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**Request to be heard?:** Yes

**Precinct:** Wirraway

**Full Name:** Henry Wood SJB Planning Pty Ltd

**Organisation:** Mitmazal Pty Ltd

**Affected property:**

**Attachment 1:** 330180M001FINA

**Attachment 2:**

**Attachment 3:**

**Comments:** See attached



The Hon Richard Wynne MP  
Minister for Planning  
Level 16, 8 Nicholson Street  
EAST MELBOURNE VIC 3002

Submitted electronically via: <https://engage.vic.gov.au/fishermans-bend-draft-framework>

15 December 2017

**Submission to Draft Planning Scheme Amendment GC81 to the Melbourne and Port Phillip  
Planning Schemes  
Proposed Planning Controls for Fishermans Bend  
359 PLUMMER STREET, PORT MELBOURNE**

Dear Minister,

The following submissions are made on behalf of Mitmazal Pty Ltd, the owner of the land at 359 Plummer Street, Port Melbourne, which is affected by Draft Planning Scheme Amendment GC81 (“the Amendment”). Our client has owned and run its corporate branding and signage business from the site the more than 10 years.

We have considered the draft Fishermans Bend Framework and the translation of the Framework into the following proposed controls and policies in the Port Phillip Planning Scheme:

- Capital City Zone – Schedule 1 (CCZ1)
- Design and Development Overlay – Schedule 30 ‘Fishermans Bend Urban Renewal Area’ (DDO30)
- Parking Overlay – Schedule 1 (PO1)
- Environmental Audit Overlay (EAO)
- Clause 22.15 – Fishermans Bend Urban Renewal Area Local Policy

We understand that the existing Development Contributions Plan Overlay – Schedule 2, which currently applies to the site would be replaced in due course, but the Amendment material contains no specific details to this end.

By way of background, the site is located on the northern side of Plummer Street, near its intersection with Smith Street. The site has a frontage to Plummer Street of approximately 61 metres, an approximate depth of 120 metres and an overall area of 7,378m<sup>2</sup>. It is currently developed with a mix of warehouse and office uses. The site falls within the “Wirraway Precinct” under the Framework and proposed new provisions.



Figure 1: Site location plan

At the outset, our client is generally supportive of the Vision for Fishermans Bend as a “world leading urban renewal project”. However, our client has significant concerns about the Amendment relating to the following aspects:

- The designations for proposed new roads – there is no technical justification for the new roads offered, they appear to fall entirely within our client’s site and they would have a significant impact on the future developable area of land. We submit that this is an unfair outcome for our client, particularly in the context of proposed controls sought by the Amendment (considered in more detail below).
- The mechanisms for compensating land owners affected by designations for new roads (and other public infrastructure) and the manner in which these new roads are to be funded and delivered – these aspects appear to be entirely unresolved in the GC81 proposals.
- The drafting of the controls generally – we submit that they are overly prescriptive, complex, repetitive, and ambiguous, and could seriously undermine the appetite of the market to redevelop land and contribute to the renewal of Fishermans Bend in line with the vision portrayed in the Framework.

**Site-specific designations**

The proposed amendments to the CCZ1 control designate new 22m wide road connections along the northern and western edges of our client’s land. The site also appears to be affected by a proposed 6m road widening across the frontage to Plummer Street.

The area of the proposed new roads on the land would equate to roughly 3,500 sqm out of a total existing site area of 7,378 sqm. This would result in the useable or developable area of the site being reduced by almost 50%. See Figure 2 overleaf.

From our review of the technical reports which underpin the Amendment, it does not appear that any robust justification for the proposed location of new roads has been offered. Our client questions whether they are necessary, or even beneficial to the future functioning of the precinct. It is submitted that more rigorous analysis, at the very least, is required in order to demonstrate that this is the case or otherwise.

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Figure 2: Impact of proposed new road designations on developable area of 359 Plummer Street

### **Compensation for and delivery of new roads**

The Amendment is entirely silent on matters of compensation, timing and process for funding and delivery of road designations (and other public use designations) on private land. It is our client's submission that land owners must be fairly and adequately compensated for proposals which include a public use component, and that the Amendment must be resolved to clearly articulate the method of compensation.

We note that a Public Acquisition Overlay is not proposed and it remains unclear how privately owned land identified for new roads will be secured, and the method by which landowners will be compensated. What is clear from the Amendment is the proposal in the CCZ1 that a planning permit must not be granted to develop land unless that proposal allows for the delivery of identified new roads.

It is our client's submission that the introduction of any controls, particularly mandatory restrictions on new development, ahead of resolving the public use model for acquiring land and funding identified projects, would be premature and entirely unreasonable for affected landowners.

In this regard it is considered that the proposed CCZ1 control fails to uphold the objective of the Planning and Environment Act to *"provide for the fair, orderly, economic and sustainable use, and development of land"*.

Our client submits that, for the reasons expressed above, the Amendment should not proceed until a fair and equitable means of compensating land owners for public projects designated on its land has been resolved and forms part of the Amendment documents.

## General concerns with the drafting of the controls

Our client makes the following general submissions in respect of the drafting controls:

- The proposed planning controls are overly complex and provide excessive duplication of controls/policy provisions.
- The Framework and planning controls would impose a strict, rigorous and largely mandated use and development framework. Given the transitional nature of this urban renewal area – one that is targeted to achieve increased population growth and higher density land use and development outcomes – this appears counterintuitive. Further, the regulatory nature of the Amendment is at odds with the context of the performance-based framework of the Victoria Planning Provisions.
- The Amendment is underscored by a lack of funding and no commitment to new public transport / infrastructure. While the Amendment acknowledges a 40-year plan, the controls and Framework Plan provide no tangible resolution or action plan for essential infrastructure (particularly public transport) to the area. This has a dual negative effect of constraining the development potential of land holdings, and limiting market interest in future commercial/residential product given the inherent uncertainty of future accessibility to and in the area.
- The Amendment includes a floor area ratio control in the CCZ1, a dwelling density policy at Clause 22.15-3 and a *“preferred minimum floor area ratio which should be set aside for a use other than dwelling”* also at Clause 22.15-3. Each of these proposals seeks to limit the number of dwellings to be delivered in new developments.

In this regard the structure of the Amendment is unnecessarily complicated, repetitive and difficult to understand, even for planning professionals. The intent to prioritise non-residential floor space over new housing could be more helpfully expressed as a single, “dwelling floor area” control or policy. However, our client strongly submits that if a framework to promote non-residential land uses were to be pursued, it should allow sufficient discretion for a market-led approach, to ensure that it does not inhibit development in the precinct.

- The Amendment outlines a vision for transport movements in the future that appears unrealistic in the absence of any meaningful commitments by Government for actual delivery of transport infrastructure in the area. This is compounded by the draft controls imposing a mandatory maximum car parking requirement of 0.5 space for new dwellings and 1 car space per 100sqm commercial floor area. It is considered that the parking requirements are too narrowly drawn, do not reflect existing conditions, are entirely dependent on the delivery of public transport infrastructure (for which there is no committed funding or timeframe) and do not provide decision-makers discretion to consider the previous factors.

## Summary

We respectfully request that our client’s submissions articulated in this letter be taken into consideration in any further work undertaken to refine the structure and content of the Amendment. We would be happy to further ventilate our client’s concerns with the proposed Amendment in any forum deemed appropriate.

We reserve the right to raise further matters for the Panel's consideration.

Please do not hesitate to contact me on 8648 3500 should you have any queries regarding our client's submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H. Wood', with a long horizontal flourish extending to the right.

Henry Wood  
Senior Associate  
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