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13 March 2018

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BCC: parties according to the distribution list

Dear All,

**Fishermans Bend Planning Review Panel – Expert evidence  
Addenda 1 to expert evidence of Professor Donald Bates**

Please find attached Addenda 1 to expert witness report of Professor Donald Bates

Please note all parties have been blind copied according to the distribution list dated 28 February 2018.

Yours faithfully,



**HARWOOD ANDREWS**

Encl.



# **FISHERMANS BEND**

## **DRAFT PLANNING SCHEME AMENDMENT GC81**



## **RESPONSE TO SUBMISSIONS - Various**

**Prof DONALD L BATES  
LAB Architecture Studio**

**12.03.2018**

[1] **Responses to Submissions to the Fishermans Bend Draft Framework Plan & Draft Planning Scheme Amendment GC81**

[2] The following comments and critical reviews are in relation to a majority of the 253 submissions to the Fishermans Bend Draft Framework Plan and the draft Planning Scheme Amendment GC81. These comments and reviews have sought to consolidate the major issues and concerns raised by a large number of the submissions, rather than respond to the specifics and nuances of the individual submissions on property holdings or the focus of individuals or groups.

[3] **Fishermans Bend: Population Projections & Growth Targets**

[4] A significant number of submissions set the stage for their individual responses by noting that the Fishermans Bend Draft Framework Plan is predicated on assuming a residential population of 80,000, as well as 80,000 working population (including the Employment precinct). In many submissions, statement such as the following (or to the effect of the following) raise concerns with this assumption regarding population targets/limits:

a. *“It is considered that these targets are manifestly inadequate.”*

b. *“We object to these benchmark targets as they are clearly inadequate.”*

[5] The issue raised by these and other arguments is that the proposed level of population – residential and working – is being set too low and therefore the controls being proposed do not reflect the potentially much larger population capacity of Fishermans Bend. In most cases, there is no evidence or presented logic to support why these targets are inadequate.

[6] There are some submissions that use the known conditions of Melbourne and Victoria as the city and state with the currently highest rate of population growth in Australia. In addition, note is made of statements and growth projections in Plan Melbourne and the Melbourne and Port Phillip Planning Schemes to emphasize the inevitability of residential and employment growth.

[7] There were no pre-set or fixed population targets for Fishermans Bend before the Draft Framework Plan. The figure of 80,000 residential population does occur before the Draft Framework Plan as the scale and quality of Fishermans Bend is negotiated. When the area was changed to a Capital City Zone in 2012, there were numerous proclamations and presumptions stating that Fishermans Bend would be one of the areas to assist in catering for the significant population and employment growth of Melbourne. Assumptions were made that gave an image to Fishermans Bend as a continuation (in built form and occupation) of both the Melbourne CBD and recent urban consolidation around Southbank and the Docklands.

[8] As noted, these were assumptions and suppositions, not based on specific policy. The setting of residential and employment target for Fishermans Bend are the consequence of a sequence that proceeds from *Fishermans Bend Ministerial Advisory Committee (2015)*, *Fishermans Bend Taskforce (Established Jan 2016)*, *“Recast Vision” for Fishermans Bend (May – July 2016)*, *“Fishermans Bend Vision” (Sept 2016)* and finally the delivery of the ***Fishermans Bend Draft Framework (released for public consultation October 2017)***.

- [9] The Section 4.1 of the ***Fishermans Bend Urban Design Strategy*** (Oct 2017) gives a clear analysis and structure to how FAR is used to meet the residential and employment targets for Fishermans Bend.
- [10] Therefore, it is fair to say that the population targets that are central to the Fishermans Bend Framework Plan were developed and tested through a thorough community and specialist consultation process. They were developed not as maximum numbers and quantities that could be accommodated by any and all means at Fishermans Bend, but rather they are the targets that support a specific and defined ***“vision”*** for Fishermans Bend – one that has emerged through a rigorous consultation processes.
- [11] It is important to be clear, that it is the ***“vision”*** for Fishermans Bend that is the foundation for subsequent population and density targets, not the other way around. Therefore, the targets cannot be ***“inadequate”*** as they are there to guide the development to a specific and defined vision.
- [12] **Public Transportation, Building Scale and Timeframes**
- [13] Several submissions are from land owners or representatives of development proposals who have previously submitted planning applications for their respective sites. In general, these submissions are critical of the fact that the Fishermans Bend Draft Framework Plan has proposed reductions in the development limits (height/storeys/number of apartments/set-backs/floor area) of their sites, relative to previous indications or planning controls.
- [14] In arguing their case for why these changes are contrary to their interests, a case is made in numerous submissions that sets out the following logic path: 1) Previous approval or controls would have allowed for significantly greater density on a specific site; 2) Greater density is good for Fishermans Bend and Melbourne; 3) Public transport proposals for Fishermans Bend are insufficient or will take too long to fulfil; 4) Nonetheless, the original development potential for their sites should be restored.
- [15] Given that the proposed controls of GC81 will moderate the expectations of Fishermans Bend as a high-density, high-rise development precinct, such a consequence will help to better match the proposed new public transport initiative that will eventually be delivered for Fishermans Bend. The controls seek to establish a more tested and more calibrated relationship between built form, density and urban character (through FAR, height limits and set-backs) and the proposed final residential and employment population of Fishermans Bend. Maintaining the existing condition of limited building control (and subsequent high-density and high-rise typology across Fishermans Bend) would indeed lead to a mismatch between the precinct population and the ability of public transport to service the precinct with the current recommendations.
- [16] **Mandatory Requirements, DDO30 and Architectural Expression**
- [17] Several submissions note the following:
- a. *“The inclusion of explicit mandatory requirements within the proposed Design and Development Overlay Schedule 30 (DDO30) fails to recognise a performance-based planning provision that allows for architectural*

