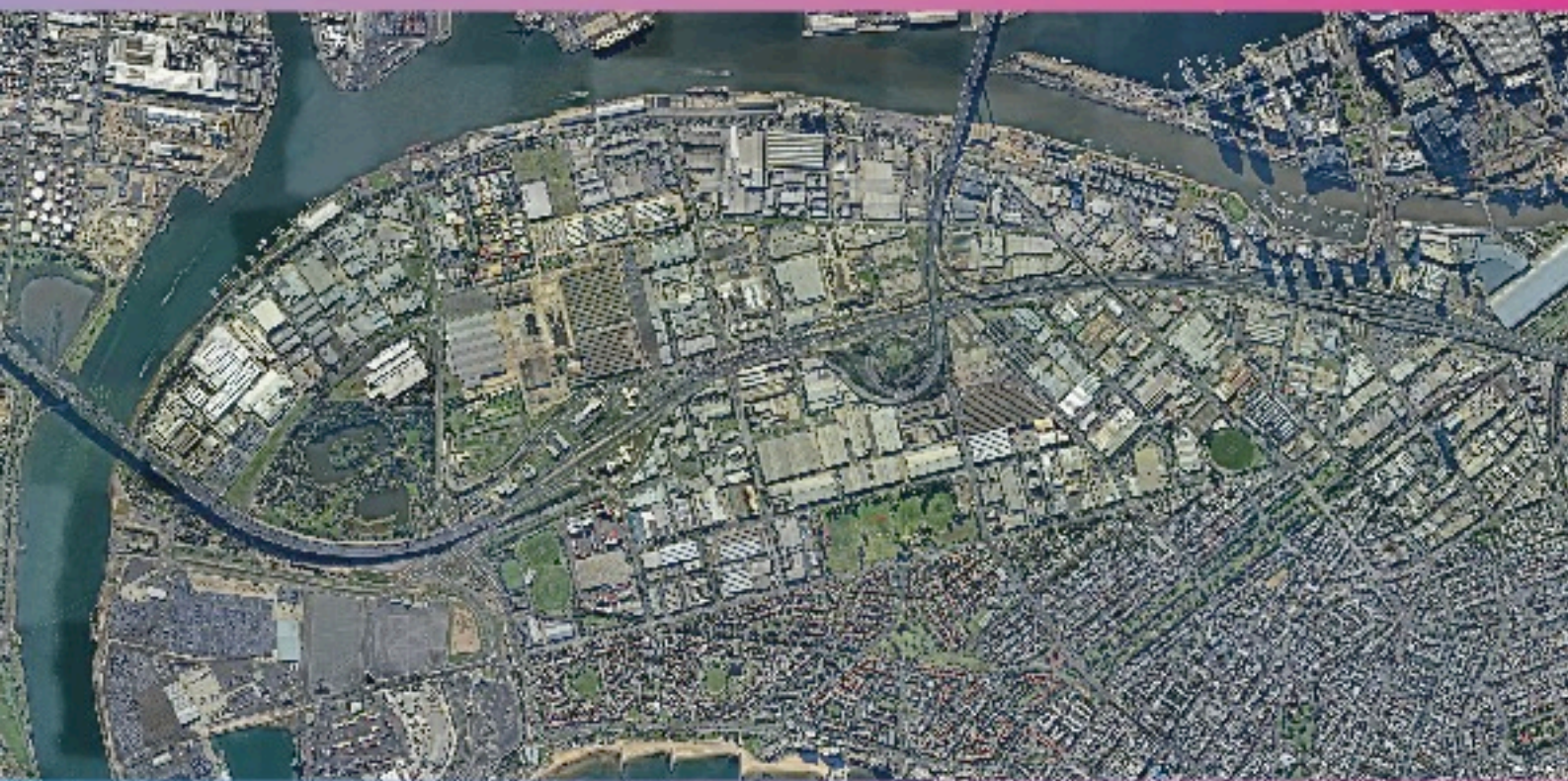


# **FISHERMANS BEND**

## **DRAFT PLANNING SCHEME AMENDMENT GC81**



## **EXPERT URBAN DESIGN REPORT**

**Prof DONALD L BATES  
LAB Architecture Studio**

**27.02.2018**

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## **DRAFT PLANNING SCHEME AMENDMENT GC81**

