

IN THE MATTER OF

FISHERMANS BEND PLANNING REVIEW PANEL

-and-

IN THE MATTER OF

AMENDMENT GC81

TO THE MELBOURNE and PORT PHILLIP PLANNING SCHEMES

OPENING SUBMISSION – LORIMER PRECINCT

1. These submissions are made on behalf of the following property owners:-

79 W.W. Sidwell Investments Pty. Ltd.
870 Lorimer Street, Port Melbourne
(Document 48, p.49 – 52) Sheppard p.27

130 VCHQ2 Pty. Ltd.
880 – 884 Lorimer Street, Port Melbourne
(Document 48, p.45 – 48) Sheppard p.35

162 Lorimer Place Owners Corporation and its 24 members.
874 – 886 Lorimer Street and 338 – 356 Ingles Street, Port Melbourne
(Document 48, p.53 – 57) Sheppard p.39

2. 870 Lorimer is where the Wellcom Group conducts its business. Wellcom is a global creative production company that serves the retail, corporate and advertising markets. Its services include photography, video/TV production, design, digital, social and print production media. It provides creative content for advertisers (retailers and corporations) and advertising agencies. It is a Melbourne based business headquartered on site. It has full scale production businesses in Sydney, Adelaide, Auckland, Kuala Lumpur, London, New York, Columbus Ohio, Los Angeles, Florida and Melbourne. Worldwide it employs around 550 staff. Its clients include Woolworths and Coles supermarkets, David Jones, ANZ Bank, NAB, Telstra, Commonwealth Bank, The Shannon Company and many, many more blue chip companies. It is publicly listed on the ASX.

3. VCHQ2 Pty. Ltd. is the owner of two lots within the owners corporation group 23 and 24. Vaughan Constructions conducts its development business from these premises and employs 45 staff. Vaughan constructed its building and its eastern neighbour, the Printing Works at lot 25. Interestingly when it started it proposed driving piles into the subsurface. It set up its pile driver and a long concrete pile ready to be hammered into place. The operation commenced and after the first impact the pile disappeared, never to be seen again.

4. The Lorimer Place Owners Corporation is authorised by the owners of the 25 lots to make these submissions. As the Panel is aware, there are four lots on Lorimer Street 22 – 25, whilst the balance comprise 18 lots south of the proposed tramline and three lots to the west.
5. Some of the business activities and staff numbers conducted within the respective warehouses are as follows:-

E3	Yarra International Co Pty. Ltd.	Radio Production	4
E2	Ingles Investments Pty. Ltd.	Café & Gym	6
E1	Guccione Super Fund Pty. Ltd.	Car Hire	15
B5	Mr P G & Mrs T L Smith	Studio/ Showroom/ Developers	25
B4	Newman Family Trust	Storage	
B3	D J Enterprises Pty. Ltd.	Storage / Office	
B2	Mr R Lazarovits		
B1	Sholl Property Investments Pty. Ltd.	Telecommunication Services	35
A1	JOC Property Pty. Ltd.		
A2	Ms. M. Basso & Ms. S. Basso		
A3	AMRS Super Pty. Ltd.		
A4	AGJ Investments Pty. Ltd.		
A5	Damien James Property Trust		
A6	Haydee & The Monkey Pty. Ltd.	Building Management & Cleaning	150
D1	M&M Group Nominees Pty. Ltd.	Printing	30
C1	Pascoe Squires Group Pty. Ltd.	Showroom	5
C2	Stratford 325 Pty. Ltd.		
C3	Legalassist Nominees Pty. Ltd.		
C4	Komi Pty. Ltd.	Food Production	12
C5	Van Ek Properties Pty. Ltd.	Storage / Office	
C6	8 Roger Street Property Pty. Ltd.	Studios	10
22	Pinnacle Constructions (Aust.) Pty. Ltd.	Sewing machines, Software, Development	50
23	VCHQ2 Pty. Ltd.	Development & Construction	45
24	VCHQ2 Pty. Ltd.	Vacant Lot	
25	Lorimer Street Loan Pty. Ltd.	Printing	59
			<u>446+</u>
			===

This represents 22% of Lorimer's current workforce.

