Planning Panel Submission
Amendment GC81 – Fishermens Bend

70-104 Gladstone Street, Southbank

Prepared on behalf of Elmam Pty Ltd

0318-0181
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INTRODUCTION

1. Tract Consultants Pty Ltd has prepared this submission on behalf of Elmarn Pty Ltd in this matter.
2. This submission relates to proposed Amendment GC81 to the Melbourne and Port Phillip Planning Schemes (Amendment).
3. The Site is located within the City of Port Phillip which is approximately 1.5km south-west of the Melbourne CBD.
4. The Site is located within the Montague Precinct of the Fishermans Bend Urban Renewal Area.
5. The subject site comprises approximately 1442 sqm of land and is located on the north side of Gladstone Street immediately to the south of the light rail line and depot and between Montague and Ferrars Streets.
6. The site is rectangular in shape with a frontage of approximately 61 metres to Gladstone Street. Gladstone Lane adjoins the rear of the subject site and also adjoins the north-eastern boundary of the site.
7. Upon the site is a three lot strata-subdivided single level older style warehouse building containing multiple tenancies including vehicle repair, car sales, real estate sales and a locksmith.
8. The Site is located in proximity to the 109 tram corridor which is located on the opposite side of Gladstone Lane to the rear.
9. Although the existing and proposed controls allow for an eight (8) storey building, we say that the context of this site allows for a greater height which matches that of the “core activity” areas to the north and south of the site. The inclusion of these sites within these areas would result in a more consistent built form outcome for this section of the precinct.
10. We also contend that the setbacks above the street wall have failed to acknowledge the height and scale of midrise buildings on smaller sites compared to midrise buildings to be located on larger sites. We submit that discretionary setbacks above the street wall should be included as part of the amendment for mid-rise buildings where site conditions allow for variations.
11. The environs of the site in relation to the Route 109 Tram Corridor which is paired with future open space as per the “Fishermans Bend Public Open Space – Adjusted Layout” prepared by J. Thompson provides for an opportunity to vary the rigid side and rear setbacks sought by this amendment.
12. We submit that allowing discretionary controls will still achieve a high quality urban design outcome for the precinct and will facilitate suitable site specific outcomes on a case by case basis.
2 OWNERSHIP AND FUTURE PROSPECTS

13. The subject site comprises three lots under a plan of sub-division. The lots are owned by three separate and unrelated parties. Two owners purchased in the mid-1980’s, and one in 2010. All owners are long term investors who lease their units to local businesses.

14. Through engaging prospective tenants and leasing these properties over the decades, our clients have developed a keen knowledge of what types of tenants are interested in these properties and what they are able to pay.

15. Tenants demand for single-level post-war industrial buildings in Gladstone Street is generally low and those tenants generally have a low capacity to pay rental rates that would be expected for such an inner-fringe location.

16. The properties are increasingly incapable of providing investment returns to owners due to caps on rental income offset by increasing outgoings such as statutory charges.

17. The existing buildings located on the subject site are not inherently attractive for future users.

18. As investors our clients have on numerous occasions, investigated and assessed reuse and redevelopment options for these assets based on prevailing planning controls. Nothing has transpired because to do so has been, and remains, not economically feasible.

19. Previous planning controls have not encouraged transformation of the north side of Gladstone Street, neither does the proposed FAR of 3:1 and eight (8) storey height limit.

20. As a result our clients are unwilling to contribute additional capital to upgrade their properties and prohibitive planning controls make it unfeasible to redevelop them. The existing building stock will continue to degrade, diminishing their attraction to tenants.

21. The north side of Gladstone Street will likely become a series of small stranded sites comprising obsolete buildings that provide low levels of amenity with un-activated street and lane frontages.

22. Properties in close proximity to key infrastructure including the Montague Community Park (150m), South Melbourne Primary School (250m) and Montague Street light rail stop (200m) that ought to positively contribute to the regeneration of the precinct will instead exert a negative effect.

23. Our clients hope is that supportive planning controls will be implemented that will finally kick start regeneration of the north side of Gladstone Street which today is neglected and unappealing.

24. It is noteworthy that every property on the south side of Gladstone Street between Montague and Ferrars Streets has either been recently redeveloped or has an approved permit for major development. On the other hand, not a single property on the north side of the same section of the street has been the subject of any, even minor, development initiative.

