

IN THE MATTER OF
AMENDMENT GC81 TO THE
MELBOURNE AND PORT PHILLIP
PLANNING SCHEMES

PART D SUBMISSIONS

INTRODUCTION

1. The Review Panel has now received extensive submissions from the parties that have appeared before it. The Minister does not propose to add significantly to the volume of material before the Panel. Instead, the Minister wishes to focus on a relatively small number of matters raised in the various closing submissions.¹

DRAFTING CHANGES AND TRANSFORMATION

2. The planning of Fishermans Bend presents a task of almost unparalleled scale and complexity in Victoria and the drafting of controls to deliver appropriate outcomes is similarly complex. To assist in arriving at suitable controls, the Minister has sought the independent expert advice of the Review Panel about the appropriateness of the proposed planning controls; he has specifically requested the Review Panel to make recommendations in relation to drafting the proposed controls and to provide a track change version of the proposed controls.² In light of the complexity of the Fishermans Bend context and in light of the specific requests to the Review Panel, it should come as no surprise that the

¹ Various landowner groups, including those represented by Norton Rose Fulbright, Planning and Property Partners, Russell Kennedy and Mills Oakley, have filed closing submissions. To a large extent, the groups have adopted the submissions advanced by the NRF group. Given this commonality, the Part D submission refers to submissions made by NRF as submissions on behalf of the Landowners collectively.

The Minister notes the submissions on behalf of the Landowners as to the different circumstances of members of the group of NRF Landowners, but responds to their submissions collectively on the basis that they have elected to pursue joint representation notwithstanding their potential diversity of interests.

² Terms of Reference, [35](a), (b), (c) and (d).

proposed controls have evolved over the course of the hearing.³ The production of revisions by the Minister and others is intended to facilitate the drafting task requested of the Review Panel. The Minister appreciates the efforts made by all parties who have submitted draft revised controls, whether or not the Minister supports those revisions to the controls.

3. Although the Landowners have berated the Minister for production of updated versions of the draft controls, the Minister rejects the criticism that it is inappropriate to propose improvements during the course of the hearing. The updated versions of the draft controls have been directly responsive to the substance of submissions received and have also sought to correct drafting errors, omissions or oversights which have been identified by submitters along the way.
4. Further, the Minister rejects the suggestion that the draft Amendment has been transformed. The concept of transformation was summarised by the Panel in *Macedon Range C110* where it stated that '[t]ransforming an amendment is changing it in a fundamental way so that, in effect, it becomes a different amendment.'⁴
5. There is an important distinction between changes – even significant changes – to an amendment and transformation of an amendment. It is common sense and good practice that changes which deal constructively with submissions received are preferred over starting again.⁵

³ The practice of providing updated versions of controls over the course a hearing is not uncommon in conventional planning panels dealing with planning scheme amendments under Part 3 of the Act.

⁴ Planning Panels Victoria, *Macedon Ranges C110*, [2016] PPV 70

⁵ Planning Panels Victoria, *Greater Geelong C129* [2008] PPV 64, [2.2]. The Panel said:

The general principle applied in panel hearings is that modifications to amendments are acceptable so long as they do not result in a transformation of the proposal.

*Panels are guided by the general objective to achieve good outcomes without unnecessary delay or protraction of process. **To do this, panels need to be prepared to facilitate the decision making process. Therefore, if modifying a proposal will achieve a good outcome, which overcomes legitimate and reasonable concerns, it is better to do so as part of the process of considering the matter than to reject it and require the process to be recommenced.** This can mean that this Panel could legitimately consider changes to the Amendment that are quite significant, so long as they do not transform the matter into something else.* (Emphasis added)

What constitutes a transformation must be judged according to its own circumstances, but it would need to be something quite different to that originally proposed.

