Dear Panel Members

INTRODUCTION

1. Please find attached this extension to my submission for consideration by the Planning Panel for the Proposed Fishermans Bend Framework and Proposed GC81 Planning Scheme Amendment.

2. My previous submission, logged as Submitter 58, dealt what I see as the prominent issues for myself and for Fishermans Bend.

3. Issues raised at that time were:

   • Serious decline in applications for substantial buildings within the Capital City Zone will inevitably lead Victoria into an unavoidable recession
   • The Development Plan Overlay for precincts D and E is neither workable nor required This is a view supported by the Ministers own Expert Witness in this matter Mr John Glossop. Refer Glossop Planning Evidence Paragraphs 85-92
   • The Secondary School education investigation zone is unviable and unworkable and should be revised and revisited. Refer CoPP Wirraway Urban Design Report Page 19
   • The Floor Area Uplift proposal in its current form will not encourage the sought outcomes. It will stifle development and discourage rather than encourage the sought outcomes. Refer supporting documentation in this document
   • Part of the secondary school investigation area is located in an area omitted from the EAO maps.
   • The GC81 as presented fails to meet the objectives of Clause 21.06 Neighbourhoods and the documented key planning challenges
   • The built form controls particularly those related to height when coupled to such mean FARs border being meaningless. With such stringent control in place opportunity to create another Eureka tower are unlikely.
   • Changes to setback in the form controls are a step in the right direction and similar to those I have advocated but still contain gaps and do little to stimulate good design when at the end of the day we all want to see great buildings which will not be realised by pragmatic planning driven by numbers rather than outcomes.
   • The tightening of the Parking Overlay is untimely and without any REAL sense of timing should be abandoned until the actual necessary Transport Infrastructure is in place or under construction because you are asking residents to quite literally be stuck in the middle of nowhere with no way out.

4. You will find in my original submission that I have not raised an issue without offering a viable solution for each concern or at least a direction to solve each issue raised.

5. I do appreciate that Document 156A Combined CCZ Schedule Clause 4.0 relating to landlocked sites within no crossover zones has been amended in line with my previous concerns.
ADDENDA TO ORIGINAL SUBMISSION

6. I continue to applaud much of the vision held in the Fishermans Bend Framework, but I am concerned that things which have occurred since the original call for submissions, now leave greater uncertainty towards the fate of Fishermans Bend.

7. While the Proposed Framework has been drafted with best intentions, you have before you a severely compromised document. The framework has undergone some transformation since calling for submissions, yet it is not enough.
   - The original documentation as circulated was obviously flawed and it seems established using statistics that were wrong right from the outset.
   - We see fundamental errors in what has been presented as expert witness evidence and subsequent addenda.

8. Let’s examine those fundamental errors in the FAR calculations first.

9. Given we are now at a stage of the Panels process dealing only with Wirraway, it is appropriate that I focus fairly rigidly on Wirraway. I have therefore chosen not to analyse or discuss other precincts within Fishermans Bend but see no reason why the information you will see won’t apply elsewhere.

10. I see that City of Port Phillip Final Closing Remarks for Sandridge (Para 36.) acknowledges that it has now realised the fact that FARs have to be (have been?) increased by a factor of 133% to account for the estimated 75% of the population by 2051. Further acknowledgement of this is in Document S3, Sandridge Submission for Minister for Planning (Para 20) which raises the target density to 311 dwellings/Ha up from 263 dwellings/Ha for the core.

11. At best all of the evidence to date has been undertaken on question information. I see no option for the Minister but to start again and rework everything starting using correct data as none of the tested modelling should apply any longer.
12. I have reviewed the Urban Design Evidence and Addenda presented by Hodyl + Co, as well as being present at most of Ms Hodyl's evidence. Whilst I realise it is easy to just sit back and criticise, I do want the best for Fishermans Bend and as such must offer the following to the panel. The controls you have before you however have been constructed using flawed data.

13. I stand to gain little personally, regardless of the outcome of the GC81 because I already have my permit at 9a/339 Williamstown Road in place and make this submission mainly because I want Fishermans Bend to succeed and fear that will not happen should GC81 proceed if based on the information provided to date. I want Fishermans Bend to move ahead and these controls are not the way forward. In my opening remarks I acknowledged I also have a design which has been frozen in Wirraway and am disappointed by the Ministers decision to do that. I had completed this submission and Monday evening the Document 294 Panel Review Information Request was released seeking clarification from the Minister with regards to many of queries I have already explored and can answer.

14. My submission proves that the Hodyl + Co Evidence and Addenda and therefore the Draft GC81 has failed to:
   • acknowledge only permitted sites in the data presented
   • deduct permitted site areas from the total area available
   • adjust FAR areas allocated to Wirraway for the higher prescribed number of 3 bedroom residences envisaged for this family friendly precinct
   • explore densities of existing permits and effectively analyse and apply these to projected statistics
   • correctly interpret and adjust statistics for predicted 75% buildout for 2050
   • make adequate FAR allowances for residentially associated non-saleable area uses

15. The information I am presenting demonstrates the above and does so quite simply without the need to get too technical.