25. Therefore, it is self-evident that planning controls will need to play a key role in allowing Gladstone Street as a whole to reach its full potential.
3 SITE CONTEXT

26. The subject site is shown highlighted red within Figure 1 below.

27. The site is some 1442m² in size and is unconventional in dimensions as it widens from the eastern to the western section due to the alignment of the Route 109 Tram Corridor to the north of the site and Gladstone Street to the south.

Figure 1 – Image of subject site (source: NearMap)

28. The subject site is generally rectangular, but is affected by the alignment of the 109 Tram Route and Gladstone Street becoming narrower further east (see Figure 13).

29. The western section of the site and the site located further to the west on Gladstone Street follow a more parallel pattern with one another resulting in a block width of approximately 25m (see Figure 13).

30. These sites are all located within the same height control under the proposed Design and Development Overlay – Schedule 30 (DDO30) but a key point of difference is that the subject site and those adjoining are much narrower where they are affected by the tram line.
Figure 2 – Image of the subject site and its alignment with Gladstone Lane (source: Google)

Figure 3 – Image of the subject site and surrounding block alignments (source: Google)
31. Gladstone Street is also approximately 19.7m wide (see Figure 13 below).

![Figure 4 - Image of the width of Gladstone Street showing dimensions (source: NearMap)](image)

32. These conditions are unique within the wider surrounding context of Fishermans Bend given the alignment with the route 109 tram line. There is greater flexibility for this site to closely adjoin this corridor and not comply with suggested mandatory setbacks. This is based on the existing and proposed conditions of the tram corridor lacking any sensitive uses to the rear of the site, being relatively wide and also the change in grade between the subject site and the level of the route 109 tram corridor.
4 SUBMISSIONS

33. We acknowledge the expert evidence which has been prepared by various parties affecting this site. First and foremost, we would like to acknowledge the change in opinion of Leanne Hodyl in relation to this site being included as part of the core of the Montague precinct.

34. This submission focuses on the changes proposed to the Port Phillip Planning Scheme which are most relevant to the redevelopment potential of our client’s land. They include:
   - The replacement of Clause 22.15 ‘Fishermans Bend Urban Renewal Area Local Policy’;
   - The replacement of Schedule 1 to Clause 37.04 ‘Capital City Zone’;
   - The replacement of Schedule 30 to Clause 43.02 ‘Design and Development Overlay’; and,
   - The replacement of Schedule 1 to Clause 45.09 ‘Parking Overlay’.

35. There are number of key issues which we raise in relation to the amendment and the above mentioned proposed planning controls. After careful review of the amendment documents the following issues are raised and addressed within this submission:
   - Inclusion of the site into the core area for the Montague Precinct
   - Increase ‘building height’ requirements to the site in accordance with inclusion of the site in core area for Montague Precinct
   - Inconsistencies in proposed height control
   - Building height as expressed in the DDO30 and amendment documents and its implications on setbacks
   - Mandatory setback controls for midrise development outcomes are not warranted
   - Setback above the “street wall” (upper level setbacks to Gladstone Street)
   - Setback above the “street wall” (upper level setbacks to Gladstone Lane)
   - Setbacks to side and rear boundaries
   - Abuttals of side boundaries
   - Increase the ‘Floor Area Ratio’ for Montague
   - Revisit the ‘Floor Area Uplift’ control
   - Alter the car parking ratios set out in Schedule 1 to the Parking Overlay
   - Location of open space at 87 Gladstone Street
   - Gladstone Street as a secondary active frontage
Inclusion of the site into the core area for the Montague Precinct

36. We note the expert evidence of Leanne Hodyl and Mark Sheppard who recommend that the subject site be included within the core area of Montague. The new boundary for this area is shown in the extract of Figure 13 below from Leanne Hodyl’s expert evidence statement as per Recommendation 4 (Pages 22 and 23 of the statement).

![Figure 2 Analysis of site constraints in Montague and revised changes proposed to the Montague core area](image)

*Figure 5 – Extract from Leanne Hodyl’s expert evidence statement (Figure 2 within this statement)*

37. We support this as an action. Importantly this change will help to encourage redevelopment on the northern side of Gladstone Street. The current controls are too low which results in a risk of underdevelopment within this portion of the precinct which would be a missing link between the northern and southern sections of the Montague precinct.

38. We note that the southern side of Gladstone Street will be subject to larger development facilitating urban renewal of this side of Gladstone Street. Failure to impose similar planning controls allowing larger midrise buildings on the northern side of Gladstone Street creates an imbalance within the streetscape which will result in one side being developed while the other remains in its former industrial state. To lift the amenity of the street as a whole, the development potential needs to be somewhat equal.