6. The Minister submits that a fair reading of the revisions to the proposed controls demonstrates that, in respect of the CCZ, the DDOs, the LPPF, MSS and the Parking Overlay, the changes can properly be described as a refinement of the proposed controls rather than constituting a transformation of the draft Amendment.
7. The only change expressly relied upon by the Landowners as indicating a transformation is the proposed future adoption of an ICO and ICP as the mechanism for the provision of land for public open space. This does not alter the substance of the draft Amendment, however:
 - (a) First, while land acquisition and compensation has proven to be a highly charged issue throughout the hearing, it is only a small component of the draft Amendment as a whole.
 - (b) Second, the adoption of an ICO and ICP in preference to the previously proposed mechanism in clauses 3 and 4 of the CCZ represents a change in the mechanism by which provision of land for public open space would occur. It does not change the quantum or distribution of the land to be provided nor does it expand the scope of the area affected by the draft Amendment.
8. It should also be noted that, strictly speaking, the modification proposed to the draft Amendment in this respect is simply the deletion of clauses 3 and 4. Any ICP would be introduced through a separate planning scheme amendment, in accordance with any necessary process required by the Act.
9. In this regard, the position with respect to the ICP is not materially different from the Minister's previously stated commitment to adoption of a DCP in the next 12 – 18 months, a position which has never been sought to be characterised as a transformation.

SCOPE OF TERMS OF REFERENCE

10. The arguments regarding the scope of the Terms of Reference have been clearly articulated by both sides of the debate.

11. As such, the Minister does not propose to respond in any detail beyond addressing Footnote 11 of the NRF Landowners' submission and responding to the claim that the change to the employment target is evidence of a double standard. The footnote states:

*The Review Panel will note that at 26(a) of the Part C submission the Minister relies upon **a proposition that does not appear anywhere in the TORs**, namely that the purpose of the draft amendment is to "implement the Vision for Fishermans Bend through a suite of permanent controls". (emphasis added)*

12. As identified in paragraph 25(b) of the Minister's Part C submissions, paragraph 13 of the Terms of Reference states:

*Planning Scheme Amendment GC81 has been prepared to **implement the Vision for Fishermans Bend through a suite of permanent controls** including amendments to the Melbourne and Port Phillip Planning Scheme and a new Fishermans Bend Framework. (emphasis added)*

13. As stated in Part C, the correct approach to interpretation of the Terms of Reference is to read them as a whole. It is apparent from the Landowners' failure to identify text included in the Terms that they have not undertaken such an exercise. It is therefore appropriate to treat their submissions on this issue with a high degree of scepticism.
14. In relation to the change to the figures in the Vision associated with the employment target, the change is a direct result of the addition of 230ha of employment land into Fishermans Bend. Obviously no such change has affected the Vision in relation to the residential population target.

THE APPROPRIATENESS OF THE CURRENT CONTROLS

15. The Landowners argue that:
- (a) The adequacy (or otherwise) of the current controls is irrelevant to an assessment of the merits of the draft Amendment; and
 - (b) The Landowners do not, in any event, endorse the current controls.

16. As to the relevance of the current controls, the Landowners' argument should be rejected. The appropriateness of the draft Amendment needs to be evaluated against the existing planning controls and their inability to achieve the outcomes sought for Fishermans Bend by the Vision. The imposition of new policy and new controls is not some sort of arbitrary exercise of power; it is designed to address a real failure – identified several times over several years by the MAC and others – in the current and preceding planning controls.
17. As to the endorsement or otherwise of the current controls, the simple fact is that, in advocating for abandonment of the draft Amendment and *de facto* extension of the current controls, the Landowners must be taken to endorse the outcomes resulting from those controls. This is particularly so given that their 'interim' solution consists of a CCZ without a FAR and a more permissive set of DDOs than presently exist, essentially facilitating much the same (or in some cases more intensive) development than is currently possible.
18. It is noteworthy that the Landowners have not sought in any way to grapple with the issues arising from the current controls, including:
 - (a) The 'Benalla on the Yarra' problem identified by the MAC in both its reports and its submission to this Panel, in which large populations are delivered in small areas with minimal additional infrastructure provided as part of that development; or
 - (b) The 'monoculture' problem identified by Mr Sheppard and others in which built form controls used in isolation (i.e. without a density control) simply result in built forms that, as far as possible, expand to fill the relevant envelope.⁶
19. Nor in advocating for transitional provisions have the Landowners sought to address the 'fairness' problem identified by the Minister where the imposition of transitional provisions privileges existing permit applicants

⁶ Document 165b, para [192].

over subsequent developers in terms of both yield and development contributions.

