IN THE MATTER OF

FISHERMANS BEND REVIEW PANEL

AMENDMENT: GC81 to the Port Phillip and Melbourne Planning Schemes

PLANNING AUTHORITY: The Minister for Planning

SUBJECT LAND: 400 – 430 City Road, Southbank

OUTLINE OF SUBMISSIONS

Introduction

1. These submissions are made on behalf of Wadhaven Holdings Pty Ltd, the owner of land at 400 - 430 City Road, Southbank, in the Montague Precinct (Submitter 143) ("the Landowner").

2. In addition to these submissions, the Landowner relies on the general submissions made to the Review Panel on the Landowner’s behalf on 30 April 2018 ("the General Submissions") and the expert evidence of:

(a) Mr David Song, of Song Bowden Planning in relation to town planning considerations; and

(b) Mr Jason Walsh of TraffixGroup in relation to parking and traffic matters.
3. The Landowner also endorses and adopts the general submissions made on behalf of the landowners represented by Mr Tweedie, Mr Canavan and Ms Sharp, on 19 April 2018 (document 252).

The Amendment as it affects the Land

4. The proposed planning controls that affect the Land are summarised in Mr Song’s evidence report.¹

5. In summary, the Land is:

   (a) located in the Montague core and subject to an FAR of 6.3:1;

   (b) subject to a discretionary maximum height of 80.6m (24 storeys) on the City Road frontage, and an unlimited height to the north of the Land, adjacent to the Westgate Freeway; and

   (c) encumbered by a proposed area of public open space with an area of approximately 1,835sqm on Whiteman Street.

6. The Land is also subject to setback requirements and mandatory overshadowing provisions relating to open space.

Summary of Position

7. The Landowner relies on the General Submissions in relation to the deficiencies of the Amendment.

8. The Landowner makes on the following principle contentions in relation to the Land:

¹ At page 9.
(a) The proposed open space is unnecessary, and will prejudice the integrated development of this important opportunity site;

(b) The proposed discretionary height limit for land fronting City Road is too low and fails to give due regard to the strategic and physical context of the Land;

(c) The additional lane proposed by Ms Thompson (in a generally east west direction from Cecil Street) is unnecessary and will only serve the two sites to the north (between City Road and the Freeway); and

(d) The parking rate is too low.

The Strategic and physical context

9. The Land is in an area identified for significant transformation. It is located at a junction between Southbank, Fishermans Bend and South Melbourne.

10. This edge condition provides the Land with unique potential as a major redevelopment site located between these two important renewal precincts.
11. Physically, the Land is:

(a) Large, with an area of 1.2ha (12,000sqm);

(b) An island site, separated from other precincts by physical barriers such as the elevated Westgate Freeway, the light rail and City Road;

(c) Capable of accommodating intensive development without causing unreasonable amenity impacts to the public realm;

(d) Ideally located in terms of access to public transport; and

(e) Ripe for a substantial redevelopment that optimises the amenity benefits of its co-location with the CBD and South Melbourne central.

12. Historically, the Land has been recognised for its unique characteristics and capacity for intensive development:

(a) The *South Melbourne Structure Plan, 2007* identified the Land as suitable for higher density development, including residential or office development in the form of tower blocks and mixed-use at street level;\(^2\)

(b) On 24 April 2008, Amendment C52 introduced DDO8 into the Scheme, which nominated the ‘City Road Wedge’ for intensive development;

(c) On 1 December 2009, the Priority Development Panel (“the PDP”) approved an amendment to the Scheme, and a planning permit to facilitate the development of the Land with a mixed used scheme comprising four towers ranging in height between 96m and 135m and containing:

\(^2\) Page 54.
(i) 1274 apartments;

(ii) a 288 room hotel;

(iii) 178 serviced apartments; and

(iv) ground level retail of 1159sqm.

(c) On 15 April 2010, Amendment C83 introduced an Incorporated Plan into the Scheme to facilitate the development subject of the PDP approval; and

(d) In July 2012, the Minister for Planning declared Fishermans Bend an area of State Significance under section 201F of the Planning and Environment Act 1987 and approved Amendment C102 to the Scheme, at which time the Land was incorporated into the Fishermans Bend Area.

13. A review of the relevant strategic and planning history for the Land reveals that:

(a) The Land is closely aligned with Southbank and ought be treated as a distinct and unique landholding;

(b) The Land is capable of accommodating substantial development without causing unreasonable amenity impacts – shadow to the adjacent South Melbourne area ought not weigh heavily in an assessment of land capability and can be dealt with by an appropriate design response.

(c) An appreciation of the particular attributes of the Land compels the conclusion that the Land represents a substantial and important opportunity to truly realise the vision for Fishermans Bend as a priority urban renewal precinct; and
(d) Important Land resources like this should not be squandered – the development opportunity they present should be maximised subject only to reasonable development constraints.

14. The strategic imperative to maximise development on development sites with these attributes is compelling. Neither the Minister nor the Council have identified any credible basis to limit height to 80.8m (24 storeys). There is no basis to resist the heights already approved for the Land.

**The proposed maximum heights**

15. The Landowner relies on the evidence of Mr Song.

16. In summary, it is submitted in relation to the proposed height controls and related planning for the Land:

(a) The numerical height limit lacks strategic justification, a fact exacerbated by the unreliable population target that informed the proposed height controls;

(b) The purpose of restricting height to 80.6m on City Road is unclear, given the height limit does not respond to any identifiable built form condition or sensitive space, is not necessary to achieve the urban structure sought by the Vision and is not required to preserve the amenity of the area;

(c) The siting of the proposed open space prejudices the height that can be achieved in the ‘unlimited’ portion of the Land; and

(d) The numerical height limit fails to properly respond to the Land’s physical and strategic contexts, which make the Land an ideal candidate for intensive growth.
17. The Council suggests that the shade cast by a development at the height proposed in the controls produces a perverse outcome, in that it allows shadow that is prohibited by DDO8. However, the incorporation of the ‘City Road Wedge’ into the Fishermans Bend signaled a clear elevation of the strategic importance of the Land. Shadow impacts should not influence the height outcomes for the Land.

18. The Land was removed from DDO8 and the requirements of that local control thereafter ceased to bind it. Moreover, the height ‘transition’ to South Melbourne that was previously sought by DDO8 as it applied to the Land is also of no application (except in urban design terms). Had it been the intended that the overshadowing control continue to apply the Land it could easily have been retained in the DDO. Mr Montebello’s submission that a local DDO control should ‘trump’ the State policy designation of the Land as a location in which growth should be maximised lacks merit.

Public Open Space

19. The proposed open space has an area of 1835sq, and is located off Whiteman Street.

20. The proposed open space:

(a) Is unnecessary as there is existing open space within 200m of the Land (as identified in the Planisphere Open Space Strategy at Map 10),\(^3\)

(b) Will prevent an integrated design approach for the Land; and

(c) Forecloses on the opportunity to provide open space incorporated within the future development of the Land;

\(^3\) Page 78 of the Open Space Strategy identifies existing open space along Normanby Road to the north of the Land.
21. The Open Space Strategy ("the OSS") did not recommend the provision of substantial open space on the Land, by reason of its location within 200m of existing open space. The OSS identified a possible linear park along the Whiteman Street frontage as a 'Future Space Opportunity Site'.

22. Ms Thompson affirmed in her evidence that she had discounted the open space identified on Normanby Road because residents and workers would be required to walk from the Land and under the overpass to access that space. This is not a sound basis to substantially diminish the developable area of the Land (noting that Ms Thompson objects to the siting of open space to the north of the Land).

23. Ms Thompson states in her evidence report:

   "The reason that public open space is required on this site is so that people living in this sub-precinct, which is defined by major roads and the light rail, have safe and easy access to public open space without needing to walk further than 200m and without having to cross major roads or the light rail corridor to reach it."

24. Ms Thompson describes the attributes of the precinct M7 which is comprised entirely of the Land, as follows:

   - defined by the elevated Light Rail corridor to the west, the West Gate Freeway to the north and City Road to the south east;
   - Unlimited and 24 storey height limits, this small sub precinct has physical barriers to access on all sides;
   - The proposed Neighborhood open space is required, as without it people living and working in this sub-precinct will not have safe and easy access to open space within 200m.

25. The Land is an island site with substantial barriers to pedestrian movement at all

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4 Map 10 at page 78.
5 At page 50.
6 Page 32.
boundaries. In her evidence, Ms Thompson agreed that:

(a) The Land has been nominated for Neighborhood open space but it really serves a local function to meet the needs of residents and workers at the Land; and

(b) The size of the park was not determined by reference to the likely dwelling density of the Land.

26. In these circumstances, there is no basis on which the Review Panel could reasonably conclude that:

(a) The provision of open space in the suggested quantum and location is strategically justified; or

(b) Any resident or worker would be unreasonably deprived of access to open space if the park were removed from the proposed planning controls.

27. The proposed open space would seriously prejudice the extensive master planning for the Land that has occurred to date. Moreover, the mandatory overshadowing controls will unreasonably impact on the development potential of the Land.

The parking rate is too low

28. The Landowner relies on the evidence of Mr Walsh and Ms Dunstan in relation to the issue of the proposed parking rates and other traffic and parking related matters.

