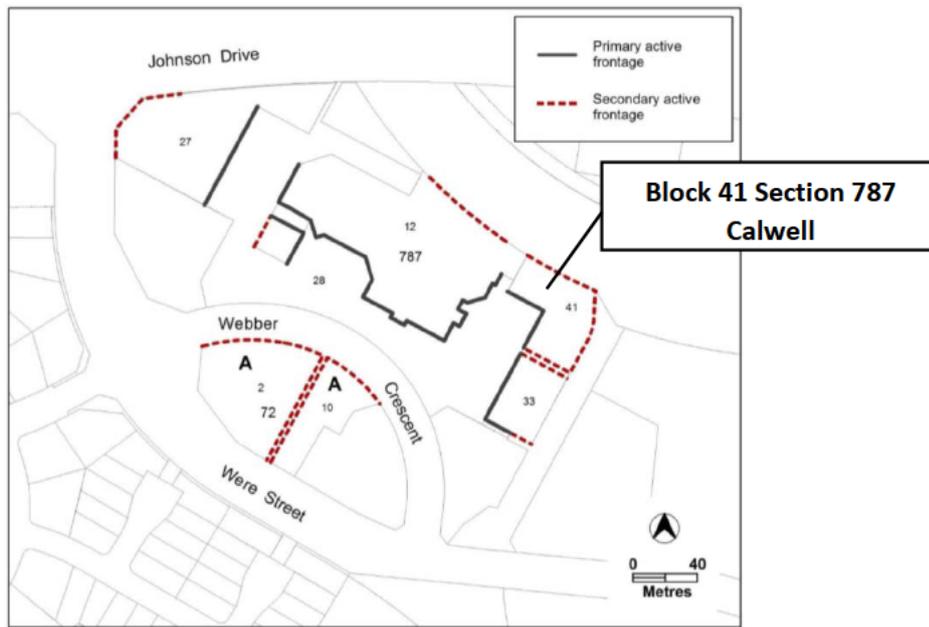


FIGURE 1 OF RECOMMENDED V355 (SUBJECT TO INTERIM EFFECT FROM 10 AUGUST 2018)