20. In relation to the called-in permit applications for which transitional provisions are sought so that decisions are made under the current controls (which the Landowners profess they do not support), the Minister submits that it is entirely legitimate to have the applications decided by reference to the new controls and pursuant to the hearing process which has been foreshadowed as part of the call-in. Through that process, applicants can argue that their applications are consistent with the Vision, the Framework and the new controls⁷ or can amend their applications to better conform to the new controls, thereby mitigating any losses associated with costs of preparing their permit applications.

CHARACTER AS A FOUNDATION FOR BUILT FORM CONTROLS

21. The Minister's Part C submission comprehensively set out at pages 27 – 40 how the character for the various precincts – including building typologies – was derived and how each of the proposed planning controls assists in delivering an appropriate outcome. In particular, it explains how the combination of FARs which sit within (sometimes well within) the “acceptable” building envelope achieve the typology, specifically the hybrid typology which is sought for 13 of the 23 precincts and how the greatest “looseness” of fit is found in areas earmarked for hybrid methodologies.⁸
22. Nothing in the Landowners' submission responds to this material, beyond a fleeting concession that the population target may not, after all, be the sole determinant of built form.⁹

⁷ The Minister rejects the proposition that SIN15, paragraph 8 is tantamount to a refusal of the permit applications which will in due course have to be considered on their merits by reference to the controls applicable at the time.

⁸ The Landowners suggest that the concept of a “loose fit” is not found anywhere in the Urban Design Strategy. As explained at para 73 of the Part C submission, whilst “loose fit” is Mr Sheppard's expression, Ms Hodyl's term “orchestrated diversity” aligns with this concept and has been an intended feature of the controls since their conception.

⁹ See paragraph [135] of the NRF Landowners' closing submission.

23. Moreover, it appears that the Landowners have misread Document 325 prepared by the Review Panel, in exactly the way the Minister apprehended might occur; they assert that Document 325 shows that areas of unlimited height in Lorimer and the cores of Montague and Sandridge will be restricted to less than 10 storeys.¹⁰ This issue is explained in SIN21¹¹ and the opportunity to develop buildings in excess of 10 storeys is illustrated by SIN18 which shows modelling at 20, 37, 42, 43, 50 and 52 storeys in S3¹² and 31, 36 and 40 storeys in L4,¹³ noting no model extracts for the unlimited height area in M3 core were provided in the original tabled sets.¹⁴
24. If it is accepted that the typologies and built form envelopes are generally appropriate, and the Landowners appear to concede that subject to Mr Sheppard's specific adjustments the built form envelopes *are* generally acceptable, then FARs which support delivery of those typologies within the built form envelopes are of the right order.
25. Moreover, to deliver the FAU within the built form envelopes, it is necessary for the FARs to be fixed at a further margin "below" or "inside" the envelopes to create incentives to deliver social housing within acceptable built form parameters.
26. Contrary to the Landowners' submissions,¹⁵ there is material before the Review Panel which allow consideration of adjustment to the FARs. It can be found in the sensitivity analysis in SIN22, to which the Landowners have made no reference.

¹⁰ See paragraph 132(a) of the NRF Landowners' closing submission.

¹¹ See paragraph 2, SIN21 and also paragraph 76 of the Minister's Part C submissions.

¹² See pages 4, 8, 9, 11, 13 and 16 of Sandridge modelling.

¹³ See pages 2, 8, 9 and 10 of Lorimer modelling.

¹⁴ See document M14

¹⁵ See paragraph [142] of the NRF Landowners' closing submission.