39. The inclusion of the subject site and others in Gladstone Street into the core of Montague as recommended by Leanne Hodyl and Mark Sheppard will result in appropriate redevelopment of this portion of the Montague Precinct leading to better urban design outcomes both in the intermediate and longer term future.
Increase 'building height' requirements to the site in accordance with inclusion of the site in core area for Montague Precinct

40. It follows that the inclusion of the subject site to within the core of the Montague precinct must follow with a resultant increase to the discretionary height requirements and FAR proposed for these sites. The FAR requirement is addressed later within this submission.

41. Not all sites on the northern side of this section of Gladstone Street (east of Montague Street) have the same development potential as the subject site. This site is large and has good prospects of being able to support a larger midrise building of up to 12 storeys. What defines midrise building height is discussed later in this submission and represented in Figure 13 in this submission.

42. The subject site is already located within an area which encourages a lower scale midrise development outcome (as per the existing discretionary height control of eight (8) storeys). Given the opportunities and constraints of the site paired with the recommendation for the site to be included within the core of the Montague precinct we submit that the height for this site should be increased to the upper end of midrise development outcome being 12 storeys.

43. We also provide the shadow diagrams prepared by Plus architecture which show the shadowing impact to the southern side of Gladstone Lane which result in reasonable sunlight access being received under a 12 storey scheme on the site (see Attachment 1).

44. On the basis of the above we say that the height limit for the site should be increased under the DDO30.

Inconsistencies in proposed height control

45. In the document titled “Minister for Planning – Proposed changes / corrections to Planning Scheme Map” circulated by email by Kate Morris on 18 April 2018, there are a number of clarifications made in relation to the Ministers case; point 11 is of relevance.

46. Point 11 of the table states:

<table>
<thead>
<tr>
<th>Montague DDO</th>
<th>DDO - Tabled Document 66F</th>
<th>Montague DDO</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. Montague DDO</td>
<td>DDO 2.0 and Map 2 Building Heights</td>
<td>Amend the Legend in Tabled Document 156B as follows: Replace '4 storey mandatory' with '13.4m mandatory'; Replace '8 storey' with '29.4m'; Replace '12 storey' with '42.2m'; Replace '20 storey' with '67.6m'; Replace '24 storey' with '80.6m'.</td>
</tr>
<tr>
<td>Drafting error. Tabled Document 66F planning scheme provision and Map 2: Building Heights refers to building heights by reference to 'metres' rather than 'storeys'. However, the Montague DDO Map refers to building heights in terms of 'storeys' rather than 'metres'. This is a drafting oversight.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Figure 6 - Extract from Minister for Planning – Proposed changes / corrections to Planning Scheme Map

47. The document titled “Montague Maps – 17 April 2018” circulated in the same email shows the subject site and those surrounding as being subject to a 29.4m height limit as shown in the figure 7 over the page.
The Minister for Planning’s revised draft DDO30 circulated in an email by Kate Morris dated Mon 23/04/2018 9:17 PM shows an increase in height to other sites within this precinct, but potentially a reduction in height on the subject site (the site appears to be nominated as 23m as shown in the figure 8 below).

This matter needs to be clarified separately in addition to our request for a larger height to be considered on the site due to the inclusion of the site into the core of the Montague Precinct.

If the site is to be 29.4m in height crosses need to be added to the site so it is abundantly clear.
Building height as expressed in the DDO30 and amendment documents and its implications on setbacks

51. The CoPP has provided in its “Stage 2 - General Submissions on behalf of the City of Port Phillip” at point 115 that “currently, there is no definition of low-rise, mid-rise and high-rise development outcomes within the proposed planning controls”.

52. The following points of our submission touch on what is a midrise vs. high-rise development and how this affects the development outcomes on the subject site, and how we see that discretionary setback controls should be used for midrise buildings.

53. We provide the diagram below from the CoPP’s Stage 2 submissions which identifies what constitutes their definition of low rise, midrise and high-rise development outcomes.

![Diagram showing definitions of Low, Mid, and High Rise buildings]

54. We agree with the CoPP’s general principles associated with the categorisation of the height of buildings in Figure 13. It is our opinion that a mid-rise building is a building up to 12 storeys (approximately 40m in height) and anything above this height is generally treated as a high rise building (in a tower podium configuration).

