FISHERMANS BEND PLANNING REVIEW PANEL

STATEMENT OF PLANNING EVIDENCE

DRAFT AMENDMENT GC81

Date of Inspection: 19 March 2018
Report Prepared for: Mills Oakley on behalf of 4 land owners
Report Prepared by: David Song
Date of Statement: 11 April 2018
1. **Introduction**

1.1 I have been requested by Mills Oakley, acting on behalf of four landowners within the Fishermans Bend Urban Renewal Area (FBURA)\(^1\), to consider the town planning implications of Draft Amendment GC81 to the Port Phillip and Melbourne Planning Schemes. Draft Amendment GC81 seeks to introduce new planning controls for FBURA and implement the draft *Fishermans Bend Framework* (Framework).

1.2 The views expressed in my statement are my own opinions and are not provisional opinions. A summary of my qualifications and expertise to carry out this assessment is contained in Appendix 1 to this statement.

1.3 I have been instructed by Mills Oakley to:

- review Draft Amendment GC81 and relevant background documents;
- state my opinion on whether there is adequate strategic justification for proceeding with Draft Amendment GC81;
- provide my opinion about whether the proposed planning provisions give effect to *Vision for Fishermans Bend (Vision)* and the draft Framework; and
- provide my opinion on how Draft Amendment GC81 and the draft Framework have the potential to specifically impact upon the four sites I have been requested to consider.

1.4 In preparing this statement, I have:

- inspected the four sites, the surrounding land and the broader FBURA area\(^2\);
- reviewed existing provisions of the Port Phillip and Melbourne Planning Schemes;
- reviewed Draft Amendment GC81 and considered the background documentation that supported the amendment request.

1.5 This statement assumes that the Advisory Committee and the reader are generally familiar with Draft Amendment GC81 and the relevant background documents identified.

\(^{1}\) On 19 March 2018

\(^{2}\) On 19 March 2018
2. **Summary of opinions**

2.1 My assessment of the Draft Amendment GC81 is that the controls and vision intended have been formulated on the basis that this important urban renewal area requires a well-considered planning framework in order to create a lively and sustainable new precinct. I support such action in-principle.

2.2 However, my critical analysis is that there are deficiencies in the drafting which in my view are inherent within planning controls where those controls have been sought to be introduced in an overly expeditious manner. Simply put, I believe the focus should be on achieving a quality planning outcome rather than hastily moving forward.

2.3 In summary, I consider that the Draft Amendment GC81 has significant planning shortcomings and failings for the following reasons:

- There is a very real prospect that the lack of certainty in respect to the delivery of infrastructure will compromise the aspirations of the well-intended Vision for the FBURA.
- The population targets set out in the Vision are untested and to this extent it is unclear whether the proposed planning controls included in the Draft Amendment will deliver the density required for a major urban renewal precinct of State significance.
- The rapid progression of the Draft Amendment and the proposed planning controls within it, which in my view are flawed, suggest to me that the Amendment is more focussed on timely delivery of these new controls than it is upon delivering a sound planning framework for this important precinct.
- It undermines the confidence of investment in the FBURA when planning controls and the framework do not stand to proper scrutiny and this can lead to declining investment.

2.4 I will elaborate on these key planning considerations throughout this statement.
3. **Planning history in Fishermans Bend**

3.1 Relevant to my planning consideration of the Draft Amendment GC81, I have examined the planning history for Fishermans Bend in order to gain an understanding of how the precinct has evolved.

3.2 In 2012, towards the end of the previous State Government’s term, the industrial precinct of Fishermans Bend was identified as an Urban Renewal Area and declared by the then Minister for Planning, as a project of State Significance under the *Planning and Environment Act 1987* (Act).

3.3 Despite the land being mostly privately owned, the largely industrial area of Fishermans Bend was rezoned to Capital City Zone (CCZ) via a Ministerial Amendment in the absence of any considerable strategic planning for the precinct⁵.

3.4 While the rezoning of Fishermans Bend to the CCZ was intended to facilitate the transition of the area to a genuine mixed-use precinct with a residential and commercial focus, what transpired was a large number of high rise and high density residential permit applications being sought by the private sector⁴.

3.5 The *Fishermans Bend Strategic Framework Plan, July 2014* [the FBSFP] was launched on 28 July 2014 and approved via Amendment GC07 to the Port Phillip and Melbourne Planning Schemes on 7 August 2014.

3.6 In April 2015, the Victorian Government, recognising the need to better manage development and land use outcomes for the FBURA, introduced interim built form planning controls to Fishermans Bend via Planning Scheme Amendment GC29.

3.7 At that time, the Victorian Government also appointed an independent Ministerial Advisory Committee (MAC) to review the process thus far and advise the Minister for Planning on the future planning and consultation for FBURA. In October 2015, the MAC produced its first Report to the Minister. The Report included 40 recommendations to guide future planning of FBURA. From the 40 recommendations made by the MAC, 34 in full and six in part were adopted.

3.8 One of the first recommendations that the Minister acted upon was the establishment of the Fishermans Bend Taskforce (Taskforce). The Taskforce comprises members from the Department of Environment, Land, Water and Planning, City of Melbourne and City of Port...

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⁵ Fishermans Bend Advisory Committee, Report 1, October 2015
⁴ Page 21, Part A Submission of the Minister
Phillip, and Development Victoria and is tasked with ‘developing a blueprint for Fishermans Bend that will transform it into a place for everyone’\(^5\).

3.9 In November 2016, while permanent planning controls are being developed by the Taskforce, the Minister for Planning updated the interim planning controls. Amendment GC50 (later updated by GC59) amended the Melbourne and Port Phillip Planning Schemes, to maintain mandatory height controls introduced by Amendment GC29, and apply mandatory setbacks, podium heights and tower separation controls to the FBURA.

4. **Vision and Framework for Fishermans Bend**

4.1 Draft Amendment GC81, as identified by the Minister in his Part A submissions, has been prepared to implement a suite of permanent controls that give effect to the draft Framework and realise the Vision for Fishermans Bend.