*expression and site responsive design, with planning permit applications appropriately assessed in their merits.”*

b. *“The use of mandatory provisions is not supported. More particularly, mandatory provisions have the potential to restrict innovation and a ‘one size fits all approach’ to planning should generally be avoided.”*

[18] There is no linkage between “architectural expression and site responsive design” and mandatory or non-mandatory and/or discretionary requirements. Innovative and contemporary architectural design are not restricted or constrained by the proposed planning controls. In fact, it would be possible to argue that innovation and design experimentation is increased when specific controls or constraints are imposed within an intelligent design process. This is not to suggest that inappropriate controls or restrictions (or conversely, forced formal, material or spatial vocabularies) do not have the potential to create an impoverished range of architectural expression. But this is not the case with DDO30 and DD067, or the Fishermans Bend Draft Framework Plan.

[19] This analysis and conclusion can be readily supported by a review of multiple sites and examples around Melbourne where a condition of discretionary controls has had no positive impact on the design and final built outcomes in terms or architectural expression and/or site responsive design. There is little evidence – especially in the Melbourne context – to support the basis of the statements listed above.

[20] **Overshadowing and Public Space**

[21] Concern is raised in numerous submissions with regards to provisions within the planning scheme for controls to be applied to limit the instances when buildings will cast shadows (at specific times of the day and duration within the yearly cycle) across public open spaces, park/reserves. Objections include statements that such controls are: *“unnecessarily restrictive, and fail to have regard to the role, context and quality of the relevant reserve, existing overshadowing, to that reserve and the reasonableness of any proposed overshadowing having regard to those matters...”*

[22] It is a complex undertaking to generate a new urban morphology within a pre-existing context – one already arranged in plots and land parcels and serviced by a road and infrastructure network. Transforming a predominantly industrial service precinct into a predominantly residential and mid-rise series of distinct precincts demands a strong, transformative vision of how residents will gain increased open public space amenity. The identification and insertion of new public parks and open space, linear parks and the protection of existing park and reserves, is fundamental to the vision that underwrites the proposed development of Fishermans Bend.

[23] Once again, the mis-match between what has been clearly identified in the numerous reports, workshops, consultations and eventual statements of the *“Fishermans Bend Vision – The next chapter in Melbourne’s growth story”* (Sep 2016) and the assumptions that consider Fishermans Bend as a similar development scenario as Docklands or parts of Southbank, or along the northern end of Elizabeth Street and Franklin Street in the Melbourne CBD, has led to a clash of visions and images.

[24] The focus on the provision and establishment of a well-considered sequence and network of public open spaces is a central element of the agreed upon vision that

sees Fishermans Bend as different type of urban densification project for Melbourne. Rather than simply providing development opportunities on autonomous pieces of real estate, the Fishermans Bend Framework is structured to provide the types of communal, social and cultural infrastructures that can be identified in the best developments or neighbourhoods around the world. The expectations of business as usual in development terms are being confronted by new paradigm of a comprehensive planning and urban design thinking.

[25] Some submissions also question the appropriateness of certain designated public open spaces, in which their location has consequential effect on those adjoining spaces that will come under the overshadowing restrictions. Objections suggest that other locations could be found for the new designated public open spaces.

[26] It is my understanding that the current draft Fishermans Bend Framework has undertaken detailed work to support the locations and scale of designated public open spaces and linear parks. It may well be that there will need to be additional detailed examination and review to verify and consolidate these proposals, but the logic and the urban design principles that have been used to undertake this work are commendable and in line with best practice for new urban developments.

A handwritten signature in black ink, consisting of a series of connected loops and a long horizontal stroke extending to the right.

Prof Donald L. Bates

Director – LAB Architecture Studio

2018.03.12