6. Many of these are specialists businesses that have invested substantial funds in establishing themselves recently with the subdivision. For instance:-

LOT 21 – C6

Offices and Production Studios for **Production Alley Pty. Ltd.**

One of Melbourne's leading Post Production studios, Production Alley records voice over and music in conjunction with some of Australia's largest advertising agencies and film producers. Other activities include providing links for studios both interstate and overseas to record ADR and other voice requirements for film and television.

After 25 years in South Melbourne, Rodney Lowe and Les Molnar decided to re-brand as Production Alley and make the move to Lorimer Place in 2017. Purchasing a building in this area was a strategic move, with minimal distance from the majority of their clients, many who currently walk to the studios with ample parking for those who can't. They invested in state-of-the-art offices and studio facilities with the belief that this unique building and central location would see the investment returned well into the future.

Employing nine staff on a permanent or casual basis, as well as numerous clients', production personnel, actors and voice over artists attending sessions on a daily basis. Since moving to Lorimer Place, Production Alley is already looking to expand. Negotiations are currently on the table to put offices in another warehouse next to their facility, unfortunately uncertainty surrounding the site is making it hard to move forward with these improvements.

Offices also house newly launched **Soundfield Collective Pty. Ltd.** An independent artist music licensing company employing two staff.

LOT 14 – A6

Owned and occupied by Frogs on the run, a facility management company that employs 150 people, and has been trading from these perfectly positioned (for their needs) premises in Port Melbourne office for six years.

LOT 4 – B5

There are a number of businesses carried on at these premises, including:-

A recording studio, Soundwave involving 10 people that subleases/rents out space for recording up to five different organizations per week.

Another business operated from these premises is JCK, a development company that has \$50million of developments on the books at the moment along with Insitu Group, a construction company that employs 50 people along with 1000+ subcontractors and consultants.

Nulook floors, operating out of these premises has a showroom with five people working, showing the product range to numerous people.

They are also expanding to accommodate existing businesses and another linked business.

LOT 18 – B1

Owner and occupier Sholl Property Investment Pty. Ltd. trading as Fixtel Services Australia.

Fixtel is a Telecommunications Company that provide sales, service and installation for a wide range of industries across Australia. It currently employs over 35 staff which is growing along with hundreds of contractors. Its clients consist of Telstra, NBN, Optus, Australia Post, large corporations, SME businesses, Education and Health Departments. It bought its premises in August 2017 unaware of the possibility of re-zoning. It did so intentionally because of three crucial factors to its business, namely:-

1. It is located within one kilometre of the NEXT DC DATA CENTRE on Lorimer Street for all its Cloud Based Customers.
2. It needs line of sight Microwave Data connection to the city for Full Redundancy to run its Network Operation Centre (NOC) which is critical to maintaining clients.
3. Its location in relation to access to the city and freeways for its 24 hour service and maintenance teams.

Fixtel has spent substantial funds setting up its business over the last two months as it only took possession on 1 March, 2018. To have to relocate would cost hundreds of thousands of dollars.

LOT 25

Finsbury Green is a print, managed services and logistics company. The 59 staff employed at 25/8 Rogers Street, Port Melbourne are employed in the following functions; sales, manufacturing, storage, fulfilment and distribution. The manufacturing and distributions functions rely heavily on rear access. They receive raw materials for manufacture and despatch finished or stored products. The site currently receives between 15 and 20 vehicle movements per day from this access point and the vehicle sizes range from vans to semi-trailers.

LOT E2

Designed For Livin is a family run and owned business that has been established in the Lorimer precinct since 2010. The owners invested an enormous amount of funds, hard work and countless hours in creating a friendly and inviting environment which houses a café, fitness and Taekwondo studio for the past 8 years.

