
Request to be heard?: Yes

Precinct: Lorimer

Full Name: Michael Fox

Organisation: CostaFox Developments Pty Ltd, are making the submission on behalf of the owner

Affected property: 99 - 111 Lorimer Street, Docklands

Attachment 1: Opposing_Submis

Attachment 2: Opposing_Submis

Attachment 3:

Comments: Please see our Opposing Submission attached.

Wednesday 13 December, 2017

The Hon. Richard Wynne MP
Minister for Planning
Level 16
8 Nicholson Street
EAST MELBOURNE VIC, 3002

Dear Minister,

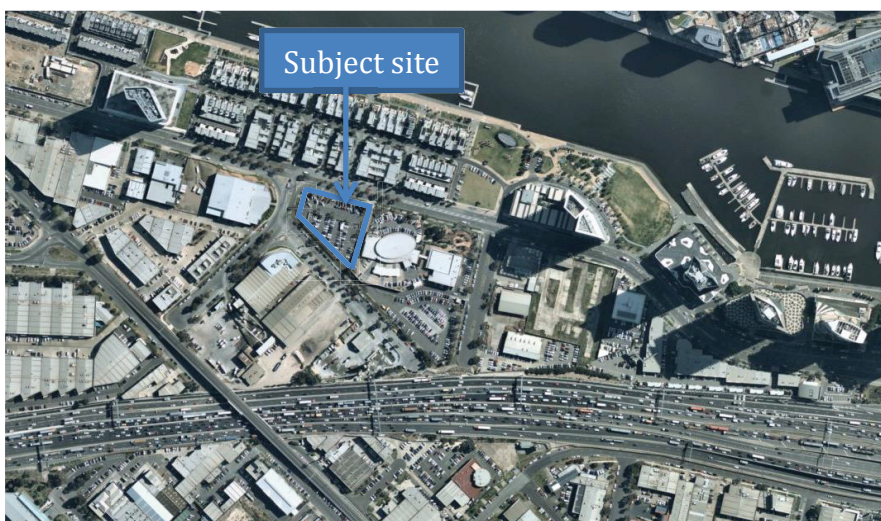
**Draft Fishermans Bend Framework & Planning Scheme Amendment GC81
99-111 Lorimer Street, Docklands
Opposing Submission**

Introduction and Background

RARE Costa Super Pty Ltd and Costa Asset Management Pty Ltd are the owners of the site at the abovementioned address, and its location is illustrated in Figure 1 below.

The site has an area of 4,109 sqm, and it has frontages to Lorimer Street, Rogers Street and Boundary Street, and it is located in the Lorimer Precinct within Fishermans Bend. It is currently occupied by car parking associated with a Subaru car dealership which is now surplus to their needs.

Figure 1
Aerial Photograph



The current statutory planning framework within the Melbourne Planning Scheme refers to the Fishermans Bend Strategic Framework Plan July 2014 (amended September 2016), and it includes the following provisions applicable to the site:

- A mandatory maximum building height of 40 storeys;
- A mandatory maximum street wall height of 20m or 5 storeys (whichever is the lesser);
- Mandatory tower setbacks above the building podium of 10m to streets and side/ rear boundaries;
- Preferred parking rates of 1 space per dwelling and 1 space per 100 square metres of retail/ commercial floor space; and
- A requirement to negotiate development contributions.

The existing Fishermans Bend Strategic Framework Plan also illustrates future public open space to the south and south-east, although the locations are acknowledged as being indicative only. The existing Framework Plan with reference to existing and proposed open space also sets out design guidance regarding overshadowing.

In addition to the provisions noted above, the existing local policy at Clause 22.27 includes provisions associated with encouraging new development to incorporate:

- 30% of dwellings as 3 bedrooms units;
- 6% of dwellings as affordable housing to be transferred to a registered housing provider;
- 15% of the total habitable gross floor area being non-residential floor space; and
- Non-residential floor space to occupy 60% of the Lorimer Street frontage.

Pursuant to these provisions, an application (PA1700285) was prepared and submitted to the Minister for Planning / Department of Environment, Land, Water and Planning (DELWP) on 13 September 2017. The proposal was also the subject of an agency pre-application meeting on 19 June 2017.

