

FISHERMANS BEND PLANNING REVIEW PANEL

PLANNING SCHEME AMENDMENT GC81

SUBMISSION ON BEHALF OF LORIMER PROPERTIES PTY LTD ATF LORIMER PROPERTIES UNIT TRUST, OWNER OF 81 LORIMER STREET, DOCKLANDS

Introduction

1. This submission is made on behalf of Lorimer Properties Pty Ltd ATF Lorimer Properties Unit Trust (**'our client'**), owner of 81 Lorimer Street, Docklands (**'the subject site'**).
2. Our client generally supports proposed planning scheme Amendment GC81 (**'the Amendment'**) and supports the strategic work underpinning the proposed amendment; however, concerns are held regarding the built form outcome that the current proposed controls will result in for the subject site.
3. Our client recognises that there is considerable urban renewal potential within Fishermans Bend and comprehensive planning scheme controls and policies have an important role to play in ensuring positive economic, social and environmental outcomes.
4. The subject site is the easternmost property within the Lorimer Precinct, presenting to the east as a strategic gateway site worthy of a greater level of intensification than elsewhere within the Lorimer precinct.
5. The draft Framework fails to recognise the strategic redevelopment potential of the subject site and the potential of the site to enhance the sense of arrival into the Fishermans Bend Urban Renewal Area.
6. It is in this respect that we submit that the mandatory controls proposed by GC81, in particular the maximum floor area ratio (**'FAR'**) of 5.4:1 fail to provide for the efficient use of the subject site.
7. The proposed controls are likely to result in the subject site being developed with a building incongruous with its surrounds, out of keeping with the existing and emerging character of constructed or approved buildings surrounding the subject site.
8. We note that the preliminary massing and yield study prepared by Fender Katsalidis Architects (**'FKA'**), which was included as part of our written submission submitted 28

February 2018, has been updated in light of the revised Capital City Zone (CCZ) schedule (Document 156a) circulated by the Minister for Planning.

9. The original preliminary massing and yield study comprised a residential FAR of 5.4:1 and an additional commercial FAR of 1.7:1 in accordance with the then proposed policies and controls for the Lorimer precinct.
10. The preliminary massing and yield study has been updated to reflect the revised controls, which specify a total maximum FAR of 5.4:1 inclusive of a FAR of 1.7:1 for non-residential development, resulting in a reduction of total gross floor area from 31,304m² to 19,267m².

Physical Context

11. The subject site is generally trapezoidal in shape and has an area of 3,568m². The site is generally flat and lacking significant vegetation. The site has a frontage to Lorimer Street approximately 50 metres in length
12. The site fronts Lorimer Street at the point of a double curve in the road so that from the east the road turns slightly north at the subject site before reorienting generally east-west. As a result, west-bound traffic is presented with the subject site in its direct path for a considerable distance before reaching the double bend in Lorimer Street.
13. The subject site is currently occupied by a five storey commercial building and surface car park.
14. Directly east of the site, 75 Lorimer Street is occupied by a tract of office/industrial buildings two storeys in height and associated open car parks.
15. The subject site is directly north of the Westgate Freeway (save for a narrow portion of 75 Lorimer Street).
16. Directly west of the subject site, 85-93 Lorimer Street is generally vacant in preparation for redevelopment. A planning permit was issued for the development of two residential towers, 47 and 49 storeys in height, on this land.
17. Opposite the subject site to the north east are two residential tower developments, at 92-102 Lorimer Street and 84-90 Lorimer Street respectively. These towers are part of a row of seven towers sited between Lorimer Street and the Yarra River within the Yarra's Edge precinct of Docklands.
18. Opposite the subject site to the north is Point Park, which has a broad frontage to the Yarra River.

19. In terms of its physical context, the subject site is read as a transition from a narrow peninsula of land located between the Westgate Freeway to the south and the Yarra River to the north occupied by tower development to where the Lorimer precinct broadens and three storey townhouses occupy Yarra's Edge.