THE CORRECT “STARTING POINT”

27. It is emphatically asserted in the Landowner submissions that the adoption of a different starting point for the derivation of planning controls (based on built form outcomes rather than a population target) would yield a different result and a better result. The Minister emphatically restates that character and population (and other factors) have all been “starting points” which have been iteratively tested and optimised to arrive at the proposed FARs and built form controls. In any case, the evidence relied upon by the Landowners does not establish either a different result or a better result:
- (a) First, it is asserted that the approach adopted by Mr Sheppard and Ms Heggen is to start with urban design and derive a population from that character. Certainly that is their preferred approach, but the material before the Review Panel does not demonstrate that the derived population on such an approach would materially exceed the 80,000 figure (or, if it does, that it would exceed the potential uplifted population of 140,000). Indeed, having regard to the evidence of Mr Sheppard as a whole, it is not clear that his vision for Fishermans Bend would look markedly different from that set out in the draft Amendment.
 - (b) Second, while the Landowners continue to assert that the 80,000 population figure represents a ‘gross underdevelopment’ of Fishermans Bend, there is no response to the analysis in the Part C (and the abundance of comparative city and suburb data provided by many experts) demonstrating that – as Mr Shimmin conceded – the densities proposed for Fishermans Bend are very high. The densities are well in line with the high density centralised development scenario proposed by Infrastructure Australia. The reality is that *Plan Melbourne* calls on all parts of Melbourne to deliver increased density to meet the population task, particularly those with existing infrastructure. No rationale has been provided for requiring Fishermans Bend to deliver levels of density beyond the extremely high levels already contemplated.

- (c) Thirdly, though neither the Landowners nor their witnesses identify what level of density they consider would be appropriate, several pertinent observations can be made about the FARs derived from Mr Sheppard's Barcelona, Vancouver and hybrid models for Fishermans Bend. All generate FARs less than the proposed FARs for the core areas. Although his FARs are greater than the proposed FARs for the non-core areas,¹⁶ by his own admission these models need to be accompanied by a mechanism for consolidation or equitable sharing of development benefits between lots.¹⁷ Additionally, the calculations of FARs from his models have not made allowance for an FAU above the FAR (with commensurate delivery of associated public benefit) within the modelled envelopes.
- (d) Finally, the constant criticism about the proposed FARs in Wirraway non-core has to be understood in the context that those FARs are based on the assumption that there is *not* a metro station in Wirraway;¹⁸ hence the complaint that future public transport infrastructure is a "waste of money" because Wirraway has not maximised the number of people near a train station is misconceived.

THE FAU

28. The Minister accepts that it would be appropriate to incorporate the FAU guidelines within the Planning Scheme to facilitate transparency. The definition of Public Benefit in the CCZ and the restriction to social housing as the only form of Public Benefit combined with the incorporation of the

¹⁶ In all instances except the Vancouver model for Montague where the Vancouver FAR is less than the proposed FAR under the draft Amendment.

¹⁷ See document 323. The inherent inequity between sites of the three Sheppard models is further explained in SIN15 at paragraph 24.

¹⁸ See paragraph [137] of the NRF Landowners' submission.

FAU guidelines which includes the benefit ratio prevents developers and authorities “coming up with whatever they want”.

29. As discussed in the Part B submission,¹⁹ the Minister submits that these arrangements overcome the C270 panel’s concerns about the FAU scheme proposed for the CBD and Southbank:²⁰
- (a) The need for social housing and hence the strategic basis for the proposed public benefit is uncontested;
 - (b) The implementation of the FAU system under the draft Amendment is not vague or open to misinterpretation;
 - (c) There is no opportunity for inconsistent outcomes in ‘negotiation’ of agreements for public benefits.
30. For the reasons set out in the Part C submission, the Minister considers that the decision to allow an FAU is a mandatory precondition to the exercise of discretion under the CCZ and hence is not a matter which is properly the subject of review. This is because ultimately neither the developers nor the Responsible Authority can be compelled to enter into s 173 agreement which is a necessary precursor to obtaining an uplift.
31. The Minister notes the suggestion by the Landowners that the FAU scheme should be expanded, if retained. The Minister considers that this would only be appropriate if a suitable, clear and evidence based benefit ratio could be established for other public benefits and as matters presently stand, there is no such ratio.

