

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

FISHERMANS BEND REVIEW PANEL

**OUTLINE OF SUBMISSIONS ON BEHALF OF
GOODMAN PROPERTY SERVICES (AUST) PTY LTD**

Introduction

1. These submissions are made on behalf of Goodman Property Services (Aust) Pty Ltd, which is Submitter 149 to this Review Panel. (**Goodman**)
2. Goodman has very significant land holdings within Fishermans Bend, totally 33 hectares. This makes Goodman the largest, single private landowner in the Precinct.
3. Of this land, approximately 26 hectares is contiguous and extends from the Wirraway Precinct through to the Sandridge Precinct.
4. The Goodman land includes the following:
 - a) 850, 854 and 858 Lorimer Street, Port Melbourne (Lorimer Precinct);
 - b) Unit 19/62 and 62 Salmon Street, Port Melbourne and 437, 451, 461, 465, 467, 477 and 481 Plummer Street, Port Melbourne (Wirraway Precinct);
 - c) 349 and Unit 7-13/350 Bridge Street, 520 and Unit 4A, 4B and 4C/522 Graham Street, Unit 5A and 5B of 533 Plummer Street and Unit 1-6/153 Bertie Street, Port Melbourne (Sandridge Precinct); and
 - d) 80 and 111 Turner Street, 768 Lorimer Street and Part 770 Lorimer Street, Port Melbourne (Employment Precinct). (**Goodman Land**)

5. The Goodman Land is currently used for a wide range of uses but generally includes a mix of 1, 2 and 3 storey office warehouse units and showrooms with ancillary hard stand parking.
6. Given the large area and extent of the Goodman Land, the existing planning controls affecting the land vary considerably. In summary, however, the existing zoning is Capital City Zone for all land (except that located in the Employment Precinct), with a range of applicable building heights from 12 to 40 storeys.
7. The proposed zoning and overlay controls affecting the Goodman Land again varies considerably throughout the Precinct, with the land located in Wirraway and Sandridge proposed in both Core and Non-Core areas, and with height limits varying between 6, 8, 10, 12, 24 and “unlimited” storeys.
8. The land in Lorimer is proposed to be in a Core area with an unlimited height.
9. The most recent Total FAR across the various parcels of the Goodman’s Land varies from 5.4:1 in Lorimer to 2.1:1 in Non-Core Wirraway to 7.4:1 in Core Sandridge. (Doc 156a)
10. Significant areas of the Goodman Land have been set aside for public purposes in the Draft Framework and the Proposed Amendment. Indeed, the Draft Framework contemplated that in the order of 9.1 hectares of Goodman land holdings (or around 30%) would be required for those public purposes comprising:
 - a) 5.2 ha for new or widened streets;
 - b) 1.1 ha for new lanes; and
 - c) 2.8 ha for new parks.¹
11. There is only one relevant planning application that concerns the Goodman’s Land, being the land in the Lorimer Precinct (850, 854 and 858 Lorimer Street, Port Melbourne).

¹ Calculations made by Roberts Day and are based on Draft Framework.

12. That application is Planning Permit Application No. 2014001348, which proposes the construction of three towers of 28, 42 and 44 storeys containing dwellings with retail and commercial uses at lower levels. The application was supported by the City of Melbourne, but exceeded the mandatory height controls introduced by GC50 and so was not progressed further.

Submissions

13. Goodman relies upon these submissions, as well as:
 - a) the submission it made to the Minister in December 2017 (**Goodman Submission**), which included a detailed urban design assessment entitled: *Draft Fishermans Bend Framework, Urban Design Analysis and Recommendations* prepared by Roberts Day Melbourne (**Roberts Day Report**); and
 - b) the general evidence presented on behalf of the Landowners; and
 - c) the oral and written submissions already presented to the Review Panel by Mr Canavan QC, Mr Tweedie SC and Ms Sharp on behalf of the Landowners; and
 - d) the expert evidence of Ms Heggen which is specific to the Goodman Land.
14. Goodman also adopts and endorses evidence called by other parties specifically that of Mr Milner and Mr Shipp, who have presented evidence on behalf of the CoM and CoPP.
15. Goodman agrees that the Proposed Amendment is significantly flawed, and should not proceed in its current form. It agrees that the most significant flaws include:
 - a) The failure to provide a clear direction for the funding and delivery of infrastructure;
 - b) The lack of an effective governance structure;
 - c) the adoption on a population target of 80,000 as the basis for the built form controls;

- d) FAR controls that constrain density to levels not necessary to achieve good built form outcomes, and which will significantly understate the potential of Fishermans Bend to deliver population and jobs; and
 - e) An illegal and inequitable mechanism to secure land for public purposes without compensation.
16. These flaws are reflected in the proposed controls for the Goodman Land. Those proposed controls would not result in good planning outcomes for that land. They would represent a significant lost opportunity to develop that land in innovative ways to achieve significant community benefit.
17. Further, the controls ignore the unique opportunity that the Goodman Land represents. Its size, context and the fact that it is in single ownership provide an opportunity to create (through a control such as a Development Plan Overlay (**DPO**)) a “precinct within a precinct”, where flexibility and innovation can thrive, and better outcomes can be achieved.

Roberts Day Report

18. In response to the exhibition of this Proposed Amendment, Goodman’s submission includes a detailed urban design analysis of the Goodman Land in the context of Fishermans Bend, the Roberts Day Report.
19. Consistent with the weight of independent evidence presented to this Panel (indeed, all of it except for Ms Hodyl), the Roberts Day Report concluded that the densities that were proposed for the Goodman Land by the Draft Framework were too low. They could not be justified by reasons of the need to ensure liveable communities or excellent built form outcomes.
20. The Roberts Day Report included a more sophisticated analysis of factors relevant to density and liveability than has been undertaken by the Minister and/or Ms Hodyl. That analysis included an analysis of; inter alia, intersection density and other factors (see page 10). The analysis calls into question the crude analysis undertaken by Ms Hodyl and others on behalf of the Minister that has simply quoted broad figures for areas with no direct comparison to Fishermans Bend.