16. I present the following errors in the Hodyl + Co documentation to the panel:
   • 6,400 residents (not 4,804) should be the correct target for Affordable Housing  See Error 1
   • 164,267 residents (not 149,639) should be the correct target for Fishermans Bend at 100% buildout See Error 2
   • The target density for Fishermans Bend should be 430 (not 323) residents per Ha See Error 3
   • The target density for Wirraway should be 23,467 residents (not 17,600) and 10,814 Dwellings (not 8,110) See Error 4
   • The target remaining number of Dwellings for Wirraway should be 9968 (not 6,181) See Error 5
   • An average Dwelling Density for Wirraway should be at least 214 Dwellings/Ha (not 131 or 139) See Error 6
   • Total Residential GFA for Wirraway has failed to acknowledge the 3 bedroom design targets for this family friendly precinct See Error 7
   • Capped FAR will lead to poor design outcomes and I propose that an amendment based on Residential FAR must be abandoned
   • If retained then an adjustment to Residential FAR must be made in order to allow for development which fails to deliver any residential component

17. The Urban Circus data suggests that using current form controls under GC50, if all sites developed to their maximum capacity and offering between 5 – 10% commercial floorspace, that Fishermans Bend has a maximum capacity of between 152,273 and 160,732. Essentially what the Urban Circus Modelling of GC50 outcomes shows is that Fishermans Bend is on track to deliver it’s residential targets if GC50 controls were retained. The ultimate target population including Social Housing being 164,267 residents for Fishermans Bend. The problem therefore is not one of strangling residential but rather one of providing commercial floorspace  Hodyl Addendum No. 5 - Table 2
SUPPORTING DATA

18. We have learned that the 80,000 target is a population based on a 75% build out rate aimed for by 2050.
   
   
   *Hodyl Urban Design Evidence Para 84 – Table 4*

19. We agree the ultimate target population is to be at least 106,667 residents (where 80,000 is 75% of 106,667) plus a Social Housing component.

   *106,400 given as 100% buildout number Hodyl Urban Design Evidence Para 84. I cannot explain why this number has been rounded down when all other statistics are tightly kept however it is essentially agreeing the same number.*

20. We agree there is possibility to have an even greater resident numbers if Affordable Housing comes into the mix offering uplift of 8:1 as is proposed. Refer Document – How to Calculate Floor Area Uplift

21. Now let’s move to the inconsistencies in the Hodyl + Co data provided relating to this target as highlighted below:

   The published target of 6% Affordable housing requires an additional 6,400 residents (6% of 106,667) or 2,949 dwellings (based on a published and accepted rate of 2.17 occupants per dwelling)

   **ERROR 1:** *(Paragraph 88 of Hodyl Urban Design Evidence Table 6 gives 2,214 dwellings - 4,804 residents) Ms Hodyl has dealt with 6% of the 75% build out instead of 6% across the ultimate 106,667 population)*

22. We know permits have been issued without affordable housing, and we have also heard this target of 6% may need to increase in future in some proposed developments to offset existing permits or permits without Social Housing to achieve the set target. We also know permits exist in Fishermans Bend which currently contain provision of social housing to be gifted to a Registered Housing Association.

   Refer permits:

   - 253-273 Normanby Road - 824 Dwellings with 49 allocated to Social Housing and 395 provided through implied uplift thereby contributing 380 dwellings only into the target population.
   - 245 Normanby Road - 536 Dwellings with 32 allocated to Social Housing and 257 provided through implied uplift thereby contributing 247 dwellings only into the target population.

23. Given permits containing and not containing Social Housing currently exist and it is unclear if Hodyl + Co’s modelling factors in the amount of ‘implied uplift’ those permits would be entitled to and adjusted the modelling accordingly.

   It is highly unlikely the Hodyl + Co addenda has made this adjustment given the recentness of these two approvals.

   1. If a permit is currently approved and provides 6% Social housing then a further 8 dwellings in that development should be considered as uplift for each Affordable Housing Unit provided *(even in the context of existing permits)*. Target population figures for remaining dwellings must reflect this figure of 46 dwellings for every 100 contained within these developments.

   2. I have been unable to find evidence this has occurred, especially given the recent nature of these permits.

   3. These permits are believed to be included in the subtraction from the target population at their full rate, as I recall Ms Hodyl indicating when providing verbal evidence that she had based her evidence on the assumption all live applications were to be approved as lodged.

   4. Permits for 253 and 245 Normanby Road should be adjusted as contributing 380 and 247 Dwellings respectively (627 total) to Fishermans Bend Population targets, not 1360 Dwellings as I feel has been modelled. They should also be modelled as contributing 81 dwellings into Social Housing targets.

24. All of that aside at 8:1 FAU for delivery of Social Housing an additional 57,600 residents (6400 AHU + 51,200 FAU) not 43,239 as shown in Table 6 bringing the total Ultimate population number for Fishermans Bend to 164,267 residents.

   *(Paragraph 88 of Hodyl Urban Design Evidence Table 7 gives 149,639 residents)*

   **ERROR 2:** *(Paragraph 88 of Hodyl Urban Design Evidence Table 6 gives 43, 239 residents, 19926 dwellings) The Social Housing target Error 1 has now created a second error which has grown as a result of uplift*

25. So far Ms Hodyl and I are now 14,628 residents (approximately 10%) apart on ultimate design capacity and are more than double the initial brief of 80,000 residents for 2050 and we haven't even started to examine proposed FARs or additional FAU.

   - I am certain my numbers are correct.
26. I have extensively scrutinised Hodyl + Co Document 154 – Addenda 5 and observe the following:

27. The entire area of Fishermans Bend is given as 248ha (excluding employment precinct, I have checked and verified this area) Page 3 - Addenda 5 gives area of Fishermans Bend at 248 Ha and density at 323 persons per hectare (248 x 323 equates to 80100 so is largely correct) however the target density has been based on a 75% buildout which delivers just 60,000 residents by 2050 falling well short of the initial brief. The correct population density is in fact 430 residents per Ha to achieve an ultimate population of 106,667 residents (I confirm 106,667/248 to be 430)

**ERROR 3: Target density for Fishermans Bend should be 430 (not 323) residents per Ha**

28. If we accept that the population targets for each suburb have been wrongly based on a total population of 80,000, the given target population for Wirraway of 17,600 residents is incorrect (8,110 Dwellings based on 2.17 persons per dwelling) and should in fact be adjusted to reflect the 100% buildout figure of 23,467 residents (This incorrectly uses the 75% buildout rate for 2050)

**ERROR 4: Target density for Wirraway should ultimately be 23,467 residents and 10,814 Dwellings**

29. While there seems to be nothing at all dictating or driving this number we have heard no one has examined if there is actually a number at which density might start to compromise liveability, however I set that point aside entirely and review other inconsistencies which I can interrogate mathematically and prove.