Broadly, the lodged application proposes:

- A building height of 40 storeys in a tower/ podium typology;
- Compliant podium and setback dimensions;
- A diverse mix of apartment product designed to comply with the Better Apartments Design Standards (396 dwellings);
- Approximately 3,800 square metres of non-residential floor space including uses on ground level that engage positively with the adjacent public realm areas;
- 497 parking spaces to be allocated between the different uses;

- The ability to increase the amount of non-residential floor space by conversion of podium parking areas; and
- Setting back of the building from the east boundary in order to create a north-south laneway link between Lorimer Street and Boundary Street.

On 11 October 2017, a request for the submission of further information was received from DELWP.

Proposed Provisions

Having had the opportunity to review and seek advice regarding draft Planning Scheme Amendment GC81 and the new draft Fishermans Bend Framework, the key provisions and elements that are proposed to apply to the subject site are:

- The inclusion of the site in a 'Core activity area' within the Lorimer Precinct;
- The inclusion of the site in an education and community hub investigation area (primary school);
- The introduction of a mandatory Floor Area Ratio of 5.4:1 (with a discretionary requirement that commercial floor space represents a FAR of 1.7:1 within the overall FAR of 5.4:1), unless any additional floor area is associated with a non-residential use or a public benefit floor area uplift is agreed to by the Responsible Authority;
- The introduction of a discretionary 18 storey building height;
- The introduction of new building setback provisions, including a mix of mandatory and discretionary provisions;
- The introduction of a 10m landscape setback along the Lorimer Street frontage;
- Nomination of the Lorimer Street frontage as a 'Secondary active frontage';
- Nomination of Rogers Street and Boundary Street as 'Primary active frontages';
- A new 12m wide road on the site's east boundary, and a provision that states that a permit must not be granted if inter-alia the proposed road is not provided;
- A provision that states that a permit must not be granted where vehicle access points are proposed where 'no crossovers permitted' except where a new street or laneway is being created or no other access is possible;
- A tram route along the Lorimer Street frontage that turns south at the adjacent intersection of Lorimer Street and Rogers Street;
- A proposed road extending east from Boundary Street adjacent to the south-east corner of the site;
- A new Neighbourhood Park (Equinox) south of the proposed road;
- Mandatory overshadowing controls that prohibit overshadowing of Neighbourhood Parks (Equinox) between 11:00am and 2:00pm on 22 September;
- A 4-star Green Star (or equivalent) sustainability rating;

- Qualitative provisions related to wind effects on the public realm;
- Minimum floor to floor height provisions associated with the future adaptability of buildings;
- Qualitative provisions related to active frontages; and
- Mandatory parking rates of 0.5 spaces per dwelling and 1 space per 100 square metres of retail/ commercial floor space, unless an alternative parking plan that responds to certain criteria is approved.

Similar to the existing statutory planning framework, there are also a range of qualitative provisions related to a range of other planning and urban design considerations.

Submissions

Our submissions can be grouped into 4 categories:

1. Key strategic concerns;
2. Site specific concerns;
3. Transitional provisions; and
4. Drafting issues.

Key Strategic Concerns

The various literature and draft policy provisions refer to the Fishermans Bend Urban Renewal Area accommodating a population of 80,000 people and 40,000 jobs (or 80,000 jobs if you include the Employment Precinct)

In our submission, the residential benchmark target in particular is grossly inadequate.

Planning policy expressed in Plan Melbourne and the State and Local policy provisions in the Melbourne (and Port Phillip) Planning Scheme places significant weight on the role of urban renewal areas in accommodating population and employment growth, and to 'cap' growth as proposed in this urban renewal area would seem inconsistent with these policies.

Melbourne's annual population growth has consistently exceeded 100,000 people for a number of years, and therefore the 80,000 population target would cater for less than one year of growth.

In this scenario, there will continue to be pressure on established suburbs and urban growth areas, which is also inconsistent with planning policy.

In addition to the population and employment targets, another overarching strategic planning concern relates to public transport. An important planning outcome associated with the overall vision for the Fishermans Bend Urban Renewal Area is achieving integration between land use and transport planning. This is a sound objective, however it is understood that there is no government commitment to the public transport proposals illustrated in the draft Fishermans Bend Framework.

If this is the case, arguably the land use planning and the associated provisions are premature.

Site Specific Concerns

As noted above, the Planning Scheme provisions that are proposed to be applied to the subject site are extensive, and in our submission they are overly complex, unreasonable and unjustified, and a summary of our concerns is set out below;

1. Building Height and Floor Area Ratio

The proposed reduction in building height from the current 40 storey mandatory provision to a 18 storey discretionary provision with a mandatory floor area ratio (FAR) of 5.4:1 is strongly opposed.