“GENERALLY IN ACCORDANCE WITH”

32. The Minister does not accept that a requirement to be “generally in accordance with” a plan in a planning scheme amounts to a reservation or setting aside of land for which compensation is payable. It is a tool directed to ensuring orderly and proper planning by reference to an overarching

¹⁹ See para 57.

²⁰ See page 69, C270 panel report.

urban framework. This provision is not contrary to section 4(2)(l) of the Act: section 4(2)(l) is not an operative provision which creates a right to compensation when land is set aside; it must be read by reference to the Act as a whole and understood to be given effect to by Part 5 of the Act, as varied by the Public Land Contributions Act.²¹

SUBSTANTIVE SUBMISSIONS IN RELATION TO THE ICP

33. In terms of the substantive submissions that are made in relation to the ICP, it is noted that the Landowners essentially adopt and maintain the position advanced by Mr Morris in submissions on behalf of Delta Group. The thrust of these submissions was that the ICP is an inappropriate tool for Fishermans Bend.
34. It is plain that the Landowners have now had the opportunity to review and understand the operation of the *Public Land Contributions Act* and do not like its application to Fishermans Bend through an ICO because it provides a different arrangement for the provision of public land (and associated compensation in the case of acquisition) than a PAO.
35. The Minister notes that the ICP performs the purpose of identifying land to be provided for public purposes and preventing development which is prejudicial to the provision of open space, being an essential component of the urban renewal of Fishermans Bend.
36. Having argued at length about the unlawfulness of the previously proposed mechanism, the Landowners accept that the ICO is a lawful mechanism.
37. The Landowners do not provide a convincing case that the ICP is an inequitable mechanism. The ICP mechanism is by its nature an equitable mechanism, fulfilling the intended objective of *equalising* the costs of providing public land in urban growth and urban renewal areas.

²¹ See ss 98(c) and (d) introduced by section 12 of the PLC Act which remove the claim for compensation under section 98(1) where land is required or acquired under an ICP and ss 172F and 172G which limit compensation on acquisition under an ICP.

38. Whether providing all, some or part of their land for public open space, the ICP land contribution percentage will apply in the same way to all land which is in the same class and is required to make a contribution. There is no differential treatment as between landowners which are subject to the ICP and hence no inequity.
39. What the Landowners do not like is that a different compensation regime is proposed which means a land credit amount is only payable for land provided in excess of the ICP land contribution percentage (rather than the totality of land provided); and depending on the valuation methodology in the Ministerial direction, the land credit amount may or may not be calculated by reference to a method adapted from the *Land Acquisition and Compensation Act*.
40. The first of these features is an inevitable function of the recognition that Fishermans Bend requires public open space if it is to perform its role as an urban renewal area and all land developers within Fishermans Bend should contribute to that open space.
41. The second feature is yet to be determined and Parliament has left the question of methodology to the Minister, as is within its right to do.
42. The Minister does not accept that the mechanism is inappropriate to use for whole sites,²² the owners of which have had the opportunity to argue that the totality of their site is not needed for public open space but have not done so.
43. The Minister's Part C submissions comprehensively responded to the issues raised by Mr Morris at pages 40 – 49. Nothing in the closings submitted by the Landowners addresses these submissions.
44. Ultimately, the Review Panel cannot advise on the contents of a Ministerial direction under section 46GJ of the *Public Land Contributions Act*, an ICO

²² The Minister confirms that the attachment to SIN19 is intended to update and replace Document 99 and that whole sites are intended to be acquired through the ICP (using the *Public Land Contributions Act*). Depending on the Ministerial direction, the land credit amount will not necessarily be calculated from a valuation based on the highest and best use of land.

and an ICP, none of which has yet been prepared. All of these are the subject of ongoing work by the Department and Taskforce at the direction of the Minister. It should be expected that the task of preparing an ICP for Fishermans Bend is likely to be no less complex than the preparation of permanent planning controls has proven to date.

