AMENDMENT GC81 TO THE MELBOURNE PLANNING SCHEME

SUBMISSION ON BEHALF OF DEXUS

212 TURNER STREET, PORT MELBOURNE

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MA11737
PREPARED FOR DEXUS
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1. **INTRODUCTION**

1. This submission is made on behalf of Dexus, one of the largest commercial property owners and managers in Australia, in relation to No.212 Turner Street, Port Melbourne (the "subject site").

2. Dexus has 1.8 million square metres of office space across 55 office properties around Australia and pride themselves on understanding what drives tenant demand, commercial leasing, and focusing on investing in or developing high quality office and industrial properties in prime locations.

3. The Dexus group owns a total property portfolio of $26.5 billion around the country and, given this extensive property ownership, is well placed to comment on commercial aspects of property.

4. Dexus has been working closely with Melbourne City Council ("MCC"), the Department of Environment, Land, Water and Planning ("DELWP") and the Fishermans Bend Taskforce over the past year to develop a masterplan outcome for the site that responded to the strategic framework plan and interim planning controls for Fishermans Bend. Through this process, pre-application plans were prepared that were generally supported by the relevant agencies given the provision of significant community benefits, a well-considered road layout, open space contributions and various community facilities.

5. Planning Scheme Amendment GC81 ("Amendment GC81" or the "Amendment") seeks to implement the draft Fishermans Bend Framework Plan (the "Framework Plan") which will guide the growth and development of the Fishermans Bend Area to 2050. Importantly, the Amendment has the following implications for the subject site (selected):

   - The site is within a Core Activity Area
   - Mandatory maximum Floor Area Ratio ("FAR") of 5.4:1 with a mandatory FAR for accommodation of 3.7:1. The mandatory FAR cannot be exceeded except for a floor area uplift where an agreed "public benefit" is provided.
   - A discretionary minimum commercial FAR of 1.7:1.
   - Unlimited building height (subject to mandatory FAR specified above).
   - Discretionary maximum dwelling density of 255 dwelling per hectare
   - 6% affordable housing
   - 10 metre landscape setback to the Turner Street (which is to be closed and transformed into a linear parkway with a tram).
   - Provision of a 22 metre wide, east-west road through the subject site connecting to Ingles Street and beyond.
   - No crossovers permitted along Ingles Street
   - Primary active frontage to the Ingles and Turner Street intersection
   - Secondary active frontage to new east-west road traversing the site
   - Provision of public open space at the north-east corner of the site.
   - No additional overshadowing of the proposed open space proposed on the site between 10:30am to 1:30pm on 22 September (mandatory).
   - Various mandatory street wall heights and building setbacks and separation distances largely depending on the adjoining street width and overall height of the building.

6. Dexus broadly supports the vision for Fishermans Bend, the concept of the Framework Plan and Amendment GC81 however, they have concerns with the outcomes that can be delivered under the proposed controls and the commercial viability of the subject site in the future.

7. Specifically, Dexus' concerns relate to the following aspects of the Amendment and the proposed controls:
- The population estimate of 80,000 people has been underestimated.
- Infrastructure provision, particularly with respect to public transport, has been overlooked and should be fundamental to the creation of new communities.
- The mandatory FAR is too low and will limit the development potential of the site.
- The minimum FAR to be set aside for commercial development is too high and is commercially unviable.
- The mandatory nature of the proposed controls is unwarranted and does not allow for site specific considerations.
- The layout of the proposed new 22 metre wide road on the site is not functional.
- The proposed provision of public open space on the site is too large and the mechanisms proposed to acquire the land are unjust.
2. **SUBJECT SITE**

8. The subject site is 3.2 hectares in size and is located on the southern boundary of the Lorimer Precinct ("Lorimer") within the Fishermans Bend Urban Renewal Area ("Fishermans Bend").

9. The site has frontages of approximately 145 metres to Turner Street, 131 metres to Ingles Street and 274 metres to the Westgate Freeway, and currently comprises an industrial estate with a series of commercial entities.