While there seems to be a lot of work undertaken examining almost each and every site I'm not sure this has been translated back into a whole to determine if it in fact can deliver the 75% target of 80,000.

**WIRRAWAY PRECINCT**

30. If we could please start with some basic facts:

- Wirraway precinct alone it is listed as 94Ha Refer Table 6 of Hodyl + Co - Addenda 5.

- That 94 Ha includes parks and roads. Once the area of existing made roads, parks or any link or any park that would require the acquisition of land where there would be no opportunity to shift the GFA elsewhere on the site. That undevelopable area is more than 45Ha. Refer Table 4 of Hodyl + Co - Addenda 5.

- Table 6 lists the Gross core of Wirraway as 14 Ha. I have measured the Gross Site Area including roads as 15.4 Ha using Land Channel and the Gross Developable Area of land contained within the core as 13.6Ha. I am however aware of some sites earmarked as roads which must be compulsorily acquired if the framework is to be delivered. There are sites where it will not be possible to offset land such as the park at Woolboard Road and the proposed road from Murphy Reserve to Salmon Street. I have not made these adjustments which will further reduce the extent of land available for development and further increase required FARs. The listed area is a gross area because the entire list of areas tabled adds up to 248 Ha. Refer Table 6 of Hodyl + Co - Addenda 5

- Currently 846 dwellings have been approved in Wirraway occupying almost 6.5ha. Approved Developments Listed Below

31. Of these approved developments, D2 sits partially in the core, D1, D7 and D10 sit entirely within the core and occupy 2.9 Ha leaving **10.7 Ha remaining for core development.** Hodyl + Co show a remaining 8.92 Ha for core development.

32. Of the remaining developments, D2 sits partially in the non core, C1, H2 and H3 sit entirely within the non-core which I have physically measured to be 47.1Ha and occupy 3.6 Ha leaving **43.5 Ha remaining for non-core development.** Hodyl + Co show a remaining 37.69 Ha for non-core development.
33. If Ms Hodyl has deducted only the 6.5 Ha for the approved applications I would
   a). expect to see a different figure than the given 46.61 Gross Developable Area listed in Table 4 for Wirraway.
   b). expect to see a much higher number of dwellings remaining as required.

   Using the published target of 8,110 and deducting 846 leaves 7264 dwellings not the published 6,181

   **ERROR 5: Remaining number of Dwellings for Wirraway should be 9968 (being 10,814 Dwellings less 846 currently approved)**

34. It appears Hodyl + Co have included all existing applications for Wirraway on the assumption they will be approved as
   lodged. Page 12 of the Addenda gives the remaining developable area as 46.61Ha but fails to acknowledge or
   address only the already permitted areas. This seems to be an oversight, especially given the Minister’s freezing of the
   current applications and insistence that they will all be brought into line with permanent controls.

Remaining Developable Area
35. Wirraway Core has a maximum 10.7 Ha remaining available (being 13.6Ha available less 2.9Ha currently permitted)
   Wirraway Non- Core has 43.5 Ha remaining available (being 47.1Ha available less 3.6Ha currently permitted) and is
   likely to reduce by a further 3Ha should the Woolboard Road Open Space and Salmon Street/Reserve link proceed.

   • If we accept there is 60.7Ha GDA (13.6Ha + 47.1Ha) and a requirement to deliver 10,814 dwellings in
     Wirraway we require at least 178 Dwellings/Ha not the published 131 or 139 as stated in Table 4 of the
     Addenda, however:

36. If there is now 54.2 Ha left to build on in Wirraway, requiring 9,968 dwellings (10,814 – 846) we actually now
   require a density of 184 dwellings per Ha over the balance of Wirraway. (I consider this consistent with where we are
   now and ultimately where we should be). **If Ms Hodyl had deducted the approved 6.5Ha from GDA then we would require 184
   dwellings/Ha**

   • If we were then to deduct the 3Ha Open Space mentioned above we would have 51.2 Ha requiring a density
     195/Ha

   **ERROR 6: Dwelling Density for Wirraway should be at least 184 Dwellings/Ha and likely should be higher**

37. Hodyl + Co indicates that of the original 8,110 dwellings required that 6,181 dwellings are still required (however 8,110
   required less the 846 currently approved leaves 7,264 required)

   The figure of 6,181 is incorrect and can only be assumed to include existing applications which are frozen as
   though already permitted.

   (Note: I have excluded the 200 hotel rooms from PM apartments project at 320 Plummer Street which are part of a hotel so not to be included)

   (Hodyl + Co. have obviously assumed 1929 residences are approved which is simply not correct)

38. It is likely and in fact probable that some of the remaining land will not be developed as apartments at all with land
   earmarked for a high school and some civic uses likely to be standalone uses which further increases required density
   elsewhere.