The café now services all of the surrounding people for breakfast and lunches having up to 300 people coming through its doors on a daily basis. It is now an extremely pivotal source for workers in the area, as they use its facilities for meetings of future local business endeavours, a neutral setting for work place health practices and breaks from office. Most people rely on its food service for daily meals and drinks.

The Taekwondo studio provides the local school children and residents with a safe environment to express themselves and empowers them with the tools of becoming valuable members of the local community. Teaching them respect, self-worth and self-defence so they are able to transition into community based adults who will one day help with community growth. It now houses over 100 members ranging from the ages of 3 to 75 years old.

The fitness studio provides a wide variety people of the local area (workers, visitors, residents, sporting clubs, social clubs and new parents) with facilities and affordable training. The studio is a service to over 65 people who rely on its location for various reason such as accessibility, convenience, hours of operation and dependability which it has established over the years. The studio sponsors the Port Melbourne Primary School, Port Melbourne Soccer and Football clubs and holds charity events to boost much needed funds to people in need.

Warehouse E2 is much more than the four walls that holds it together. It has seen a lot of hardship, especially in its early years of business due to the lack of movement in the area. Over the past few years it has seen a gradual growth through the relationships it has built up through the years and has created a great bond with the local people that now know each other on a first name basis. The directors have put in over 80 hours per week for the past 8 years (mostly unpaid) in creating the business. The proposed changes will be a crushing blow to the family run business who poured their heart and soul into it for the best part of a decade.

Consultation –

7. In 2014, Mr. Norman Gedge the Chairman of the Owners Corporation just happened upon a reference to the Fishermans Bend Strategic Framework Plan and on 27 November, 2014 emailed the person nominated expressing concern over the placement of open space on the warehouse subdivision. On 20 January, 2015, he again emailed the MPA requesting a response to his enquiry. On 8 August, 2016, Mr. Gedge further attempted to contact DELWP and the City of Melbourne expressing concern about not receiving a reply and the inclusion of the 25 lots in or abutting the open space. He also advised that the existing street was in fact common property within the Owners Corporation.
8. Finally, on 17 August, 2016 Mr. Gedge received a reply. For the first time. That reply indicated that there will be *“community consultation on the new Fishermans Bend Framework and Precinct Plan and the matters you have raised will be considered as part of this.”* He was also advised that the Taskforce was available to meet *“should you wish to discuss further”*.
9. The following day Mr. Gedge again emailed the Taskforce forwarding the plan of subdivision and pointing out the impact of the proposal to use the private street and lots as public open space. A reply was received on 25 August, 2016 noting his concern regarding the nomination of the land within the plan of subdivision as an existing road and future open space and advised it is being updated and his matter will be considered as part of the suite of updates. An offer to meet was made, but by that stage Mr. Gedge had no confidence any notice would be taken of his concerns.

The Tram Track –

10. Notwithstanding repeated requests from the Minister about the status of the proposed tram route, at the time of preparing this submission nothing has been forthcoming. The recent budget allocated \$1M to develop a business case for active transport and tram connections between Fishermans Bend and the CBD. The Jacobs Reports 2 and 3 provide different options for tram routes, one of which is through the Plan of subdivision common property private road. The width of the tram easement varies with one suggestion that it would be up to 30 metres wide. How is it to be acquired, what compensation will be paid and how will businesses be capable of continuing their operation? If Ms. Thompson’s public open space suggestions were to be accepted, what happens to the three properties to the west to the tram

route? We do not know! These concerns are shared by CoM-Interim Submission 9 May 2018 [18,54,56]

Public Open Space –

11. As the Panel is now well aware, the Lorimer Central Park is part of a linear open space network. It has not always been thus. Mr. McPherson was the lead consultant whilst at SJB in preparing the Fishermans Bend Community Infrastructure Plan July 2013 of which Document 185 was the Open Space Plan for Lorimer. That plan located three parks within the precinct none of which were anywhere near Lorimer Central.