29. It is submitted that:

(a) the parking rate of 0.5 spaces per dwelling a maximum is onerous and
should be amended to 1 space per dwelling;

(b) the draft Parking Overlay should be reviewed and amended to be simplified and better structured;

(c) the concept of adaptability of car parking requires further work in relation to its practical delivery and the justification of its benefits;

(d) the proposed 50m lane grid is excessive and 100m is sufficient.

30. The Landowner does not seek to revisit the submissions made in respect of the importance of early delivery of transport infrastructure. However, it is important to observe that the uncertainty associated with the delivery of transport infrastructure weighs strongly against adopting such a low parking rate.

The current permit application

31. On 26 May 2017, the Landowner applied for a permit for a master planed mixed-use development comprising:

(a) three towers (T1 – 40 storeys / 138.2m, T2 – 40 storeys / 136.2m and T# - 38 storeys / 130m);

(b) A Hotel;

(c) Child care;

(d) Retail;

(e) Food and drink premises; and

(f) Office
32. The Minister called in the permit application at the commencement of the hearing.

33. In respect of planning for the Land, the Landowner has now expended:

(a) $1,506,027 in respect of the initial proposal;

(b) $227,775 in relation to the current permit application; and

(c) $742,493 in respect of the non-refundable MPL.

[Total $2,476,295.70]

34. Planning for the Land has been interrupted by progressive iterations of the planning controls, frustrating attempts to facilitate the important strategic outcomes sought for such an important development site.

35. The Landowner submits that transitional provisions must be applied to ensure fairness to landowners who have acted in good faith in taking up the Government’s invitation to invest in this urban renewal precinct.

Conclusion

36. The Landowner submits that the Review Panel should make recommendations consistent with the submissions set out above.

Nicola Collingwood

Instructed by Mills Oakley
Structure Plan & Implementation Strategy

South Melbourne Central

Aug 2007
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EXECUTIVE SUMMARY

The Structure Plan sets out a vision for how the area should evolve. The key recommendations of the Structure Plan are:

- Promoting sustainable transport options
- Supporting and enabling the development of a key activity centre in the context of metropolitan centre.
- Identifying the role of the southern metropolitan centre in the local context.
- The principles of sustainability of the Council's Corporate Plan and the metropolitan strategy.

The Structure Plan is designed to ensure that the delivery of the Plan is consistent with the recommendations of the Structure Plan and the policies of the Council.

The Structure Plan is a key document in the development of the area, and it is intended to guide the development of the area for the next 15 years. It has been prepared in response to the recommendations of the Structure Plan and the policies of the Council.

The Structure Plan is designed to ensure that the delivery of the Plan is consistent with the recommendations of the Structure Plan and the policies of the Council.
9.3.1 Strategies (How we can achieve it)

- Support a range of land uses within the City Road Wedge that
  • with supporting mixed use development at street level
  • at lower levels in the precinct are
  • multi-level developments
  • residential or office development in the form of lower blocks
  • The City Road Wedge has the capacity for higher density
  • The CBD to the north
  • The precinct will be a point of transition from SMC to Southbank and
  • The road will be a dynamic mixed use precinct with

9.3.2 City Road Wedge

- Establish a scale of built form in the City Road Wedge that

9.3.3 SMC and the high-rise towers of Southbank

- Makes a transition between the low-medium rise buildings of

9.3.4 SMCD and the commercial nodes of the City Road Wedge

- Will see the City Road Wedge become an attractive mixed use

9.3.5 Industrial area while still retaining its present hard edge,
Alongside a sustainable transport node, residential densification and other land use activities in this area are encouraged. The wedge precinct and its opportunity to increase Road Wedge precincts and its opportunities to increase the City Link access are identified as significant opportunities for pedestrian and cyclist access. This could be achieved in terms of the appearance and amenity access for pedestrians or cyclists and the visibility on City Road. Work with Yarra Trams to improve the City Road light rail stop building in the City Road Industrial Area Heritage Overlay.

Specific opportunities include:

- Encourage innovative adaptive reuse schemes for heritage buildings.
- Including active frontsages in new developments.
- Achieving the potential for residential consolidation within areas Heritage Overlay, in balance with the objectives of the City Road Industrial Area Heritage Overlay.

9.3.5 Encourage street level activity by improving pedestrian access.

South Melbourne Central Structure Plan & Implementation Strategy
SCHEDULE 8 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO8 (the precincts are shown on page 27 of this DDO)

SOUTH MELBOURNE CENTRAL

Definitions

Street Wall Height is the height of the wall at zero setback from the adjoining pavement. Where there is no pavement the height is to be measured from the ground level adjoining the site.

The Southern Footpath is deemed to be the space extending 6 metres from the property line of buildings on the southern side of the street.

South Melbourne Central is referred to as SMC in this Schedule.

1.0

Design objectives

To provide for high quality, well designed new development in the precincts of South Melbourne Central (SMC) which are facing increased pressure for development or where the South Melbourne Central Structure Plan 2007 has recommended significant changes in land use. The SMC Structure Plan identifies 11 precincts where change will occur (refer Map 1 South Melbourne Central Precinct Boundaries in Clause 22.11). These precincts are:

- Precinct 1: Clarendon Street Core Local Shopping Strip
- Precinct 2: Emerging Activity Precinct
- Precinct 3: Northern Mixed Activity Edge
- Precinct 4: Southern Mixed Activity Edge
- Precinct 5: Coventry Street Specialty Shopping Precinct
- Precinct 6: South Melbourne Market
- Precinct 7: Eastern Business Precinct
- Precinct 8: Western Business Precinct
- Precinct 9: Kings Way Mixed Use Corridor
- **Precinct 10: City Road Wedge**
- Precinct 11: Ferrars Street Light Rail Corridor

To respect the distinctive hard edge character of the commercial and industrial precincts of SMC by requiring zero setbacks. To encourage a vibrant street life and outdoor activity by:

- creating a high quality public realm with particular emphasis on pedestrian friendliness and active street frontages.
- maintaining sunlight access to the southern footpath of principle activity streets all year round.
- encouraging ground floor design that contributes to interaction with streetscape activity and balconies or terraces at the upper levels that overlook the street.
- encouraging the provision of new private and public open spaces.
PORT PHILLIP PLANNING SCHEME

To retain the variety of spatial experiences of SMC which ranges from the 30 metre wide main streets to the intimate through-block laneway spaces.

To ensure that the sense of openness and sky visibility of SMC’s wide main streets is maintained.

To ensure that new built form does not unreasonably diminish sunlight access, particularly to key pedestrian routes.

To emphasise corner sites through built form, setbacks, street level activity and/or landscape treatments.

To realise the development potential of large sites with design outcomes that respect streetscape character and urban amenity.

To encourage development to express detailed articulation and varied streetscape frontages.

To ensure that new development on sites containing or adjacent to a heritage place is of a form and scale that is respectful of the heritage place excepting in Precinct 10 – City Road Wedge.

To maintain the distinction in building scale between SMC, which is characterised by low to medium rise buildings, and the highrise buildings of Southbank, the CAD and Kings Way.

To emphasise the edges of SMC along Kings Way and north and west of City Road with higher scale built form.

To ensure that all new development or modifications to existing buildings employ environmentally sustainable design techniques.

To ensure that the design of new development intended for residential use provides for adequate protection of future residents from external and internal noise sources.

2.0

Buildings and works

Permit requirement

A permit cannot be granted to vary any mandatory requirements of this Schedule. This does not apply to the following circumstances:

- A permit may be granted to allow architectural features such as domes, towers, masts and building services that do not exceed the required height by more than 4 metres. The floor area of these features must not exceed 10% of the gross floor area of the top building level.

- A permit may be granted to increase the street wall height by up to 1 metre to accommodate balustrades and parapets. Increased street wall heights must comply with the solar access requirements of the sub-precinct.

- A permit may be granted to increase the street wall height of corner sites, as specified in the table to this schedule, by up to 4 metres. Where the site has a street frontage of over 15 metres, the street wall height may be increased by 4 metres within a distance of 15 metres from the corner. Increased street wall heights at corners must comply with the solar access requirements of the sub-precinct.

- A permit may be granted to increase the street wall height and overall building height where a site is within the SBO. In this circumstance the height requirements of this schedule should be read to mean height above the 1:100 year flood level. Increased heights must comply with the solar access requirements of the sub-precinct.
**Sub-precinct 9c**

- Overall building height should be a minimum of 11 metres and should not exceed 12 metres or 3 storeys, whichever is the lesser.

- Buildings may be constructed to the side and rear property boundaries provided they do not diminish sunlight access to nearby residential properties.

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**Sub-precinct 9d**

- The street wall height must not exceed 12 metres. This applies to both Dorcas Street and Eastern Road.

- Overall building height should not exceed 31 metres or 8 storeys, whichever is the lesser.

- Above the street wall, and up to a height of 23.5 metres (equivalent to 6 storeys), the building must be set back a minimum of 5 metres from Eastern Road and Dorcas Street. That part of the building above level 6 must be set back a minimum of 12 metres.

- Buildings may be constructed to the side and rear property boundaries up to a height of 12 metres.

- All buildings above 12 metres in height should be set back a minimum of 12 metres from the side and rear boundaries (other than from Eastern Road, Dorcas Street and Victoria Street).
PORT PHILLIP PLANNING SCHEME

- All buildings above 12 metres in height should be set back a minimum of 6 metres from Victoria Street.

- Above the street wall height buildings should have:
  - a maximum width of 24 metres (dimension parallel to Dorcas Street / Eastern Road and including balconies and architectural articulation);
  - a minimum distance of 12 metres to an adjacent tower, either on the same site or an adjacent site.