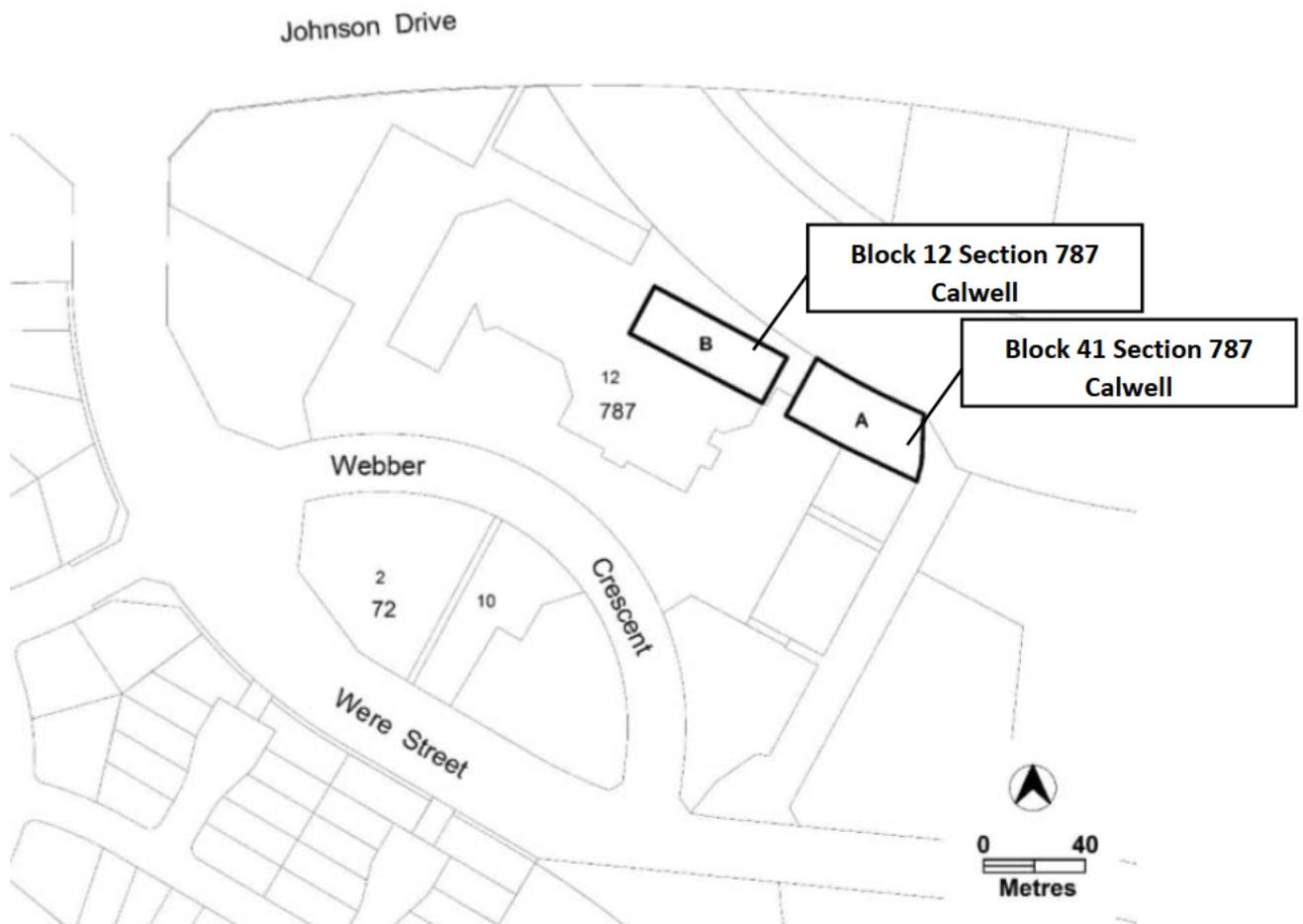


FIGURE 3 OF RECOMMENDED V355 (BUILDING HEIGHT CONTEXT)



FIGURE 4 OF RECOMMENDED V355 (PUBLIC SPACES AND PEDESTRIAN PATH DEPICTION)

Proposed planning controls under Recommended Variation 355

We have reviewed the Recommended Variation and provide below a summary of the updated planning controls, their potential impact on development in the Centre and our continued concerns; as per our interpretation.

Rule	Criteria	Consultation Response	Concern
<p>R1</p> <p>This rule applies to sites with frontages to primary active frontages shown in figure 2 that are also in the Commercial CZ1 Core Zoned area.</p> <p>Only the following uses are permitted at the ground floor level:</p> <ul style="list-style-type: none"> a) business agency b) club c) community activity centre d) drink establishment e) financial establishment f) hotel g) indoor entertainment facility h) indoor recreation facility i) public agency j) restaurant k) SHOP 	<p>C1</p> <p>This is a mandatory requirement. There is no applicable criterion.</p>	<p>Upon the advice of TCCS and in order to better reflect the master plan recommendations, the ground floor of block 41 will be exclusively commercial uses. Residential uses will not be permitted.</p>	<p>The insistence that ground floor use cannot include residential show little appreciation of the retail reality in the centre.</p> <p>In the context of currently available commercial space within the Group Centre, prescribing a context that only permit additional ground floor commercial uses would not allow development opportunities within the Centre to respond to changing market conditions in future.</p> <p>Block 41 in particular is unlikely to yield a development opportunity that will support a ground level commercial outcome with the limited residential potential at upper levels.</p> <p>Allowing commercially adaptable residential use captures the future potential for a building to be repurpose to commercial if required but will facilitate a development outcome in the Master Plan term that will support the Centre.</p>
<p>R2</p> <p>This rule applies to area 'A' in Figure 1. RESIDENTIAL USE is permitted on the ground floor only if it complies with the Australian Standard AS4299 – Adaptable housing (class C) and the Access and Mobility General Code.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>	<p>Clarified and not applicable to Blocks 12 or 41.</p>	