55. We provide the following examples from the Melbourne Planning Scheme which reinforce this notion of midrise building height. These examples are the DDO10 (Central City Area) and DDO63 (Macaulay, Kensington and North Melbourne renewal area).

56. The DDO10 of the Melbourne Planning Scheme discerns that a building under 40m in height is a midrise building (defined as an “addition” in the DDO10) and subject to different controls compared to high rise buildings over 40m (defined as a “tower” in the DDO10).
57. We also note the DDO63 which seeks to achieve a “predominantly mid-rise, 6 – 12 storey” character and comprises height controls with an upper limit of 39m / 12 storeys (see Figure 13 below):

<table>
<thead>
<tr>
<th>Area</th>
<th>Preferred maximum height</th>
<th>Absolute maximum height</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>10.5m (3 storeys)</td>
<td>10.5m (4 storeys)</td>
</tr>
<tr>
<td>A2</td>
<td>14m (4 storeys)</td>
<td>20m (6 storeys)</td>
</tr>
<tr>
<td>A3, A4</td>
<td>20m (6 storeys)</td>
<td>26m (8 storeys)</td>
</tr>
<tr>
<td>A5</td>
<td>28m (8 storeys)</td>
<td>N/A</td>
</tr>
<tr>
<td>A6</td>
<td>20m (6 storeys)</td>
<td>26m (8 storeys)</td>
</tr>
<tr>
<td>A7</td>
<td>28m (9 storeys)</td>
<td>36.4m (12 storeys)</td>
</tr>
<tr>
<td>A8</td>
<td>30m (9 storeys)</td>
<td>39m (12 storeys)</td>
</tr>
</tbody>
</table>

*Figure 10 – Table 1 from the DDO63 of the Melbourne Planning Scheme.*

58. There are issues with the proposed DDO30 and the way it treats the setback controls for mid-rise buildings. For example the draft DDO30 treats building height within the following ranges:

59. “Setbacks above the street wall from new and existing streets and laneways”

- <30m;
- ≥30m and <68m; and
- >68m;

60. “Side and or rear setbacks”

- <23m;
- >23m and <30m;
- ≥30m and <68m; and
- >68m

61. When analysing the setback controls of the DDO30 in relation “setbacks above the street wall from new and existing streets and laneways” and “side and or rear setbacks” we say that height thresholds used are not appropriate when having regard to the diagram provided within the CoPP’s stage 2 submissions. The 30m threshold only relates to a nine (9) storey building, and does not extend to the upper range of a mid-rise building outcome which is understood to be a 12 storey building approximately 40m in height.

62. We say that the blue highlighted numbers in the points above of this submission should be increased to 40m to correspond with the upper limit of a mid-rise building. These changes better correspond with the diagrams in *Figure 9 – Extract from Stage 2 – General Submissions on behalf of the City of Port Phillip outlined in CoPPs Stage 2 submissions.*

63. Further to the points above, we submit that there should be discretionary setbacks for mid-rise buildings up to 40m in height as this is best practice within other DDO’s controlling and encouraging mid-rise development.

64. Mandatory setbacks may be appropriate for high rise (tower podium) development, but are not warranted for mid-rise development as discussed within the following points.
Mandatory setback controls for midrise development outcomes are not warranted

65. With the above mentioned height controls in mind, we have specific issues in relation to the proposed drafting and intent of the building setback requirments of the DDO30.

66. We acknowledge the submissions of Port Phillip in Point 126 of their Stage 2 submissions which states:

“Several aspects of the proposed planning controls do not encourage mid-rise building typologies. This is largely due to the following:

- Building heights are too high in some areas where mid-rise development is sought such as 24-storeys in the Wirraway core area and 20-storeys on the north-side of Buckhurst Street).
- Controls are too focused on podium - tower form.

67. The second dot point above of this submission is at the crux of our argument. The rigidity of the mandatory setback controls fails to acknowledge the difference in development outcomes between midrise buildings (5 – 12 storeys) and high-rise buildings (13 + storeys) as per the diagram in Figure 9 earlier in this submission.

68. We also note the findings of the C270 panel within the Melbourne Planning Scheme. Once again, this amendment was too focused on tower podium outcomes and enforcing rigid controls that it failed to properly acknowledge outcomes which were for mid-rise buildings (called “additions” in the revised DDO10). We discuss this further below.