10. Car parking is provided in the centre of the site and along part of the western site boundary.

11. The surrounding area generally comprises industrial warehouses. Specifically:
   - The site abuts No.162-202 Turner Street, Port Melbourne to the west, which comprises a number of commercial offices and industrial warehouses. This site is subject to a current Planning Permit Application – 201535676 that has recently been "called in" by the Minister.
   - Further west at No.150-160 Turner Street, Port Melbourne, planning approval was granted for the development of a 30-storey mixed-use tower (Permit – 2013006334).

12. A number of land parcels within the vicinity of the site are currently under planning assessment, seeking approval for multi-unit towers, ranging between 20-40 storeys in height, many of which have been "called in" by the Minister.

13. Under the current framework, the Lorimer Precinct has been identified as an area that will provide a range of green, recreational spaces as well as cycle and pedestrian access through the precinct. Vibrant city centre and local community uses will be focused in Lorimer as well as a range of new urban housing models to define Lorimer as a desirable friendly network.
3. SUBMISSIONS

3.1. POPULATION TARGETS

14. The Framework Plan and many aspects of the proposed planning controls have been based on a projected population within Fishermans Bend of 80,000 people. This population target has been subject to lengthy debate as part of the Amendment process and throughout the public Panel Hearing.

15. Dexus considers the project population to be significantly underestimated and the precinct will therefore not adequately support Melbourne’s increasing population growth. Specifically, the 80,000 residential population target was introduced in 2013 through the release of the first draft vision for Fishermans Bend and is, in the first instance, outdated. Since 2013 population growth in Melbourne has already exceeded forecast targets and is continuing to increase exponentially.

16. This is demonstrated in the figure below which confirms that in 2016, population growth exceeded forecasts by 9.1%, which equates to an additional 12,318 people. This trend is expected to continue into the future.

Figure 1 – Actual vs. Estimated Population growth

ACTUAL POPULATION IS EXCEEDING MOST RECENT PROJECTIONS

17. The population forecast is also at odds with relevant planning policy including Plan Melbourne, Melbourne’s Metropolitan planning strategy, and State and Local Planning Provisions within the Melbourne Planning Scheme (the “Planning Scheme”).

18. These policy directions:
   - Promote Fishermans Bend as part of the expanded central city.
   - Stress the importance of urban renewal areas like Fishermans Bend in accommodating large proportions of Melbourne’s population growth.
   - Encourage development in Fishermans Bend to take advantage of underutilised land close to jobs, services and public transport infrastructure, to provide new housing, jobs and services.

19. Limiting population growth in Fishermans Bend is inconsistent with these policy directions. This, in conjunction with the mandatory nature of the planning controls and requirements for public open space and road, will constrain the development potential of the subject site, and the ability for Fishermans Bend to deliver desired outcomes.
20. Moreover, Dexus questions the use of a “capped” population target as the basis for the proposed planning controls and provisions within the Framework Plan (including the proposed FAR and dwelling densities) as opposed to a performance based approach that could more readily respond to changes in population growth in the future, which is likely to be exceeded, in line with current trends.

3.2. INFRASTRUCTURE PROVISION AND ACQUISITION OF LAND

21. The provision of infrastructure, including public transport, is integral to the success of Fishermans Bend.

22. The Framework Plan recognises that “the existing public transport, walking and cycling network within Fishermans Bend is limited and this will need to be upgraded over time to meet future population and employment needs”.

23. Further, Plan Melbourne recognises that in the delivery of major urban renewal precincts such as Fishermans Bend “the timing of land release in these precincts needs to be in sync with policy drivers, market demand and the delivery of infrastructure and services. If developed properly, the precincts will become a network of connected places, linking to each other and their surrounding neighbourhoods and developing diverse uses and characteristics.”

24. Despite these key policy directions, there is no clarity as to the cost and delivery of this infrastructure and its ultimate provision remains uncertain.

25. We consider this is a key flaw in the planning of Fishermans Bend.

26. Complexities surrounding public transport infrastructure are exacerbated by the proposed parking overlay which proposes reduced car parking rates for developments. Whilst our client supports the prioritisation of sustainable transport over private vehicles, this cannot be realised without viable sustainable transport alternatives.