- Clear articulation is required between the street wall and upper level towers. This may be achieved by setting back or bringing forward the tower form, using a distinctively different façade treatment in terms of colours, materials and openings, or by introducing a dominant horizontal articulation line.

Area DDO 8-10 City Road Wedge

Preferred Character

- New medium-to-high rise buildings will provide a transitional form between the low-medium rise SMC and the high-rise towers of Southbank.

- Substantial buildings will provide for a mixture of residential, commercial and other uses.

- The tower elements of any new buildings will be well set back from City Road so as to appear to sit behind the buildings on City Road and be part of the Southbank precinct.

- Residential and commercial or other uses at ground and lower levels will establish in new or refurbished buildings, which should retain or establish a hard edge to street frontages and generate streetscape activity.

- New or refurbished buildings and public realm improvements will exhibit innovative and contemporary design, with features that enhance the public realm while retaining elements of the area's industrial character and heritage.

- Whilst recognizing that the preferred character contemplates substantial change to such buildings, every effort must be made to retain the most significant elements of any significant or contributory heritage buildings.

- Subject to any heritage considerations, active street frontages will be established and new development will be required to make a contribution to the improvement of the public realm of the area.

- New development will facilitate pedestrian amenity and connectivity.

Design Objectives

- To ensure that the new built form adopts a transitional scale between the built form south of City Road and the Southbank high-rise.

- To ensure development is appropriately sited, oriented and spaced to ensure adequate and equitable access to sunlight and outlook.

- To ensure tower elements of new development is appropriately set back from City Road to appear to form part of the Southbank precinct.

- To create visual order and consistency in the street wall built form on both sides of City Road.
PORT PHILLIP PLANNING SCHEME

- To protect the public realm and create a safe pedestrian friendly environment by minimising the wind impacts of new development and minimising overshadowing of abutting footpaths.

- To enhance the pedestrian amenity of City Road, Cecil Street and Whiteman Street through the contribution of sensitive building design at street level, public realm improvements and planting to improve the street level environment to provide connections that are accessible, safe, interesting and pleasant.

- For sites within the Heritage Overlay, if there is any conflict between the building, siting and design requirements of the Port Phillip Heritage Policy at Clause 22.04 and the building siting and design requirements of this overlay, the requirements of this overlay shall prevail.

- To encourage adaptive re-use of heritage buildings as appropriate so that they form a unique and valued part of the contemporary urban fabric and that new development reflects the preferred character in this area.

- To ensure site responsive design that takes into consideration the location of the Precinct adjacent to the Freeway and associated amenity issues and required setbacks.

- To encourage urban art as an integrated component of any new development.

- Ensure appropriate acoustic measures are employed to provide protection from the freeway noise.

Requirements

- The streetwall parapet height in this precinct must not exceed 16 metres or 4 storeys, whichever is the lesser.

- The overall maximum building height should not exceed 90 metres or 25 storeys.

- Above the streetwall, buildings must be setback 10 metres from City Road.

- New development must incorporate the existing significant heritage fabric by way of sensitive inclusion within the building podium level. Buildings may be built to the boundary on Cecil Street and Whiteman Street where it can be demonstrated that the design is appropriate in the streetscape context.

- Buildings must be set back from the Freeway structure in accordance with VicRoads specifications.
Preferred Character

- An eclectic and mixed use precinct that takes advantage of its location along a transit corridor and compliments the role of the Activity Centre.

Design Objectives

- To protect views to the historic bluestone bridges.
- To ensure that new development respects and complements the residential areas on the western side of Ferrars Street.
- To encourage innovative architectural solutions to the linear nature of the land.
PORT PHILLIP PLANNING SCHEME
AMENDMENT C52
SOUTH MELBOURNE CENTRAL

PANEL REPORT

John Keaney Chair

Bill Sibonis, Member

DECEMBER 2006
PORT PHILLIP PLANNING SCHEME
AMENDMENT C52

SOUTH MELBOURNE
STRUCTURE PLAN

PANEL REPORT

DECEMBER 2006
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1. Executive Summary

Amendment C52 is the implementation of the City of Port Phillip's Structure Plan and Urban Design Framework for the major activity centre of South Melbourne Central (SMSP).

The amendment applies to land identified in the South Melbourne Central Structure Plan, being the area bounded by the Westgate Freeway, Kings Way, Park Street, and Ferrars Street.

Amendment C52 to the Port Phillip Planning Scheme, as exhibited, proposes to apply a new zoning, overlay and policy regime to implement the SMSP involving (among other things) the application of the Mixed Use zone, and the Business 1, 2 and 3 zones to various sites and by the application of a modified Design and Development overlay over the area to address built form outcomes.

The SMSP was prepared by Council over a two-year period and was adopted in 2004.

In November 2004, Council sought and obtained interim controls pending finalisation of some further detailed strategic research.

In 2005 Council prepared an Urban Design Framework (UDF) to develop built form guidelines and to develop preferred character statements for each precinct.

In November and December 2005 Council placed Amendment C52 on exhibition so as to implement the various elements of the SMSP.

A total of 16 submissions were received to the amendment and after detailed consideration and modifications to the amendment, a Panel was requested to consider outstanding submissions.

The Panel was appointed on May 2006 consisting of Mr John Keaney (Chair) and Mr Bill Sibonis. The Panel sat for five days in late October and early November 2006.

The major issues to arise at the Panel can be summarised as follows:

- Strategic basis of the amendment;
- Statutory implementation of the amendment especially the zoning regime, the local policy and the Design and Development Overlay;
- Use of mandatory controls to implement the SMSP;
• Inclusion of heritage considerations in areas marked for accelerated development; and

• Site specific requests.

The Panel conclusions on these issues are as follows:

Strategic basis of the amendment.

There is a strong strategic basis to Amendment CS2 and Council is to be commended for the manner in which it has researched, consulted and analysed the competing issues in the South Melbourne area. The Panel finds that the amendment is one of the most thoroughly analysed structure plans which has emerged since Melbourne 2030 was introduced. The Panel believes that the SMSP implements and is consistent with the State Planning Policy Framework and Melbourne 2030 and it congratulates Council on its processing of this amendment.

Statutory implementation

While there were few submissions which opposed the fundamental zoning regime, the Panel has also addressed the question of whether the amendment is a faithful implementation of the SMSP. Those submissions which questioned the zoning regime lamented the lost opportunities for increased residential development so close to the city. Council maintains that its position is of inviting accelerated residential development in some parts of the city, retail and restricted retail in other parts while encouraging the retention of commercial and light industrial activities in other areas. Council has implemented that strategy by applying the Mixed Use zone to the ‘residential’ parts of the study area, either the Business 1 or Business 2 zone to the retail parts, and the Business 3 zone to the commercial and light industrial areas. The Panel supports the zoning regime of Council.

While the Panel has some structural concerns with the amendment, especially by way of the use of the local policy and a fairly complicated DDO, it is loath to recommend significant change given that no parties have raised this as a fundamental issue and as the exhibited structure is consistent with the existing Port Phillip Planning Scheme. While the Panel finds that the local policy could be dispensed with in time and then re-distributed into the MSS or the DDO, it will refrain from recommending this as a course of action on the understanding that Council is in the process of reviewing the structure of its whole scheme as part of its 3 year Review.

Criticisms of the zoning regime in the SMSP were very much ‘at the margins’ and included some concern that the area was not to play host to a denser residential neighbourhood so as to more fully implement Melbourne 2030 and take account of its public transport and infrastructure advantages (See Anscombe; Bosco Johnson).
However the Panel agrees with Council who unapologetically maintain that parts of South Melbourne must be kept to cater for their commercial and ‘light’ industrial demands.

**Use of mandatory controls to implement the SMSP.**

Within the DDO, the amendment proposes a three tiered design package based around a ‘cocktail’ of mandatory and discretionary provisions in order to implement the strategy. The three aspects of the proposed mandatory controls relate to:

- absolute height limits;
- street wall heights; and
- building setbacks.

The Panel was advised that the present controls in the planning scheme as they affect the SMSP area all contain mandatory controls.

The Panel was advised of the history of mandatory controls in new format planning schemes and has analysed a large number of panel reports which have addressed this issue. The common theme in all of these reports is that mandatory controls are the exception and that the VPP process anticipates that there will be discretion to apply for a planning permit for most developments and that such applications are to be tested against detailed objectives and performance measures rather than merely prescriptive standards. Exceptions to this are evident within the Victorian system but are typically to be found in areas of high heritage value, strong and consistent character themes, or in sensitive environmental locations such as along the coast.

On the basis of its analysis, the Panel has found support for a mandatory regime for the street wall height and the upper level setbacks but it does not endorse a mandatory regime for absolute height.

**Heritage Issues**

Apart from discussion on individual heritage properties, there was an ‘in principle’ concern raised by some of the submitters in relation to a friction in the exhibited amendment between a vision on the one hand for an area to undergo quite rapid and marked change, with a requirement on the other hand to maintain the heritage qualities of the built form in that same area. The City Road Wedge precinct for instance (Area 10) is flanked by the elevated Westgate Freeway and adjoins the Southbank area of the City of Melbourne which is identified for accelerated growth. With this in mind, Council exhibited a height regime for the precinct of 15 storeys which, after submissions it increased to 25 storeys. At the same time it was acknowledged that the precinct was within a Heritage Overlay and it contained a number of either significant or contributory buildings. The problem arose with respect to an emphasis in the wording of the relevant DDO which suggested that the
heritage buildings were to be retained in accordance with Council's heritage policy in the scheme. In the view of submitters this amounted to a 'give and take' strategy whereby Council seemingly were inviting quite a significant change in built form on the one hand, while wanting the existing heritage built form to remain on the other. To its credit Council acknowledged that this was an untenable position and suggested a revised objective which recognised that the character of the area was likely to substantially change but which asked that every effort be made to include the most significant parts of heritage buildings in any re-design. The Panel supports this as an appropriate and sensible outcome.