   • For now I must ignore trying to factor in this likely scenario, however I will speak more on the impact of this
     next. I offer the following example: CoPP Urban Design Report proposes to locate the Secondary School to
     the eastern end of JL Murphy Reserve on land currently owned by council and such a proposal is unlikely to
     include residential, just as the Ferrars Street Primary school contains no residential component. Refer CoPP
     Wirraway Urban Design Report Page 19
39. It is not only probable but highly likely that some of the remaining land will not be developed as apartments at all but instead perhaps as commercial uses similar to South Wharf comprising shops, offices, bars and hotels or even another exhibition or convention centre, or maybe even a museum or tourism attraction. It seems completely illogical to expect a scenario where EVERY project within Fishermans Bend is mixed use and EVERY project contains a residential component. It also makes little sense to construct a Planning Scheme which assumes this to be the case. I can think of nowhere in the world where you might reasonably expect to find a suburb of 100,000 people and every development is mixed use. I am not even sure this is a desirable urban outcome for any city, however I will defer to more my learned colleagues in this regard.

40. I ask the panel to consider:

- What happens to proposed residential densities and FARs once developments appear which don't deliver any residential to Fishermans Bend? There is plenty of documentation contained within GC81 limiting residential development, yet I see nothing mandating it to maintain the equilibrium.

41. Not every developer wants nor needs the complications associated with mixed use developments and residents complaining about delivery trucks causing noise at night or trolley vibration rumbling through the building structure as night workers restock shelves. I know all of these issues first hand. The proposed framework for all it’s best intentions fails because it tries to reduce a city to a set of formulae and fails to fully consider the organic nature and unpredictability with which a city or suburb does and should be encouraged to evolve. In short, the proposed controls try to micromanage and fail to stimulate.

42. So far we are left with a maximum of 54.2Ha to provide the remaining required 9,968 residences and all with 2.2 FAR for residential (core only), however there is little or no allowance for residential amenities, larger apartments required for 3 bedroom apartments, car parking provisions meaning in short the maximum FAR is far too low.

43. My current Better Apartment compliant design for one of the towers (attached) in the frozen Salmon Street project has a typical tower floorplate of 1171m2 delivering 10 apartments. This base 117m2 per apartment makes no allowance for residential cores and stairs passing through the podium, services zones, residential communal facilities, car parking, building entries and I can also assure the panel that this is an extremely tight and efficient floorplate, even at 1,171m2 delivering 85% floorplate efficiency. This is a highly efficient floorplan.

An allowance of at least 150m2 per apartment and more realistically 170m2 per apartment should be adopted for family friendly Wirraway. From here on I will take the middle ground of 160m2/ dwelling.

**ERROR 7:** Total Residential GFA for Wirraway fails to acknowledge 3 bedroom targets

Hodyl + Co. – Addenda 5 Table 4 indicates 718k GFA for 6181 residences at an average of 116m2/residence. No adjustment for family friendly 3 Bedroom design has been made for Wirraway nor has there been an examination of Better Apartment design standards on their impact on building design.

44. Restricting FAR creates encourages unnecessarily mean design because that extra 5m2 you can shave out of each apartment or trim out of residential communal facilities will result in an extra apartment here and there. FAR, if introduced, should be generous, it should exclude communal facilities and circulation spaces. Why seek to encourage 1200mm or even 1000mm passages which can still be equally DDA compliant as long as passing areas and turnaround spaces are provided. FARs in Residential use simply encourage poor design outcomes.

45. In Wirraway with its higher targets for 3 bedroom dwellings the FAR targets must be raised accordingly to accommodate this. An allowance of at least 160m2/dwelling or even higher should mean a target Total Residential GFA of 1,594,880 m2, or at least 2.94:1 across all of Wirraway in order to deliver the sought population targets.

46. If you take the required 9,968 dwellings at 110m2 each this equates to 110Ha residential floor area required, however we should at least adopt even as a minimum the more appropriate 160m2/dwelling meaning we now require a minimum area just under 160Ha for the supply of residential floor area. 1,594,880m2 required

47. This minimum FAR of 2.94 (159.48Ha/54.2Ha) is required to deliver just the base number of apartments.
48. It is also important to look at the empirical data of existing permits in the area which have adopted the 4 storey (typically non-core) scenario. In each of these permits we see densities between 60-120 dwellings/Ha and densities of 70 or 80 dwellings per Ha are normal. These developments currently typically include no commercial space.

49. Of the 54.2 Ha left to develop in Wirraway 10.7 Ha remains within the core. (19.7%) (currently shown as 20% dwelling split or 1236 Dwellings for the Wirraway core- Document 154 - Table 4. This figure should be adjusted for 75% buildout however it also needs to be adjusted for likely shortfall to be generated by the non-core areas likely failure to achieve its density targets examined below.

50. At these densities the Hodyl targets for 4945 Dwellings in the Non-Core area falls well short if using empirical data from existing permitted sites in Wirraway

51. The remaining 43.5Ha non-core area with a build out of 75% (32.6 Ha will be developed by 2050) comprises 6 Ha of the non-core with 4 storey limits which can at best be expected to develop at 80 residences per Ha ultimately delivering 480 residences (or 360 dwellings as a 75% buildout) and the balance of non-core area (37.5Ha) predominantly allocated 8 storeys can be expected to deliver in the order of 120 -130 dwellings per Ha.

52. Whether using historical data or adopting the published rate of 131 Dwellings/Ha we can expect 4,875 residences or 3,656 as a 75% build out figure. Using the Hodyl + Co proposed 131 dwellings per Ha gross delivers 5,698 dwellings ultimately with a 75% buildout figure of 4,273 dwellings but makes no allowance for reduced densities in 4 storeys zones.

53. Buildout targets are 8110 dwellings at 75% buildout and ultimately 10,814 dwellings (9,968 left to be planned for)

54. If the remaining non-core area can ultimately deliver 5,698 dwellings of the target 9,968 to be provided, then the 10.8 Ha remaining of Wirraway core will need to target an overall density of 4,270 dwellings (4,270 / 10.8Ha) resulting in a required target density of 395 Dwellings/Ha required within the core. 
Data just presented however indicates 5,698 dwellings is ambitious and unlikely to be realised .