4.2 The Minister for Planning proffers in his Part A submission that

\[
\text{The draft Framework represents a significant first step in changing the development trajectory and reorienting it towards the Vision, by further articulating the State policy intent for Fishermans Bend and guiding future development and investment decisions by developers, government and the community [pg.11].}
\]

4.3 The Draft Amendment seeks (as identified by the Minister for Planning – Part A submissions) to introduce the following key elements of the Framework to the Port Phillip and Melbourne Planning Schemes:

- An amended Schedule 1 and 4 to the Capital City Zone, which identifies the preferred land use and form including new floor area ratios and maximum height controls.
- Identifies, secures and delivers public infrastructure through the Capital City Zone.
- Updates built form controls at Schedule 30 to Clause 43.02 to align built form controls with the draft Framework.

\(^5\) Fishermansbend.vic.gov.au
5. Delivering on the Vision

5.1 Delivering on Density – Floor Area Ratio (FAR)

5.1.1 It is clear that what underpins the Framework and the Amendment is the desire of the Government to temper current development patterns in the FBURA to align with the Government’s overall population target of 80,000 for the FBURA.

5.1.2 This has been advanced in the Minister’s Part A submissions, which explains that:

The Amendment is necessary to reorient the trajectory of development in Fishermans Bend. On its current trajectory, development will simply not achieve the Vision for the area.

In particular, it will not achieve an inclusive and healthy community providing for a range of diversity of dwelling options for all types of households and affordable housing.

It will be a very high-density environment of repetitive residential towers with little diversity in building typology, nominal employment generating uses and little or no street activation due to high levels of podium car parking.

5.1.3 Under the Amendment, the FAR control mechanism has been identified as the preferred approach to realigning development patterns with the Government’s vision and design objectives for the FBURA.

5.1.4 To achieve this ‘re-alignment’ a tailored FAR (Floor Area Ratio) scheme is proposed, in that maximum FARs have been calculated to allow sufficient development yield to deliver the Government’s population targets of 80,000 residents and 40,000 jobs, based on the noted assumptions identified in the Urban Design Strategy.

5.1.5 The Framework asserts that the FAR scheme provides for:

- certainty of future overall population growth and densities
- alignment between population growth and distribution and infrastructure provision
- land use mix, including employment opportunities
- diversity of housing types, including mid-rise apartment developments
- design flexibility with a range of design options possible on each site.
5.1.6 I am generally supportive of the concept of a FAR control insofar as it may be able to bring a flexible planning tool that can control the scale of development that is delivered on each site (or precinct) without the uniformity of building height and setback controls.

5.1.7 However, I have fundamental concerns in respect to the integrity and rigour of the FAR scheme as proposed under the Draft Amendment. My reasons for these concerns are outlined as follows:

1. There is limited justification for the Government’s population targets

5.1.8 It is a re-occurring theme in the background material that the Government has set a predetermined population target for the FBURA. This is clearly acknowledged in the expert witness statement prepared by Hodyl + Co on behalf of DEWLP, which identifies:

79) The population targets were provided to Hodyl + Co by DELWP at the commencement of the Urban Design Strategy. The scope of the Urban Design Strategy was to put in place clear design and planning objectives and recommendations for appropriate planning mechanisms based on the need to accommodate within the Capital City Zone precincts a residential population of 80,000 by 2050 and an employment target of 40,000 by 2050.

80) This population target has therefore directly informed the approach to developing density controls for the precincts…

5.1.9 I understand from the Ministers Part B submissions that population targets originate from the draft Vision released in 2013, and its successive updates. I also acknowledge that these population estimates feature within Clauses 22.27 and 22.15 of the Melbourne and Port Phillip Planning Schemes. In my review of the 2013 draft Vision documentation I find very little detailed evidence as to how the population target of 80,000 was arrived at.

5.1.10 It therefore concerns me that the proposed FAR is seeking to achieve an outcome (in respect to population) without proper basis. In other words, if the 80,000 target is ill-conceived and unsupported by empirical evidence, then the controls which are based upon this target must also be highly questionable.

5.1.11 In responding to the criticisms of the population targets the Minsters Part B Submission proffers that:
20. A common refrain in submissions is that the claim that 80,000 is plainly too little because Melbourne is expected to accommodate 100,000 additional residents per annum until 2050; the claim is glib and misleading…..

… Bearing in mind the totality of development potential across Melbourne and Plan Melbourne’s aspirational scenario in which the intern metro area delivers 15% of all new dwelling additions, a contribution [of the FBURA] of almost one fifth of the inner metro allocation represents a significant component of Melbourne’s housing needs over the next 35 years….

5.1.12 I consider that the role of FBURA must be understood in the context of its designation as a project of State significant under s.201F of the Act. The FBURA presents an unparalleled opportunity for a major urban renewal on the doorstep of Melbourne’s central City.

5.1.13 The FBURA is designated as one of several priority precincts in Plan Melbourne, and there is strategic imperative for the FBURA to accommodate significant growth and change, to the extent which has not been seen in this State before. It therefore concerns me that the proposed planning controls in Draft Amendment GC81 have the potential to be overly restrictive in a precinct where the Plan Melbourne expects it to do a great deal of the “heavy-lifting”.

2. The population targets fail to account for the uncapped yield associated with the Floor Area Uplift (FAU) provisions.

5.1.14 The proposed FAU scheme allows a developer to exceed the otherwise mandatory floor area controls, in exchange for making a contribution of an agreed public benefit. However, the population targets fail to account for the uncapped yield. This is explored in further detail later at Section 5.3 of my evidence.

3. There remains uncertainty that maximum FAR’s can be reached on sites where large portions of land are required to be set aside for roads and public parks.

5.1.15 I explain my reasons for this concern in respect to each of the four specific sites I have been asked to consider, see Appendix 2.
5.2 Delivering on Infrastructure

**Public Sector Funding**

5.2.1 The FBURA was conceived in the absence of any special financial or governance arrangements to drive the timely provision of infrastructure. There was a clear expectation of the government of the time that the private sector (through a Development Contributions Plan Overlay that was never fully realised) would fund and drive infrastructure delivery in the FBURA.

5.2.2 The MAC’s first Report to the Minister identified that this ‘hands off’ approach to infrastructure delivery in the FBURA was unlikely to achieve good urban renewal outcomes and identified a need to a provide financial plan which considers all potential sources of funding.