27. In terms of land acquisition, the proposed approach seeks to secure privately owned land for future public use and ownership without any compensation and through a buildings and works permit trigger process rather than an acquisition overlay. We say this is inconsistent with the Planning and Environment Act 1987 (the “Act”) which “seeks to govern the fair, orderly, economic and sustainable use and development of land” (section 4(1)(a) and “to provide for compensation when land is set aside for public purposes” (section 4(2)(l))). We further note section 98 of the Act also contemplates a right to compensation for the acquisition of land.

28. The subject site, will be unfairly impacted by this method of acquisition, that also sees other land parcels wholly unaffected. This is inconsistent with key objectives of the Act and will not result in an equitable outcome for landowners.

29. We understand that Amendment GC81 justifies this inequity through the proposed FARs. However, for the reasons discussed below, we do not consider that the mandatory nature of the FARs allows for site specific considerations and are not convinced that this will “balance out” potential impacts to future landowners.

3.3. FLOOR AREA RATIOS

30. The proposed Capital City Zone Schedule 4 (“CCZ4”) stipulates a mandatory maximum FAR of 5.4:1 for the site. This has been calculated, in part, based on the population target of 80,000 people. Again, Dexus questions the basis of using a “capped” population target as the basis for the planning controls and provisions within the Framework Plan (refer section 2.1 above).

31. Proposed Clause 22.27 stipulates that a minimum FAR of 1.7:1 is to be provided for “non-dwelling” uses (i.e. commercial uses). The minimum FAR has been retrofitted to support a target of 40,000 jobs for Fishermans Bend, excluding the employment precinct.

32. The earlier iterations of the proposed CCZ4 allowed the minimum commercial FAR to be provided over and above the overall mandatory FAR, and also allowed the mandatory FAR to be exceeded if:

- The additional floor area was for “non-dwelling” uses (i.e. commercial uses).
- A floor area uplift for an agreed “public benefit” was provided.
33. The latest version of the proposed CCZ4 (document 156a) has removed the ability to exceed the FAR if additional commercial uses are provided. Now, the only way to exceed the FAR is by providing an agreed public benefit, which has not been clearly defined. Further, the minimum commercial FAR to be provided must be achieved within the mandatory FAR of the CCZ4, and not in addition to it.

34. Key considerations with respect to the above are the:
   
   - calculation of the proposed FARs;
   - commercial viability associated with the minimum commercial FARs sought;
   - uncertainties surrounding public benefit; and
   - mandatory nature of the proposed controls.

35. We have addressed each of these matters in turn below.

3.3.1. Calculating the FARs

36. The consensus amongst landowners and many expert witnesses is that the proposed FARs are too low, will significantly limit the development potential of Fishermans Bend to positively contribute to future housing growth, and should be increased.

37. This is certainly the case for the subject site and has become even more apparent with:
   
   - The inclusion of the minimum commercial FAR proposed in local policy within the overall mandatory FAR of the CCZ4; and
   - The removal of the ability to exceed the FAR if additional floor area for commercial uses is incorporated.

38. Further, a ‘blanket’ FAR has been applied across the entire Lorimer Precinct however, building heights within this area vary, and for the most part, are unlimited.

39. This inconsistency does not provide landowners with clear guidance on the future development of land. Further, the proposed FARs have not taken into account the circumstances of individual sites which is a poor planning outcome.

40. Dexus has been working closely with MCC, DELWP and the Fishermans Bend Taskforce over the past year to develop a masterplan outcome for the site that responded to the interim planning controls for Fishermans Bend. Through this process, pre-application plans were prepared that were generally supported by relevant agencies given the provision of significant community benefits, a well-considered road layout, open space contributions and various community facilities.