55. Wirraway core should be allocated a density commensurate to at least 400 dwellings / Ha (resulting in 4,320 dwellings or 3,240 dwellings by 2050) (Dwelling sizes need to be at least 160m2 per dwelling in order to allow for the 30% target for 3 bedroom family homes requiring 691,200m2 of Residential floor area or an FAR 6.4) (69.12Ha/ 10.8Ha)

56. Even these targets are unlikely to be realised given existing applications such as 18-22 Salmon Street with a modest 280 dwellings proposed on a site almost 1 Ha.

57. The Wirraway non-core should be allocated at least 200 dwellings/Ha (although it is expected delivery of only 100 dwellings/Ha within the areas of 4 and perhaps 6 storey height controls) (this might result in 6,525 dwellings which could be achieved by 2050 however a figure closer to 4000 is more realistic based on 100/Ha empirical data in 4 storey development zones)(Dwelling FAR 3.2 at 160m2/dwelling required)

58. I urge the panel to consider a model which might implement a sliding scale of FAR which might diminish over time, effectively giving the precinct a good kickstart and incentive to get it up and moving as here we are 4 years on from the rezoning by the former minister and 4 projects are under construction with only 1 or project fully complete.
FLOOR AREA UPLIFT ANALYSIS

59. I can confirm that in any core retail area the ground floor space is the most valuable space in a building.

I can demonstrate the Floor Area Uplift on offer needs to be far greater than currently proposed.

I will show Floor Area Uplift far more than 4:1 is required to compensate a developer for Open Space Contributions.

I can demonstrate a Floor Area Uplift far in excess of 1.15:1 is required to compensate a developer for Community Infrastructure Hub Benefits.

60. I agree with Ms Hodyl’s Urban Design Evidence (Paragraph 87) which states ‘It is not easy to assess the potential increase in population if the FAU were utilised to deliver community infrastructure or open space’ however I see Addenda No. 5 now quantifies these areas and results in an additional 3,754 residents (less than 2.3% uplift achieved through Community Benefit.)

It is however easy to evaluate if the uplift on offer if financially viable or offers an acceptable outcome.

61. A Structure Plan that promotes liveability and seeks to form communities of the future yet offers just 2% uplift for facilities to benefit to that community yet offers 48% uplift to provide social housing does not seem balanced.

I am not saying that the Social Housing uplift is wrong or unjust and if fully tested may not even be enough to offset its cost to the developer to provide, however I can demonstrate other uplifts on offer are simply inadequate.

62. The uplift on offer for anything other than social housing can only be described as mean, and I expect you will find developers unwilling and reluctant to offer community benefit because the benefit to the developer simply doesn’t match the cost.

63. Ms Hodyl has used a figure of 4m² for every 1m² land surrendered for community benefit (Table 3 of Hodyl Addenda 5) and whilst I am unable to determine how that figure has been arrived at from the Public Benefits Ratio in the Document ‘How to Calculate Floor Area Uplift’ I have assumed this figure is based on something and as such chosen to test if it is equitable.

64. I ask the panel to consider a site with prime retail frontage within the core of a suburb such as Port Melbourne. In any quality strip such as Bay Street, Port Melbourne rents of shops are as high as $1,500/m² and as such can expect to fetch up to $30,000/m² at auction. (198 Bay Street currently available to rent at $1400/m²)

65. In the current Capital City Zone of which Fishermans Bend is an extension, Ground Floor Retail in the central city now has rents as high as $5k/m² so a value of almost $100k/m² for some shops. (Source: Charles Cini, CVA Real Estate)

While I am not saying Wirraway should be compared to Bourke Street, but I can say it is located closer to the CBD than Bay Street so it is destined to become more valuable retail real estate than Bay Street, Port Melbourne, especially if serviced directly by light and heavy rail links, just not in any of our lifetimes, the value that is, not the rail links.

66. Asking a developer to hand over 1,000m² of commercial land where he can spend $2,000,000 (commercial space typically built for around $2k/m²) delivering an asset potentially valued at $30,000,000 + GST and offering 4,000m² located elsewhere above ground level where the build cost is now $12,000,000 (residential space typically built for around $3k/m²) and remembering this 4000m² now includes unsaleable corridor space (typically 15%), balconies (typically 12%) thereby reducing NSA to 2,992m² he is now delivered an asset valued at $29.9m less GST which should be adjusted to $27.2m. (Based on $10k/m² sales price)

A gross realised value of $17,920,000 instead of $28,000,000. There is an astonishing difference of more than $10m or 36% loss in revenue to the developer.

67. The ratio of 4:1 used Hodyl + Co modelling for open space contribution is not equitable.

68. FAU for other public benefit sees a similar inequity given the use of 1.15:1 to provide a community hub. This won’t account for balconies (12%), circulation (15%) and effectively having to build floor space twice (allow 25%) where by my calculations at least 1782m² and likely more once legal fees, interest on additional borrowings etc. etc. are factored in are required to break even on the deal. This offers absolutely no encouragement to want to increase bank borrowings and decrease overall project profitability.

69. Floor Area Uplift far in excess of 1.15:1 is required to compensate a developer for Community Infrastructure Hub Benefits.
70. SCHEDULE 30 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

- Schedule 30 to Clause 43.02 does not cover all possible setback situations, nor adjust allowance for separation of multiple tower forms of equal or inequal heights above a podium the use of the term MUST should be abandoned and more Planning Assessment Officer discretion introduced.

- Table 6 to Schedule 30 to Clause 43.02 should have all diagrams Page 9 adjusted to show Street/Lane of top of Podium when towers are to a shared podium.