Rule	Criteria	Consultation Response	Concern
<p>R3</p> <p>This rule applies to the area shaded dark grey shown in figure 2.</p> <p>Development complies with all of the following:</p> <p>a) the existing number of car parking spaces is retained on the site and made available for public use at all times</p> <p>b) provides car parking that is generated by the development on site in accordance with the Parking and Vehicular Access General Code in addition to the spaces required by item a).</p>	<p>C3</p> <p>Development meets all of the following:</p> <p>a) in accordance with the Parking and Vehicular Access General Code, there is enough car parking for the needs of the centre as a whole</p> <p>b) the development does not adversely affect the overall function of the centre in terms of economic, social, traffic and parking and urban design impacts.</p>	<p>There is concern remains that the wording of the criteria is loosely defined which does not provide certainty about the ongoing provision of publicly available parking within the Centre.</p> <p>Without clarity on the protection of car parking, the Lessee of Section 787 is concerned that available parking (which is highly utilised) will be reduced by development of the carpark in the future – this is an important consideration for the centre and especially the anchor tenant that require both convenient and quantum of parking to service the use.</p> <p>Many visitors to the Centre will choose alternative shopping centres in the area if convenient parking is not available, and this will be to the detriment of the Centre's commercial viability which will result in a loss of amenity to the local residents in surrounding districts.</p>	<p>Revise the wording of the criteria to ensure that existing parking numbers are retained with redevelopment of the carparks in the Centre.</p>
<p>R4 (newly expressed separately)</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>	<p>Newly expressed as mandatory.</p>	<p>The impact on development opportunities at Block 41 is substantial as the developable area for residential on the site</p>

Rule	Criteria	Consultation Response	Concern
<p>The maximum height of buildings is 2 storeys except areas A and B in Figure 3. Plant room set back a minimum of 3m from the building facade of the floor immediately below is not included in the number of storeys</p>		<p>There remains some concern that the shape, form and development opportunity at Areas A and B are unlikely to result in development outcomes of the Master Plan. Area B located above the retail anchor is unlikely to become viable in a timeframe that would support the master plan timing expectations. The expression of development potential in Area A is unlikely to permit residential development at Block 41 given the other planning controls that dictate a very specific and narrow planning outcome that is unlikely to render a viable development outcome at the site.</p>	<p>is now very limited and most likely non-viable.</p> <p>The location of Area B at Block 12 will not result in a development opportunity in the term of the master plan (15 years) given the tenancy arrangements with the anchor tenant. To realise the master plan development objective and potential expressed in area B, an alternative opportunity would be required.</p>
<p>R5 This rule applies to areas A and B in Figure 3. The maximum height of building in areas A and B is 2 storeys.</p>	<p>C5 The maximum height of building in areas A and B may be increased to 4 storeys where: a) development maintains reasonable solar access on the surrounding publicly accessible areas. b) area A achieves all of the following:</p>	<p>The criteria C5 and C9 have been amended to reflect reasonable consideration of solar impact.</p>	<p>This change to consider reasonable impact is supported.</p> <p>Matters relation to the likely implementation of the development objectives expressed at Areas A and B are addressed at the R/C4 consideration above.</p>

Rule	Criteria	Consultation Response	Concern
	<p>i) is contained within block 41 section 787 Calwell</p> <p>ii) is measured from the north western most boundary of block 41</p> <p>iii) is a maximum of 26 metres wide.</p> <p>c) area B achieves all of the following:</p> <p>i) is contained within block 12 section 787 Calwell</p> <p>ii) is measured 10.5metres from the western boundary of area A</p> <p>iii) is a maximum of 22 metres wide</p> <p>iv) is a maximum of 60 metres long.</p>		
<p>R6</p> <p>This rule applies to development along primary and secondary active frontages shown in figure 1.</p> <p>The minimum floor to ceiling height at the ground floor level is 3.6m.</p>	<p>C6</p> <p>The ground floor level of buildings is adaptable for commercial uses.</p>	<p>Not considered in consultation report</p>	<p>Application of the rule to Block 41 if a mixed-use development was envisaged would result in an inefficient design that would be difficult to construct and therefore development of the site would not be feasible.</p> <p>Noting that the form of RV355 does not permit residential development at ground level at Block 41 this matter may be mute except if consideration is given to reconsider the use locality consideration.</p>
<p>There is no applicable rule.</p>	<p>C8</p> <p>Plot ratio achieves consistency with the desired character.</p>	<p>Disagree. Desired character is defined in the Territory Plan as 'the form of development in terms of siting, building bulk</p>	<p>There is no plot ratio applicable to CZ1 in the commercial zones development code.</p> <p>There is further no desired character statement for the Calwell Group Centre</p>