SUBMISSION BY CLARIC

45. SIN23 provides an extract from the Hodyl model which shows the FAR can be achieved on the site at 13-33 Hartley Street, notwithstanding the provision of open space and new roads.

SUBMISSIONS BY APA

46. The closing submission by APA has raised a number of issues regarding the proposed planning controls and the potential for impacts on APA's pipelines.²³
47. The Minister's Part C draft CCZ endeavoured to address the recommendations made by the APA in its original submission.²⁴
48. The Minister accepts that some further refinements to the draft CCZ are appropriate, specifically:
 - (a) To include the specified distance condition on each of the section 1 uses suggested by the APA which do not presently have a threshold distance from the pipelines specified. This will trigger a permit requirement for these uses if the condition is not met (for which the pipeline operator will be given notice).
 - (b) To include the specified distance condition on service station (which is presently an innominate, section 2 use). The effect of this condition in respect of a service station would be to make that use prohibited if it did not satisfy the condition.

²³ See Document 357.

²⁴ See Document 231.

- (c) To require the construction management plan condition on permits to apply to *all* permits for buildings and works within *50 metres* of the pipeline measurement length (as requested by the APA).
49. The effect of these refinements negates the need to define ‘sensitive uses’ as the table of uses would specify which uses require a permit (or are prohibited) when the specified distance condition is not met.
50. The Minister does not accept the further substantive changes to the CCZ proposed by the APA in its closing submission. However, should the Review Panel consider further changes to the controls are necessary, the Minister will consider the Review Panel’s recommendations.

SUBMISSION BY THE UDIA

51. The UDIA’s initial submission represents a marked departure both from its original submission and from the directions given by the Review Panel in relation to closing submissions.²⁵
52. Importantly, in its initial submissions on the draft Amendment (Submission 15), the UDIA supported, and noted that ‘the industry commended’ the goal of housing 80,000 residents by 2050 at Fishermans Bend, noting it would ‘alleviate undersupply and affordability pressures’ across Melbourne.²⁶

²⁵ Pursuant to Direction 25, the Review Panel invited relevant parties to provide a short closing submission in response to matters raised at the Hearing. Direction 26 extended the date for the filing of closing submissions to 21 May 2018 and allowed the parties to provide a response to matters raised in the Minister’s Part C submissions.

The UDIA’s closing submissions seek to introduce new matters which have not previously been the subject of submission by the UDIA and have been the subject of evidence or submission during the hearing. The material now advanced by the UDIA could not fairly be characterised as a response to the Minister’s Part C submissions or final submissions by the UDIA. It is new material.

²⁶ At page 1, the UDIA said: *The Victorian division of the Urban Development Institute of Australia (UDIA) welcomes the opportunity to respond to the Fishermans Bend Framework draft for consultation. UDIA appreciates that the Fishermans Bend Taskforce has been working to deliver to the community a viable framework that will enable this unique urban renewal site to realise its highest potential.*

*With Victoria recording the largest annual population growth among the states at 2.4 per cent in the year to December 2016, Fishermans Bend is an extremely important part of accommodating this influx of new residents. **The goal to have the precinct house 80,000***

53. But in its submission to the Review Panel in Week 10 (Document 324) the UDIA questioned the population figure of 80,000 (though did not advance a different figure) and sought reconsideration of the height limits (not having mentioned height limits in its original submission).
54. Now, in closing submission, the UDIA seeks to provide material which it alleges demonstrates that the Part C controls will reduce housing affordability in Fishermans Bend. This is material which should have been the subject of evidence to the Review Panel.
55. It is not possible for any party or the Review Panel to interrogate the material attached to the UDIA's submission given:
- (a) the address of the case study, let alone the development parameters modelled are not disclosed and the information is qualified as 'accurate to the best of [UDIA's] knowledge'.²⁷ It is unable to be discerned whether the proposed development(s) modelled under the existing controls was a development(s) which would produce an acceptable planning outcome under the existing planning controls;
 - (b) no information regarding the modelled costs or prices used in the model has been provided;
 - (c) the model has assumed an interest rate of 6.69% when the current advertised rate for an owner occupier is in the vicinity of 3.65% (comparison rate) ²⁸ thereby almost doubling the interest calculation and the alleged impacts to prospective homeowners;
 - (d) the assessment that the price of the apartments increases 19.06% appears to be based on a misconception that 6% of the development

residents by 2050 is commended by the industry, and we anticipate that if this target is achieved, Fishermans Bend will significantly alleviate undersupply and affordability pressures across Melbourne. [Emphasis added]

