Attachment to Closing Submission

Response to Document 294: Review Panel: Clarifications and approaches

We refer to the list of questions of the panel dated 7 May 2018 and the Minister’s reply dated 14 May 2018 (SIN 15) and respond to each question in turn adopting the numbering of the Advisory Committee:

1. Confirm whether the infrastructure planning undertaken to date has been based on an assumed population of 80,000 (75 per cent build out), 116,000 (full build out), or 149,000 (Ms Hodyl’s estimate of the population if FAU delivers 6 per cent social housing), or some other figure.

   a) The CoM notes the Minister’s reply in SIN15 that infrastructure planning has been based on an assumed population of 80,000 (75 per cent build out) at 2050 which is consistent with the CoM’s interrogation of the background documents.

   b) The CoM continues to submit that infrastructure planning should be based on 100% build out in line with accepted planning practice. The FAR that would be required to align with the target 12,000 residential population for Lorimer is 4:1 across the precinct (as set out in Ms Pearson’s Report dated May 2018 (document L12 attachment 2, p 14 of the paginated attachments)). The CoM has, however adopted the pragmatic position of suggesting:

      a. A reduction to the FAR north of the Lorimer Parkway (L1, L2 and L3 in the draft MSS) to 4:1; and

      b. Maintaining the FAR to the south of the Lorimer Parkway (L4)- (resulting in a dwelling yield of 13,257 residents and 4,796 workers).

2. The Review Panel notes that the FARs have assumed 90 per cent of existing permits will be built. In calculating the FARs what, if any, any allowance was made for current permit applications?

   a) The CoM notes the Minister’s reply in SIN15 that no allowance has been made for current permit applications.

3. Have, or how have the current permits informed the proposed discretionary heights?
a) The CoM notes the Minister’s reply in SIN15 at par 4 to 6.

4. What changes to the FARs and height controls might be required if some of the existing permit applications were to be approved?

   a) The CoM notes the Minister’s SIN 15 and comment that the total dwelling numbers by precinct for current permit applications is 1,978 in Lorimer in at [10] and the correction in document 322 tabled on 18 May 2018 which recalculates the figures for Lorimer as follows:

   b) On the Minister’s (corrected) analysis, if all permit applications in the pipeline are approved, the 5882 dwelling target for Lorimer will be exceeded without any further development.

   c) The table above illustrates the point clearly why it is very important that transitional provisions are not included in the amendment.

5. (From Mr Sheppard) What revisions are required to the controls to facilitate his alternative models (the Barcelona model, the Vancouver model and the Hybrid model)?

   a) The CoM refers to the Minister’s response to this question.

   b) The CoM is very supportive of perimeter and open block developments and other built forms that allow private open space and permeability at the ground plane. The CoM’s proposed DDO has been drafted to encourage as far as possible that type of development. The CoM has proposed a 10 storey street wall height maximum, with appropriate built form outcomes, to facilitate perimeter and open block models.
c) The CoM proposes a 10 storey maximum street wall height with corresponding built form outcomes designed to achieve perimeter and open blocks which can still achieve the prescribed FAR. Given the large blocks in Lorimer, perimeter blocks and open blocks could be achieved under the CoM proposed controls on several sites, so long as car parking was dealt with, for example, through consolidated parking as outlined in the examples given by Ms Pearson in document L12 attachment 2 paginated pages 16-17.

6. Has consideration been given to a capped FAU (for instance, 20 per cent of FAR) for all sites?
   a) Yes.
   b) The CoM considers that the FAU should be capped to 10% to regulate an unconstrained FAU.
   c) The Minister argues against a capped FAU for 3 reasons set out in the Minister's SIN 15 at [27]. The Minister's response is inconsistent with Ms Hodyl's evidence in Addenda 2 at [21] that an uncapped FAU diminishes building diversity.

7. Has consideration been given to limited transitional provisions (for example, permit applications that are broadly consistent with the fundamental urban structure)?
   a) The CoM does not support transitional provisions. This is primarily because the introduction of transitional provisions may significantly and adversely affect the ability of the precinct to be developed in line with the identified preferred character, will all but prevent the precinct from being developed as a mixed use precinct (refer revised Table from Ms Pearson's report contained at attachment 3 of document 124 and will result in a significant shortfall in infrastructure. The CoM has already made extensive submissions on the issue of fairness.
   b) Transitional provisions would entirely defeat the amendment. It is extraordinary to think that permits for more than 12,000 residents could be granted where it is acknowledged by all parties that the current system most likely results in a very significant underfunding of infrastructure.
c) The CoM used the example at 111 Lorimer St to demonstrate one proposal that would significantly prejudice the outcomes sought for the precinct if it was granted including overshadowing of the open space to the south east, a deactivated ground floor plane and podium for 5 levels opposite a new proposed park and the proposal to build over the land that should be set aside for the tram alignment. (Document L13).