### **1.0 Introduction**

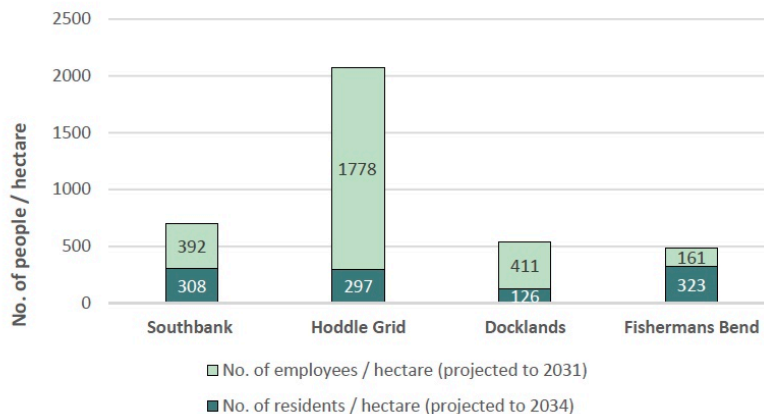
- [1] It is clear that based on any Australian or International precedence, the re-zoning of Fishermans Bend Area to the Capital Cities Zone in 2012, without strategic or even basic urban design, transport and planning controls, resulted in ad hoc and unsustainable urban development and property speculation. The lack of any planning and urban design vision, along with principles on the type and quality of urban amenity and transportation connectivity, prior to the announcement by the Government in July 2012, resulted in a considerable loss of public benefit with respect to architecture, urban design, place making and community and social amenities – as well as any value capture. Instead, overt property speculation and the maximisation of return on investment, without any return to government or the public purse through the increased value of land and development opportunities in the area, threatened to produce a very poor, very unsatisfactory outcome for Melbourne and Victoria.
- [2] The subsequent development of the Fishermans Bend Vision (2016) and draft Framework, provide a more representative and comprehensive review of the issues related to the Fishermans Bend Area (Fishermans Bend). These allow specific controls and policies to be developed via the draft Amendment GC81 to give shape to structured and considered architectural, urban design, planning, transport and sustainability designs and built outcomes.

### **2.0 Urban Vision and Background**

- [3] It is important to preface any discussion of the appropriateness and relevance of controls and constraints with respect to Fishermans Bend by clarifying what might be seen as conflicting or incompatible understandings of the type of urban development being proposed for the area.
- [4] Declarations have often been made (over the course of several years) about Fishermans Bend being an expansion or doubling of Melbourne's CBD (the Hoddle grid zone). While this is true on the basis of area and measure of land tenancies, it has been seen to also imply a replication or formal and material extension of the existing CBD massing, density and urban morphology.
- [5] This misinterpretation has also been underwritten by the earliest proposals for redevelopment after the initial re-zoning in 2012. Most of the original

redevelopment proposals sought high-rise apartment typologies with multi-storied parking podiums. This is not surprising given there were few limits placed on density, height and lower level amenities. These redevelopment proposals and the type of architectural and urban form they implied only exacerbated the tendency for many to imagine Fishermans Bend as a replica of the more recent high-density areas of Melbourne’s CBD within the Hoddle grid (such as around Elizabeth Street and Swanston Street, between La Trobe Street and Franklin Street; and the area bounded by William, La Trobe, Spencer and Bourke Streets), as well as around City Road/Power Street in Southbank.