²⁷ It appears that more than one development scenario may have been modelled but the results have not been disclosed. For example under 'methodology' (at page 1) it is noted that *a case study* was prepared – but in paragraphs 2 and 4 reference is made to the 'sites' which suggests that more than one site was modelled.

²⁸ Source <https://www.bankofmelbourne.com.au/personal/home-loans> accessed 18 June 2018.

is required to be provided for social housing. Attachment A fuses the concepts of social and affordable housing and appears to assume 6% of apartments are required to be 'provided at no cost for affordable housing' (page 1) with the consequence that the provision of these apartments is subsidised by the remaining apartments in the development.

- (e) because it assumes social housing must be provided in response to the affordable housing policy, it appears that the modelling has not allowed for any FAU in association with the provision of social housing;
 - (f) it is asserted that the Part C controls will increase the price of apartments by 19.06% thereby excluding certain categories of income earners. However, the submission does not provide any evidence that apartments in Fishermans Bend would ever have been available at prices suitable for the income groups now said to be excluded. In fact, the material indicates that in 2017 the *median* unit price in Melbourne was \$545,000 which already exceeded the maximum loan possible for a moderate income family identified as \$524,000.
56. In the circumstances, the Panel should be sceptical of arguments that the draft Amendment in some way tips the balance on unaffordability. The use of a single site (the details of which are entirely unknown) to make broad and largely unsubstantiated assertions as to the impact of affordability is unreliable.
57. The Minister also notes that in both its initial and closing submissions, the UDIA expressed concern about the lack of certainty regarding delivery of infrastructure.
58. In closing, the UDIA said that the absence of funding for infrastructure was a significant concern and opposed the (by that time superseded) mechanism of using the zone provisions and FAR to secure public open space and land for infrastructure.

59. Importantly, notwithstanding its ongoing interest in infrastructure provision in Fishermans Bend, the UDIA has not taken issue with the proposed use of an ICP as the preferred mechanism for delivering infrastructure.
60. This is unsurprising given its stated desire for certainty regarding the provision and funding of infrastructure at Fishermans Bend.

CONCLUSION

61. In conclusion, the draft Amendment represents a sincere and, the Minister would suggest, groundbreaking attempt to deliver on the Vision.
62. The challenges, significance and uniqueness of Fishermans Bend demand nothing less. New tools have had to be adopted and enhanced.
63. Throughout the process, the Minister, the Department and the Taskforce have made a monumental effort to respond to and address the requests, concerns and criticisms raised by various participants in this process.
64. The Minister wishes to particularly acknowledge the work of Geoff Ward, Jacqui Banks, Fawn Goodall, Todd Berry, Adam Crupi, Adam Hensen, Lauren Peek, Peter Goh, David Sykes, Alanna Vivian and Katerina Axiarlis.
65. As even the Landowners have admitted, the result is a significantly more refined set of controls.
66. The Minister also acknowledges the efforts of the submitters who have also had to assimilate a considerable volume of information throughout the process.
67. The task associated with the drafting a set of planning provisions for Fishermans Bend is one of unusual difficulty.
68. The Minister particularly acknowledges with appreciation the diligence, expertise and assistance of the Review Panel over the course of this lengthy hearing.
69. The Minister looks forward to receipt of the Review Panel's report and recommendations.

70. The hard work of the submitters and the contribution of the Review Panel will enable finalisation of permanent controls to facilitate urban renewal of this area, representing the next chapter in the tale of Fishermans Bend.

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22 June 2018