12. In March 2015, Ms. Hodyl as the Co-ordinator City Plans and Policy on behalf of the City of Melbourne chaired a community information evening about the proposed Lorimer Structure Plan. Included in her slideshow was a general layout plan where Lorimer Central was nominated as a neighbourhood centre. It appears at that stage the City of Melbourne was preparing the Structure Plan. Interestingly, the key elements of the Structure Plan were nominated as:-
 - *Determine population forecasts for Lorimer.*
 - *Test urban design outcomes.*
 - *Identify infrastructure needs for Lorimer – e.g., public transport, community facilities, schools, parks.*
 - *Establish an implementation plan that considers how the area will transition, funding and delivery arrangements.”*

13. Planisphere Public Space Strategy April 2017 incorporated part of the Lorimer central site as a neighbourhood open space but left the properties fronting Ingles Street in tack. The report deals with revenue and cost estimates and uses land sales information provided by the Taskforce of \$6,000.00 per square metre as the 2016 land value. Based on its then projections there was a funding shortfall across all precincts of \$761M (Table 18, p.114).

14. The area proposed to be public open space is approximately 12,000m². Assuming the Planisphere valuation of \$6,000.00 a square metre, the site value of the land “*set aside*” is in the order of \$72M. This figure does not represent the capital improved value nor the displacement cost or special value to the landowners of their properties to be disrupted.

15. It is apposite to recall the submission on behalf of MCC dealing with this space:-
 - “214. *An area of uncertainty for the CoM was to what extent, if any, the FAR will deliver public open space over and above the 8% required by cl. 52.01. The*

Minister has now suggested that the cl. 52.01 contributions in Lorimer are intended to be used for acquisition of the following sites:-

- (a) Lorimer Central; and*
- (b) the site on the corner of Lorimer and Hartley Streets.*

...

217. *The draft Framework states that Lorimer Central Open Space and the Northern Tram Corridor are medium term projects (> 10 years). It does not appear to set out a timeframe for delivery of the Turner Street spine or Hartley Street Open Space.*

218. *CoM calls upon the State to commit to the acquisition of the Lorimer Central Park given:-*

- (a) the nature of the strata title landholdings;*
- (b) the importance of that park to the precinct;*
- (c) the lack of funds available to deliver it early (even if the cl. 52.01 contributions were sufficient to purchase it over time); and*
- (d) it cannot be delivered by the FAR "scheme".*

..."

See also CoM Interim Submission [25-30]. The Minister should now be put to his election—either accept liability under a PAO or remove the park and tram route from the Framework and the amendment.

16. The Minister has vaguely suggested that were the whole of the site is to be used for open space, it will be acquired either by agreement or by acquisition. By whom has not been resolved. When has not been resolved. Via what mechanisms has not been resolved. The current proposal by the draft CCZ provides that any buildings or works will be prohibited from being developed on the Owners Corporation sites other than authorised alterations and additions (i.e., existing buildings).

17. So much for certainty, fairness, orderly planning and consultation!

Buffers –

18. The use of the land as a park is a sensitive use. The Panel has heard submissions on behalf of Barro, the EPA and Hanson. The clause 52.10 buffer distance is 300m between concrete batching plants and sensitive uses. The concrete batching plants have made it abundantly clear that they are not moving. Is it appropriate to locate an *"informal outdoor recreation use"* opposite an operating concrete batching plant?

19. In the Fishermans Bend Buffer Assessment October 2016 on behalf of DELWP, GHD undertook a report *"to provide a detailed understanding of existing environmental constraints and their potential impacts on the introduction of "sensitive" land uses and to identify the suite of possible mitigation measures to manage the risk to its amenity such that future sensitive development is possible."* (the Executive Summary).

20. Section 8 was a desktop dust review. It described Hanson and Pronto's concrete batching plants (p.71):-

"A typical concrete batching plant contains silos, storage bins, a conveyor system with a fabric filter connected to hopper, concrete truck parking area and raw feed stockpiles.