41. The masterplan approach sought to provide:
   
   - 6 buildings
   - 2538 residential apartments
   - 9750 square meters of retail/commercial floor area
   - 1367 car parking spaces
   - A linear park and triangular area of public open space along the northern boundary to respond to adjoining areas of public open space and the previous Fishermans Bend Framework Plan.
42. The proposed FAR and suite of mandatory built form controls will significantly reduce the development potential of the site. Rothe Lowman have prepared a masterplan sketch to show the implications the Amendment will have on the pre-application work undertaken to date. This is demonstrated in Figure 2 below. More specifically, the revised scheme includes:

- 5 towers
- 1073 residential apartments
- 33,170 square meters of retail/commercial floor area
- 974 car parking spaces
- A 5200 sqm area of public open space at the north-west corner of the site.
43. Numerically, this has the following implications for the development potential of the site.

Table 1 – Existing vs. Proposed Development Potential Summary

<table>
<thead>
<tr>
<th>Category</th>
<th>Pre-application Plans</th>
<th>Proposed Controls</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of buildings</td>
<td>6</td>
<td>5</td>
<td>-1 building</td>
</tr>
<tr>
<td>Total Apartments Achievable</td>
<td>2,538</td>
<td>1,073</td>
<td>-58%</td>
</tr>
<tr>
<td>Commercial/Retail Floor Area (GFA)</td>
<td>9,750</td>
<td>33,170</td>
<td>+240%</td>
</tr>
<tr>
<td>Car Parking Spaces</td>
<td>1,367</td>
<td>974</td>
<td>-29%</td>
</tr>
</tbody>
</table>

44. As demonstrated above, the proposed controls will significantly reduce the number of buildings, storeys and apartments achievable on the site. Further, the proposed controls will significantly increase the amount of commercial floor space on the site, which for the reasons discussed below are unviable.

45. This reduces incentives for landowners to provide public benefit and commercial uses on the site.

46. Specifically, the provision of commercial land uses does not allow landowners to exceed the mandatory FAR of 3.71 for accommodation. As such, if the extent of commercial uses sought on the site are not viable, the amount of residential uses achievable will remain the same. This is certainly the case for the subject site (refer Section 3.3.2 below) and effectively decreases the overall mandatory FAR achievable compared to that permitted under the proposed CCZ.
3.3.2. Commercial Viability

47. Dexus is one of the largest commercial property owners and managers in Australia and has 1.8 million square metres of office space across 55 office properties around Australia. Dexus pride themselves on understanding what drives tenant demand and focusing on investing in or developing high quality office and industrial properties in prime locations, which enables access to facilities and amenities which are sought after by their customers.

48. The Framework Plan and proposed controls have been informed by economic and employment related background studies. These studies have calculated the proposed employment target based on a ratio of 1 employee to 31 square metres of commercial floor area and makes the following assumptions:

- The SGS report acknowledges that office based employment is typically around 15-25 sqm per employee, retail around 20-40 square metres, and that flexibility for a range of employment uses is needed.

- SGS follow up report details the employment forecasts, with an assumed gross employment density for Lorimer of 143 jobs per hectare by 2051, and total employment of 6,000 jobs in Lorimer by 2051.

49. Whilst the number of jobs per hectare is appropriate, we consider that the employment space ratio is too high, particularly when compared to the commercial floor space ratios of other major Australian cities such as Sydney.

50. Further, Figure 9 of the SGS report ("Trends in workspace ratios") demonstrates that the trends in workspace ratios have not declined over time. However, this is inconsistent with clear trends that Dexus has seen reported from other sources as demonstrated in Figure 4 below.

Figure 4 – JLL Data on Workspace Ratios

How much have ratios compressed?

Sydney CBD workspace ratio index, 1987 to 2023

51. In Dexus’ own experience, workspace ratios per person have been decreasing consistently over time, and recently co-working companies such as WeWork have ratios as low as 1:6 (Dexus).