Specific Issues

In addition to these 'in principle' issues, the Panel had the benefit of detailed submissions from the parties on the merits of modifying the proposed planning controls as they affect specific sites. In summary, the views of the panel on these specific issues are as follows:

The 'City Road Wedge' submissions addressed issues of street wall height, heritage and building setbacks. The Panel has concluded that this Precinct should be retained in the MPUZ with a DDO height limit (discretionary) of 25 storeys (or 90 metres). The precinct should adopt the mandatory street wall height of 16m (or 4 storeys) and there is no case to be made to exempt or make an exception for the Azure Investments site on the corner of City Road and Cecil Street. While the Panel agrees that there is no need for a building setback above the street wall on either Whiteman Street or Cecil Street, the Panel does support the exhibited mandatory minimum 10 metre building setback above the street wall from City Road to align with all other precincts which adopt the same design principle of a podium level below a tower. No case has been made out for a reduced setback or a discretionary regime in this precinct.

Within this precinct, the submission of Barraport Investments opposed the inclusion of a heritage citation for the property at No 25/29 Cecil Street which hosts a single storey industrial building which was the former depot and Melbourne distribution centre of the Ballarat Brewery. Council noted that the building is already within a Heritage Overlay and is listed as 'significant' in the Port Phillip Heritage Review which is incorporated into the Planning Scheme. Council has now researched the history of the property and believes that it is appropriate to include that history in a citation in the Heritage review. The landowner opposed the need for any citation and feared that the mere existence of the citation elevated it above that of 'significant' and means that any application to demolish or modify would need to pass more rigorous tests.

The Panel does not share that fear and has recommended that the citation of 25-29 Cecil Street South Melbourne be amended to incorporate the relevant factual
information from the evidence of Mr Peter Lovell and appropriate development
guidelines and that it be included within the Port Phillip Heritage Review.

The 'Lascorp' site on Eastern Road is considered by the Panel to have a relationship
with Kings Way albeit not a complete relationship. While the site does not have the
benefit of a Kings Way frontage, the site (especially the northern half) is visible to
Kings Way and 'reads' as part of the junction of Kings Way and Sturt Street. The
presence of the tram on Eastern Road further emphasises a natural barrier between
this site and the rest of the Eastern Business precinct. The Panel however, clearly
distinguishes between the northern and southern ends of the Lascorp site and
believes that they should be developed (as opposed to used) quite differently. The
Panel has supported the application of the Mixed Use Zone and some modified
design principles and requirements of Precinct 9 to reflect this.

Most of the matters relating to the Spotlight Group submissions were resolved
before the Panel hearing other than the issue of mandatory controls (which are
discussed above) and the issue of the imposition of a Section 173 agreement as the
basis for Council agreeing to rezone No 100 Market Street to a Business 2 zone
(B2Z). The submitter maintains that the Section 173 agreement is unnecessary as
elements of it can be distributed into the DDO or zone schedule (which we agree
with); other parts of it can be left to the policy; while other parts go to undertakings
regarding the retention of aspects of the heritage buildings. The Panel is not even
sure that the issue of the legal agreement is technically before us as we interpret the
July 2006 Council resolution to say that it would only proceed with the B2Z on the
basis of the undertakings in the agreement. All the Panel can suggest is that in
principle we do not support the unnecessary use of legal agreements and would
prefer that more transparent VPP tools be employed.

The Panel concurs with the position of Council with respect to the application of the
Environmental Audit Overlay to 222 Kings Way as the Ministerial practice note
provides very little scope for an alternate approach. Council said that it would
welcome a detailed submission from the Body Corporate with evidence to support the
removal of the overlay and the Panel encourages the owner to provide that material.

Finally, while no party to the amendment lodged a submission with respect to the
new public open space requirement at Clause 52.01, the Panel notes that this
requirement is derived from both the SMSP and from the recently completed Open
Space Strategy. The Panel supports the inclusion of the specified amount in the
exhibited schedule.

The Panel recommends that Amendment C52 be approved, as exhibited, subject to
the modifications specified in the report.
2. Background

2.1 The Amendment

Amendment C52 applies to land identified in the South Melbourne Central Structure Plan, being the area bounded by the Westgate Freeway, Kings Way, Park Street, and Ferrars Street.

The amendment gives effect to the City of Port Phillip’s South Melbourne Structure Plan (SMSP) and Urban Design Framework (UDF) for the major activity centre of South Melbourne Central (SMC).

Amendment C52 proposes to:

- Rezone land within South Melbourne Central to implement the vision, principles and strategic objectives of the South Melbourne Central Structure Plan and Implementation Strategy, 2005.

- Insert a new Schedule 8 to the Design and Development Overlay (Clause 43.02) that reflects the outcomes of the South Melbourne Central Urban Design Framework, 2005. The Design and Development Overlay defines and applies to eleven precincts within South Melbourne Central. Each precinct has a preferred character statement, accompanied with design objectives and requirements.

- Delete Schedule 15 to the Design and Development Overlay (Clause 43.02) to remove the interim South Melbourne DDO.

- Extend the Heritage Overlay to include additional properties and update the level of significance to the Heritage Policy Map to ensure that all places are appropriately identified.


- Modify the Local Planning Policy Framework at Clause 22.02 ‘Retail Centres Policy’, Clause 22.03 ‘Industrial Areas Policy’ and Clause 22.11 ‘South Melbourne Central’ to reflect the intent of the South Melbourne Central Structure Plan and Implementation Strategy, 2005, and the South Melbourne Central Urban Design Framework, 2005. These Clauses are also modified to include two additional Reference Documents.
That Council give consideration to an appropriate setback regime for Precinct 9c.

6.6 Issue - Precinct Specific – City Road Wedge

6.6.1 Submissions

The principal concerns of landowners within the City Road Wedge precinct related to heritage, street wall height and upper level setbacks. Other concerns related to the fragmented land ownership; inadequate acknowledgement of the need to provide for “back of house” activities; use of shadowing as a design criteria; and the protection of existing sky signs. In outlining the issues, the focus will be on what the Panel considers to be the main concerns. A response to the remaining matters is provided in the ‘discussion’ section below.

A principal concern with the proposed DDO for this precinct was the seemingly inherent conflict between the desire to retain the heritage buildings and the identification of this area as one of major change, incorporating development of up to 25 storeys. The remaining heritage concern was in respect to the proposed inclusion of a heritage citation for 25-29 Cecil Street into the Port Phillip Heritage Review (‘the Heritage Review’), as it was considered by the landowner that such inclusion would have the effect of elevating the significance of the building.

In respect of the street wall, the primary submission was that the proposed 15.5 metre height was inadequate and should be increased to reflect the 19 metre height of the existing 4 storey building at 400-406 City Road. The mandatory nature of this height was also opposed.

Although the 90 metre building height was supported by the parties, it was submitted that the proposed 10 metre setback for levels above the street wall was excessive and should be reduced to 5 metres. As with the street wall height, the mandatory nature of the setback was not supported.

Heritage Issues

The potential for conflict between the heritage policy which exists in the Planning Scheme and the outcomes sought under the Structure Plan were expressed by Mr Lovell as follows:

"The current scenario is one in which two potentially competing planning objectives are included in the Scheme without any guidance on whether one should be preferred over the other. This in itself is not unusual and the planning process is one which allows for balancing to occur ‘in favour of net community benefit and sustainable

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development’. While policy preferences are generally not stated within local policies, equally it is useful in some circumstances to provide guidance on how the competing policies might be addressed. The manner in which this is done may be by way of an incorporated plan or other such planning tool…”

We acknowledge that the Planning Scheme does not establish any hierarchy of policy and that development and use applications are not to be determined solely by policy preference but by balancing relevant policies in the Planning Scheme, some of which at times might be said to be competing policies.

As exhibited, Schedule 8 to the DDO has sought to recognise this "balance" by the following statement of preferred character for the City Road Wedge area:

“Significant elements of the City Road Industrial Area Heritage Overlay will be retained, on balance with the objectives of achieving residential development in this precinct…”

The design objectives include the following:

"To retain significant heritage buildings or heritage facades in accordance with Port Phillip’s Heritage Policy at Clause 22.04.

To encourage adaptive reuse of heritage buildings as appropriate so that they form a unique and valued part of the contemporary urban fabric…”

The particular problem that Mr Lovell has alluded to is the general requirement in Clause 2 of the Schedule to the DDO which is expressed in these terms:

"For sites within the Heritage Overlay, the building siting and design requirements of the Port Phillip Heritage Policy at Clause 22.04 must be met…”.

Council acknowledged that as a stand alone provision, this could perhaps lead to some uncertainty as to how such requirements ought to be considered in the light of the specific requirements of the DDO and the Strategic Policy basis that underpins the Structure Plan for these sites.