Strategic Context

20. The subject site is located within Lorimer precinct of the Fishermans Bend Urban Renewal Area. Notable precinct interfaces include; the Westgate Freeway to the south, Lorimer Street and Yarra's Edge Precinct in Docklands to the north, and Fishermans Bend Employment precinct to the west.
21. It is our understanding that Lorimer Street will continue to be a key transport route for heavy vehicles to and from the Port of Melbourne.
22. The subject site is the easternmost property within the Lorimer Precinct, marking the only eastern entrance into Lorimer Precinct.
23. The subject site is located on the southern periphery of the Yarra's Edge precinct of Docklands which includes seven tall tower developments north and north east of the subject site. A Design and Development Overlay (Schedule 49) has been applied to this portion of Yarra's Edge, which provides for a maximum height limit of 135 metres for the towers located at 92-102 Lorimer Street and 84-90 Lorimer Street respectively.
24. A permit has been granted to develop 85-93 Lorimer Street (directly west of the subject site) with a podium and two towers, 47 and 49 storeys in height, respectively. The Fishermans Bend Planning Panel Built Form & Capacity Modelling report which forms part of the City of Melbourne's submission, states that the approved development has a FAR of approximately 7.5:1 (Document 82, Appendix 2).
25. We understand that a north-south street is proposed between the subject site and the approved towers at 85-93 Lorimer Street, within the eastern boundary of 85-93 Lorimer Street.
26. Lorimer Street and land directly east of the site (at 75 Lorimer Street) is placed within the Road Zone – Category 1.
27. Directly south of the site, land at 75 Lorimer Street and the West Gate Freeway is also placed within the Road Zone – Category 1.
28. The Minister's Part B Submissions states that there is a need to establish strong and consistent character themes for each of the precincts (Document 94, para. 79).

29. The *Fishermans Bend Vision (September 2016)* states:

Lorimer, together with the Yarra's Edge Precinct in Docklands, is a keystone central to Melbourne's identity as a river city.

Taller buildings are located closer to the freeway. They are designed to provide a buffer to the freeway and form an attractive backdrop to the precinct.

30. The draft *Fishermans Bend Framework* characterises Lorimer as:

A vibrant, mixed use precinct close to the Yarra River and connected to Melbourne's CBD, Docklands and emerging renewal areas.

31. The existing and future built form character of the eastern portion of the Lorimer precinct and adjoining portion of Yarra's Edge precinct is that which is currently and will in the future be defined by its tall towers, generally lacking sensitive interfaces.

32. Furthermore, the *Fishermans Bend Urban Design Strategy (September 2017)*, a key reference document underpinning the FAR and built form controls of proposed Amendment GC81, states that tower development is supported in Lorimer (pg. 88).

33. The vision for Lorimer as set out in the Minister for Planning's character statement for Lorimer (Document L7, para 2) nominates varied building typology and a gradation in building height to achieve the preferred character outcome.

34. An identified key outcome for Lorimer is a mix of mid and high-rise buildings with taller buildings located along the West Gate Freeway interface (Document L7, para 5b).

35. The subject site is placed within sub-precinct L4, within which the preferred character elements include (Document L7, para 15):

- a) *Hybrid developments of mid-rise perimeter blocks and tower developments*
- b) *Well-spaced towers that avoid a wall-of-towers effect when viewed from the Yarra River, Lorimer Parkway, internal streets and the West Gate Freeway*
- c) *Towers that create a visual landmark to the West Gate Freeway recognising that this is an important arrival point into the central city.*
- d) *Location and design of towers to minimise overshadowing of parks and streets in the Sandridge precinct.*
- h) *Unlimited building height*