Rule	Criteria	Consultation Response	Concern
		and scale, and the nature of the resulting streetscape that <i>is consistent with the relevant zone objectives</i> , and any statement of desired character in a relevant precinct code.”	and therefore the desired character reverts to the zone objectives for CZ1 which is applicable under Section 120 of the legislation in any event – the control serves no function in this form. The zone objectives permit consideration of a proposal’s siting, building bulk and scale, and the nature of the resulting streetscape as a matter of cause.
There is no applicable rule.	<p>C9</p> <p>This criterion applies to development on the southern block boundary where it adjoins at least one of the following:</p> <p>a) public spaces on Figure 4 or</p> <p>b) the proposed and existing pedestrian access paths identified in Figure 4 that are located north of Webber Crescent.</p> <p>Building elements above the first floor are setback from the southern block boundary to retain reasonable solar access to public spaces and pedestrian access paths.</p>	Reference fixed to clarify public space identification in Figure 4.	
<p>R10</p> <p>Development retains a minimum 3 hours solar access to the main daytime living areas and principal private open space of dwellings and habitable rooms on adjoining blocks between the hours of 9am and 3pm on the winter solstice (21 June).</p>	<p>C10</p> <p>Development retains reasonable solar access to dwellings and habitable rooms on adjoining blocks and their associated principal area of private open space.</p>	New Rule/criteria	This is a standard provision that exists in the Multi-unit Housing Development code and appear to be a duplication.

Rule	Criteria	Consultation Response	Concern
<p>R11</p> <p>This rule applies to the public spaces shown in Figure 4. Public spaces are provided and comply with all of the following:</p> <ul style="list-style-type: none"> a) area A on Figure 4 has a minimum area of 540m² b) area B on Figure 4 has a minimum area of 800m² c) are connected d) are accessible by existing and proposed pedestrian paths e) have no buildings or structures located within the area (excluding basements) f) are paved and landscaped. 	<p>C11</p> <p>Public spaces are provided and comply with all of the following:</p> <ul style="list-style-type: none"> a) are located generally in accordance with Figure 4 b) are of a scale and dimensions that provide usable open spaces c) are publicly accessible d) are paved and landscaped. 		<p>There are suggestions that the play area located at public space “c” be relocated to public space “d”.</p> <p>Current tenants in the centre expressed concern against this suggestion as the existing operation of the play space ties in well with existing operations.</p> <p>We agree that there is scope for improvement in the design and implementation of the play space but disagree that play equipment should be relocated.</p>
<p>R12</p> <p>This rule applies to the proposed pedestrian access paths shown in figure 1. A pedestrian connection is provided that complies with all of the following:</p> <ul style="list-style-type: none"> a) a minimum unobstructed width of 6m b) a minimum extent of 30% glazing at the ground floor measured along the length of the pedestrian connection, and c) access to ground floor commercial tenancies adjoining the pedestrian connection d) the pedestrian access path remains unenclosed and publicly accessible at all times. 	<p>C12</p> <p>Pedestrian connections are provided generally in accordance with Figure 1 and achieve all of the following:</p> <ul style="list-style-type: none"> a) reasonable public access b) views into and out of adjoining commercial premises and c) clearly identifiable entrances. 	<p>Proposed pedestrian pathways would ordinarily be provided by TCCS unless the upgrade to the pathways is an off-site works requirement of a development application.</p> <p>In these circumstances the proponent would provide the necessary pathways to the standards required by TCCS.</p>	<p>It is unclear in which circumstance the works would be “off-site works” as a part of a DA. The provision of public infrastructure is generally the responsibility of the relevant Agency unless a planning policy of planning requirement dictate the need for the works – the form of RV355 does not clarify this position.</p>