- [6] Much of the current debate about Fishermans Bend and the conflicts from certain development proposals already lodged and in preparation are therefore a consequence of a misalignment of image and spatial experience. Projects that I have witnessed through the Victorian Design Review Panel or that have been well publicized in the architectural and building press display a clear visual and spatial affiliation to these CBD examples.
- [7] These expectations (both as an urban image and as a commercial real estate opportunity) were generated by the original announcement in July 2012 for the rezoning of Fishermans Bend without a rudimentary vision or urban planning framework, nor a developed plan for the necessary infrastructure. This is not the basis by which the current “vision”, framework and controls have been derived.



**Figure 10** Comparative central Melbourne residential densities in context

*Fishermans Bend Framework*, The next chapter in Melbourne’s growth story; Draft for Consultation , pg 38 (Oct 2017)

- [8] It is clear that between the original announcement of the rezoning of Fishermans Bend in July 2012 and today, a substantially different “vision” and urban orientation



is forming the basis by which policies and planning instruments are being determined. It is also particularly important to note that these changes and the current direction being adopted, are as a consequence of quite extensive public engagement, State Government and Local Council involvement, expert advice and consultation and detailed modelling and scenario reviews of the consequences of the proposed framework and the subsequent controls.

- [9] Equally important is to acknowledge and to emphasize that these determinations followed a sequential formulation but are also based on interdependency, integrated planning and of operating within a continuum. They constitute a balancing of relationships. The sequence is as follows:

3



- [10] Out of this process, a clear vision of urbanization for Fishermans Bend is now discernible and it is markedly different to what is understood for the existing CBD. Interestingly, the expansion of the Capital City Zone to include “City North” (parts of Carlton and Parkville) as well as parts of Southbank, has not led to an assumption that these areas will be converted into replications of the CBD. Similarly, the designation of Fishermans Bend as a new expansion of Melbourne’s CBD, under the designation of a Capital City Zone should not be understood as a cloning of the urban fabric and formal massing of parts of the CBD. Rather than a declaration that altered the commercial value and the imaging of a large area of metropolitan Melbourne overnight, the current process has followed a deliberate and logical elaboration to evolve into a particular form of urbanism. This “vision” for Fishermans Bend (in respect to the areas of Sandridge and Wirraway; and to a certain degree with Montague) is one based around a predominantly residential urbanity, with the

supporting amenities focused on this residential nature, rather than the more commercial, retail, hospitality, institutional, cultural and tourism mix that is the Melbourne CBD. Nonetheless, these areas are all defined as mixed-use.

- [11] The consequences of this shift in defining the nature of Fishermans Bend is a move away from a concentration and focus on towers and high-density, to one more attuned to mid-range density, with distributed open space amenity, diversity and granular development and a variety of building uses and occupation.

### **3.0 Density Provisions**

- [12] Based on the determination of the “vision” for Fishermans Bend (as noted above), the first and most substantial determination, one that directs and influences all others, is in the declaration of a target population for 2051 (resident and employment) and dwelling numbers. In doing so, the numerous interconnected variables that eventually influence and determine built-form density, land occupation and land use, civic and community infrastructure, transportation demands and provision, and the nature of development opportunities are bounded by limits with quantifiable metrics.

- [13] The proposal for the Fishermans Bend Area to cater for 80,000 residents and 40,000 workers (plus an eventual 40,000 workers in the Employment Precinct) sets an effective and identifiable scope for a major urban redevelopment agenda. It provides for a designated range of public open space in association with these development expectations, and it also provides predictability and consistency in the provision of infrastructure and public transport. The framework and controls being proposed acknowledge the need to monitor of these target (both in terms of over-supply or under-supply; of meeting, exceeding or underperforming to these targets) and allowing adjustments as determined along the incorporated timelines. This is a reasonable and commendable feature of the draft Framework and draft planning controls.

### **4.0 GFA**

- [14] The calculation of GFA (Gross Floor Area) for the Fishermans Bend Area as a whole, as well as for each precinct (and areas within a precinct), is a valuable metric by which to maintain alignment with the population and development densities already proposed. The GFA calculation (based on well-recognised standards), provides for demonstrable massing and 3D studies. Importantly, these studies can be iterated – with multiple variables and assumptions/speculations – to offer informative scenarios for recalibration and refocusing as the area develops. As well, the iterations allow for alternative housing and development formats to be tested and proposed for adoption. The use of GFA in setting these parameters is useful and merited.