Summary of Submission & Key Issues

36. We submit that the subject site is a gateway site that marks arrival from the east into the Lorimer precinct and thus planning controls and policy should provide for a landmark building.
37. As currently drafted, Amendment GC81 fails to recognise the opportunity for built form on the subject site reflective of its physical and strategic context.
38. The application of a mandatory maximum FAR of 5.4:1 to all land within the Lorimer precinct fails to provide for site responsive design and does not reflect the strategic complexities of this precinct, in particular its varied interfaces with Docklands to the north, the Employment precinct to the west and the Westgate Freeway to the south.
39. In the absence of a discretionary FAR, the only manner by which the subject site could accommodate a landmark building is through 'Floor Area Uplift' ('FAU'), which is not the purpose of FAU as proposed. We understand that the purpose of the FAU as proposed is to deliver community benefit in exchange for the provision of additional yield (Document 53, para 124).
40. Under the proposed controls the only manner in which development of the subject site can take advantage of FAU is through the provision of affordable housing. While our client is not opposed to providing affordable housing, we submit that the subject site's strategic location at the eastern entrance of the Lorimer precinct should allow for FAU through the public benefit of architectural excellence.
41. The built form character identified by the existing and approved developments in immediate proximity of the subject site is that of tall towers. Development of the subject site in keeping with the proposed controls and policies, as demonstrated by the preliminary massing and yield study prepared by Fender Katsalidis Architects, will be incongruous with the existing and future character of the immediate area.

Floor Area Ratio and Built Form Controls

42. The proposed FAR of 5.4:1 for the Lorimer Precinct responds to the target population of 12,000 identified for this precinct.
43. We accept that the FAR has been designed to respond to target populations throughout Fishermans Bend but echo the concerns of the numerous experts who contest that this target does not provide for the efficient use of land in close proximity to the Melbourne CBD.

44. The proposed FAR of 5.4:1 and built form controls appear to have been applied to the Lorimer precinct without appropriate appreciation for the precinct's varied interfaces and physical site contexts, particularly (in so far as it relates to the subject site) the Yarra's Edge precinct to the north of Lorimer Street.
45. The *Fishermans Bend Vision (September 2016)* and draft *Fishermans Bend Framework* include statements strategically linking the Lorimer precinct with the Yarra's Edge precinct but the proposed controls do not take into consideration existing and approved built form within the Yarra's Edge precinct.
46. As demonstrated by the *Independent Expert Witness Urban Design Evidence Presentation* prepared by Mr de Keijzer's (Document 190, pg 35), buildings fronting Lorimer Street north of the green spine running east-west through the Lorimer precinct will provide for incongruous eight-storey street walls opposite recently constructed three-storey townhouses.
47. In contrast, as demonstrated by FKA's preliminary site and massing study, our client's land will be significantly limited by the proposed maximum FAR, constraining the built form allowed to a low-rise form, much lower than existing and approved towers to the west, north and north east, despite lacking sensitive interfaces or other characteristics that would justify such an outcome.
48. The current (interim) provisions of the Melbourne Planning Scheme provide for a building with a maximum height of 40 storeys on the subject site, which we submit is in keeping with the existing prevailing character of constructed or approved buildings surrounding the subject site.
49. These existing controls provide for the site to be developed in a similar manner to the other properties in the immediate vicinity of the subject site within Docklands, including 85-93 Lorimer Street to the west, thereby achieving balanced massing in keeping with the existing developments north of Lorimer Street.
50. We acknowledge that there are positives characteristics of FAR as employed in the proposed schedule to the CCZ; however, there are drawbacks as well which bear consideration.
51. We submit that FAR (in combination with setback controls) favours larger lots.
52. We submit that FAR provides larger lots greater flexibility in terms of permissible built form, including taller built forms that provide better views and prestige within place.
53. Furthermore, we submit that FAR encourages consolidation of lots resulting in:

- 53.1. Discouragement of small-scale developers
 - 53.2. Fewer property owners within a given area
 - 53.3. Larger grain development
 - 53.4. Contrived fine grain development
 - 53.5. Less organic outcomes
 - 53.6. Loss of public permeability in favour of private permeability, disadvantaging pedestrian movement
54. We agree with Mr Sheppard's Lorimer Specific Evidence in which he questions the justification for a uniform maximum FAR across the precinct, despite the preferred maximum heights varying considerably (Document 177c, para 50) and agree with his recommendation that more work needs to be done to determine the appropriate density in each part of Lorimer (para 56).
 55. We submit that the physical and strategic context of the subject site provides strong justification for greater density than that provided for by the proposed FAR.
 56. The preliminary site and massing study prepared by FKA further demonstrates that the subject site is within an area already defined by high rise development.
 57. Within the cityscape, the subject site and adjoining property (83-95 Lorimer Street) will appear to be part of Docklands, currently occupied by high rise towers north and north east of the subject site flanked on the west by medium rise development.
 58. We submit that the subject site should thus benefit from similar controls to those that applied to the approved development at 85-93 Lorimer Street and buildings north and north east of the subject site.
 59. We submit that should consideration be given to providing for higher densities within parts of the Lorimer precinct, the subject site presents a strong case for such given the subject site is:
 - 59.1. Located within an area already defined by high-rise, high-density development
 - 59.2. A corner lot with the potential to be a landmark entry point given the subject site marks the only eastern entry point into the Lorimer precinct

59.3. Benefits from a lack of sensitive interfaces and will not overshadow important public realm

59.4. Provides for a tower element with sufficient setback from nearby existing towers and approved towers to the west

Floor Area Uplift

60. We acknowledge that there is an option for Floor Area Uplift (FAU) through the provision of affordable housing, allowing development of the subject site to exceed the prescribed FAR.

61. We submit that there is a significant gap between what is allowed under the proposed standard FAR of 5.4:1 relative to the site's physical and strategic context (both of which provide justification for a higher FAR) when compared to other sites within Fishermans Bend. As a result, our client would be responsible for providing a higher proportion of "Public Benefits" than other sites within Fishermans Bend to efficiently develop the subject site.

62. Notwithstanding this, we submit that FAU resulting from the provision of affordable housing should be uncapped.

63. The City of Melbourne has expressed concern that uncapped FAU, already permitted dwellings and dwellings resulting from the proposed FAR of 5.4:1 at 75% build out as modelled by Ms Hodyl will result in overpopulation of the Lorimer precinct which would overwhelm planned infrastructure.

64. To prevent overpopulation of Lorimer, the City of Melbourne has submitted that FAU be capped (Document L11, para 74).

65. In contrast, Ms Hodyl's expert evidence (Document 53, para 131) supports an uncapped FAU to allow sites to maximise the built form they accommodate through additional public benefit.

66. We submit that uncapped FAU will provide the subject site the opportunity to realise a built form appropriate for its physical and strategic context while at the same time providing much needed affordable housing.

67. We submit that the City of Melbourne's concerns regarding existing dwellings may be unfounded given that some of the approved developments may never be constructed

68. We also submit that the *Lorimer Built Form Testing & Capacity Modelling* prepared by Ms Pearson demonstrates (Document 82, pg 29) that the limited use of FAU for affordable

housing on the subject site still results in inefficiently used land and a building incongruous with its immediate surrounds.

69. We submit that any proposed cap on FAU for the provision of affordable housing has the potential to unduly hinder the provision of affordable housing.
70. It is premature in our opinion to state that uncapped FAU will result in the overpopulation of the Lorimer Precinct.
71. Furthermore, the Ministerial Advisory Committee's (MAC) suggestion of a five year review period of affordable housing targets (*Report to the Minister for Planning on Draft Fishermans Bend Framework October 2017*, pg 42) and the Minister's submission that FAR is reviewable (Document 151, para 63b) and thus can be adjusted as necessary over time would suggest that there is no reason to cap FAU at this time even if it did result in a population greater than expected in the short term.
72. While not regarded as FAU per se, we also agree with the MAC that no limit should be set for non-residential uses to ensure that sufficient jobs and a variety of jobs are provided for within Fishermans Bend.
73. We note that additional commercial floor area would respond to the City of Melbourne's concerns in paragraph 67 of its submission (Document L11) that the proposed FAR will not result in the targeted number of workers for the Lorimer precinct.