5.2.3 This aligns with the infrastructure policy aims of the State Planning Policy Framework (Clause 19) which identifies that:

- Planning for development of social and physical infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely.
- Planning is to recognise social needs by providing land for a range of accessible community resources, such as education, cultural, health and community support (mental health, aged care, disability, youth and family services) facilities.
- Growth and redevelopment of settlements should be planned in a manner that allows for the logical and efficient provision and maintenance of infrastructure, including the setting aside of land for the construction of future transport routes.
- Strategic planning should facilitate efficient use of existing infrastructure and human services.
- Providers of infrastructure, whether public or private bodies, are to be guided by planning policies and should assist strategic land use planning.
- Planning authorities are to consider the use of development contributions (levies) in the funding of infrastructure.

5.2.4 The MAC’s 2017 Report is explicit in its recommendations in this regard, that a well-conceived financial plan ‘is one of the most important signals to the investment market that the Government is serious about the Vision and ambition for the Area’.

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*Page 10, MAC Report 2017*
5.2.5 While the 2017 MAC Report suggests that the preparation of a funding plan is well advanced, I am not aware of any draft financial plan for the FBURA nor does there appear to be any timelines for plans to be released.

5.2.6 The infrastructure that will be required to realise the Vision for Fishermans Bend is enormous and cannot be understated.

5.2.7 Objective 1 of the Framework envisages that in a Fishermans Bend of 2051...

… people will be connected through integrated walking, cycling and public transport links that will make choosing sustainable transport options easy. Digital high-speed data networks will also enhance connectivity. Activity cores will be located near public transport, and include community services and public spaces to ensure that people can access their daily needs close to where they live and work. Less than one in five trips will be made by private car.

5.2.8 The Fishermans Bend of today, reflects the area’s history as an industrial and commercial hub\(^7\). There are significant challenges in the provision of infrastructure to support the renewal of the precinct, including (but not limited to):

- The extensive private ownership of land within the FBURA (approximately 90%).
- The poor transport connections to the CBD and within the FBURA precincts.
- A substantial shortfall in existing public open space and community facilities.

5.2.9 The Framework acknowledges that:

Fishermans Bend is unique; unlike other urban renewal areas, the developable land is predominantly privately owned.

A partnership with the private sector must be established to obtain favourable outcomes for Fishermans Bend.

This draft Framework must balance certainty of delivery with flexibility enabling the private sector to innovate and respond to site or market conditions in ways that deliver the agreed vision.

5.2.10 The realisation of the Vision for Fishermans Bend and the Framework relies heavily on a successful partnership between the private sector and the Government to deliver quality infrastructure in a timely and co-ordinated manner.

\(^7\) Page 25, Report 2, MAC
5.2.11 In this setting, in the absence of any comprehensive funding plan for the FBURA that accounts for all funding streams, I consider that the Amendment fails to deliver an outcome where the FBURA is planned in a manner that allows for the logical and efficient provision of infrastructure.

Private Sector Delivery

5.2.12 I also have real concern that the model of infrastructure delivery and land acquisition proposed under the Draft Amendment will not deliver the infrastructure that is critical to achieving the Vision for Fishermans Bend, in a timely or co-ordinated manner.

5.2.13 Under the Draft Amendment, vital land for public infrastructure, including new road and pedestrian connections, new public transport routes and open space areas is to be acquired through mandatory controls in the CCZ.

5.2.14 The application of a Public Acquisition Overlay (PAO) is the accepted planning mechanism to acquire land and deliver identified infrastructure outcomes in Victoria. In my review of the Draft Amendment documentation prepared by the Minister, there is little justification provided as to why the accepted and tested model of applying the PAO would be ineffective or inappropriate in the FBURA.

5.2.15 Setting aside the very real issue of orderly planning and due compensation, in my opinion what is proposed under the Draft Amendment, unlike the PAO model, is an ad hoc, piecemeal approach to infrastructure delivery that relies heavily on the desire of individual land owners to redevelop land within the FBURA.

5.2.16 The Framework and the control within the Capital City Zone provides no little guidance and/or control on the timing of delivery of key infrastructure. The practical implications of this, is that key infrastructure projects such as, the road links, parks at the like, may never be realised in the event that a land owner decides not to redevelop.

5.2.17 I am also note that this model of land acquisition within the Schedule 1 and 4 to the CCZ places significant constraint on the existing established businesses with the FBURA. As drafted, Schedule 4 prohibits all development (where a permit is required) unless land is set aside for public purposes in accordance with Map 2 and 3. This is an unworkable and unreasonable imposition on existing business within FBURA.

5.2.18 I also note that adding to the level of uncertainty regarding the provision of infrastructure in the FBURA, is the confusing and unclear drafting of Schedule 1 and 4 to the Capital City Zone (CCZ).
5.2.19 The provision reads:

   A permit must not be granted to construct a building or construct or carry out works
   where the provision for any new streets, laneways, or public open space generally in
   accordance with Map 2 and Map 3 is not provided.

5.2.20 As drafted, in my opinion the Schedules require the setting aside of the land for public
purposes, without clearly or overtly requiring the identified infrastructure to be constructed by
the land owner / developer. I acknowledge this interpretation contrasts with the views of the
Minister in his Part B submission, where it has been implied that the developer will deliver
the infrastructure through the imposition of permit conditions on development approvals®.

5.2.21 The Minister in his Part B submission, states:

   [54] The Minister accepts that this approach is a new one but novel approaches will
   be necessary in the challenging setting of Fishermans Bend where planners are retro
   fitting infrastructure provision after land has already be rezoned.

5.2.22 Nevertheless, I find that the provision is unclear and requires further refinement in its drafting
to provide clarity regarding the responsibility and obligations for the delivery of this
infrastructure.

5.2.23 It is also apparent to me that the Maps 2 and 3 add further uncertainty to the application of
control. On review of Maps 2 and 3, while the general location of roads and parks are
depicted, there is a clear lack of detail. For example, the size of the parks, dimensions or
even overall areas are not detailed. I am of the opinion that including a mandatory
requirement in the control without fully disclosing the detail of what is in fact ‘mandatory’ is
not proper or orderly planning.

5.2.24 I am also of the view that the Draft Amendment as proposed does not equitably share the
costs associated with the provision of infrastructure in the FBURA. In my review of the Draft
Amendment is that it is evident that some sites have significant obligations under the CCZ to
provide roads and parks, while other land holdings have no such constraints.