69. Various Planning Panels have considered the merits of mandatory provisions in planning schemes and all have generally concluded that:

- Mandatory controls are the exception;
- If they are imposed, they must achieve a clear built form objective; and
- Discretionary controls are the preferred way to deliver a performance based outcome.

70. These observations are consistent with Practice Note 59 ‘The role of mandatory provisions in planning schemes’ which states “mandatory provisions will only be considered in circumstances where it can be clearly demonstrated that discretionary provisions are insufficient to achieve the desired outcome”.

71. It is our submission that the relevant policy considerations do not demonstrate a compelling basis as to why mandatory building setback requirements for midrise development outcomes should be applied in this instance.

72. It is requested that the mandatory setback controls are not imposed in this instance as they are onerous in terms of achieving desirable built form outcomes, especially for mid-rise buildings. For mid-rise buildings setback outcomes can be appropriately delivered through a performance based criteria of discretionary setback controls.

73. The application of discretionary setback requirements is consistent with state planning policy, and will facilitate best-practice and development outcomes in accordance with the objectives of the DDO30.

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1 See Page 2 of Practice Note 59 ‘The role of mandatory provisions in planning schemes’
Setback above the “street wall” (upper level setbacks to Gladstone Street)

74. The requirement of a discretionary 5.0m setback and mandatory setback of 3.0m above the street wall for a building <30m in height is onerous for mid-rise buildings.

75. The following submissions need to bear in mind our request also for the height threshold for mid-rise buildings to be increased from <30m to <40m to reflect the upper range of mid-rise buildings in Figure 9.

76. The proposed setbacks above the street wall do not appropriately take into consideration the overall massing of the building and constraints imposed on smaller sites with narrower widths. The sites located on the northern side of Gladstone Street (including the subject site) are affected by the alignment of the route 109 tram which results in difficulty in achieving viable floor plates above the street wall if mandatory setbacks are imposed.

77. As per the CoPP’s submissions the DDO30 seeks to impose built form outcomes which are overly focused on rigid controls for high-rise development (tower podium) without proper acknowledgement of variability of midrise form on smaller lots.

78. We submit to the panel that the mandatory setback controls do not comprise any flexibility to grant variations on sites (such as those on the northern side of Gladstone Street) which may deserve a smaller setback above the street wall based on site specific grounds of delivering a mid-rise development outcome.

79. With respect to the proposed street wall setbacks, it is important to note that similar oversights were made in the “Central City Built form review” for Amendment C270 to the Melbourne Planning Scheme.

80. Specifically the submissions made by Tract Consultants to this amendment on behalf of Larkfield Estate resulted in discretionary setbacks above the street wall being adopted by the Ministers for Planning for buildings up to a height of 40m (which were defined as “additions” within the DDO10). This flexible approach to setbacks above the street wall contemplated mid-rise buildings of 40m within the central city context.

81. In the same manner here, the Minister for Planning is seeking to impose under the draft DDO30 mandatory setbacks above the street wall for mid-rise buildings. As found within the C270 amendment, this is not the appropriate response for buildings of mid-rise scale where smaller setbacks can be considered (as per the findings on pages 192 – 193 of the C270 Panel Report, see Attachment 2).

82. We submit that the mandatory street wall setbacks for mid-rise buildings are not warranted, and can be exercised in a discretionary manner to achieve the preferred types of built form and character sought within this portion of the Montague Precinct and a similar logic as applied in the C270 amendment should be adopted in this DDO.

Setback above the “street wall” (upper level setbacks to Gladstone Lane)

83. The drafting of the DDO30 once again appears to take a broad brush approach to setbacks above the secondary street frontages. The setback controls to Gladstone Lane appear to be the same as the ‘setbacks above the street wall from new and existing street and laneways’; we say this approach is incorrect.

84. We submit that applying the same setback requirements to a laneway (not the frontage) is not well founded within this context and the wording should be altered to allow for the setbacks to laneways to be measured from the centreline of the lane.

85. Measuring the setback of a building from the centre of a lane is a principle established within the DDO10. Table 3 of the DDO10 requires this to be considered.