Within the Urban Design Strategy background report, it is suggested that the current and previous controls are not delivering on the Vision for Fishermans Bend in relation to housing diversity and that densities far exceed what is necessary to achieve the population targets. On that basis, it is suggested that intervention is necessary.

The preferred building typology for the Lorimer Precinct as stated in the Urban Design Strategy background report is:

Tower developments are supported in Lorimer. South of the Lorimer Parkway these have an unlimited height as amenity impacts on the freeway to the south will be minimal. North of the parkway, these are limited in height to align with the revised population targets and to maximise the amenity of the Lorimer Parkway space and the new fine grain network of laneways.

We support the reference to tower developments being appropriate in Lorimer, however it is suggested that the area south of Lorimer Street and east of Rogers Street should be included in the 'Unlimited height' area rather than being in a 'Mid-rise infill' area with smaller tower developments.

The sites (including the subject site) in the block bound by Lorimer Street, Rogers Street, the new street to the south of and parallel to Lorimer Street and Hartley Street are all relatively large unconstrained sites capable of supporting taller tower proposals.

In this scenario, it is acknowledged that taller buildings will generate shadows for the linear open space to the south, however the proposal to have a linear open space corridor protected from overshadowing to the south of sites capable of supporting reasonably tall buildings is an ill-conceived concept.

Regarding the concept of using FAR's to determine built form outcomes as proposed in Fishermans Bend, we say is flawed for the following reasons.

Firstly, the FAR's have been set having regard to severely low population forecasts, and therefore they are also too low.

Secondly, the overlapping of height controls and FAR's is confusing and misleading. More specifically, if a preferred building height is applicable to a site, and a proposal is able to comply with all other design provisions, it is reasonable to expect that the proposal should be able to achieve the preferred height. As drafted (and not taking into account other provisions i.e. overshadowing) that is not the case.

Regarding the concept of Floor Area Uplift (or development bonuses), it is interesting to note the commentary in the Panel Report associated with Amendment C270 to the Melbourne Planning Scheme. More particularly, the Panel noted:

- The floor area uplift scheme failed to clearly apply the principles of equality, consistency, accountability and transparency to the securing of benefits; and its implementation, including the Guidelines, is vague and may be open to misinterpretation;
- The strategic justification for the scope of public benefits is absent; and
- There are too many opportunities for inconsistent outcomes in the “negotiation” of agreements for public benefits.

It is our submission that the floor area uplift scheme as proposed as part of this Amendment is problematic for similar reasons.

2. Other Built Form Standards

The Amendment includes a new Design and Development Overlay Schedule, and in addition to building height, it includes provisions for building setbacks, street wall heights, building separation, overshadowing, etc.

It is accepted that a Design and Development Overlay is an appropriate 'planning tool' to provide design guidance, however the use of mandatory provisions is not supported. More particularly, mandatory provisions have the potential to restrict innovation and a 'one size fits all approach' to planning is generally problematic.

To this end, we note and rely on Planning Practise Note 59, which in relation to mandatory versus discretionary controls states:

- *A performance based planning scheme is able to accommodate variation, innovation, unforeseen uses and development or circumstances peculiar to a particular application to produce results beneficial to the community.*
- *Mandatory provisions in the VPP are the exception. The VPP process is primarily based on the principle that there should be discretion for most developments and that applications are to be tested against objectives and performance outcomes rather than merely prescriptive mandatory requirements.*

It is our submission that there are no circumstances in Fishermans Bend that warrant the use of mandatory controls, and importantly we should be encouraging innovation and contemporary design outcomes in urban renewal areas.

We also note that there are errors in the drafting of the draft Design and Development Overlay provisions.

3. Lorimer Street Tram Alignment

Whilst we understand that the whole of the Fishermans Bend public transport proposal is still subject to government approval and funding, and is therefore subject to change, the Fishermans Bend Framework illustrates a tram route along Lorimer Street that turns south at Rogers Street before turning west and extending deeper into the Lorimer Precinct.

This represents a change from earlier proposals. More specifically, part of the negotiations concerning the application for 85 Lorimer Street, Docklands a tram reservation was set aside whereby trams would not run along Lorimer Street.