Architectural Design Excellence

74. It is not uncommon for structure plans or urban design strategies to identify specific gateway/landmark sites suitable for site-specific controls, which provide for greater development potential than other nearby sites.
75. We submit that it would be appropriate for specific sites, such as our client's site, to be identified for a fourth option for FAU in which a proposal demonstrates benefit to the broader community through exceptional quality of design and a positive contribution to the quality of the public realm.
76. The draft Fishermans Bend Framework supports this opportunity, encouraging architectural design excellence in new buildings is an identified strategy by which to achieve (Objective 1.9) *thriving, lively mixed use neighbourhoods that have a distinct identity and character, which fosters social cohesion.*
77. We submit that there is general consensus between landholders, the City of Port Phillip and the City of Melbourne, expert witnesses and peak bodies regarding the potential for a

design review panel or design competition to have a positive impact on architectural design excellence within Fishermans Bend.

78. The City of Melbourne agrees (along with the City of Port Phillip) that the identification of special sites, including prominent or landmark sites, is an important factor missing from the overall urban structure proposed by Amendment GC81 (Document 192, para 6).
79. The Australian Institute of Architects (Document 61) details several examples by which design review panels or design competitions can have a positive impact on architectural design excellence.
80. Mr Shepard's *Expert Urban Design Evidence* goes one step further, identifying sites throughout Fishermans Bend where he believes landmark buildings or significant civic uses could further reinforce the legibility of the area (Document 165b, para 114).
81. We submit that our client's site is in a strategic position, being the easternmost site in Lorimer, marking the only eastern entrance into the Lorimer precinct and due to the bend in Lorimer Street being in a highly prominent location, and thus capable of accommodating a landmark building.
82. We submit that a landmark building on the subject site will improve legibility, marking the boundary between Docklands (to the northeast) and the Lorimer precinct.
83. We submit that the preliminary site and massing study prepared by FKA and modelling prepared by Ms Pearson (Document L12a), demonstrate that a smaller building would decrease the legibility of the Lorimer precinct in regards to the eastern entry point.
84. Furthermore, the site's physical context provides a rare opportunity where (all) west-bound traffic entering the Lorimer precinct will have direct views of the subject site given the bend in Lorimer Street, thus it is capable of enhancing the sense of arrival, providing an interesting and memorable entry into the Lorimer precinct.
85. We call attention to the *Independent Urban Design Evidence* prepared by Mr de Keijzer, who, in order to support design excellence, states (Document 141, pg 5):

The only uplift mechanism that I would be comfortable with is the design excellence approach where by holding a competition a developer may be awarded some uplift.

86. We acknowledge that there are multiple ways to 'make a landmark' but within the subject site's context, surrounded by existing / approved towers, a similarly tall tower of significant

architectural design excellence is the most appropriate way to mark this key entrance into Fishermans Bend.