52. The creative industries that are targeted in Fishermans Bend are, from Dexus’ experience, likely to utilise co-working and flexible workspaces due to the collaboration and flexibility they provide. This indicates that a lower ratio than 1:31 considered by SGS may be appropriate and that a more flexible approach to providing employment spaces should be provided for in the proposed planning policy.
53. The Lorimer Precinct specifies a minimum Commercial FAR of 1.7:1. Dexus’s concerns with this ratio are as follows:

- The proposed FAR ratio will result in approximately 33,170 square metres of commercial floor space (gross floor area) on the subject site alone. This amount of commercial floor space is equivalent to an entire commercial building.
- The SGS report specifies a target of 143 per hectare by 2051. This equates to 458 jobs on the subject site by 2051.
- Based on the ratio of 1 employee to 31 square metres of commercial floor space adopted by SGS, this would result in 14,198 square metres of commercial floor space. This is less than half of the commercial floor space that would be generated on the subject site by the proposed minimum FAR.
- Alternatively, if the ratio of 1:31 was adopted for the site based on the proposed minimum commercial FAR, the site would generate 1070 jobs. This is more than double the 2051 employment target for the site and represents 17.8% of the overall target jobs for Lorimer (being 6,000 jobs by 2051).
- In Dexus’ experience, a workspace ratio of 1:12 is commonly adopted for commercial buildings in the current environments. Even if this ratio was applied to the site under the proposed controls, 2764 jobs would be generated on the subject site which represents 46% of the entire targeted jobs for Lorimer by 2051.

54. This demonstrates that the proposed minimum FAR for commercial uses is significantly higher than required to meet the desired employment targets in this area.

55. Further, from our client’s experience, such large levels of commercial floor area are extremely difficult to lease in the context of a central business district, let alone an urban renewal area that does not contain the benefits of an established area including transport connections, proximity to other businesses of similar scale, and amenity.

56. In such circumstances, incentives to provide commercial floor space is limited, particularly when this does not provide for floor area uplift for accommodation.

57. Given this, Dexus questions the introduction of a “blanket” minimum FAR for commercial uses across Lorimer. Commercial land uses should be concentrated around the employment hub and the GMH site which are more attractive to future tenants and would be more viable from a commercial perspective.

58. Dexus understands that this local policy provision is discretionary to allow for such considerations, however remains concerned that it will be applied strictly. Given this, we consider that the minimum commercial floor area specified should be reduced or incentivised.

59. If these standards are adopted, this would reduce the amount of floor space required for commercial uses, allowing commercial activity to be focused around certain areas such as the employment hub and former GMH site, which may be more suitable to more intensive commercial uses. Further, this would take the pressure off landowners to provide high levels of commercial floorspace that ultimately may not be commercially viable.

60. In turn, this would allow the maximum dwelling densities to be removed to ensure sites positively contribute to housing growth whilst still providing appropriate levels of commercial uses. This is consistent with the recommendations of other experts including Ms Leanne Hoddle who conceded in cross examination that the maximum dwelling densities should be removed from the proposed planning controls.

61. Dexus agrees with this concession and considers the application of maximum dwelling densities in addition to the proposed mandatory FARs to be unnecessary.

3.3.3. Public Benefit

62. There is a lack of clarity surrounding the public benefits required to achieve additional floor area under the CCZ4.

63. We have had regard to the Floor Area Uplift Note circulated as part of the Panel hearing (Document 66 Part I) however, clarity is only provided with respect to affordable housing. There is no clarity on how
public benefit could be achieved or valued for the delivery of public open space or community infrastructure.

64. This should be provided to ensure there is certainty to landowners.

3.3.4. Mandatory Nature of Controls

65. The mandatory controls will significantly limit the development potential of the site and do not allow for the consideration of site specific characteristics.

66. The subject site is 3.2 hectares in size, has three road frontages, is located adjacent to the freeway and is located south of nearby public open space. These characteristics limit the potential for adverse amenity impacts and ensure that no additional overshadowing is cast on adjoining areas of public open space.

67. The mandatory FAR is at odds with this context and the size of the site, which can readily accommodate higher density development for the benefit of contributing to population targets.

68. Allowing for discretion in the proposed FAR will not prejudice the future design outcome of the site as this will need to be assessed against a detailed urban context analysis, design principles and amenity considerations that will inevitably ensure that an appropriate development outcome is achieved.

69. Moreover, the introduction of flexible controls will provide incentives for innovative design and development outcomes. This is typically limited where mandatory controls apply.

70. Planning Practice Note 59 ("PPN59") relates to the "role of mandatory provisions in planning schemes" and is a key consideration in this matter.