## **5.0 FAR/FAU**

- [15] With the overlay of GFA calculations (related and assigned to different precincts and different areas within precincts) it becomes possible to implement another layer of massing, building form and building height determination. The use of FAR (Floor Area Ratio), paired with FAU (Floor Area Uplift), provides a sophisticated system for maintaining control on the scale and development density of sites within a zone or precinct, while also allowing for built form flexibility and for the enhancement of diversity across all areas.
- [16] The use of FAR is a very typical land development criterion in China and the Middle East. In the many projects and locations with which I am most familiar, it is rarely seen as a constraint, given the ubiquity of its usage. Although largely absent previously from the development controls over the Melbourne CBD – and thus seen as non-standard practice for most of the Capital City Zone – it was introduced recently as part of the new building controls for the CBD in 2016. The associated provision of FAU (also provided in the Planning Scheme Amendment C270) provides for the incentivizing of additional development opportunity, and commensurate community benefits with public open space, community infrastructure and affordable housing.
- [17] The use of FAU adds another mechanism to acknowledge the commercial benefit of additional development opportunities, while providing for the opportunity to diversify and “tune” the mixed use ratios in Fishermans’ Bend and the existing and emergent local community. It assists in supporting diversity of built accommodation so that areas do not become fully commercial or fully residential, but have variety and diversity of uses.
- [18] As a major urban redevelopment project, Fishermans’ Bend is a very different project and process for urban consolidation and development than recent major projects such as the Docklands. The Docklands, as a reformulation of an industrial precinct, with an out-dated and inappropriate urban plan, was developed in a more or less “tabula rasa” condition, (based on being majority under the control of government) allowing for a new urban morphology, better suited to modern office and residential developments. With Fishermans Bend, there are far fewer opportunities to re-configure the existing street and road-scape, as well as the existing development plots are retained by private interests.
- [19] In such a situation, the use of FAU provides the responsible authority an incentive mechanism to effect some changes to the existing urban morphology and introduce additional amenities which are now expected in world-class urban developments. It supports the requirement provide for the roads, layouts and open

space shown in the Framework. This new initiative is a welcomed addition to the techniques and processes that will help to provide a significant increase in the quality of architectural and urban design responses.

### **6.0 Land Use Provisions**

[20] The Fishermans Bend Framework has an ambitious aspiration: to both give specific and unique character to different areas of Fishermans Bend (Lorimer, Sandridge, Montague North, Montague South, Wirraway, as well as the Employment Precinct), and yet to maintain diversity across all areas. Zone controls are used to produce general tendencies and qualities for an area, while specific planning controls allow for the flexibility to adjust the mix so that areas do not emerge as monopolies of singular uses, building types and occupations of sites. Vibrant and sustainable neighbourhoods need variegation of activities, without working to a template of absolute difference everywhere.

[21] The provision of FAU opportunities, as well as the allowance (outside of an FAU incentive) for additional office or commercial development opportunities within predominantly residential plots, seeks to foster both diversity and support for employment capacity – again assisting in creating more balanced communities. These are clear benefits to generating sustainable communities.

### **7.0 Built-Form Provisions**

[22] The most common ‘received idea’ in architectural design and urban design is the assumption that “controls” are limiting factors to creativity and design flair. This is demonstrably not the case seen around the world. Best practice design is neither a consequence of, nor limited to, uncontrolled planning regimes. Equally relevant is that building controls, aesthetic controls, design control do not (and can never) guarantee the design and architectural quality of a building undertaken within their scope.