5.2.25 The Urban Design Strategy, justifies the approach, noting that as the FAR is applied across
a site’s gross developable area, the acquisition of land for public open spaces and road links
can occur with no loss of density.
5.2.26 The Ministers Part B submissions provides the following further clarification:

53 [c] Because all sites are equally subject to the FAR regime for their precinct, irrespective of their area, configuration, orientation or interface conditions, and hence share a uniform formula for development yield, equity between landowners is preserved, even where some sites provide some land for new streets, lanes or open space. This proposition is conveniently illustrated in the Urban Design Strategy.

5.2.27 In my opinion, this is a simplistic proposition, and an ambitious one at best. In my review of the Urban Design Strategy and the Part B submission of the Minister, this proposition fails to consider real world development scenarios, which include (but not limited to):

- The costs for delivery of public parks, road linkages and community infrastructure, noting that the Minister’s Part B submission and supplementary submission (28 March 2018) affirm the position that landowners / developers are responsible for delivery.
- Loss of design flexibility in the design response. The rigid requirements of CCZ road connections, public open space and the like predetermines development outcomes, such as built form location, height, setbacks and the like. In my opinion there is no evidence presented by Hodyl + Co to suggest this predetermined design response, achieves an improved urban design outcome. In my opinion a more flexible framework, may allow for greater urban design outcomes and ultimately, yield.
- Additional development costs associated with increased building height necessitated to achieve maximum FAR outcomes.
- The Urban Design Strategy fails to thoroughly address how character, urban design and amenity outcomes will be balanced and assessed in cases where achieving the maximum FAR would result in a built form far beyond the preferred discretionary height controls.

5.2.28 While there is no question that additional infrastructure is required to realise the Vision for FBURA, it is a reasonable expectation that all landowners/developers equitably share the costs of vital infrastructure. In summary, I find that the proposed Draft Amendment GC81 raises more questions than it does provide answers in respect to the delivery of timely infrastructure.
5.3 The uncertainty of the Floor Area Uplift (FAU) scheme

5.3.1 With respect to the FAU scheme, the Framework explains that the proposed FAU scheme allows a developer to exceed the otherwise mandatory FAR controls, in exchange for making a contribution of an agreed public benefit.

5.3.2 The Framework explains that the FAU scheme will create additional opportunities to realise the Vision.

5.3.3 I am of the opinion that there are several shortfalls for the FAU scheme as proposed.

5.3.4 My views on this generally align with that of Mr Milner in his evidence for the City of Melbourne, in that, the FAU scheme creates an uncertainty regarding population growth in the FBURA and consequently, erodes the planning and provision for infrastructure. The developer uptake of the FAU scheme is, as acknowledged by the Minister of Planning, an unknown, and the increases in population as a consequence of FAU is also unknown.

5.3.5 The Minister of Planning, in his Part B submission states that this level of uncertainty is acceptable, given that:

   a) First, some of the additional infrastructure required to support a population larger than 80,000 is likely to be provided in order to obtain the uplifts to provide that population…

   b) Second, any increases in the population beyond 80,000 will not occur overnight. Use of the FAU scheme will be monitored throughout the life of Fishermans Bend. This will enable the appropriate body to take steps to address any emerging shortfall in infrastructure before it becomes critical.

5.3.6 While I acknowledged that a FAU scheme could deliver community benefits, in the context of an unparalleled urban renewable project, where the realisation of the Vision is (amongst other things) tied to the timely delivery of infrastructure, the level of uncertainty introduced by the FAU scheme is alarming.

5.3.7 I also have real concerns that the FAU scheme has potential to undermine the realisation of the urban design and liveability objectives of the Vision. The Framework advocates that regardless of any FAU sought, all development will still be required to meet character and amenity objectives of the Framework. In my opinion the FAU scheme is likely to significantly test the discretionary elements of the built form controls under the Amendment.
5.3.8 For the reasons identified above, I am of the opinion the Draft Amendment leaves too many unanswered questions with respect to the delivery and timing of infrastructure. The FAU scheme only compounds land owner/developer uncertainty.

5.4 Delivering on Public Space

5.4.1 One of the clear directions of the Vision is the provision of public parks within 200m walking distance for all residents. While I clearly see merit in residents being provided with public space for outdoor recreation purposes I also have reservations about the justification behind a 200m walking distance.

5.4.2 I understand from reviewing the Fishermans Bend Public Space Strategy 2017 prepared by Planisphere (Public Space Strategy 2017), that the primary drivers for the public open space acquisition (as shown in Map 3 to the Schedule 1 and 4 to the Capital City Zone) is a desire to ensure:

- The quantum of open space meets the needs for the future population of the FBURA.
- Provides all residents and workers open space within 200m walking distance.

5.4.3 While I acknowledge the analysis undertaken within the Public Space Strategy 2017 regarding the quantum of public open space needed in the FBURA, it is unclear to me how the 200m walking distance benchmark has been arrived at and tested.

5.4.4 Applying a 200m walking distance does not appear to take into account road infrastructure and other barriers which may impede access to the park. Accumulatively the 200m walking distance coupled with the ‘safe walking distance’ requirement suggested by Ms Thompson in her evidence may, in reality, mean that for some sites parks will actually have to be much closer than 200m away.

5.4.5 In my view, being able to walk for 5 minutes and a distance of approximately 400m, to find a park would be an entirely acceptable outcome having regard to the living standards of residents in the FBURA.

5.5 Delivering a Land Use Mix

5.5.1 One of the clear objectives of the Vision and the Framework is to drive job growth in the FBURA and I generally accept that there should be policy aimed at encouraging the market to deliver commercial floor space in the FBURA.
5.5.2 However, I am concerned that the well-intended proposed policy which seeks to promote employment generating floor space may be too burdensome in situations where there are questions regarding the delivery of infrastructure. That is, if the infrastructure has not been delivered the potential is that commercial investment will not occur, resulting in situations where core sites have empty/vacant floor space.

6. Conclusion

6.1 Although there is no doubt in my mind that the FBURA requires a well-considered and sound planning framework, I have serious doubts regarding the content of the Draft Amendment which I have outlined herein.