87. We submit that it would be appropriate for specific sites, such as our client's site, to be identified for a fourth option for FAU in which a proposal demonstrates benefit to the broader community through exceptional quality of design and a positive contribution to the quality of the public realm.
88. A similar provision to what we are suggesting is included within Schedule 63 to the Design and Development Overlay within the Melbourne Planning Scheme applied to portions of the Arden-Macaulay area (introduced into the Melbourne Planning Scheme via Amendment C190 gazetted 23 October 2017).
89. Schedule 63 provides for an increase in building height over the preferred maximum building height for buildings that demonstrate each of the following:
 - *A demonstrable benefit to the broader community that include among others:*
 - *Exceptional quality of design.*
 - *A positive contribution to the quality of the public realm.*
 - *High quality pedestrian links where needed.*
 - *Good solar access to the public realm.*
90. The independent Panel convened to consider submissions on Amendment C190 (as exhibited) accepted that the criteria to allow additional height beyond the preferred maximum height were not clearly defined and would be the subject of debate in relation to individual projects but concluded that *such debate is part and parcel of a discretionary system* (Melbourne Planning Scheme Amendment C190 Panel Report, pg 51).
91. Concerns have been raised regarding the uncertainty resulting from FAU. Mr Milner characterises as a 'wildcard', poorly conceived, providing for a range of outcomes (Document 73, para 175).
92. Similar sentiments have been expressed in other submissions as if there were a conceivable set of controls to provide absolute certainty and an optimum outcome for all sites.
93. We submit that the purpose of strategic planning is not to provide certainty but to limit uncertainty and negative externalities, while providing for site responsive design.
94. We submit that a range of outcomes is inevitable regardless of the controls or policies implemented given that a range of factors outside of the purview of planning impact built form and amenity outcomes.

Lorimer Street Interface and Yarra's Edge Precinct

95. Given the strong strategic connection between the Lorimer precinct and Yarra's Edge precinct identified in the *Fishermans Bend Vision (September 2016)* and draft *Fishermans Bend Framework*, we believe further consideration needs to be given to how these two precincts connect visually and in terms of pedestrian movements.
96. The built form controls identify that a significant portion of Lorimer Street is to provide for active frontages, providing for a positive pedestrian experience, including passive surveillance of the public realm. However, Lorimer Street will provide primary heavy vehicle access to the Port of Melbourne, creating a poor pedestrian environment.
97. Traffic surveys documented in Document 296 prepared on behalf of Port of Melbourne indicates that 40% of southbound container trucks currently use Lorimer Street and 74% of northbound container trucks use Lorimer Street.

Conclusion

98. We submit that the subject site is located in an area already defined by tower development, including the approved towers at 85-93 Lorimer Street and seven constructed towers that make up Yarra's Edge precinct of Docklands.
99. A mandatory maximum FAR of 5.4:1 unreasonably limits the development of the subject site.
100. The draft Framework sets out targets for 2050, including Fishermans Bend being widely acknowledged as a place of architectural excellence and we submit that for this to occur more detailed work needs to inform the FAR and built form controls as they affect varied areas within the Lorimer precinct. Incentives should be provided for buildings with strong architectural merit.
101. For sites to contribute to the distinct character of the precinct set out in the draft Framework, sub-precinct specific FARs should be explored to provide smaller sites within sub-precinct L4 which generally lack sensitive interfaces, such as the subject site, the opportunity to better respond to the distinct sub-precinct character sought as set out in the Proposed Precinct Character: Lorimer (Document L7, para 15). Conversely, reduced FARs in sub-precincts with more sensitive interfaces will ensure that the target population is achievable.
102. There is strong support amongst varied parties' and expert submissions before the Panel for key sites to be identified and treated differently than through precinct wide controls.

103. We submit that our client's land is a key site.
104. We submit that consideration should be given to a higher maximum FAR on our client's land given its physical and strategic context, in particular its lack of sensitive interfaces and location marking the only eastern entrance into the Lorimer precinct.
105. At a minimum, we make the following recommendations:
 - 105.1. Commercial floor area be raised or uncapped to provide for an increase in employment opportunities within Fishermans Bend, providing for existing and future residential populations in Fishermans Bend, Southbank and Docklands
 - 105.2. Affordable housing FAU should be left uncapped to encourage the provision of affordable housing in effective numbers
 - 105.3. A fourth type of FAU should be considered for landmark sites such as the subject site, in which additional floor area is permissible via a demonstrable benefit to the broader community through architectural design excellence.

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Director
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15 May 2018