86. Provided in Attachment 3 of this submission are a series of photos of the site and surrounding context. We use these to explain the following points:

- Firstly, we say that for mid-rise buildings (buildings 5 – 12 Storeys in height) these controls should be discretionary.
- Secondly, we say that should a 5.0m setback be adopted this measurement should be from the centreline of a laneway. This is consistent with the controls implemented under C270 for the central city area of Melbourne under DDO10.
87. When applying this principle to the subject site it is important to acknowledge the character of Gladstone Lane and what is achievable within this streetscape based on its particular characteristics. These characteristics are:

- The lane is narrow;
- It directly adjoins the Route 109 tram line;
- There is a significant change in grade between site and the level of the tram line;
- The street wall will not be overly visible from the tram line;
- Tram line is proposed to be expanded under the “open space adjusted layout plans” circulated by Joanna Thompson and will be 35m – 45m wide from the line of the site to the far side of the open space.

88. Based on the above mentioned characteristics discretionary requirements will allow decision makers to exercise discretion on whether or not different setbacks are appropriate based on individual site characteristics.

89. Mandatory controls for towers may or may not be acceptable. Our submission is that they certainly are not warranted for mid-rise buildings within this precinct to facilitate appropriate outcomes.

**Setbacks to side and rear boundaries**

90. The proposed side and rear boundary setbacks are not well founded for midrise buildings. As per the submissions above, the author of the Urban Design Strategy for Fishermans Bend has neglected to take into account the physical opportunities and constraints of smaller midrise sites and the implications of mandatory setback controls in this regard.

91. The setback requirements for an “Amenity Wall” and a “Non-amenity wall” should be discretionary for a mid-rise building.

92. We also submit that the diagrams do not appropriately address the opportunities for the use of space on the podium for either a mid-rise or high-rise building.

93. **Figure 11** below shows where there is opportunity for a deck area above the podium level, whilst complying with the side and rear setback controls.

![Figure 11 - Extract from the proposed DDO30, Side and or rear setbacks](image-url)
94. We note that both setbacks above would allow for the provision of a balcony far exceeding the minimum dimensions of Standard D19 of Clause 58 as shown in the table below.

```
<table>
<thead>
<tr>
<th>Dwelling type</th>
<th>Minimum area</th>
<th>Minimum dimension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio or 1 bedroom dwelling</td>
<td>8 square m</td>
<td>1.8 m</td>
</tr>
<tr>
<td>2 bedroom dwelling</td>
<td>8 square m</td>
<td>2 m</td>
</tr>
<tr>
<td>3 or more bedroom dwelling</td>
<td>12 square m</td>
<td>2.4 m</td>
</tr>
</tbody>
</table>
```

*Figure 12 – Table D5 from Clause 58.05-3.*

95. It seems senseless to waste valuable space above the podium associated with “Non-amenity walls” which could easily accommodate compliant balconies and habitable room windows (which may or may not be screened) and other habitable features of a dwelling.

96. The proposed requirement of the DDO30 seeking a varying setback of between 9m – 10m for mid-rise buildings is ridiculous.

97. Should two buildings place habitable room windows on the same boundary the control is suggesting that a building separation of between 18m – 20m is required for a building between 23m and 68m.

98. We note the tower separation between sites within the DDO10 of the Melbourne Planning Scheme which requires “Towers must be separated by a minimum of 10 metres”. Under this control a “tower” is any building over 40m in height. Two x 200m towers could be located a matter of 10m from one another and this is deemed as being an acceptable level of separation.

99. Under this amendment, the DDO30 is seeking to implement an 18m separation for buildings less than 30m in height.

100. We submit that for midrise buildings habitable encroachments within the 3.0m setbacks should be allowed to the side and rear boundaries (such as balconies, windows etc) and if the notion of a “Non-amenity wall” and “Amenity wall” are retained that controls should be discretionary to allow equitable development to be considered on a case by case basis.

101. Once again drawing on the CoPPs stage 2 submissions the controls are too focused on podium - tower form without proper acknowledgement of how to achieve appropriate development outcomes for mid-rise buildings.

102. Allowing encroachments into these side and rear setbacks facilitates valuable and necessary amenity contributions to the dwellings without causing any unreasonable impacts to the development potential of the adjoining sites or building separation to achieve urban design outcomes.

103. In addition to the points above, the inability to include features such as windows or balconies into side and rear walls because of definitions of “amenity wall” and “non-amenity wall” brings into play the risk of buildings being under-designed on these elevations to achieve the maximum GFA possible per floor.

104. If these controls are successful developers will select “non-amenity wall(s)” in pursuit of cost (where possible) which will result in developments facing one another (compliant with the DDO30) with little articulation other than bathroom windows, textured concrete or the like. Coupled this together with the mandatory requirement for separation between buildings “for non-amenity walls” and these side and rear boundaries will become an eyesore within the precinct.