6.2 Appendix 2 to my evidence provides my analysis of the impacts that Draft Amendment GC81 has upon the four sites that I have been asked to specifically consider.

David Song
Director

SongBowden Planning Pty Ltd
Appendix 1

EXPERT EVIDENCE
SUMMARY OF EXPERIENCE
FOR DAVID SONG

NAME AND ADDRESS
David Song is a Director of SongBowden Planning Pty Ltd and practices from Level 2, 700 High Street, Kew East, Victoria.

QUALIFICATIONS AND EXPERTISE

Professional Qualifications:
▪ Bachelor of Arts (Urban Studies), Victoria University of Technology, 1996.

Professional Experience:
▪ Director, SongBowden Planning Pty Ltd 2011 – present.
▪ Director, Aspect Town Planners Pty Ltd 2004 – 2011.
▪ Engaged as a town planner for 20 years, including 4 years in local government and 16 years in consulting.

AREAS OF EXPERTISE
▪ Advice and assessment of land use and development proposals throughout Victoria for planning authorities, government agencies, corporations and developers (including for medium density housing projects).
▪ Preparation of evidence for other VCAT and Panel Hearings, including in relation to medium density housing projects in the Melbourne metropolitan area.
▪ Review of residential development guidelines for various planning authorities and local government agencies.
▪ Strategic planning (including preparation and project management of strategic plans for commercial, residential and industrial areas in metropolitan Melbourne).
▪ Statutory planning (including facilitating the development approvals’ process on behalf of permit applicants and preparation of planning scheme amendments).

EXPERTISE TO PREPARE THIS REPORT
My training and experience, including my involvement with many other medium density housing developments in the Melbourne metropolitan area, qualifies me to comment on the town planning issues associated with the proposal.

INSTRUCTIONS WHICH DEFINED THE SCOPE OF THIS REPORT
I received instructions from Mills Oakley to consider and comment on the town planning issues associated the Draft Amendment GC81.

FACTS MATTERS, AND ASSUMPTIONS RELIED UPON
▪ Inspected the subject land and surrounds on several occasions.
▪ Reviewed the Draft Amendment GC81 material.

IDENTITY OF PERSONS UNDERTAKING THE WORK
I prepared this report with the assistance of Morgan Livingstone in my office.
SUMMARY OF OPINIONS

In summary, I consider that:

- There is a very real prospect that the lack of certainty in respect to the delivery of infrastructure will compromise the aspirations of the well-intended Vision for the FBURA.
- The population targets set out in the Vision are untested and to this extent it is unclear whether the proposed planning controls included in the Draft Amendment will deliver the density required for major urban renewal precinct of State significance.
- The rapid progression of the Draft Amendment and the proposed planning controls within it, which in my view are flawed, suggest to me that the Amendment is more focussed on timely delivery of these new controls than it is upon delivering a sound planning framework for this important precinct.
- It undermines the confidence of investment in the FBURA when planning controls and the framework do not stand to proper scrutiny and this can lead to declining investment.

I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance, which I regard as relevant, have to my knowledge been withheld from the Review Panel.

David Song  
Director  

SongBowden Planning Pty Ltd
44-54 White Street South Melbourne

Site Context

1. Kador Group Holdings Pty Ltd (Kador) is the landowner of 44-54 White Street in South Melbourne (Kador Site). The subject site and its surrounds are shown below in Figure 1.

2. The Kador Site at 44-54 White Street is a large, 1.3 hectare parcel of land located in the Sandridge Precinct of the Fishermans Bend Urban Renewal Area (FBURA). The location of the site within the FBURA is identified in Figure 2 below.

3. The site is currently used and developed for commercial/warehouse and storage purposes.

Figure 1 – Kador Site and Surrounds

Figure 2 - Fishermans Bend Precincts Map, Framework pg. 20
Draft Amendment GC81 & Framework Plan

4. I have provided an overview of the various planning controls that have affected the Kador Site and its development since the declaration of the FBURA in 2012 within Table 1 below.

Table 1 – Timeline of Planning Controls

<table>
<thead>
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<th>Capital City Zone (CCZ1)</th>
<th>C102</th>
<th>GC50 (Interim Controls)</th>
<th>GC81</th>
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<tbody>
<tr>
<td>Floor Area Ratio</td>
<td>No</td>
<td>No</td>
<td>8.1:1 within Core Area</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3.3:1 within Non-Core Area</td>
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<tr>
<td>Public Open Space,</td>
<td>No</td>
<td>No</td>
<td>22m wide road to southern boundary</td>
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<td>Laneways &amp; Streets</td>
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<td>Vehicle access</td>
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<td>No</td>
<td>No access from Boundary St</td>
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<td>Design and Development</td>
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<td>Overlay – Schedule 30</td>
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<tr>
<td>Building Height</td>
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<td>18 storeys</td>
<td>12 storeys / 24 storeys</td>
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<td>Setbacks</td>
<td>No</td>
<td>20m / 5 storey street wall</td>
<td>Street Wall</td>
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<tr>
<td></td>
<td></td>
<td>10m tower setback from all site boundaries(^2)</td>
<td>Boundary St – 6 storeys (^3)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>White St – 6 storeys(^4)</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Side / Rear Setbacks</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Overall building height is up to 6 storeys – 6m</td>
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<td></td>
<td>Overall building height between 7-8 storeys –</td>
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<td></td>
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<td></td>
<td>Any part above 6 storeys must be setback</td>
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<td></td>
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<td></td>
<td>Over 20 storeys – Any part above 6 storeys must</td>
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<tr>
<td></td>
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<td></td>
<td>be setback 10m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Note: Additional tower separation controls</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>apply.</td>
</tr>
<tr>
<td>Overshadowing controls</td>
<td>No</td>
<td>No</td>
<td>No overshadowing between 11:00am and</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2:00pm on 22 September of park to the south.</td>
</tr>
<tr>
<td>Development Plan Overlay</td>
<td>No</td>
<td>No</td>
<td>Yes – outside DPO area.</td>
</tr>
<tr>
<td>Development Contributions Overlay</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Parking Overlay</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

\(^2\) Where a boundary adjoins a laneway, the setback is measured from the centreline of the laneway.

\(^3\) Based on a street width of greater than 12 m and less than 22m.