Typical operations of a concrete batching plant will not vary substantially, with cement delivered by road tanker and pneumatically transfer to silos. Sand and aggregate are transferred by truck from the on-site stockpiles in a damp condition to in-ground bins. Transfer from the bins is metered into a bin conveyor and transferred to the loading tower via a covered conveyor and then into an agitator. Cement and water are mixed with the aggregate in the agitator, and batches are checked before loading into delivery trucks through a rubber loading sock.

There is potential for dust emissions to occur from fines in spillage on the road and yard, fugitive emissions from bunkers and conveyors, aggregate stored in the stockpiles and fabric filters."

Section 8.7 identified Pronto and Hanson as potential dust constraints within Lorimer and its Figure 16 was the directional buffer for dust sources from both those sites. As is apparent, it covers most of the Lorimer Central Park. The potential mitigation constraints are identified as:-

- *Land-use controls mitigation strategy through setback distances could compromise land potential and land utilisation.*
- *Purchasing the constraining industries within Fishermans Bend may not be possible with contracts and leasing arrangements.*
- *Established existing industries with private ownership – control at source mitigation strategy would be a challenge without EPA enforcement, and co-operation with industry would be required.*

8.10 Future key actions for Fishermans Bend development –

Recommended future key actions:-

- *DELWP should contact those affected industries to develop a staged development plan to the extent possible, as the area is predominantly in private ownership. This should include land use planning controls to allow for a smooth transition from industrial to residential.*
- *Some buffers identified in the assessment have the possibility of a reduction due to lesser throughputs compared to larger facilities ...".*

21. The affected industries have advised the Panel they are not moving. No environmental impact assessment has been undertaken to gauge the amenity impact on park users of dust and heavy vehicle movements on the adjacent roads. CoM [126] suggests the relevant public authority will design and construct the park to deal with the reverse amenity issues. Short of transplanting a 15M cypress hedge around its eastern and southern boundaries - it is unlikely that dust will be capable of being eliminated.

22. It is said that the future work to be undertaken by the Taskforce will include a detailed precinct planning exercise, funding program involving a DCP and a governance review. Surely, all of these steps should have been taken by now and all of the above issues resolved to remove the level of uncertainty surrounding the future use of these 25 properties. This would at least constitute fair and orderly planning. CoM [147(a)].
23. A further outcome of the nomination of the Lorimer Central as a park is the significant restriction on airspace development of the properties to the north. The height levels proposed along Lorimer Street not so constrained demonstrate this proposition.

Submission –

24. It is the landowners primary submission that at this stage it is premature to designate the tram route and park as proposed in the Amendment and Framework. For the reasons outlined above and in the general submission, there is no certainty that the tram route will be located as shown or that the park is likely to be acquired. Until either a PAO or a government Gazette notice declaring the land is required for a declared project under section 201(3) of the *Planning and Environment Act*, the landowners are left in a state of total uncertainty as to the future of their land. This is manifest already where prospective purchasers of some lots have looked elsewhere.
25. The landowners otherwise adopt the opening general submissions as well as the submissions made by Messrs. Tweedie, Canavan and Ms. Sharp, Ms. Collingwood, Mr. Gobbo and Mr. Morris amongst others. There is clearly insufficient protection for the existing businesses until the tram route and park issues are resolved following the further work to be undertaken. It is submitted that until that occurs, the nomination should be removed from the Amendment. There is more than adequate open space available through the proposed linear network of open space, which is a greater area than that identified by SJB in 2013. In addition, there is abundant open space for Lorimer residents along the Yarra with its connections through to the city.
26. In the above circumstances, it is submitted that the area identified for the park and along Lorimer Street should revert to development sites and the height should correspond to the Lorimer Street height levels for the four Lorimer Street lots and unrestrained for the balance.

27. In addition, the landowners rely upon the evidence of Mr. Sheppard in terms of his general assessment of the built form deficits of the Amendment and reiterate the submissions made previously concerning the totally inappropriate starting point from which the Urban Design Strategy commenced and the genesis of the FAR/FAU methodology proposed.

10 MAY, 2018

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