71. PPN59 notes that:

- Planning Schemes are predominantly performance based and are therefore ‘able to accommodate variation, innovation, unforeseen uses and development or circumstances peculiar to a particular application to produce results beneficial to the community.’

- Mandatory provisions are the exception and provide certainty for circumstances where there is ‘high heritage value, strong and consistent character themes, or sensitive environmental locations such as along the coast’.

- "Mandatory provisions will only be considered in circumstances where it can be clearly demonstrated that discretionary provisions are insufficient to achieve desired outcomes."

72. Whilst Fishermans Bend is an area of State importance, the site does not exhibit any of the characteristics described above (i.e. heritage value, sensitive environmental characterises or consistent character themes) that would warrant mandatory planning controls. Moreover, discretionary provisions are sufficient to achieve the desired outcome for the site and Fishermans Bend Area, and will result in a more contextually responsive outcome.

73. We consider the mandatory nature of the proposed controls, particularly the mandatory FARs, are unwarranted in this regard and should be discretionary.

3.4. INTERNAL ROADS

74. The Framework Plan and proposed controls show a new, 22 metre wide road traversing the subject site (refer Figure 3 below).
75. A new, east-west road alignment through the site has always been contemplated through previous Fishermans Bend framework plans. However, throughout the pre-application process GTA was engaged to review the viability of the proposed road alignment and its connection to the broader precinct.

76. Its connection to Ingles Street is of particular importance given its proximity to the Ingles Street bridge. The proposed road alignment under the Framework Plan appears to have ignored this piece of infrastructure and is not physically possible without major changes to the bridge.

77. GTA provided advice on the closest possible alignment to the Ingles Street bridge and this alignment was incorporated into the pre-application documents (refer Figure 1 above).

78. Accordingly, Dexus submits the proposed road alignment should be reconsidered and reflect the alignment proposed by GTA, or in the very least be provided with flexibility through discretionary controls.

3.5. PUBLIC OPEN SPACE

79. The exhibited planning controls proposed under the Amendment showed a new neighbourhood park at the north-west corner of the subject site. This park was approximately 5200sqm in area.

80. Through the panel process, we understand that the size of this open space is proposed to be increased to around 8300sqm as a result of Ms Thompson’s evidence on behalf of the Minister.

81. Ms Thompsons justification for the proposed open space in this location is:

"The proposed Neighbourhood open space is identified to be required in this location because it caters to the forecast catchment of residents and workers west of Ingles Street and south of Plummer Street. It will cater to the open space needs of an extremely high density sub-precinct where building heights are unlimited. The open space size is to accommodate a range of different facilities including for unstructured active recreation, informal use and enjoyment and a suitable size and orientation to provide longer vistas to the north towards the proposed Precinct open space." (our emphasis).
82. Whilst the building heights in the immediate area are unlimited, they are subject to mandatory FARs which will limit building heights in this area. This would theoretically reduce the amounts of open space required in this area.

83. Moreover, Dexus maintains the position that the acquisition of land without adequate compensation is inequitable and inconsistent with the objectives for Planning in Victoria (refer Section 3.2 above) and contrary to the Planning and Environment Act for reasons outlined above.

84. In terms of overshadowing, the positioning of the open space on the site precludes any built form abutting it as it will invariably shadow the open space. As such, there is uncertainty as to how the interface of the park and any future development of the site will work with mandatory overshadowing controls.
4. CONCLUSION

85. In conclusion, Dexus submits that:

- The population estimate of 80,000 people has been underestimated.
- Infrastructure provision, particularly with respect to public transport, has been overlooked.
- The mandatory FAR is too low and will limit the development potential of the site.
- The minimum FAR to be set aside for commercial development is too high and is unviable.
- The mandatory nature of the proposed controls is unwarranted and does not allow for site specific considerations.
- The layout of the proposed new 22 metre wide road on the site is unreasonable and is not functional.
- The proposed provision of public open space on the site is too large and the mechanisms proposed to acquire the land are inappropriate.

86. Dexus' preferred outcome would be to have discretion built into the controls to enable a flexible design driven approach that can cater to future population growth and enable the consideration of alternative design options for the site.