- Table 6 to Schedule 30 to Clause 43.02 should make mention that with Building Separation of towers of inequal height sharing a podium, separation shall be read at the height according to each tower and not at the ultimate building height.

71. While the DDO goes to great length to cover a multitude of building interface scenarios, I can’t see how it deals with inequal height as in a taller tower surrounded by a series of smaller buildings above podium such as in the image below.

72. The DDO should talk about the portions of the building rather than the building as a singular entirety. Each tower should be judged on it’s individual contributory height rather than all towers being judged by the tallest form.

73. As currently drafted, a pair of 3 or 4 storey portions of building sitting atop a 23m podium must have 20m separation because the height is determined from Street Level, when clearly there is no change to the level of amenity received for if the same design of 3 storey townhouses were built at ground level.

74. Does the building below really require 20m separation from the neighbouring 2 storey townhouses, tower separation should be considered by that portion above the podium on which the towers lay, because reading Schedule 30 the building below would be interpreted as two 10 storey towers with a height of almost 50m thereby requiring a separation of 20m from the adjoining low-lying townhouses which should not be the intent.

75. If the DDO were about visual separation then this might be different, but it is clearly about amenity otherwise there wouldn’t be differing Built Form Requirements for amenity and non-amenity areas, so if the DDO is going to try and cover every base then it must cover every possible base because when a document is so full of MUSTS and ‘a permit cannot be granted to vary these requirements’ there will be no room for common sense or discretion.
SUMMARY OF MINISTERIAL PERMITS AND APPLICATIONS SINCE 2014 WITHIN THE CAPITAL CITY ZONE

76. This investigation only deals with applications within Fishermans Bend and within the Capital City Zone, being application over 25,000m², for which the Minister is the RA.

2014 – there were 35 Capital City Zone Applications for commercial or residential buildings of more than 25,000m² within the Capital City Zone.
3 of these applications were in Fishermans Bend.
2 of the 3 applications in Fisherman’s Bend weren’t approved and overall there were 7 refusals.
There are 25 approvals from 2014 applications (71% approval)

2015 – saw 43 similarly scaled applications
17 of those in Fishermans Bend.
4 of the Fishermans Bend applications were refused or withdrawn.
2 years on more than 1/3 of those applications are indicated on the ministerial register as still sitting at appeal or on hold.
There are 19 approvals from 2015 applications (44% approval)

2016 – saw the introduction of Capital City Zone new built form controls
There were 11 ministerial applications within CCZ
3 of these applications were in Fisherman’s Bend which I understand are all on hold.
4 of the 11 applications for substantial building are indicated as being on hold becoming victims to the interim form controls.
There are 4 approvals to December 2017 from the 2016 applications (36% approval)

2017 to current – 15 applications up to December 2017
1 application appears to have been permitted and that is the relodgement of a 2015 application which was refused
8 of the 15 applications for 2017 are located in Fishermans Bend without any permits issued
4 of those 8 were going to appeal.
There is 1 approval to date from 2017 applications (less than 10% approved to date)

77. 4 approvals for a whole year of applications for 2016 and a single approval for 2017 is not going to sustain the Victorian construction industry.

78. If this pattern of development rings true for other municipalities, then it is not just the Capital City Zone that is in trouble, all of Victoria is in serious trouble, because I am seeing similar outcomes elsewhere.
Should further restraint be placed on Fishermans Bend then that is pretty much all of Greater Melbourne rendered undevelopable, and the building industry must expect collapse.

79. While I hold little hope of convincing the panel just how dire a position Victoria is in at the moment, I would urge the Panel to look at the economic future of Victoria and the impact said controls are having on Victoria and urge the panel to find that the proposed form controls and GC81 are both unworkable and unnecessary.

Review of the current situation in Fishermans Bend as presented by Document 15 – Planning Application Map shows:

56 applications lodged in Fishermans Bend to date.
21 permits have been issued of which only 2 have been built
CoPP - 4 live applications and 4 permits issued (total 8 applications).
CoM - No live Applications and 1 issued permit (total 1 application)
SOIL CONDITIONS AND ITS IMPACT ON BUILDABILITY

80. Any building taller than 3 and in some instances 4 storeys typically needs to be taller than 6 storeys before recovering the costs associated with piling requirements triggered by structural loadings above 3 or 4 storeys.

81. Anything under 4 storeys can be built economically by floating on the crust of the Coote Island Silts (typically using steel screw piles) where by comparison anything more than 4 storeys will require piling of 30m or more. Evidence of the impact of this can already be seen with a Plummer Street applicant (Canny Projects) who has chosen to seek a 4 storey permit in on 18 storey height limited site.

Diagram Source – Fishermans Bend Urban Design Strategy, Hodyl + Co September 2017

82. I bring your attention to the FAR diagrams above contained within the Hodyl + Co Design Strategy. While it envisages a situation where developers are going to setback say 50% of their site for community benefit parkland and double their height, I fear the reality will be quite different.

83. Soil Conditions are a problem which will plague all development and diminish desire to seek uplift unless there is something good to be gained out of it comes as a result of the underlying poor soil conditions in Fishermans Bend.

84. When seeking to acquire land from developers and simply have them build taller, it comes at a cost, the higher you go the higher the foundation loadings and as such the same 1000m2 building with 500m2 over 2 storeys is substantially cheaper (say $1500 - $1800/m2) to construct than 100m2 over 10 levels (say $2700 - $3000/m2) further more you have 5 times the core.

85. I have undertaken analysis for my own small project being a 10 storey permit on Williamstown Road. 4 Storeys gave a projected profit of $1.47m and 54% whilst 5 Storeys gave a profit of $1.14m and 24%. In that instance 8 or more storeys was required to be financially better than 4 storeys and worth the additional financial risk.