\(^4\) Based on a street width of greater than 12 m and less than 22m.
Implications of Draft Amendment GC81

5. In addition to my general statement of evidence I have considered how the Draft Amendment GC81 will impact the Kador site, and my views are outlined below.

5.1 While I consider it to be somewhat arbitrary that the Kador site is designated into both a core and non-core area (at Map 1 of the CCZ and DDO30) I am comfortable that this approach is consistent with the objectives of the Framework, in that it clearly articulates a desire to create activity cores. The Urban Design Strategy [pg., 44] explains the philosophy to:

Create vibrant, active centres that meet people’s everyday needs in each precinct based on walkable access and the scale of public transport provision. These core areas will provide the majority of employment opportunities ensuring easy access to these jobs from within and outside Fishermans Bend. The size of these core activity areas should be directly related to the degree of public transport service provision proposed, with the metro station in Sandridge supporting the largest capacity and catchment area.

5.2 However, I find it problematic that the height controls (at Map 2 of the DDO30) set a discretionary height limit of 12m within the core area and 24m within the non-core area. In my review of the Urban Design Strategy there is little specific reference to why this scenario has occurred on this site, although I note the Strategy makes the observation that ‘heights are reduced on specific sites to protect existing and proposed open spaces from being overshadowed’.

Presumably, the Kador Site is one which has been identified to protect the proposed park to the south from overshadowing. I find this to be unreasonably restrictive (a loss of 12 storeys), particularly in light of the mandatory overshadowing controls that apply within the DDO30. A more considered control would allow for a performance based assessment of the shadowing impacts upon any future park to the south.

5.3 Similar to my previously expressed views for the APN and City Road sites, I consider the overshadowing controls of the DDO30 which seek to protect proposed parks to be unreasonable.

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5 Page 88 Fishermans Bend Urban Design Strategy, Hodyl + Co, 2017
557 Plummer Street & 299 Bridge Street Port Melbourne

Site Context
6. Delta Group (Delta) is the landowner of two sites at 577 Plummer Street (Plummer St site) and 299 Bridge Street (Bridge St site), in Port Melbourne as shown in Figure 3. In terms of planning context, the Plummer St site and the Bridge St site are within the Sandridge Precinct of the FBURA. The location of the site within the FBURA is identified in Figure 4 below.

7. Both the Plummer St and Bridge St sites are used and developed for office, warehouse and light industrial purposes. I understand that, at least in the medium term, Delta intends to continue operate from both the Plummer St and Bridge St sites.

Figure 3 – Delta site and surrounds

Figure 4 - Fishermans Bend Precincts Map, Framework Plan pg. 20
8. I have provided an overview of the various planning controls that have affected the Delta sites and its development since the declaration of the FBURA in 2012 within Table 2 below.

Table 2 – Timeline of Planning Controls

<table>
<thead>
<tr>
<th>Capital City Zone (CCZ1)</th>
<th>C102</th>
<th>GC50 (Interim Controls)</th>
<th>GC81</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor Area Ratio</td>
<td>No</td>
<td>No</td>
<td>8.1:1 within Core Area 3.3:1 within Non-Core Area</td>
</tr>
<tr>
<td>Public Open Space, Laneways &amp; Streets</td>
<td>No</td>
<td>No</td>
<td>16m road widening (Plummer St site) 22m new road (Bridge St) 3 x new public open space areas</td>
</tr>
<tr>
<td>Vehicle access</td>
<td>No</td>
<td>No</td>
<td>No access from Plummer St</td>
</tr>
<tr>
<td>Design and Development Overlay – Schedule 30</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Building Height</td>
<td>No</td>
<td>12 storeys (mandatory)</td>
<td>Bridge St 8 storeys/ 24 storeys Plummer St 12 storeys / 24 storeys</td>
</tr>
<tr>
<td>Setbacks</td>
<td>No</td>
<td>Mandatory: 20m / 5 storey street wall 10m tower setback from all site boundaries 20m separation between towers</td>
<td>Street Wall Bridge St - 6 storeys7 Plummer St – 6 storeys8 Side / Rear Setbacks Overall building height is up to 6 storeys – 6m Overall building height between 7- 8 storeys – Any part above 6 storeys must be setback Overall 20 storeys – Any part above 6 storeys must be setback 10m Note: Additional tower separation controls apply.</td>
</tr>
<tr>
<td>Overshadowing controls</td>
<td>No</td>
<td>No</td>
<td>No overshadowing 11:00am to 2:00pm at September Equinox</td>
</tr>
<tr>
<td>Development Plan Overlay</td>
<td>No</td>
<td>No</td>
<td>Yes – Plummer Street re-alignment area</td>
</tr>
<tr>
<td>Development Contributions Overlay</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Parking Overlay</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

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6 Where a boundary adjoins a laneway, the setback is measured from the centreline of the laneway.
7 Assuming a road width between 12m and 22m
8 Assuming a road width between 12m and 22m
Implications of Draft Amendment GC81

9. In addition to my general statement of evidence I have considered how the Draft Amendment GC81 will impact the Delta site, and my views are outlined below.

9.1 With respect to the Bridge St site, I find that the imposition of a discretionary 8 storey height limit is unreasonably restrictive. I accept that it is appropriate to transition building heights to Williamstown Road to the south, however the Bridge St site will be well separated from Williamstown Road by built form of between 4-8 storeys, a new 22m wide road and adjacent linear park. I can see no articulated reason why the height controls would not be consistent with those on the east side of the Bridge St Site at 49 Bertie Street.

9.2 I have similar reservations with the discretionary height control of 12 storeys that is applied to the southern portion of the Plummer St Site, which falls entirely within the core area.

9.3 In line with the concerns I raised in my main statement of evidence, I find the controls, particularly within the ‘core’ areas of the precinct to be overly restrictive in an urban renewal area where the Plan Melbourne expects it to do a great deal of the “heavy-lifting” to accommodate growth.

9.4 The lack of discretion in the CCZ control as it relates to the mandatory provision of land for public open space and streets places significant limitations on the ongoing use and operations of the Delta sites. As stated in my main statement of evidence, in my review of the CCZ, the CCZ prohibits all development (where a permit is required) unless land is set aside for streets, parks and the like in accordance with Map 2 and 3. It therefore follows that Delta would be unreasonably restricted from completing works to their existing building unless parks, streets and the like are provided.