21. The analysis supports the argument made by many other participants that raw density numbers alone are an inappropriate measure of liveability, and that it is possible for areas to have high liveability despite high density (and vice versa).
22. Further the proposed densities that would be mandated by the proposed FARs were:
 - a) Significantly below the densities in international cities (such as Vancouver's South End) that had been recognised as preferred density models by governments around Australia;
 - b) not aligned with the public realm intensity proposed in the Draft Framework;
and
 - c) not appropriate for the Goodman Land.
23. The Roberts Day Report proposed increases in the FAR for Core and Non-Core areas in Wirraway, Sandridge and Montague, as well as increased heights for development in these areas.
24. The Roberts Day Report made a series of **Key Recommendations** including:
 - a) Recognise Goodman as a unique opportunity to implement district scale sustainability goals given the scale of the Goodman's landholdings;
 - b) Support Goodman's mobility network;
 - c) Align the density with public realm intensity but increasing the density to improve the social, economic and ecological performance of the precinct;
 - d) Focus jobs first in Montague, and then in Sandridge and the Employment Precinct and delete the commercial control applying to Goodman's Land in Wirraway;
 - e) Focus hubs for the health, education and creative sectors in Wirraway close to the JL Murphy Reserve;
 - f) Focus entertainment in Lorimer;

- g) Revise the FAU; Goodman will deliver a significant quorum of hubs and affordable housing at a district scale but requires that the numeric height limit of the FAU to be replaced by performance based measures;
 - h) A revised FAU will be the appropriate mechanism for the private sector to deliver a rate of affordable housing in equilibrium with market housing and therefore the 6% target of affordable housing should be deleted;
 - i) Apartment size (% requirement for three bedrooms) and density controls should be adjusted to allow flexibility to respond to the market;
 - j) Heritage overlay affecting land in Sandridge should be removed from the draft Framework;
 - k) Smart parking should be incorporated into the Framework to provide for a diversity of mobility choices, market responsiveness and incentivise modal shift;
 - l) Correct inconsistencies in the framework; and
 - m) Review Far and height controls affecting the Goodman's Land.
25. Goodman urges the Panel to review the Robert Day Report as not only making a series of specific suggestions for the Goodman Land, but as encompassing a comprehensive analysis of the unique opportunity that a significant landholding within Fishermans Bend offers to the redevelopment of the Fishermans Bend.
26. In other words, an opportunity for an urban renewal sub-precinct within an urban renewal precinct.

The Review Panel; A Different Planning Approach to The Goodman Land

27. The Goodman Land invites a different approach to that contemplated for the rest of Fishermans Bend.
28. Unlike the vast majority of the Precinct, the fact that the Goodman Land remains in a single, unified ownership (as well as being in large part contiguous) allows for significant flexibility to planning. That flexibility will be wholly lost under the Proposed Amendment. This is a lost opportunity, and bad planning.

29. The mandatory nature of the proposed controls including the FAR, the non-residential FAR, the provision of open space and roads, street walls and side setbacks and the nomination of Core and Non-Core areas is not useful or appropriate for the planning of the Goodman Land as it does not allow for the flexibility and innovation that a significant landholding lying across several precincts should properly be provided.
30. This includes flexibility to:
 - a) include single use buildings such as wholly commercial and wholly residential buildings;
 - b) agglomerate open space;
 - c) create areas for specialised uses and buildings;
 - d) create parking hubs;
 - e) share infrastructure across many sites;
 - f) allow for building height to be re-organised across an area without unreasonable amenity impacts and whilst allowing for diversity; and
 - g) shift FAU envelope between buildings and precincts without reducing the availability of the FAU.
31. Goodman relies on the expert evidence of Ms Heggen who considers that the Proposed Amendment should not proceed in its current form.
32. Notwithstanding this opinion, Ms Heggen recommends that if the Panel is ultimately of the mind to recommend that the proposed Amendment proceed (in one form or another) then the introduction of flexibility into the controls that affect the Goodman's Land is warranted and statutory mechanisms to allow master-planning should be considered.
33. Consistent with this evidence, Goodman submits that a Development Plan Overlay would be an appropriate planning tool over its landholdings.

34. As above, this would allow for flexibility and coordination of services, uses and built form over a large parcel of land to achieve the best outcome for the Goodman Land and Fishermans Bend without the “shackles” of mandatory controls.
35. Notably, the Port Phillip City Council also supports this approach.
36. Goodman submits that the exhibited Development Plan Overlay should be redrafted to be more specific to the land it applies to. The DPO should allow for a permit to be issued before a Development Plan is approved to allow for flexibility and individual circumstances. The Capital City Zone controls should be amended to provide that the controls do not apply to land covered by a Development Plan Overlay where a Development Plan has been approved. An exemption from mandatory controls is also needed in the Design and Development Overlay and the Parking Overlay. Local policy would also need to refer to the Development Plan Overlay.
37. Having regard to its current planning application, Goodman supports submissions already made to this Panel that, at the very least, transitional provisions must be included in the controls to exempt current permits and planning applications from compliance with the new provisions. The overarching submissions of the Landowners in this regard are relied upon.

Conclusion

38. For the above reasons (together with overarching submissions and evidence provided to the Review Panel) and in reliance of the site-specific evidence of Ms Heggen, it is submitted that the Review Panel should recommend that the proposed Amendment not proceed in its current form.

26 April 2018

Nick Tweedie

Jane Sharp

Instructed by Norton Rose Fulbright Australia