Rule	Criteria	Consultation Response	Concern
<p>R13 This rule applies to development in the hatched area in Figure 4.</p> <p>Development incorporates an extension to the existing public pedestrian path onto block 41 section 787, shown in Figure 4, by providing a pedestrian path along the entire length of the southern boundary that complies with all of the following:</p> <p>a) Has a total minimum width of 6m when combined with the existing public pathway</p> <p>b) is finished at the level of the pedestrian path and with matching materials and</p> <p>c) remains unobstructed and publicly accessible at all times.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>	<p>Clarify that the expansion of the pedestrian pathway is to involve a 2.2m setback on block 41 section 787 to enable this path to be a total of 6metres wide</p> <p>It is unclear how the 6m path width is determined and from which boundaries it applies.</p>	<p>The 6 metre path will be the total distance between the north boundary of Block 33 Section 787 and the development on Block 41, this will require a minimum 2.2 metre setback for development on Block 41; land that is currently leased with development potential.</p> <p>It appears unreasonable to require the Lessee to provide a 6m path within Block 41 along the circa 4m wide pathway block and remove development rights from this Block.</p> <p>This is further impacted upon by other planning controls in RV355 that dictate solar provisions, use requirement and the like that is likely to render a development outcome on Block 41 unviable and/or most likely will result in (if a development is progressed) vacant shopfronts along the public path that will not provide a safe and amenable public space.</p> <p>Adaptable commercial use is an opportunity to create a good frontage onto the public path, provide passive surveillance and a design amenity that will be endearing.</p>
<p>R14</p> <p>For new buildings located along primary active frontage areas identified in figure 1, frontages and building design comply with all of the following:</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>	<p>Upon the advice of TCCS and in order to better reflect the master plan recommendations, the ground floor of block 41 will be exclusively commercial uses.</p>	<p>The control as described remains overly prescriptive and this would prevent innovative design outcomes on the site which may make pursuit of redevelopment on Block 41 unfeasible, meaning future development of the Centre may not occur,</p>

Rule	Criteria	Consultation Response	Concern
<p>a) buildings incorporate clear display windows and/or shop fronts at the ground floor level</p> <p>b) buildings incorporate direct pedestrian access at grade with the verge level for access and egress for persons with disabilities</p> <p>c) any small areas of walls without windows contain displays, showcases and/or public art, with a maximum of 30% blank frontage per tenancy</p> <p>d) open structured car parks and/or loading docks are not located along the frontage.</p>		Residential uses will not be permitted.	<p>especially with the prohibition of residential use at ground level at Block 41.</p> <p>Suggest introducing criteria to provide alternative design solutions that would assist to make development feasible in these areas.</p>
There is no applicable rule	<p>C15</p> <p>For buildings located along secondary active frontage areas identified in figure 1, frontages and building design complies with all of the following:</p> <p>a) commercial buildings incorporate clear display windows and shop fronts at the ground floor level</p> <p>b) buildings incorporate direct pedestrian access at grade with the verge level for access and egress for persons with disabilities</p> <p>c) building facades are not dominated by extensive lengths of blank facades, open structured carparks, loading docks,</p>	<p>Upon the advice of TCCS and in order to better reflect the master plan recommendations, the ground floor of block 41 will be exclusively commercial uses.</p> <p>Residential uses will not be permitted. The secondary active frontages are applicable to future commercial ground floor uses.</p>	<p>Failing to consider residential use at ground level along the secondary frontages of Block 41 is likely to result in any future development opportunity at the site to become non-viable.</p> <p>Suggest reducing the requirement for secondary active frontage for Block 41 in Figure 1 of the draft Code and permit residential development at ground level.</p>