86. Any policy which seeks to take lower lying forms and increase height to reduce building footprints, needs to consider the escalating change in construction costs associated with taller built forms.
CURRENT APPLICATIONS AND FROZEN PERMITS

87. Given the undertaking made by Minister Wynne back in 2016 and also to try and instil a sense of trust back into the development community I urge the Panel to recommend to the Minister that transitional controls must be included, and the status of existing applications be reinstated back into the VCAT process from which they were pulled.

88. We have 26 permit applications which have been ‘frozen’ by the Minister for an undetermined timeframe. It is clear that none of these permits are likely to see light of day again this year with caretaker mode looming on the horizon as we head to an election.

89. Back in November 2016 Minister Wynne advised ‘The mandatory controls will be in place until late 2018, when plans for the neighbourhood are finalised’


90. The Minister has since frozen 26 live planning applications which were all compliant with the form controls in place and has undermined both faith in the planning process and trust for the Minister to honour his word. The Minister gave an explicit undertaking the controls would stay in place until the permanent controls were introduced and it is disappointing to see him not stay true to his word.

91. Earlier this year when justifying freezing these 26 projects Planning Minister Richard Wynne said ‘the proposed towers were too tall and have been poorly designed. Many of these applications are well above the interim controls that we have put in place,’


This statement by the Minister must be false and simply cannot be true because all applications were forced to be brought back into line and no application could be lodged which didn’t meet the mandatory controls. Additionally, to this the frozen applications will almost certainly still meet the proposed permanent form controls for height and setbacks.

92. If the current applications were not compliant with interim controls then VCAT would surely make the appropriate determination. Every one of those was however certain to be compliant with the current form controls because after November 2016 it was not possible to have a live application which didn’t comply with the current interim form controls. Back in November 2016 Minister Wynne gave all current applicants four weeks to amend their applications to the new interim controls stating to the ABC

‘four weeks was plenty of time for developers with existing projects to amend their plans in line with the restrictions’


making all current applicants amend applications to the new interim controls or their applications would lapse.

93. 5 of these frozen applications had already sought to go to the Tribunal, many because of failure to determine. Each of those 5 projects seeking a determination through the statutory planning process has now been placed indefinitely on hold based on a reason given by the Minister which simply cannot be true. It is a disgrace to allow a policy to be proposed which is in direct contradiction to the assurances given by the Planning Minister back in November 2016. Transitional provisions must be implemented into any GC81 Permanent Controls.

94. As mentioned some ‘frozen’ applications were already in the VCAT system because the RA were unable to process applications within the Victorian Planning Policy’s statutory timeframe, furthermore 20% of those ‘frozen’ applications had chosen not to lodge a submission.

95. Document 245 – Permit Activity Book has been circulated to the panel for information. I have only examined a few of the projects with which I have a solid knowledge and with each of those find discrepancies in the information provided.

Page 41: 10-12/339 Williamstown Road is listed as 18 storeys. It is not. Even a simple examination of the elevation shows the project to be just 12 storeys.

I confirm the project is 12 Storeys.

Page 36: 9a/339 Williamstown Road is listed with an FAR of 6.6:1. This site of which I have intimate knowledge occupies 3% of the owners corporation of a site just under 1.5Ha. so 450m2 and offers a GFA including covered balconies of 1457m2.

I confirm the correct GFA is 3.3:1
Page 20: 18 -22 Salmon Street is listed with an FAR of 8.2:1.
This site of which I have intimate knowledge occupies a site just under 1.0Ha,(9,712m2) with a total GFA excluding Basements of 52,949m2 less 5,887m2 of rooftop communal facilities not to mention at least 8,000m2 of community facilities offering a base building area closer to 39,000m2 and GFA of 4.01:1

The correct GFA should be in the order of 4.01:1
OPEN SPACE MAPS

96. Document 66E Combined CCZ shows a number of green spaces to be surrendered to council as Public Open Space. A number of these green spaces are located within 50m of JL Murphy Reserve.

97. JL Murphy Reserve describes itself as Port Phillip's largest council-controlled park. Port Phillip describe JL Murphy Reserve as 12 Ha. The Council Depot area at the Reserve of almost 4,000m2 has been earmarked by CoPP to be the new secondary school location.

98. Of the 11.3 Ha, more than ¼ of the reserve is locked up and unable to be accessed by local residents. It is permanently locked and providing secured exclusive football fields and community gardens serving just a few of the local community.

99. The nature and intent of the proposed Open Space Diagams appear poorly defined, non-specific and exist merely because someone thinks it's a good idea to have a park on a street corner. If this is envisaged to be a green open parkland then this is a questionable outcome for a commercial core. Examples such as the parkland outside St Pauls in the CBD with dozens sleeping off hangovers in the sun spring to mind. I can think of no outdoor parkland example which offers an acceptable retail outcome for a city centre. A plaza space yes, parkland no.

100. Let's now move to the fact there is no undertaking from council to support, deliver nor maintain such an asset it is possible the delivery of this asset may well also fall on the developer. Ms Thompson in her Document 107 makes no reference as to the nature of these open spaces, nor give any reason why these urban open spaces might not remain in private ownership.

101. With more than 30,000m2 of JL Murphy reserve currently locked up to serve just a few and all of this asset located within 50m of said proposed parks, the said usefulness of such open space is more based on a whim than a physical requirement and offers questionable outcomes. I expect the walkability and proximity matrix’s outlined in Ms Thompson’s evidence can still be achieved by better utilising the assets the council now have rather than seeking to grab more.