9.5 In my view, this approach lacks rigour. While I accept that the control could be redrafted to include an exemption for minor buildings and works, however, I question to what extent ‘minor works’ would practically allow Delta’s operations to continue on their sites. I consider that this is yet another indication that the approach of acquiring land for road and parks via a mandatory control in the CCZ is flawed.
400 - 430 City Road Southbank

Site Context

10. Wadhawan Holdings Pty are the land owners of 400-430 City Road in Southbank (City Road Site). The site is located is a large 1.3 hectare parcel of land located in Fishermans Bend Urban Renewal Area (FBURA).

11. The 400-430 City Road site is a unique island site located at the junction of Southbank, the FBURA and South Melbourne. The site is bound by the West Gate Freeway to the north, City Road to the south, Whiteman Street and the tramline to the west. Land to the east, is outside of the FBURA. The location of the site is identified in Figure 5 below.

12. In terms of planning context, the City Road Site is within the Montague Precinct of the FBURA. The location of the site within the FBURA is identified in Figure 6.

*Figure 5 – City Road site and surrounds*

*Figure 6 - Fishermans Bend Precincts Map, Framework Plan pg. 20*
Planning History

13. It is relevant, in my view, that the landowners of 400-430 City Road have, since 2008, invested significant time and finances in seeking the appropriate planning approvals for the redevelopment of this site.

14. In 2010 a Priority Development Panel (PDP) approved Amendment C83 for the City Road Site. The Amendment approved a master plan for the construction of a mixed-use development consisting of four towers containing 1278 dwellings, 178 serviced apartments and a 288 room hotel. I understand that the approval has since expired.

15. Following the rezoning of the land and the expiry of the approved development, I understand that in May 2017, the landowners lodged a fresh planning permit application with DELWP. As I understand it, this application was designed to be consistent with the interim planning controls, and includes a proposal for 3 mixed use towers (up to 40 storeys), 1097 dwellings, a 200 room hotel, 30,048sqm commercial floor space and 4,148sqm of ground floor retail space. This current proposal is depicted in the preliminary modelling prepared by XO Projects in Figure 7 below.

Figure 7 – Existing City Road Proposal, XO Projects
Draft Amendment GC81 & Framework Plan

16. I have provided an overview of the various planning controls that have affected the City Road site and its development since the declaration of the FBURA in 2012 within Table 3 below.

Table 3 – Timeline of Planning Controls

<table>
<thead>
<tr>
<th></th>
<th>C102</th>
<th>GC50 (Interim Controls)</th>
<th>GC81</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital City Zone (CCZ1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>No</td>
<td>No</td>
<td>6.1:1</td>
</tr>
<tr>
<td>Public Open Space, Laneways &amp; Streets</td>
<td>No</td>
<td>No</td>
<td>New public park to Whiteman St</td>
</tr>
<tr>
<td>Vehicle access</td>
<td>No</td>
<td>No</td>
<td>No access from City Road</td>
</tr>
<tr>
<td>Design and Development Overlay – Schedule 30</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Height</td>
<td>No</td>
<td>40 storeys</td>
<td>Unlimited / 24 storeys discretionary</td>
</tr>
<tr>
<td>Setbacks</td>
<td>No</td>
<td>20m / 5 storey street wall</td>
<td>Street Wall</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10m tower setback from all site boundaries(^9)</td>
<td>City Road - 8 storeys(^{10})</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20m separation between towers</td>
<td>Whiteman St – 6 storeys(^{12})</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Side/Rear</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Overall building height is up to 6 storeys – 6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Overall building height between 7- 8 storeys – Any part above 6 storeys must be setback</td>
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<td></td>
<td>Over 20 storeys – Any part above 6 storeys must be setback 10m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Note: Additional tower separation controls apply.</td>
</tr>
<tr>
<td>Overshadowing controls</td>
<td>No</td>
<td>No</td>
<td>No overshadowing between 11:00am and 2:00pm on 22 September</td>
</tr>
<tr>
<td>Wind Effects</td>
<td>No</td>
<td>No</td>
<td>Applies above 40 storeys</td>
</tr>
<tr>
<td>Development Plan Overlay</td>
<td></td>
<td></td>
<td>Yes – outside DPO area.</td>
</tr>
<tr>
<td>Development Contributions Overlay</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Parking Overlay</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

\(^9\) Where a boundary adjoins a laneway, the setback is measured from the centreline of the laneway.
\(^{10}\) Assuming a road width of greater than 22m
\(^{12}\) Assuming a road width of greater than 12m and less than 22m
Implications of Draft Amendment GC81

17. In addition to my general statement of evidence I have considered how the provisions of Draft Amendment GC81 will impact the City Road site, and my views are outlined below.

17.1 From an overall perspective, I am of the opinion that the proposed controls fail to appreciate the unique physical context of the City Road site.

17.2 I find that applying a 24 storey height control to much of the City Road site to be misguided. The City Road site is a good example of where physical context allows for a taller building form. The site sits adjacent to taller buildings (in excess of 40 storeys) within Southbank and in my view would be a logical extension to the Southbank precinct. This is also one of the few sites in FBURA that has excellent access to existing public transport and infrastructure generally.

17.3 The Urban Design Strategy explains:

*Tower developments are still supported in Montague North, however the overall heights have been reduced to align with revised density targets and to increase the amount of sunlight reaching the southern side of streets, particularly Normanby Road, to support the creation of a high-quality civic spine.*

17.4 I find this proposition difficult in the context of a State Planning Policy Framework that clearly expresses a strategic imperative for the FBURA to accommodate significant growth and change.

17.5 Given the island nature of the City Road site I also consider that there is inadequate justification for the provision a large neighbourhood park on the site. I refer to the Open Space evidence of Ms Thompson, Director of *Thompson Berrill Landscape Design Pty Ltd* on behalf of the Minister in which the park on the City Road site is identified as M7. In Ms Thompson’s view the M7 neighbourhood open space is required as without it people living and working in this sub-precinct will not have safe and easy access to open space within 200m. 