Council advised the Panel that it was never intended that the building, siting and design requirements of Clause 22.04 should play this role and so as to clarify the intent behind the application of the Heritage Policy to the City Road Wedge Area, Council proposed the following modification in DDO 8-10:
"For sites within a Heritage Overlay, if there is any conflict between the building, sitting and design requirements of the Port Phillip Heritage Policy at Clause 22.04 and the building sitting and design requirements of this overlay, the requirements of this overlay shall prevail."

This amended Design Objective was generally accepted by the parties.

Complementing this Design Objective is the following statement from the description of the Preferred Character for this Precinct:

*Whilst recognising that the preferred character contemplates substantial change to such buildings, every effort must be made to retain the most significant elements of any significant or contributory buildings.*

The Panel accepts that the above amendments to the proposed DDO satisfactorily resolve the initial inherent conflict between heritage and the substantial degree of change envisaged for the City Road Wedge Precinct.

**25-29 Cecil Street**

*Barraport Pty Ltd* oppose the inclusion of a citation for the building at 25-29 Cecil Street in the Heritage Review. The building is the former Melbourne depot and distribution centre for the Ballarat Brewing Company.

It was submitted by Mr Dreyfus, and stated in the evidence of Mr Lovell, that the inclusion of a site specific citation for a place within the Heritage Review will have the effect of raising expectations that the heritage place will be preserved, and that the heritage status of a place will be elevated. These effects are notwithstanding the fact that the building in question is already identified as a significant building in the Heritage Review and that this classification is not proposed to be altered. Mr Lovell stated in his evidence that the building is considered to be of local interest at best, it makes a limited contribution to the Heritage Overlay Area and its designation as a Significant Heritage Place is not warranted. Mr Lovell also commented that the content of the citation does not provide guidance in respect of the future development of the site.

In contrast, Mr Cicero submitted that a site specific citation can assist to inform the exercise of discretion in the event that a proposal for the development or redevelopment of the property is forthcoming. It was further submitted that a citation does not elevate the status of a heritage place. In his evidence, Mr Reeve ascribed significance to the building on the basis that it is the last remaining structure associated with the Ballarat Brewing Company in Melbourne. In noting that Mr Lovell had been involved in the preparation of a Conservation Management Plan for the
Ballarat Brewery, Mr Reeve advised that he had no objection to the citation being revised to include the additional information addressed by Mr Lovell in his evidence.

**Street wall height**

Ms Thomas, on behalf of Azzure Investments Pty Ltd, submitted that the proposed street wall height should be increased to approximately 20 metres to reflect that of the existing 4 storey building on the north-west corner of City Road and Cecil Street. Council’s submission was that the proposed street wall height of 15.5 metres was reflective of existing development in City Road which characterises this area, and was an appropriate response from a streetscape perspective.

**Upper level setbacks**

During the course of the hearing, Council advised that a mandatory upper level setback from Cecil Street and Whiteman Street was no longer being pursued. Council, however, maintained that a 10 metre upper level setback from City Road is to be provided by new development.

Both Mr Borelli and Ms Thomas advocated a 5 metre setback from City Road for that part of the development which is above the street wall, noting that this would be sufficient to mitigate against wind impact and provide for a pedestrian scale. Mr Sheppard in his evidence on behalf of Council stated that the 10 metre setback would ensure that the towers would read as a separate built form to the lower street wall, and that a lesser setback would have a detrimental impact on the low rise streetscape of City Road.

6.6.2 **Discussion**

**Heritage in principle**

The City Road Wedge precinct is flanked by the elevated Westgate Freeway and adjoins the Southbank area of the City of Melbourne which is identified for accelerated growth. With this in mind, Council exhibited a height regime for the precinct of 15 storeys which, after submissions it increased to 25 storeys. At the same time it was acknowledged that the precinct was within a Heritage Overlay and it contained a number of either significant or contributory buildings. The problem arose with respect to an emphasis in the wording of the relevant DDO which suggested that the heritage buildings were to be retained in accordance with Council’s heritage policy in the scheme. In the view of submitters this amounted to a ‘give and take’ strategy whereby Council seemingly were inviting quite a significant change in built form on the one hand, while wanting the existing heritage built form
PORT PHILLIP PLANNING SCHEME

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INCORPORATED DOCUMENT

'400 – 430 City Road, Southbank, December 2010'

This document is an incorporated document in the Planning Scheme pursuant to Section 6(2)(i) of the Planning and Environment Act 1987.
INTRODUCTION:

This document is an incorporated document in the Schedule to Clause 52.03 and the Schedule to Clause 81.01 of the Port Phillip Planning Scheme (the Scheme).

Despite any provision to the contrary in the Scheme, pursuant to Clause 52.03 of the Scheme the land identified in this incorporated document may be used and developed in accordance with the specific controls contained in this document, including the 'Incorporated Plans' prepared by Crone Partners Architects titled 'mixed use development, 400 - 430 City Road, Southbank' and Site Image Landscape Architects titled '400 - 412 City Road, Southbank.'

In the event of any inconsistency between the specific controls contained in this document and any provision of the Scheme, the specific controls contained in this document will prevail.

ADDRESS OF THE LAND:

The land at 400 - 430 City Road, 10 - 24 Cecil Street and 115 - 131 Whiteman Street, Southbank, in the City of Port Phillip, (the land) described as:

- 400-406 City Road I Lot 2 PS421775P Volume 10439 Folio 972
- 408-410 City Road I Lot 4 PS081733 Volume 08737 Folio 019
- 412-430 City Road I Lot 2 PS080418 Volume 11044 Folio 270
- 115-125 Whiteman Street I Lot 2 TP801369V Volume 08912 Folio 301
- 10-24 Cecil Street & 127-131 Whiteman Street I Lot 1 PS421775P Volume 10439 Folio 971

APPLICATION OF PLANNING SCHEME PROVISIONS:

The following provisions of the Port Phillip Planning Scheme do not apply to the land identified in this Incorporated Document:

- Clause 32.04 – Mixed Use Zone and schedule
- Clause 43.01 - Heritage Overlay
- Clause 43.02 – Design and Development Overlay and schedules
- Clause 52.01 - Public open space contribution and subdivision
- Clause 52.02 – Easements, Restrictions and Reserves
- Clause 52.04 – Satellite Dish
- Clause 52.05 - Advertising Signs
- Clause 52.06 – Car Parking
- Clause 52.07 – Loading and Unloading of Vehicles
- Clause 52.19 – Telecommunications Facility
- Clause 52.29 – Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 52.34 – Bicycle facilities
- Clause 52.35 – Urban Context Report and Design Response for Residential Development of four or more storeys
- Clause 52.36 – Integrated Public Transport Planning
**PURPOSE:**

- To recognise the strategic importance of the land for a major mixed use redevelopment situated in the Melbourne Central Activities District (CAD), which includes Southbank, and is in close proximity to the South Melbourne Major Activity Centre with good access to a variety of transport modes including public transport facilities.

**THIS DOCUMENT ALLOWS:**

Part demolition of existing buildings and use and development of the land for multiple Dwellings, Residential hotel, Display home, Food and drink premises, Car park in association with uses on the site, Car sales, Shops, Medical Centre, alteration of access to a Road Zone – Category 1, generally in accordance with the following 'Incorporated Plans' prepared by Crone Partners Architects and Site Image Landscape Architects:

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<td>Tower 2 – North Elevation</td>
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<td>DA316 (A)</td>
<td>Tower 1 – Cecil Street Podium Elevation</td>
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<td>City Road Street Elevation</td>
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**Landscaping**
- LP0000 (C): Plant Schedule
- LP0001 (D): Site Plan
- LP101 (E): Ground Level
- LP102 (B): Level 4 & 5
- LP130 (C): Corner of City Road & Whiteman Street
- LP104 (D): The Western End of The Laneway
- LP105 (E): The Middle Part of Laneway
- LP106 (E): The Eastern End of Laneway
- LP107 (E): Level 5
- LP201 (C): Sections 01

and including any amendment of the plans that may be approved from time to time under the conditions of this document. Once approved, these plans will be the endorsed plans.

**THE FOLLOWING CONDITIONS APPLY TO THIS DOCUMENT:**

**Endorsed Plans**

1. The development must be carried out generally in accordance with the Incorporated Plans or the endorsed plans that may be approved from time to time by the Responsible Authority.

2. Prior to the commencement of development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground
beams and ground slab, if required, amended plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority following any recommended design changes to the laneway resulting from Condition 25 (Wind assessment). The plans must be drawn to scale with dimensions and three copies must be provided.

Layout not altered and satisfactory completion

3. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Staging Plan

5. The development of the land may be undertaken in stages. Prior to the commencement of development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, a staging plan must be submitted to and be to the satisfaction of the Responsible Authority.

Materials

6. Prior to the commencement of each stage of development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, a sample board including a colour rendered and notated plan/elevation that illustrates the location and details of all external materials and finishes must be submitted to and be to the satisfaction of the Responsible Authority. All finishes and surfaces of all external buildings and works, including materials and colours must be in conformity with the approved sample board and plan(s) to the satisfaction of the Responsible Authority.