102. With no undertaking from council for the future of the open space it is well possible for us to end up perhaps with a dog off leash area on the corner of Salmon and Plummer Streets in front of the shops and supermarkets. Improbable yes, but still possible.

103. Council may well choose to tender the space and provide pop up kiosks in direct competition to the commercial tenancies contained in the developments. This is extremely possible and extremely unfair for council to ultimately profit at the developers ongoing expense. What is more likely however is that unless the space becomes a privately controlled plaza space maintained by an Owners Corporation it is likely to end up unmaintained by council, relying on the developer to maintain or even worse, perhaps remaining unestablished in the first place by a council without budget allocation in the year’s financial budget to design and implement the said space.

104. In all scenarios it requires the developer to place himself totally at the mercy of council, bot initially and on a permanent basis being reliant on them to deliver and maintain an appropriately designed open space, conducive to rigorous commercial activity and supportive of a retail and restaurant environment.

105. Should the Panel find the inclusion of open space essential to the planning scheme, I urge the Panel to champion the Minister for Planning to approach Mr Jan Gehl, a pre-eminent expert in the world on urban spaces for input.

106. For the design of open space to be conducive to commercial activity is paramount, especially in a retail core and whilst such a space might be designed in conjunction with council, it must be designed to deliver commercially driven outcomes lest the civic centre will become yet another over analysed urban design failure just like those many experimental disasters of the 50’s and 60’s in Europe. We really only have once chance to get this right.
BUILDING FUNDING MODELS

107. With an FAR of 1.9:1 set aside for commercial in Wirraway and a maximum far of 4.1:1 it is difficult to see a financial model where this will work for Banks or developers. Developments rely on presales. In current Victorian climate more than 120% of project cost needs to be contracted in sales to secure bank finance.

108. Quite simplistically put let’s assume a 1000m2 site with 4100m2 development, ignoring uplift. 1900m2 needs to be set aside for commercial. As project is a few years from completion it is near impossible to get pre-commitment for commercial space and chances of selling unbuilt commercial space are unlikely. It would be possible to sell once built but as unless sold cannot form part of development funding.

109. We are left with 2200m2 apartments of which balconies and circulation will account for at least 25% - 30% of yield leaving 1550m2. This assumes no parking or residential amenity is being provided which would further erode saleable area.

110. At 110m2/ dwelling the result is a yield in the order of 14 apartments and given any 1000m2 site in Wirraway would have a site value in excess of $5 million this results in a per unit cost of $357k or more making it probably the highest per unit locations in Victoria.

111. This is a cost required to be passed on to any apartment purchaser, effectively either adding $350k to every apartment sales price or asking the developer to accept $350k less profit from each apartment sale. These figures aren’t viable.

112. Put this into terms of a 1 bedroom unit. I have a per unit supply cost of $350k, a construction cost of $150k to build, development contributions $15.9k. This 1 bedroom carless apartment has cost $516k to build. There is no purchaser in Melbourne likely to pay $670k for a 1 bedroom 50 square metre apartment which doesn’t include a car.

113. Also of note is that in Port Melbourne sales figures for apartments are now hitting in excess of $12,000/m2. In Fishermans Bend developments are being sold closer to $9,000/m2 as these are new developments within an industrial precinct. This is unlikely to change in the near future and especially with so little development approval being obtained the precinct is flooded with uncertainty.

114. So what we have in Fishermans Bend is a proposal to place a development premium in place which will see development sites have triple the citywide per apartment rate in place. Couple this with yields that are approximately 60% of the sales figures being realised elsewhere within the same postcode, and then add parking restrictions, development contributions and Greenstar all into the mix and we are struggling to see a viable future for development in Fishermans Bend.

115. That aside let’s just examine that 1000m2 project with a fairly realistic $5m site cost plus likely $12 million construction (given the poor soil conditions and piling requirements) plus holding and ballooning interest will see an ultimate project cost in the order of $18 -19mil.

116. With 1550m2 saleable residential floor area, even at an extremely optimistic sales figure of $10k/m2 less GST (remember this is a residence in a predominantly industrial area for the foreseeable future) results in a return of $14.1m for the residential component of the Project. The remaining 1,900m2 of the project must accommodate services and commercial parking. A return of perhaps $5m might be achieved. The project is unlikely to show 10% profit, if any profit at all.
CONCLUSION

117. I am an Architect not an economist, but you don’t need to be an economist because the statistics are quite clear. Architects are considered the canaries in the coal-mine for the construction industry and we are first to see when the construction industry has run out of oxygen. I can assure the Planning Panel that the canaries are currently running out of air fast.

118. The proposed framework needs to be considered not just as a standalone document and planning policy, but also in association with other changes to investor stamp duty concessions for off the plan purchases, changes to foreign investment policy both locally and internationally, changes to lending requirements by the banks for both developers and purchasers, including investors, which all slash away at project viability and I am not convinced this has happened. Residential development and demand has softened enormously but if Fishermans Bend can just be allowed to get underway I think there will be strong enough appetite to see it succeed.

119. GC81 as you have before you is unbalanced to the point of becoming unworkable for any developer and unless undergoing serious further change I expect to see only landbanking and little development.

120. GC81 needs to be reassessed with transparent economic input as well as buildability and delivery in mind and having regards to real world situations based around development. If you can’t encourage developers to develop then it has been the ultimate waste of time.

121. I certainly hope the proposed GC81 controls undergo a large amount of further scrutiny and a second round of exhibition before finding their way into the Victorian Planning Policy and aren’t simply just pushed through parliament by Minister Wynne in a lead up to the election.

122. In the meantime I urge the Panel to pressure the Minister for Planning suggesting he unfreeze the applications he has frozen

123. I thank you for your time and hope to receive your consideration on these matters

Yours Sincerely

John Armsby
Registered Architect