[23] The FAR limits, setbacks, building envelope, open space requirements, overshadowing and height controls that are proposed for Fishermans Bend are no greater in their implication than can be found internationally in Dubai, Abu Dhabi, Shanghai, Beijing, etc. In all these reference cities – all undergoing massive development transformations – the use of FAR, setbacks, open space requirements, overshadowing and height controls are the norm. Given the design exuberance and experimentation found in these cities, it would be difficult to argue that these controls have stifled architectural design flair and expression.

[24] It is also fair to say that within these international referents, architectural design quality is also not guaranteed by these (and other) controls. There are many very bad, very unappealing and poor-quality buildings constructed in these locations.



There is little evidence anywhere to support a notion that planning controls can guarantee design quality. The controls only provide an armature for urban design and planning aspirations and do not dictate specific architectural decisions around vertical articulation, surface manipulation, formal hierarchies and other design strategies that give a building its character and design logic.

- [25] The aspiration for design quality can be mandated, but not design quality itself. The only really effective mechanism to support and promulgate architectural design quality – particularly within the domain of commercially determined projects – is a critical and engaged design review and advisory process. The Victorian Design Review Panel, through the office of the Victorian Government Architect, acts as such a quality supporting mechanism. This is matched, to greater or lesser degrees, by similar institutional review panels at some of the major Victorian universities.

### **8.0 Building Height Controls**

- [26] The well substantiated shift in the “vision” for Fishermans Bend, leads logically to a shift in the determination of the planning for building heights and their locations. The draft Framework appears logical and supportable by the studies and iterations already undertaken. These building height controls are assisting in defining the character and morphology of an area, as well as the mix of uses and occupation. They additionally work to support the desire for control of over-shadowing (particularly as it relates to public open space) and solar access.
- [27] The expectations unleashed in the original re-zoning of Fishermans Bend (and subsequent release of unrestrained development sites) contributed to an image of Fishermans Bend being an open invitation to gain maximum development outcomes. This mind-set is now challenged by a new “vision”, generated out a more deliberate, more critical and more substantiated process. The conflict is between an unbridled commercial expectation and an open, consultative process.

### **9.0 Public Open Space**

- [28] Fishermans Bend presents a complicated situation with the large majority of land being held in private hands. Creating a viable and high amenity urban design with sufficient and high quality public open space presents a challenge. The Framework plan succeeds in providing the scale, range and distribution of public open spaces to give confidence that Fishermans Bend will support active, vibrant and healthy community life. Being able to define, establish and provide these open spaces is of considerable long-term value to Melbourne. The use of FAU to also achieve public open spaces - above and beyond the public open spaces nominated in the Framework plan – adds to environmental and quality of life for residents in and visitors to Fishermans Bend. The Framework acknowledges and lays the groundwork

for a correlation between medium- to high-density living and the need for supporting public open space.

#### **10.0 Overshadowing controls and solar access**

[29] Aligned with the proposal to expand upon the availability and distribution of public open space across Fishermans Bend, the urban design strategy and associated controls seek to protect and enshrine the principle of preserving open space from overshadowing at specific times of the day and according to seasonal variations. These controls are logical and follow the lead established in the Melbourne CBD for public spaces such as the forecourt to the State Library, as well as the more historic control related to the Yarra River.

[30] These controls are hardly onerous, and their intended value is of significant community (local and metropolitan-wide) benefit. They also extend the precedent established in the Melbourne CBD and will go a long way in setting this provision as a common attribute of other dense urban developments.

[31] The proposal is to also extend this definition of overshadowing controls and solar access in the context of primary streets and boulevards. In doing so, these controls give recognition to the role that these primary footpaths and sidewalks have in creating vibrant, activated and occupied core areas. The control of the building forms to the north side of the streets will allow for a public and community amenity that is about character, atmosphere and environment, rather than a specific feature or artefact.

#### **11.0 Community Facilities**

[32] The framework provides a holistic overlay of community facilities and amenities. Their provision, placement and distribution seems logical and clearly addresses some of the inherent faults of many large urban developments (such as Docklands). Notable are the inclusion (if not actual placement) of primary and secondary schools within the four major precincts.