105. One of the explicit objectives of the DDO30 is “to create a place of architectural excellence”. Seeking mandatory controls for this element of the DDO30 mandates poor design, precisely at odds with the objectives. Once again, this highlights the poor application of mandatory controls in the DDO30.
Abuttals of side boundaries

106. We draw issue with the inability to develop to at least one side boundary within the precinct. This inflexibility does not result in an outcome that achieves the preferred built form outcomes for the precinct in relation to mid-rise buildings.

107. We raise this issue in relation to the future development potential of the adjoining neighbour at 106 Gladstone Street which is located between low scale buildings on the Victorian Heritage Register and this site.

108. Controls which allow for the abuttal of one side boundary contemplate and allow for equitable development without undermining the urban design outcomes sought to be implemented under the DDO30. We seek that these abuttals are only appropriate for mid-rise buildings (up to 40m in height).

109. Within the CBD of Melbourne the DDO10 of the Melbourne Planning Scheme allows a building to: "be constructed up to one side or rear boundary, excluding a laneway, if an existing, approved, proposed or potential building on an adjoining site is built to that boundary and if a minimum setback of 5 metres is met to all other side and rear boundaries and the centre line of any adjoining laneway."

110. In terms of mid-rise buildings, adjoining one side boundary should be allowed for development above the street wall for buildings up to 12 storeys in height (which accords with the Figure 9 of this submission extracted from CoPPs Stage 2 submissions).

111. This will still result in setbacks to all other boundaries, but will provide greater flexibility for location of lift core and other service areas on a single location and ensuring consistent, yet varied, development between neighbouring sites.

112. Once again, this logic is permissible within other various DDO allowing for mid-rise heights (such as Arden Macaulay).

Increase the ‘Floor Area Ratio’ for Montague

113. In simple terms the FAR proposed for the subject Site is too low. The Fishermans Bend Urban Design Strategy makes the following statement regarding building density (our emphasis added):

FARs can establish both maximum and minimum ratios to control development on a site. A maximum FAR is typically aligned to the overall population target for an area and must also be aligned with the preferred types of built form and character sought in each neighbourhood.

114. The FAR for the site is currently limited at 3.0:1, yet the permissible built form outcome on the site is a six (6) storey street wall, with a discretionary eight (8) storey overall height limit.

115. Given the smaller land size and subdivision pattern on the northern side of Gladstone Street these sites will likely achieve the FAR of 6.0:1 just through the provision of a compliant street wall height.

116. As stated earlier in this submission we note Leanne Hodyl’s inclusion of the site into the core area of the Montague precinct. We submit that this should also include a resultant increase in the height and FAR permissible on the site to accord with achieving consistent urban design outcomes within the core precinct.

117. Leanne Hodyl has modelled the Montague core FAR at 6.3:1. We support this FAR being applied to the site at a minimum as it now generally aligns with the delivery of a FAR which matches the encouraged ‘street wall height’ for Gladstone Street (which seeks to achieve a six storey street wall).

118. Retention of the current FAR control of 3.0:1 will result in a FAR control and the preferred built form outcome for the site not aligning with one another, especially on the sites on the northern side of Gladstone Street which are narrow but capable of being developed by mid-rise with complete site coverage for six storeys.
119. CoPP states in its “Stage 2 – Montague Precinct Submissions on behalf of the City of Port Phillip” that:
   - [Point 89] “Council considers that the proposed increase in the Montague Core FAR to 6.3:1 is too close to the proposed Sandridge Core FAR (decreased to 7.4:1), and erodes the different character and role of these distinct areas, as sought by the Vision”
   - [Point 90] “Further, it is also noted that it is likely that the small sites along Gladstone Street proposed to be included in the Core Area will struggle to meet the revised proposed FAR of 6.3:1”.

120. We have an opposing view on this matter. We say that the sites on the northern side of Gladstone Street will easily meet these increased FAR controls just by fulfilling the built form outcomes sought by the street wall requirements of the DDO30.

Revisit the ‘Floor Area Uplift’ control

121. The FAU control is concerning. The amendment comprises little detail on the following aspects of FAU:
   - The amount of FAU which will be permissible on the site; and
   - The lack of transparency in the cost associated with calculating the FAU.

122. The amendment documents do not appear to nominate the amount of FAU which will be permissible above the FAR. The amendment documents including the Fishermans Bend Urban Design Strategy nominate a 1.0:1 ratio in all examples and test scenarios.