8. Is additional floorspace developed under the FAU intended to be subject to developer contributions?

   a) The CoM refers to and repeats the response of the Minister at [29] of SIN15.

   b) Although the CoM supports the proposal to have FAU dwellings (other than social housing dwellings) pay development contributions, that will introduce complexity into the DCP unless the FAU is capped. One would expect that the DCP or ICP will be based upon the number of FAR dwellings, not the FAR plus FAU dwellings (in calculating a cost per dwelling). If the FAU is not capped, and a substantial number of FAU dwellings constructed, there will be a very significant disconnect between the contributions collected and the infrastructure delivery required by the DCP. This is a further reason to cap FAU.

9. What is the Minister's response to issues (A to C):

   A. Melbourne Water's requirements that ground floor levels in flood affected areas be raised 1.3 metres

      a) The CoM has previously noted that the requirement to raise floor levels by 1.3 m is arbitrary in circumstances where there are differential ground levels (see attachment 14 to CoM submissions (document 124 attachment 14) showing road levels in Lorimer). The CoM records its general agreement with the way this issue has been dealt with in the Minister’s revised controls.

   B. the Councils' suggestions of separate DDOs for each precinct

      This is now agreed.

   C. Goodman (and others) suggestions of a DPO for large sites.

      n/a

**Clarifications for revised versions of the controls and further information**
10. The CoM is preparing revised draft proposed controls for the Melbourne Planning Scheme to be separately tabled before the AC. These revisions take into account the issues raised by the AC.
Attachment 2 – Extract from Melbourne Planning Scheme (DDO49)
SCHEDULE 49 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO49

YARRA’S EDGE PRECINCT

1.0 Design objectives

- To provide for a complementary mix of low, medium and high rise development within the Precinct.
- To provide for continuous public access along the waterfront adjoining the Yarra River.
- To maintain the visual dominance of prominent landmarks.
- To provide for prominent built form landmarks at terminating vistas from the city edge.

2.0 Buildings and works

2.1 Permit Requirement

A permit is not required to construct a building or construct or carry out works in accordance with an Existing Old Format Approval. In this schedule, “Existing Old Format Approval” has the meaning given to it in Clause 37.05-4.

A permit is not required to construct a building or construct or carry out works if the requirements of Table 1 and Table 2 to this schedule are met.

An application must be accompanied by a site analysis and urban context report which demonstrates how the proposed buildings and works achieves each of the Design Objectives of this schedule, and any local planning policy requirements.

Building height is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of architectural features and building services.

2.2 Exemption from notice and review

An application to construct a building or construct or carry out works is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

Table 1 to Schedule 49

<table>
<thead>
<tr>
<th>AREA</th>
<th>MAXIMUM BUILDING HEIGHT</th>
</tr>
</thead>
<tbody>
<tr>
<td>DDO 49 Area 1</td>
<td>30 metres except for:</td>
</tr>
<tr>
<td></td>
<td>A single or twin 130 metre tower on the Bourke Street axis</td>
</tr>
<tr>
<td></td>
<td>A 75 metre tower on the Little Bourke Street axis</td>
</tr>
<tr>
<td></td>
<td>A 135 metre tower on the Collins Street axis</td>
</tr>
<tr>
<td>DDO 49 Area 2</td>
<td>90 metres except for:</td>
</tr>
</tbody>
</table>
### Table 2 to Schedule 49

<table>
<thead>
<tr>
<th>AREA</th>
<th>MINIMUM WIDTHS OF WATERFRONT PROMENADES</th>
</tr>
</thead>
<tbody>
<tr>
<td>DDO 49</td>
<td>15 metre wide waterfront promenade.</td>
</tr>
</tbody>
</table>

#### Decision guidelines

Before deciding on an application the responsible authority must consider:

- The orientation and design of a development and whether it will cause significant overshadowing individually or as part of a cumulative effect on the public realm.

- The need to ensure appropriate separation of buildings, particularly tower elements of buildings, to ensure appropriate building bulk, and to avoid the creation of a wall effect.

- Buildings exceeding 40 metres in height must provide an appropriate built form relationship to the street.

- The need to preserve significant vistas.

- The nature of wind effects caused by any new buildings, and the design measures used to address these.

#### Subdivision

A permit is not required to subdivide land.