#### **12.0 Public Transport**

[33] Although I have stated elsewhere that the determination of an overall population (residential and employment) is fundamental in providing the basis around which to determine densities, precincts, activity cores, etc, it should also be noted how fundamental it is to have a strategic and achievable public transportation framework for Fishermans Bend. The achievement of the specific “vision” and sustainability objectives for Fishermans Bend are very much dependent on the ambitions of the public transport network for the area and on it being implemented in a timely and expeditious manner.

[34] The public transport plan takes seriously the need to support the development and employment objectives of Fishermans Bend with a comprehensive and integrated public transport system. Although playing “catch-up” (as this is still a condition of Fishermans Bend given the current lack of public transport options), the draft Framework does nominate an ambitious timeline for the expansion of trams networks, bus linkages and eventually metro stations and service alignments. Placing emphasis on the need for the rapid deployment of this network, and for its scope, is central to the ability to create the short and long-term viability of Fishermans Bend as a new urban centre.

[35] In the recent history of Melbourne (between WWII, the introduction of the motor car and the mid-1990’s) the provision and support for public transport has lagged behind or been abandoned in favour of roads, highways and parking. Only recently has the State Government tried to catch up and, in some cases, move to the forefront in metropolitan development. Fishermans Bend and the draft Framework at least start to shift the focus from “after-the-fact” urbanisation to understanding the role that substantial public transport infrastructure (as early as possible) has in facilitating and advancing urban consolidation and sustainable neighbourhoods. This is an important shift. The schedules for delivery of these public transport infrastructures for Fishermans Bend in the Framework are noteworthy, though they could always be accelerated to increase the pace and completion of development.

[36] Bicycle networks sync with these major transportation systems and their presence and locations will to some degree be a consequence of the effects of some of the planning controls in providing for greater accessibility and public circulation, particularly when incorporated with development of the larger land parcels.

### **13.0 Sustainability**

[37] The structure and content headings of the framework document are all based on various categories of “Sustainability Goals”. This theme of “sustainability goals” is not a subset of other aspirations and or concerns. Rather it is the fundamental basis on which all strategies and implementation sequences are grounded. It is a not an adjunct or “one among many” concerns – it is central and defining. The strategies that respond to the vision and aspirational objectives outlined in the framework do so as categories within the sustainability goals.

[38] Beyond acting as a foundational armature around which the framework document is ordered and directed, sustainability is also present in determining the supporting logics for the vision. In this manner, it is always presented as comprehensive rather than piecemeal, as connected and relational rather than stand-alone, as integrated rather than separated.

#### **14.0 Conclusion**

- [39] Any major urban development of the scale, complexity and timeliness of that of Fishermans Bend will generate multiple assumptions and images of what form, scale and built outcome will be generated. Opening the area known as Fishermans Bend to development in advance of a vision, strategic plan or development controls has generated public and professional confusion, conflicts between the assumptions and commercial opportunities, and has interfered with the obligations of State Government and local councils to create world-class urban precincts that extend Melbourne's established reputation as a liveable and sustainable city.
- [40] Although it has taken some time to arrive at a point whereby the Planning Scheme Amendment GC81 can be debated and proposed, the work undertaken to arrive at this point is substantial, broad-based and inclusive of numerous community, governmental, professional and commercial viewpoints. In that sense, this Amendment is the well-formed consequence of a reasonable and transparent process.
- [41] The Draft Framework and Urban Design Strategy referred to in this report, along with the proposed Planning Controls, are to be commended for their comprehensive understanding of the issues at stake with Fishermans Bend and are valuable tools in creating a successful and vibrant series of communities. They go a long way to re-orienting the urban and built form opportunities at Fishermans Bend and they are substantiated through scenario testing and critical review of relevant exemplars in Australia and internationally.