Streetscape and Landscape Works Plan

7. Prior to the commencement of development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, a Streetscape and Landscape Works Plan and associated technical specifications to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will form part of the endorsed plans. The plans must be generally in accordance with the Incorporated Plans prepared by Site Image, but modified to show:

a) Existing conditions including traffic lane widths, crossovers, road alignments, line marking, on-street parking and signage;

b) Landscaping of the outdoor communal area on the podium level adjacent to Tower 1 and Tower 2 (which will include BBQ facilities and a pergola);

c) Footpath reconstruction/paving and kerb extensions on the perimeter of the land;

d) Street tree planting and species;

e) Street lighting and street furniture (bins, seating, directional signage, bicycle racks) as required;

f) DDA compliant pedestrian crossings;

g) Drop off/collection arrangements for the hotel;

h) The retention of the bluestone kerb, pitcher and channel along Whiteman Street to the existing depth;

i) Details of new and reinstated vehicle crossovers, including clear pedestrian priority;

j) Proposed road alignments and traffic lane widths, treatment of intersections, line marking, signage and on-street car parking noting that there is to be no net loss of on-street car parking;
k) The inclusion of Copenhagen-style bike lanes along Cecil Street that are to be constructed by Council; and
l) Streetscape works that incorporate water sensitive urban design (WSUD) treatments, including tree infiltration pits at proposed new tree locations, raingardens at kerb outstands and permeable paving at suitable selected locations. All WSUD to be in accordance with Council and industry best practice guidelines.

8. Unless otherwise agreed in writing by the Responsible Authority, all buildings and works in conformity with the endorsed Streetscape and Landscape Works Plan in condition 7, must be constructed and installed at a cost borne by the owner of the land and at no cost to the Responsible Authority or VicRoads and be completed to the satisfaction of the Responsible Authority and VicRoads within three (3) months of the completion of the building work or any stages thereof, and then maintained to the satisfaction of the Responsible Authority.

9. The owner of the land is responsible for the cost of vegetation maintenance for the first twelve (12) months after planting all street tree planting, including replacement of any vegetation removed or destroyed during that period, with vegetation of the same variety and a similar size as the remaining plantings, after which the Responsible Authority shall assume responsibility for maintenance.

Construction Management Plan

10. Prior to commencement of development, a Construction Management Plan (CMP) must be submitted to the Responsible Authority and be to its satisfaction. The CMP shall include details of, but not be limited to the following:
   a) hours of demolition and construction;
   b) methods to contain dust, dirt and mud within the site and the method and frequency of clean up procedures, including the management of on-site storage waste construction bins and vehicle washing;
   c) Management of parking of construction machinery and workers vehicles;
   d) Management of site deliveries and unloading and lifting points with expected frequency, and traffic management in the vicinity;
   e) Minimising disruption to pedestrian access along footpaths;
   f) Measures to minimise noise and other amenity impacts from mechanical equipment and demolition/construction activities, especially outside of daytime hours;
   g) The provision of adequate environmental awareness training for all on-site contractors and sub contractors;
   h) A liaison officer for contact by the public and the responsible authority in the event of relevant queries or problems experienced;

Once approved the Plan will form part of the endorsed plans and all works must be carried out in accordance with the Plan.

Demolition Method Statement

11. Prior to commencement of development, a ‘Demolition Method Statement’ (DMS) prepared by a qualified structural engineer must be submitted to and be approved by the Responsible Authority. When approved, the DMS will form part of the endorsed plans. The DMS must fully describe and clearly demonstrate that the construction methods to be used on site will ensure that the building fabric required to be retained on the endorsed plans will be safeguarded during and after the demolition process has occurred. The DMS may need to include reference to staging of demolitions on site in some instances. The DMS must detail the necessary protection works required to retain individual walls, chimneys, flooring, roofing and other heritage features of significance during demolition.
Environmental Sustainable Design (ESD) Initiatives

12. The following ESD initiatives must be incorporated into the development to the satisfaction of the Responsible Authority and must not be altered without the written consent of the Responsible Authority.

- Thermally efficient façade (as required for BCA compliance), including double glazing and additional insulation, reducing the need for heating and cooling within apartments.
- Solar hot water: All towers will include a gas boosted Solar Hot Water system, with the solar component providing an approximate 25% contribution to average annual hot water demand. Solar collector panels (approximately 88m2) located on the roof of each tower will have minimum 60% efficiency and be located facing north.
- Lighting: provide energy efficient compact fluorescent lighting to common areas and car parks. To ensure lighting is only on when it is required, car parks, lobby spaces and external areas will have motion detectors or daylight sensors as appropriate.
- Energy efficient (at least 3 star rated or inverter technology) reverse cycle air-conditioning units will be provided to apartments.
- Heat recovery of pool ventilation system.
- Separate central kitchen exhaust system with variable speed fans.
- Installation of water efficient tapware, showers and toilets (4 star WELS rated or better).
- Fire test water to be collected and reused.
- Provision of stormwater harvesting to all four towers, reticulated to supply approximately 55% of toilet flushing requirements, and also to provided landscape irrigation, swimming pool make-up water and washdown facilities for the hotel tower.
- The provision of stormwater harvesting will also divert the water from the stormwater system, and depending on tank levels function as stormwater retention, reducing run-off and peak flows and thus reducing the urban flash flood risk.
- Kitchens in both the apartments and serviced apartments will be manufactured from timber from sustainable sources, e.g. FSC certified or plantation timber.
- There will be equal access to refuse and recyclable disposal (e.g. recycling points on each level adjacent to refuse chutes).
- Provision of on site bicycle spaces for residents in accordance with the endorsed plans.
- Average 6 star - First Rate Star Rating for residential towers.
- Smart Metering to allow residents to easily monitor energy use.
- Low VOC paints, sealants, adhesives, floor & ceiling coverings.
- Energy and water efficient dishwashers (within one star of the highest available rating (i.e. 3 Star Energy rated, 4 Star WELS rated) to be supplied with each apartment.

Environmental Audit Overlay

13. Before a sensitive use (residential use, child care centre, pre school centre or primary school) commences:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
- An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.
Green Transport Plan

14. Prior to commencement of the use, a green travel plan prepared by a suitably qualified professional must be submitted to and be approved by the Responsible Authority. The green travel plan must provide detailed advice regarding how traffic movements and staff parking will be managed and ensure that alternative non-private vehicle transport modes will be encouraged. The plan should also identify specific opportunities for the provision of more sustainable transport options and encouragement of their use. The plan must include but not be limited to:
   a) Current tram, train and bus timetables be installed in prominent locations in lifts and public areas (on noticeboards, etc);
   b) Bicycle parking areas to be installed in well secured and prominent locations;
   c) Provide a minimum of 16 car sharing parking spaces within the development for use by residents of the proposed development, as well as the wider community.
   d) Install signs in prominent locations advising of the location of existing and proposed share car schemes, bicycle parking facilities for residents and visitor, tram stops, taxi ranks, railway stations, bus stops and bicycle paths.
   e) Ensure that access to the on-site parking is restricted and controlled.
   f) A car parking management plan must be prepared showing how the car parking on the land is to be allocated.

Once approved the Plan will form part of the endorsed plans and must not be altered without the written consent of the Responsible Authority.

Street levels and crossovers

15. Prior to the completion of development or each stage of development, the owner of the subject land must:
   a) Construct all necessary vehicle crossings and demolish all unnecessary vehicle crossings and reconstruct and upgrade the footpaths adjacent to all boundaries of the site together with associated works including the renewal and/or relocation of kerb and channel and the relocation of all services pits and covers as necessary, at no cost to the Responsible Authority and in accordance with plans and specifications first approved by the City of Port Phillip. Any surplus bluestone pitchers must be returned to Council’s depot at cost to the permit holder /owner.
   b) Not alter existing footpath widths and street levels adjacent to the subject land for the purpose of constructing a new vehicle crossing or pedestrian entrances without first obtaining written approval from the City of Port Phillip.
   c) Undertake any road/on-street parking space line marking/signage works that are required as a result of the development in long life materials prior to the occupation of the dwellings.

Car and bicycle parking

16. The internal design of all car parks and vehicle access ways must be generally in accordance with Australian Standard 2890.1-2004 to the satisfaction of the Responsible Authority.

17. The areas set aside for the parking of vehicles and access ways to the car parks must be:
   a. Constructed and properly formed to such levels that may be used in accordance with the plans;
   b. Surfaced with an all weather surface or seal coat (as appropriate);
   c. Drained and maintained;
   d. Line marked to indicate each car space, loading bay and/or access lane; and
   e. Clearly marked to show the direction of traffic along access land and driveways.
The car parking spaces must not be used for any other purpose and all access ways must be kept clear.

18. The loading or unloading of vehicles of goods, plant and materials or other items delivered to or dispatched from the land must take place within the boundary of the land in the approved loading bays, except with the written consent of the Responsible Authority.

19. The areas set aside for parking on the endorsed plans are to be used in connection with the lawful uses carried out on the site and must not be operated as a public car-parking facility or any other purpose such as storage, except with the written consent of the Responsible Authority.

20. Bicycle parking must be provided and located in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

21. Each set of tandem car spaces (apart from the car share spaces), or pair of vehicle stacker spaces must be allocated to one residential unit or commercial tenancy except with the further written consent of the Responsible Authority.

Air Conditioning Plant

22. Any air conditioning plant must be screened and baffled and/or insulated to minimise noise and vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines as follows:
   i) Noise from the plant during the day and evening (7.00am to 10.00pm Monday to Friday, 9.00am to 10.00pm Weekends and Public Holidays) must not exceed the background noise level by more than 5 dB(A) measured at the property boundary;
   ii) Noise from the plant during the night (10.00pm to 7.00am Monday to Friday, 10.00pm to 9.00am Weekends and Public Holidays) must not be audible within a habitable room of any other residence (regardless of whether any door or window giving access to the room is open).

