

IN THE MATTER OF
PROPOSED AMENDMENT GC81 TO THE MELBOURNE
AND
PORT PHILLIP PLANNING SCHEMES

FISHERMANS BEND REVIEW PANEL

**OUTLINE OF SUBMISSIONS ON BEHALF OF
LIE PROPERTY PTY LTD**

Introduction

1. These submissions are made on behalf of Lie Property Pty Ltd, Submitter 87 to this Review Panel. (**Lie Property**)
2. Lie Property is the owner of land at 187-197 Normanby Road, Southbank. (**Site**)
3. This Site is currently used for the purpose of a tool supply business.
4. It has an area of 3,582sqm with a frontage of approximately 60m to Normanby Road and 60m to Woodgate Street. It lies on the southern side of Normanby Road between Montague Street and the Westgate Freeway. The Land adjoins the Route 109 tram depot to the east.
5. It lies within the Montague Precinct pursuant to the Proposed Amendment.
6. A current planning application, PA1700294, for a 40-storey tower with a podium and setbacks from street boundaries has been submitted to the Minister for Planning. It has been “called-in” by the Minister. Generally favourable comments from DELWP Urban Designer and the Office of the Victorian Government Architect have been received together with a request for further information. Amended plans in response to these comments have been provided to DELWP. It is fair to say that should this proposal be considered under the existing planning controls, it is likely that a permit for the building would issue subject to conditions.

Submissions

7. The evidence of Mr McGurn provides a summary of the existing and proposed planning controls affecting the Site.
8. The Montague Precinct evidence of Mr Sheppard provides an urban design overview of the Precinct with specific assessment of the Site included at pages 31-34.
9. Lie Property made a submission to the Minister dated 14.12.2017 raising a number of issues including:
 - a) Basis for, and appropriateness of, the population target;
 - b) Basis for land use planning and associated provisions flawed given lack of government commitment to public transport;
 - c) The need for transitional provisions;
 - d) Proposed reduction in building height and introduction of mandatory floor area ratio unreasonable and unjustified, particularly in Montague North where there are no potential local amenity considerations;
 - e) Should be recognition of existing permits in determining preferred built form controls;
 - f) Concern regarding the use of floor area ratio as development standard;
 - g) Concern regard the use of floor area uplift and the principles of equality, consistency, accountability and transparency;
 - h) Mandatory provisions not warranted;
 - i) Ability to achieve linear future public open space reserve between Tram Route 109 and Woodgate Street is questioned given existing transport infrastructure associated with 109 tram;
 - j) Proposed lowering of parking rates such that residential developments can only provide half of dwellings with a car space inconsistent with other policies

encouraging dwelling diversity, including supply of larger dwellings to cater for families and larger household types;

- k) Unreasonable for no crossovers to be permitted along Normanby Road frontage given large frontages and difficulty in solely relying on access to Woodgate Street, considering existing conditions and likely time required to evolve into road appropriate for access;
 - l) Concern regarding the proposed development plan overlay regarding complication of the approval process and usefulness questioned having regard to existing permits issued, duplication of existing provisions and potential difficulty in co-ordinating individual landowners; and
 - m) Drafting errors/inconsistencies/confusing provisions.
10. Many of these submissions are addressed in the oral and written submissions already presented to the Review Panel by Mr Canavan QC and Mr Tweedie SC, and in the evidence of various witnesses. Lie Properties does not repeat these submissions and evidence but supports the matters raised therein.
 11. That the submissions with regard to the issues such as population target, the FAR, FAU, the parking overlay and the reduction in height and development opportunity for the Site and Fishermans Bend generally are not repeated in these submissions should not in any way be taken by the Review Panel as not being issues of grave concern for Lie Properties.
 12. In particular, it is submitted that the unresolved status of public transport provision directly impacts Lie Properties.
 13. The 109 tram depot currently lies to the east of the Site and creates a tampered frontage to Woodgate Street. This land it is nominated as future open space with a 22m wide road access to be located within the Site and/or possibly the tram depot land.
 14. There is no government commitment whether or not the tram depot will in fact be required in the future.

15. The timing and certainty of a new road (and public park) is therefore unresolved and this will significantly impact on the potential development of the Site.
16. With regard to the issues of specific relevance to Lie Properties, both Mr McGurn and Mr Sheppard have modelled the implications of the Proposed Amendment for the Site.
17. Relevantly, both witnesses recognise that the current planning application would be prohibited under the Proposed Amendment because of the FAR controls, the new lane to the west (if the Framework Plan is included in the controls) and the provision of a new 22m wide road to the south.
18. An assessment of the new controls shows that the maximum FAR and minimum FAU can be achieved on this Site within the proposed building envelope controls.
19. However, a reliance on FAU is necessary to achieve a building envelope that meets the discretionary height for the Site.
20. In comparison to the existing planning controls, the number of apartments that could be achieved on the Site without utilising the FAU would be significantly reduced (almost halved compared to the existing planning application) and non-dwelling floor space would be increased by 960sqm. Access to the Site would need to be reconsidered and substantially redesigned (noting issues with relying upon Woodgate Street for all traffic access), and the proposed north-south Capper Lane to the east would be abandoned.
21. It is submitted that although there may be a variety of options for development of the Site under the Proposed Amendment, a significant reduction in the number of dwellings would be a poor outcome for the Site given its:
 - a) proximity to the CBD (approximately 1km);
 - b) abuttal to the 109 tram route;
 - c) lack of sensitive site abuttals; and
 - d) lack of any substantial constraints on its development in terms of heritage, vegetation or insurmountable flooding or environment issues.

22. Further, the approval of a 40 storey development to the immediate south at 199-201 Normanby Road and a 40 storey development across the road at 202-214 Normanby Road together with an application at 179-185 Normanby Road to the immediate north highlights the emerging form of development in the immediate area appropriately recognising the strategic location of the Site.
23. It is submitted that in these circumstances, development consistent with this character should be supported by the Minister and that in the event that the Proposed Amendment is introduced into the Planning Scheme, transitional provisions should be included as a matter of fairness and consistency in decision making.
24. Further, the inclusion of a Development Plan Overlay is not supported. The need for or benefits of the proposed DPO are not apparent. It is not clear what the DPO is intended to achieve that could not be adequately dealt with under a DDO or the CCZ, or a precinct plan.
25. Further, while the application of a DPO to large land areas in common ownership can, in some cases be sensible (to allow for a co-ordinated master planned approach to the development of that area) it is more problematic and far less useful when applied to sites in disparate ownership. Amongst the issues that arise is the question as to who prepares the development plan?
26. With regard to parking provision, Lie Properties relies on the evidence of Ms Dunstan noting her opinion that the rate for dwellings should be a maximum of 1 space per dwelling, not 0.5 per dwelling.
27. Given the prohibition on vehicle access to Normanby Road and the unresolved access along Woodgate Street resulting from the proposed 22m access road and the existing tram depot, it is further submitted that vehicle access to Normanby Road should not be prohibited but should be discretionary for obvious and very practical reasons.

Conclusion

28. For the above reasons together with overarching submissions and evidence provided to the Review Panel, and in reliance of the site-specific evidence of Mr Sheppard and Mr McGurn, it is submitted that the Review Panel should recommend that the proposed Amendment should not proceed in its current form.

19 April 2018

Nick Tweedie

Jane Sharp

Instructed by Norton Rose Fulbright