## 15.0 Appendix A: Personal Details and Summary of Evidence

### *Mailing Address*

Prof Donald L. Bates  
LAB Architecture Studio  
PO Box 492  
Flinders Lane  
Melbourne VIC 8009

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### *Qualifications*

B.Arch; M.Arch  
Architects Registration Board of Victoria; Architects Registration  
Board (UK)  
FRAIA; FRIBA

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### *Professional Experience*

Director – LAB Architecture Studio (1994 – present)  
Chair of Architectural Design; Melbourne School of Design; Faculty of  
Architecture, Building and Planning; University of Melbourne (2012 –  
present)

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### *Area of expertise*

As a registered Architect in Australia and the UK, and as the Chair of  
Architectural Design, I have expertise in architectural design, urban  
design, master planning, and city-making. As an international juror on  
numerous architectural and urban design competitions, I have  
extensive experience in the analysis and assessment of design  
proposals at the scale of individual buildings and at the scale of large  
urban developments and/or redevelopments. My expertise is gained  
through work in Australia, China, Singapore, the UAE, Saudi Arabia,  
the Lebanon, the UK, the Middle East in general and across Europe.  
As a member of the Victorian Design Review Panel, I am well aware  
and familiar with projects and issues related to the Fishermans Bend  
Urban Renewal Area.

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### *Other significant contributors*

There are no other contributors to this report.

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*Instructions which define the scope of this report*

- (i) Undertake a peer review of the Fishermans Bend Urban Design Strategy, September 2017 by Hodyl & Co (Urban Design Report), the draft Framework and the Amendment;
  - (ii) State your opinion on:
    1. the merit of the proposed urban design response identified in the Urban Design Report, draft Framework and Amendment having regard to the Vision for the area and your peer review at (i) above;
    2. the merit of the proposed urban design elements in the draft Amendment;
  - (iii) Address the merit of the relevant submissions referred to you as far as they relate to the matters you have expressed your opinion on as requested in (ii) above;
  - (iv) Identify all facts, matters and assumptions upon which your evidence report proceeds;
  - (v) Identify any documents and other materials you have been instructed to consider in preparing your evidence report, and the literature or other material used in preparing your evidence report;
  - (vi) Contain a summary of your opinion/s;
  - (vii) Include a statement identifying any opinions which are provisional and why they are provisional (i.e. why such opinions have not been or cannot be fully researched); and
  - (viii) Include a statement setting out:
    1. any matters falling outside your expertise, and
    2. why your report is incomplete or inaccurate in any respect.
  - (ix) Identify any changes you recommend to the draft Framework or Amendment in response to the submissions referred to you;
  - (x) Be prepared in accordance with the Guide to Expert Evidence by Planning Panels Victoria which may be found here: [Guide to Expert Evidence](#); and
- b. If instructed, present a summary of your evidence and response to submissions at the upcoming Planning Panel Review Hearing.
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*Documents taken into consideration*

- ***Fishermans Bend Urban Design Strategy***; Hodyl & Co (Sept. 2017)
- ***FISHERMANS BEND, Draft Framework Overview***, V14; overview fact sheet
- ***FISHERMANS BEND, MINISTERIAL ADVISORY COMMITTEE***, Innovation, Evidence and Outcomes Forum: Final Report



- **Fishermans Bend Draft Planning Scheme Amendment GC81;** Minister for Planning Part A Response
- **FISHERMANS BEND VISION,** The next chapter in Melbourne’s growth story (Sept 2016)
- **FISHERMANS BEND FRAMEWORK,** The next chapter in Melbourne’s growth story [Draft for consultation]; (Oct 2017)

*Summary of opinions*

Refer to the conclusion of this statement (section 14).

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*Provisional Opinions*

There are no provisional opinions in this report.

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*Questions outside my  
area of expertise, incomplete  
or inaccurate aspects of the report*

This report is complete and accurate to the best of my knowledge. I have made all the inquiries that I believe are desirable and appropriate and confirm that no matters of significance which I regard as relevant have to my knowledge been withheld from the Tribunal.



Prof Donald L. Bates  
Director – LAB Architecture Studio