Noise attenuation for dwellings

23. The development shall be designed and treated with noise attenuation measures in accordance with the recommendations of an accredited professional Acoustic Engineer to achieve the following or otherwise to the satisfaction of the Responsible Authority:
   i) Between 11pm and 7am in sleeping areas must not exceed $L_{Aeq,1hour}=35dB(A)$.
   ii) Between 7am and 11pm in living rooms must not exceed $L_{Aeq,1hour}=45dB(A)$.

No Equipment or Services

24. All building plant and equipment on the roofs, with the exception of wind turbines and solar panels, are to be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery and equipment including but not limited to all air-conditioning equipment, ducts, all exhausts including car parking and communications equipment shall be to the satisfaction of the Responsible Authority.

Wind Assessment

25. Prior to the commencement of development, excluding demolition, bulk excavation, site preparation, soil removal, retention works, piling, footings, ground beams and ground slab, a wind assessment report prepared by a suitably qualified professional must assess the laneway wind environment and whether any wind mitigation works are required, and must be submitted to the satisfaction of the Responsible Authority. Design responses to wind mitigation recommendations must:
   - be developed as an integrated solution with the architectural and landscape design;
   - utilise both building features including but not limited to canopies and wind mitigation devices at ground level to ameliorate wind conditions; and
• preserve pedestrian access and key vistas along the laneway and around the buildings.

Waste Management Plan

26. Prior to commencement of each stage of development, excluding demolition, bulk excavation, site preparation, soil removal, retention works, piling, footings, ground beams and ground slab, a Waste Management Plan based on the draft "Best Practice Guidelines for Kerbside Recycling at Multi-Occupancy Residential Developments (Sustainability Victoria June 2006) must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority. Once approved the Plan will form part of the endorsed plans and must not be altered without the written consent of the Responsible Authority. The Plan must include reference to the following:

• The estimated garbage and recycling generation volumes for the whole development.
• The garbage and recycling equipment to be used and the collection service requirements, including the frequency of collection.
• The location of, proximity, screening of and space allocated both to the garbage and recycling storage areas and collection points.
• The path of access for both users and collection vehicles.
• How noise, odour and litter will be managed and minimised.
• Approved facilities for washing bins and storage areas.
• Who is responsible for each stage of the waste management process.
• How tenants and residents will be regularly informed of the waste management arrangements.
• Bottles or drink containers associated with the restaurant and hotel uses must not be crushed or emptied into external refuse bins after 7.00pm or before 10.00am on any day of the week unless otherwise agreed to in writing by the Responsible Authority.

The occupier(s) of the site must ensure that the Waste Management Plan approved under this condition is implemented at the commencement of the use and is continuously complied with to the satisfaction of the Responsible Authority.

Waste Management operations

27. All garbage and other waste material must be stored in an area within the land and set aside for such purpose to the satisfaction of the Responsible Authority.

28. All garbage bins must be returned to the garbage storage areas as soon as practicable after garbage collection. Waste storage and collection arrangements must be to the satisfaction of the City of Port Phillip.

Urban Artwork

29. Details of proposed urban art on the site to the value of $1,000,000 is to be provided to and approved by the Responsible Authority. The proposed urban art can be staged across the development and details shall be provided to the Responsible Authority including the staging, location(s), design, materials and fixing mechanisms. Once approved the plan will form part of the endorsed plans and must not be altered without the written consent of the Responsible Authority. Prior to the completion of each stage of the development that may contain urban art, the respective urban art must be installed to the satisfaction of the Responsible Authority.

Utility Services

30. All utility services to the land, including water, electricity, gas, sewerage, telephone and telecommunications must be installed underground and located in a position approved by the Responsible Authority.
Public Access to Laneway

31. The laneway linking City Road and Whiteman Street must remain accessible to the public at a minimum between the hours of 7am to 7pm daily, or during the trading hours of the internal tenancies, whichever is greater.

Food and Drink Premises Management

32. The restaurants (excluding those located within the hotel) may operate only between the hours of 7.00am and 12 midnight daily unless otherwise agreed in writing by the Responsible Authority.

33. No bottles or other waste materials shall be removed from the site between the hours of 9.00pm and 7.00am Monday to Friday and/or 9.00pm and 9.00am Saturday and Sunday.

No Amplified Music

34. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of the Responsible Authority.

Section 173 Agreement

35. Prior to the commencement of development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority, and may include the Department of Transport. The agreement must be in a form to the satisfaction of the Responsible Authority and the owner of the land must be responsible for the expense of the preparation of the agreement, including the Responsible Authority’s reasonable costs and expenses (including legal expenses) incidental to the preparation and enforcement of the agreement.

The agreement must provide that the owner agrees that all works required for the following:

a. Streetscape and Landscape Works Plan required in condition 7 (excluding the Copenhagen-style bike lanes along Cecil Street that are to be constructed at cost by Council); and

b. Public transport infrastructure including:
   - An additional access ramp (Disability Discrimination Act 2002 - DDA compliant) in a northerly direction along Whiteman Street including necessary vegetation removal required (if any);
   - Two (2) new tram shelters one on each side including seating (DDA compliant);
   - Improved pedestrian links (DDA compliant) from key access locations within the development to all public transport facilities;
   - Lighting and signage plan for the pedestrian links directing pedestrians to all modes of public transport facilities; and
   - A new bus stop layby any bus stop line marking that maybe required in the vicinity of the land;

must be constructed and installed at a cost borne by the owner of the land and at no cost to the Responsible Authority or the Department of Transport and be completed to the satisfaction of the Responsible Authority and Director of Public Transport.
Vic Roads conditions

36. A noise report is required to be undertaken to the satisfaction of VicRoads by a qualified acoustic consultant in accordance with VicRoads’ ‘Guidelines for Acoustical Consultants’. The applicant is required to undertake and complete any works or measures required by the noise report to the satisfaction of VicRoads, prior to commencement of use.

37. The owner of the land/applicant is required to provide a minimum 3.0 metre building setback from any part of the West Gate Freeway structure to provide for ongoing maintenance of the freeway.

38. Where the owner of the land/applicant determines to provide habitable balconies adjacent to the road reservation:

   a) the balconies must be totally enclosed with a roof, walls and louvered windows for ventilation purposes; or

   b) have a balustrade or barrier with a minimum height of 1.1m above the floor of the balcony that is no more than 15mm thick across the top and/or rounded at the top and/or sloped inwards a minimum of 15 degrees at top when measured from the horizontal.

Department of Transport conditions

39. Prior to the commencement of development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, the development start(s), or other time approved in writing with the Director of Public Transport, amended plans to the satisfaction of the Director of Public Transport must be submitted to and approved by the Director of Public Transport. When approved, the plans will then form part of the endorsed plans. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

   a) Provision of an additional access ramp (Disability Discrimination Act 2002 compliant) in a northerly direction along Whiteman Street including necessary vegetation removal required (if any).

   b) Details of two (2) new tram shelters one on each side including seating in plan and cross section, Disability Discrimination Act (DDA) compliant.

   c) Details of improved pedestrian links (DDA compliant) from key access locations within the development to all public transport facilities.

   d) Lighting and signage plan for the pedestrian links directing pedestrians to all modes of public transport facilities.

   e) Details of the existing bus shelters and stops along City Road and any bus stop line marking that maybe required.

40. Before the completion of the first stage of the development, or other time approved in writing with the Director of Public Transport the works shown on the endorsed plans for public transport above, must be constructed at a cost born by the owner of the land to the satisfaction of the Director of Public Transport and deemed compliant with the Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002.

41. The land owner must ensure that all track and tram overhead and supporting infrastructure is not damaged or that works do not cause unplanned disruption to operations. Any damage to public transport infrastructure must be rectified to the satisfaction of the Director of Public Transport at the full cost to owner of the land.

42. The land owner must take all reasonable steps to ensure that disruption to bus operations along City Road is kept to a minimum during construction. Foreseen
PORT PHILLIP PLANNING SCHEME

disruptions to bus operations must be communicated with mitigation measures to the Director of Public Transport and bus operators one (1) week prior.

Time Limit

Notwithstanding other provisions of these conditions, the development permitted by this Incorporated Document will expire if one of the following circumstances applies:

i) The development is not started within three years of the date of the gazettal of the approved amendment.

ii) The development is not completed within six years of the date of the gazettal of the approved amendment.

The Responsible Authority may extend the periods referred to if a request is made in writing before these controls expire or within three months afterwards.

END OF DOCUMENT
Priority
Development
Panel

400-430 City Road, Southbank
City of Port Phillip

RESPONSE TO REQUEST FOR ADVICE
FROM THE MINISTER FOR PLANNING
Pursuant to s151 of the Planning & Environment Act 1987
PDP Referral 09-07

December 2009
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EXECUTIVE SUMMARY

Wadhawan Holdings (the proponent) is proposing to redevelop land at 400 City Road for a substantial mixed-use development comprising residential apartments, a hotel and associated facilities, ground level retailing and podium carparking.

Port Phillip Council had been working with the proponent’s project team in pre-application discussions since late 2008. Council had articulated a commitment to progressing and facilitating the development. Agreement had been reached between Council and the proponent on a number, but not all, aspects of the proposal.