17.6 In my view the City Road Site would not provide a safe and easily accessible park to the community, beyond the confines of the City Road site itself and that is because there is a physical dis-connect. Whiteman Street, the Light Rail, City Road and Cecil Street all act as barriers that Ms Thompson refers to in her

Page 32, Open Space Evidence, Joanne Thompson, 6 March 2018

*songbowdenplanning pty ltd*
statement of evidence\textsuperscript{17}. I therefore question the benefit to be derived from a park on this site.

17.7 In light of this, I am of the view that the land owners/developers of the City Road Site should be afforded the flexibility to provide communal and public open space that integrates with the redevelopment of the site. I note that the current proposal for this site incorporates large communal areas on the podium rooftops that are to be used by future residents.

17.8 I also consider it relevant that the Fishermans Bend Public Space Strategy 2017 prepared by Planisphere did not identify this site as one required for public space, implying in my view that any contribution to public space from the development of this site would be financial as opposed to land offering.

17.9 I also find that is problematic for the public open space to be located immediately to the south of the area identified for an unlimited height control. Modelling prepared by XO Projects indicates that to comply with the overshadowing controls of the DDO30, the height of any building immediately north of the park would be significantly compromised and a missed opportunity on such an important site. This is depicted in Figure 8 below.

\textit{Figure 8 – Fishermans Bend Framework Modelling, XO Projects}

\textsuperscript{17} Page 9, Open Space Evidence, Joanne Thompson, 6 March 2018
17.10 Further to this, I question the equity of requiring the provision of a park on private land and also requiring the landowners to make an 8% public open space contribution as part of any new development.

17.11 Finally, I have concerns that there are no transitional provisions in place for the application for planning permit currently on hold for this site, which in my view, is not fair and orderly planning.
277-281 Ingles Street Port Melbourne

Site Context

18. APN DF2 Project 1 Pty Ltd (APN) are the land owners of 277-281 Ingles Street in Port Melbourne (APN Site). The APN Site is a large, irregular parcel of land (2.12 hectare) within the Fishermans Bend Urban Renewal Area (FBURA). The subject site and its surrounds is shown below in Figure 9.

19. The broader, similar to much of its surrounds, is currently used and developed for office and warehouse purposes.

20. In terms of planning context, the APN Site is within the Sandridge Precinct of the FBURA. The location of the site within the FBURA is identified in Figure 10 below.

Figure 9 – APN Site and Surrounds

Figure 3 – Fishermans Bend Precincts Map, Framework Plan pg. 20
Planning History

21. It is relevant that the land owners of APN Site have, since 2014, invested significant time and finances in seeking the appropriate planning approvals to redevelop 2.4 hectares of this site.

22. I am aware that in December 2014, the landowners sought an application for the development of 3 mixed use towers (2 x 34 storeys and 1 x 52 storeys) containing 1406 dwellings, associated car parking, a new through-road and extensive public open space.

23. This application has been progressively revised to reflect the interim controls that have applied to the site.

24. I understand that at present the planning proposal comprises 3 mixed use towers (18 storeys) containing 957 dwellings, associated car parking and a new through-road.

25. I understand that this application has been called-in by the Minister for Planning.

Draft Amendment GC81 & Framework Plan

26. I have provided an overview of the various planning controls that have affected the APN Site and its development since the declaration of the FBURA in 2012 within Table 4 below.

<table>
<thead>
<tr>
<th></th>
<th>C102</th>
<th>GC50 (Interim Controls)</th>
<th>Draft Amendment GC81</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital City Zone (CCZ1)</td>
<td>No</td>
<td>No</td>
<td>8.1:1</td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>No</td>
<td>No</td>
<td>2 new roads (22m wide road dissects site &amp; 12m wide road to western boundary)</td>
</tr>
<tr>
<td>Public Open Space, Laneways &amp; Streets</td>
<td>No</td>
<td>No</td>
<td>3 new public open space areas</td>
</tr>
<tr>
<td>Vehicle access</td>
<td>No</td>
<td>No</td>
<td>No access from Ingles or Bertie St</td>
</tr>
<tr>
<td>Design and Development Overlay – Schedule 30</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Height</td>
<td>No</td>
<td>18 storeys</td>
<td>Unlimited</td>
</tr>
<tr>
<td>Setbacks</td>
<td>No</td>
<td>20m / 5 storey street wall</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>10m tower setback from all site boundaries&lt;sup&gt;18&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>20m separation between towers</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Street Wall</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 storeys&lt;sup&gt;19&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Side / Rear</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Overall building height is up to 6 storeys – 6m</td>
<td></td>
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<td></td>
<td>Overall building height between 7-8 storeys – Any part above 6 storeys must be setback</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Over 20 storeys – Any part above 6 storeys must be setback 10m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: Additional tower separation controls apply.</td>
<td></td>
</tr>
</tbody>
</table>

<sup>18</sup> Where a boundary adjoins a laneway, the setback is measures from the centreline of the laneway.

<sup>19</sup> Assuming a road with of greater than 12m and less than 22m
Implications of Draft Amendment GC81

27. In addition to my general statement of evidence I have considered how the Draft Amendment GC81 will impact the APN Site, and my views are outlined below.

27.1 I consider the overshadowing controls of the DDO30 which seek to protect proposed park to be an unreasonable restriction on the development of the APN site. The redevelopment of the APN site, which is north of the park at 61 Bertie Street, would require substantial setbacks to meet the overshadowing controls contained with the DDO30. This is in the absence of any guarantee that the landowners at 61 Bertie Street (Toyota) will ever develop that site, and thus deliver the park.

27.2 In this context, I do not support the mandatory overshadowing controls. A more considered control would allow for a performance based assessment of the shadowing impacts.

27.3 I also question the equity of requiring the provision of parks (3 in this case) on private land and also requiring the landowners to make an 8% public open space contribution as part of any new development.

27.4 As I have expressed earlier, while I support the promotion of employment generating floor space within the core areas generally I am concerned that the well-intended proposed policy which seeks to promote employment generating floor space may be too burdensome in situations where there are questions regarding the delivery of infrastructure. That is, if the infrastructure has not been delivered the potential is that commercial investment will not occur, resulting in situations where core sites have empty/vacant floor space.

27.5 Finally, I have concerns that there are no transitional provisions in place for the application for planning permit currently on hold for this site, which in my view, is not fair and orderly planning.