Rule	Criteria	Consultation Response	Concern
	substations or other service infrastructure d) residential development of 2 storeys or more incorporates balconies and windows to habitable rooms addressing the public realm		
<p>R16</p> <p>This rule applies to buildings fronting primary active frontage areas shown in Figure 1 except where the awning is contained wholly within a block.</p> <p>Awnings are provided along the length of the building frontage that comply with all of the following:</p> <p>a) are a minimum height of 3m above finished pavement or ground level of the verge</p> <p>b) are integrated into the building design at the first floor level</p> <p>c) are a minimum of 3m in cantilever depth, except</p> <p>i) where opposing primary active frontages are 6m apart or less, awning depth may be reduced to ensure awnings are separated by 0.5m</p> <p>ii) where a reduction in awning depth is required to accommodate existing infrastructure and/or existing or replacement street trees.</p>	<p>C16</p> <p>Awnings provide continuous all weather pedestrian shelter and activity in a form compatible with existing awnings.</p>	<p>Awnings can be provided within the block where street trees prevent them being provided on the verge.</p>	<p>We previously stated that Part c) ii) suggest that a reduction of the awning may be considered to preserve street trees.</p> <p>For Block 41 along its western boundary, this reduction would need to be the entire 3m of awning canopy in order to retain street trees because of their proximity to the block boundary.</p> <p>The Block is also required to consider provision of active frontages to the carpark – this seems to be at odds with the awning requirement that may seek to set the building back and/or will encroach the adjacent carparking land (over actual parking areas)</p> <p>Suggest rewording part c) ii) of the rule to remove the word depth to accommodate the scenario described on Block 41.</p> <p>We also suggest that residential use in a commercially adaptable building be permitted at Block 41.</p>

Rule	Criteria	Consultation Response	Concern
<p>R16</p> <p>This rule applies to all of the following:</p> <ul style="list-style-type: none"> a) buildings front the primary active frontage areas shown in figure 1; and b) awnings are wholly contained within the block boundary. <p>Awnings comply with all of the following:</p> <ul style="list-style-type: none"> a) a minimum height of 3m above the finished pavement or ground level b) a minimum of 3m depth c) integrated into the building design at the first floor level d) have posts at 3m intervals along the outside edge of the awning e) extend the full facade of the building 	<p>C16</p> <p>Awnings provide continuous all weather pedestrian shelter and activity in a form compatible with existing awnings.</p>	<p>Awnings can be provided within the block where street trees prevent them being provided on the verge.</p>	<p>This requirement appears to be over prescriptive and remove opportunities for innovation and balanced development opportunities/outcomes.</p> <p>The requirements for awnings under the rule do not appear to be rationalised when considering the current design, future development opportunity and implementation/operation of the Centre – especially around the Block 41 precinct. Most of the existing development in this part of the centre does not have active frontages or awnings and are unlikely to be afforded these structures during the life of the Master Plan. providing unconnected and unintegrated awnings in redevelopment projects (or new builds) will result in a disconnected and confusing patchwork of structures that will not provide any amenity to the centre , its occupants or patrons.</p> <p>The requirement to provide awnings wholly within the block 41 lands is also overly prescriptive given the size of blocks in the Centre.</p> <p>Suggest removing the wording under the rule to provide awnings wholly within the block boundary and making it mandatory.</p>

Conclusion

Whilst the Lessee of Blocks 12 and 41 continue to support the review of the Territory Plan and the opportunity reflect in facilitating development outcomes at the Calwell Group Centre, it is important that the changes made are carefully considered to ensure feasible and practical development outcomes can be achieved for the future development of sites within the Group Centre and realise the aspirations and objectives of the masterplan in a sensible and viable manner.

It is critical that the recommended changes do not render development opportunities unviable; especially where its required as capital investment to drive the implementation of the Master Plan and/or bring about unintended consequences that compromise development opportunities to existing Lessees within the Centre. This will result in missed opportunities to the community as well.

As outlined in this submission, Recommended Variation 355 in its current form imposes limitations for future development opportunities within Section 787 Calwell, particularly on Block 41 but also on Block 12.

We seek consideration by the Standing Committee to carefully consider and investigate the issues raised within this submission to provide certainty to Lessees within the Centre and the local community as to the implementation of the objectives and opportunities contained within the Master Plan in a viable manner.

Our interest remains to deliver improved outcomes, increased patronage and amenity for the Lessees and users of the Calwell Group Centre into the future.

Yours sincerely



per: **Pieter van der Walt**

Director

Canberra Town Planning