In fact, a review of the Fishermans Bend Integrated Transport Plan background report in relation to light rail recommendations states:

- *In the medium term, it is recommended that northern and southern light rail connections are provided to support precinct development and growth, with the initial priority being the northern alignment.*
- *It is recommended that a Yarra River crossing is provided to enable the two preferred alignments.*
- *It is recommended that this crossing be enabled with a 6 metre bridge across the Yarra connecting Collins Street on the North to Lorimer Street on the South, avoiding severance of Point Park open space.*

The background report then goes onto state that the preferred alignments for new light rail routes are the following:

- *A Yarra River crossing using the Collins Hartley option aligned to the west of the ANZ building in Docklands and crossing over to Point Park Crescent west at Yarra's Edge.*
- *Turner Street alignment through the Employment Precinct (northern alignment) and creation of a new tramway through the Lorimer Precinct aligned to a continuation of Turner Street and connecting to new Yarra River Crossing.*
- *Plummer Street/Fennell Street (southern alignment) with a bridge structure across the Westgate Freeway and connecting to the new Yarra River crossing via Hartley Street.*

It is the second of these dot points that is relevant to the subject site. It seems to suggest that the preferred alignment through the Lorimer Precinct is a continuation of Turner Street as illustrated by Figure 8 in the Integrated Transport Plan. This is at odds with the draft Fishermans Bend Framework that illustrates the Lorimer Street/ Rogers Street alignment. It is also noted that the southern alignment is shown in the Public Space Strategy background report.

It is also noted that any tram proposal is going to have to include elevated sections and grade transitions, and in these circumstances and given the potential impacts on private property, it is reasonable that any detailed plans that exist should be exhibited for comment.

4. Lorimer Street 10m Landscape Setback

The draft Fishermans Bend Framework illustrates a 10m landscape setback along the south side of Lorimer Street between Hartley Street and Rogers Street.

This element of the draft Framework does not appear in the current provisions and it does not appear to be referenced in the Public Space Strategy background document.

Its role and purpose is therefore unexplained, other than potentially being linked to references to the tram alignment shown in the Framework and /or Lorimer Street being a pedestrian and cycle route.

We have already discussed the tram alignment and inconsistencies in the documentation, and regarding the concept of it being part of a pedestrian and cycle route, this is questioned given Lorimer Street's road freight role, and the principle of separating travel modes.

5. Open Space Planning and Overshadowing Provisions

As already noted, the concept of having open space that is protected from overshadowing to the south of obvious development sites is flawed.

Providing a cycle and pedestrian link between the two larger areas of public open space to the east and west has some merit (if in fact these public open space areas are ultimately approved and developed), however this linear connection does not need to be protected from overshadowing as proposed. This space is 'clearly' secondary in the overall public open space network, and such spaces can provide reasonable levels of amenity without prohibiting shadows during certain times of the year.

6. Parking Rates

The proposed lowering of parking rates such that residential development can only provide half of its dwellings with a car space is inconsistent with other policies associated with encouraging dwelling diversity including the supply of larger dwellings to cater for families and larger household types.

It is accepted that there is a need to encourage alternative travel modes in order to reduce traffic associated with private motor vehicle trips. However, it is our submission that there is not a direct correlation between car ownership, parking supply and traffic volumes. More

particularly, many larger households will need a car/s for convenience, weekend activities, holidays etc., however during the week, alternative modes of travel are used to get to and from work, school etc.

Transitional Provisions

As drafted, the Planning Scheme Amendment does not include transitional provisions. Given the significance of the changes between the current provisions and the proposed provisions, it is necessary that transitional provisions that protect existing permits and applications lodged before the approval date are introduced.

Drafting Issues

A detailed review of the draft Planning Scheme provisions reveals a number of errors in the documentation.

These errors include:

- Use of wrong 'Table' numbers;
- Errors in the land use tables; and
- Confusing mandatory and discretionary provisions.

For such an important inner urban renewal project, it is unacceptable that the documentation is strewn with errors.

Conclusion

In summary, CostaFox Developments Pty Ltd, on behalf of the owner, RARE Costa Super Pty Ltd and Costa Asset Management Pty oppose the draft Fishermans Bend Framework and Amendment GC81 to the Melbourne Planning Scheme as proposed, and we intend to make detailed submissions at the Advisory Committee Hearing.

Yours sincerely,



Michael Fox
Managing Director
CostaFox Developments