123. Adding to the points above regarding the low FAR for the site (3.0:1), if an FAU of 1.0:1 was to be adopted, the subject site would only be occupied by a four (4) storey building (combined FAR and FAU of 4.0:1) which would be two storeys short of the 1:1 ratio sought for street wall height for a street of this width.

124. Once again, the lack of certainty of the ratio causes angst to overall development potential of the Site, and achieving the “preferred types of built form and character sought in each neighbourhood” as stated within the Fishermans Bend Urban Design Strategy.

Cost of FAU

125. The fact sheet on “how to calculate Floor Area Uplifts and Public Benefits in Fishermans Bend” is far too scant on detail. Although the fact sheet outlines the public benefits categories, the amount of both “additional public open space” and “delivery of community infrastructure” are both to “the value subject to the approval of the Valuer General and subject to approval by the Victorian Government Land Monitor.”

126. This requirement does not allow land owners to appropriately cost out developments in a transparent process at the point of purchase and DD phase without undertaking comprehensive investigations with the Valuer General prior to purchase. It is unclear what process would be available to facilitate these discussions with the Valuer General and its availability.

127. We would recommend that a similar transparent process such as that of Clause 22.03 – Floor area uplift and delivery of public benefits of the Melbourne Planning Scheme (for the Capital City Zone and Design and Development Overlay – Schedule 10) be adopted. This local policy includes a “How to Calculate Floor Area Uplifts and Public Benefits, Department of Environment, Land, Water and Planning (as amended from time to time)”.

128. The above mentioned process allows land owners and purchasers a transparent process to appropriately calculate the realisation of their project under any FAU control which may be imposed.

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2 See Page 20 of the Fishermans Bend Urban Design Strategy
3 See Page 3 of the how to calculate Floor Area Uplifts and Public Benefits in Fishermans Bend Fact Sheet
Alter the car parking ratios set out in Schedule 1 to the Parking Overlay

129. We encourage the panel to adopt a maximum rate of one (1) space per each dwelling which is consistent with the provisions of other parking overlays of the City of Melbourne within close proximity to the Melbourne CBD (See Parking Overlay – Schedule 12 of the Melbourne Planning Scheme).

130. We do not raise issue with the 0.5 rate being applied to one and two bedroom dwellings within the precinct, but would encourage a maximum rate of one (1) space for three bedroom dwellings.

131. We note these rates are imposed in the Parking Overlay – Schedule 2 applied to the Footscray town centre in the Maribyrnong Planning Scheme.

Location of open space at 87 Gladstone Street

132. This was one of the matters raised in the original submission by Elmarn Pty Ltd to the Panel.

133. It appears that Joanna Thompson in her expert evidence has accepted that the location of this proposed open space on Gladstone Street is not appropriate due to the subdivision of the selected site and age of the buildings on the site.

134. We support the removal of this space and relocation elsewhere.

Gladstone Street as a secondary active frontage

135. In the CoPPs Stage 2 – Montague Precinct Submissions points 48 – 60 of this submission and figure 22 address the location of primary and secondary active frontages.

136. It seems strange to exclude the northern side of the Gladstone Street from this diagram given that it will have a direct relationship with the southern side of Gladstone Street given its isolation and sole orientation to the south.

137. We say that should the panel adopt the CoPPs notion that the south side of Gladstone Street should be a secondary active frontage then the same should also be applied to the northern side of Gladstone Street.

138. Once again, this will assist in achieving a unified urban design outcome within this streetscape and ensure that there is not an imbalance from one side of the street to the other.

![Diagram of Gladstone Street and its active frontages]

Figure 13 – Figure 22 from CoPPs stage 2 submissions (page 15)
CONCLUSION

139. Our client supports the broad principles of the Amendment and commends the Minister for Planning for their work in this regard.

140. As outlined in this submission there are a number of issues which are required to be revisited in order to achieve the highest and best use of this site and midrise buildings throughout the precinct. The introduction of mandatory setback controls inhibits the achievement of a quality urban design outcomes on the site without strategic reason.

141. Should mandatory setbacks and the currently low FAR be included with this amendment this will inhibit the northern side of Gladstone Street achieving best and highest use.

142. We request that our suggestions to the redrafting of DDO30 be taken into account. These alterations best reflect the points made within this submission.

143. We thank the Panel for the opportunity to present this submission.

Liam Riordan
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Tract Consultants Pty Ltd