However, the planning controls that apply to the land precluded the consideration of the application, because the development did not strictly comply with the mandatory podium setback requirements of Design and Development Overlay Schedule 8 (DDO8). The proponent requested a minor amendment to the controls, and Council resolved to request the Minister for authorisation to undertake a combined planning scheme amendment and permit. The Minister then referred the project to the Priority Development Panel (PDP) specifically requesting the PDP to provide:

- a concept appraisal, having regard to the general and precinct specific objectives of DDO8;
- advice in relation to the appropriate planning controls and options for progressing the development proposal.

Throughout its inquiry process, the PDP has worked closely with Council officers and the proponent’s project team, and has consulted with key stakeholders including DOT, VicRoads, the adjacent landowner, Melbourne City Council, DPCD Urban Design and Port Phillip Housing Association. The PDP has also met twice with the Councillors.

The PDP has been very appreciative of the level of cooperation from all parties involved, their willingness to quickly provide further information when requested, and to isolate and resolve any outstanding planning issues.

The PDP found that the development is consistent with the strategic intent of the South Melbourne Structure Plan, which is given effect via DDO8. Council has maintained a position that it does not support the proposed maximum height because it exceeds the (discretionary) 90m height limit in DDO8, which is intended to achieve a “transition” from Southbank to South Melbourne. The PDP gave specific consideration to the objectives of the South Melbourne Structure Plan and DDO8, and the strategic opportunities and physical constraints of the site, and found that the proposed scale of the development responds appropriately.

The PDP obtained agreement from the parties and consulted stakeholders about the proposed changes to the podium setback requirements of DDO8. It has also obtained agreement from parties to include an additional objective relating to the role of Cecil Street as pedestrian and cycling priority.

The PDP inquiry process has also achieved a number of agreed changes to the proposed development including:

- greater activation of Cecil Street to improve the pedestrian environment and recognise the strategic role that street will serve within the proposed bicycle network;
- additional ESD measures including high performance double glazing, introduction of smart metering, low VOC emitting materials and energy efficient appliances;
- provision for integrated urban art to a value of $1m;
- inclusion of communal open space and facilities for residents through a landscaped podium with BBQ and other facilities including recreational and social gathering space;

- opening the proposed through-block link to the sky, with overhead podium level carparking to be removed or replaced with glazing, and removing the doorways to provide unrestricted public access through the link;

- confirmation of the extent and scope of works to upgrade the perimeter of the site, including provision for water sensitive urban design measures to be included;

- greater support for sustainable transport modes including reduction of car parking, provision of a new ramp to provide more direct access from the development to the tram stop, and substantially increased provision of bicycle parking.

These negotiated outcomes are now contained in amended plans and a set of draft permit conditions, which should assist in progressing the development proposal. Provision for a Section 173 agreement has also been included. However there remains some disagreement between Council and the proponent as to whether this is necessary or whether all developer contributions can be secured by way of permit conditions.

In the PDP’s view, there is scope for further ESD measures to be included in the development. The proponent has advised that the enhancements offered during the PDP review are the full extent of those affordable but, like Port Phillip Council, the PDP believes that this project presents an opportunity to showcase good practice in line with current knowledge and community expectations.

The PDP has considered options to progress the development proposal. The PDP supports Council’s proposed approach to undertake a combined amendment and permit, and recommends that the Minister exempt the combined amendment and permit from the usual notice procedures. The PDP has also recommended that Council remain the responsible authority for the site, with responsibility for administration and enforcement of the permit.
1 INTRODUCTION

1.1 The site

The site is a 1.2 hectares triangular site, bounded by City Road, Cecil Street and Whiteman Streets. It is strategically located between Southbank and South Melbourne Major Activity Centre. It is located within the 'City Road Wedge' as identified in the South Melbourne Structure Plan. Currently under-utilised, the site is occupied by a mix of office and warehouse buildings and represents a key redevelopment opportunity, with limited sensitive interfaces.

The site is zoned Mixed Use Zone and is affected by the Design and Development Overlay Schedule 8 – South Melbourne Central. It is also affected by the Heritage Overlay – (H04 City Road Industrial Area) and contains two buildings with individual heritage citations along City Road and Cecil Street. It is also affected by the Environmental Audit Overlay.

To the south is the low-rise established residential area of South Melbourne. To the east and west, are mixed uses (predominantly commercial) and the land to the west is in industrial use. The area varies in character and built form and is expected to experience significant change in the future driven by higher density mixed use development. To the north, the elevated Westgate freeway passes along the site, which also forms the boundary between City of Port Phillip and City of Melbourne. The area beyond the freeway is part of the Southbank higher density, mixed used precinct, and further north still, the CBD.

The site has very good public transport access with Tram Route 96 running along Whiteman Street and stopping in close proximity to the site and a two bus services run along City Road – which is also a primary arterial road. Cecil Street also serves an important function as part of the Principal Bicycle Network.

1.2 Outline of proposal (as amended)

The proposal is for a substantial mixed use development comprising residential apartments, a hotel and associated facilities, ground level retailing and podium carparking.

Specifically, the proposal comprises:

- **1274 residential units**, comprising a mix of studios (121), one bedroom apartments (584), two bedroom apartments (531), three bedroom apartments (38);

- A **288-room hotel** with associated function facilities and **178 serviced apartments**;

- Ground level **retail totalling 1195sq.m** including 515sq.m food and drink and 875sq.m of showroom floor space; and

- **1018 car parking spaces** located within the podium, including 16 parking spaces for carshare cars, and **1274 bicycle parking spaces**, also located within the podium carpark.

The development comprises 4 towers ranging in height between 26 and 39 storeys, above a four storey (15m) podium of carparking. The maximum heights of the towers are:

- Tower 1 – 128.1 metres;
- Tower 2 – 96.8 metres;
- Tower 3 – 100.1 metres;
- Tower 4 – 135.3 metres.
Ground level frontages are activated by convenience or showroom retail and hotel or residential lobbies. Further activation is provided above ground level to Whiteman Street and City Road by hotel, restaurant or residential apartments that wrap around podium carparking.

The top of the podium provides the main private amenity space for the residents with landscaped space, BBQs and other facilities.

A new through block link will provide pedestrian access between Whiteman Street and City Road. This new space is fronted by retail cafés/restaurants and lobbies to the hotel and residences.

Existing heritage buildings at 408-430 City Road and 48 Cecil Street will be retained in part and integrated into the podium façade. A variety of glazing treatments and finishes is proposed for the podium and towers.

Vehicle access for Towers 1 and 2 is gained from Cecil Street and for Towers 3 and 4 (the hotel), from Whiteman Street.

Servicing, loading and unloading are accommodated internally at ground floor, with vehicle access provided from Whiteman and Cecil Street. Essential services and substation access are also provided from these street frontages.

The four towers and podium are designed as an integrated development but are to be constructed in four stages.

1.3 Background to referral to PDP

Pre application discussion and amendment request

Port Phillip Council had been working with the proponent’s project team in pre-application discussions since late 2008. Council had articulated a commitment to progressing and facilitating the development. Agreement had been reached between Council and the proponent on a number, but not all aspects, of the proposal.

The planning controls that apply to the land precluded the consideration of the application because the development did not strictly comply with the mandatory podium setback requirements of DDO8. The proponent requested a minor amendment to the controls, and Council resolved to request the Minister for authorisation to undertake a combined planning scheme amendment and permit. The Minister then referred the project to the Priority Development Panel (PDP).

Referral to the PDP

The Minister specifically requested the PDP to provide:

- a concept appraisal, having regard to the general and precinct specific objectives of DDO8.
- advice in relation to the appropriate planning controls and options for progressing the development proposal.

The Minister also asked that, in preparing its advice, the PDP work closely with the proponent and Council, and conduct targeted consultation with key stakeholders. He also asked the PDP to have regard to the South Melbourne Structure Plan. The request was received in mid October, with direction for the advice to be provided within 2 months.

A copy of the Minister’s referral letter is contained in Appendix 1.
1.4 Inquiry Process and targeted consultation

The PDP established a working group comprising Chris Gallagher (as Chair) and Jane Homewood, supported by DPCD officers Tania Quick and Emma Demaine.

The PDP inquiry process was as follows:

* Initial presentation by the project proponent and Council on 28 October 2009 outlining the development concept, strategic planning context, and key areas of agreement and contention.

* PDP Interviews with key stakeholders, including:
  
  o **Department of Transport (DOT)** – primary interest related to promoting integration of sustainable transport modes, including walking, cycling and public transport access. DOT specifically requested that the PDP encourage the proponent to provide improved access to the City Road Tram Stop.
  
  o **VicRoads** – has responsibility for the Westgate Freeway and City Road. Its primary interest related to ensuring the development did not impede the continued safe and efficient operation of the Freeway, (particularly from objects falling from balconies) and that residents were protected from potential noise impacts of the Freeway. It also has responsibility for programming of signals along City Road.
  
  o **Port Phillip Housing Association**, and the Council’s Housing Officer – confirmed that the project in its current form was unsuitable for affordable housing providers, and sought a cash contribution from the developer for affordable housing provision elsewhere in Port Phillip.
  
  o **DPCD Urban Design** – developed the Southbank Plan and recommended improvement to the interface between the development and the public realm.
  
  o **Melbourne City Council** – together with DPCD, are responsible for the implementation of the Southbank Plan, and in particular the reuse and revitalisation of the Freeway undercroft area.
  
  o **Owner of 378 City Road** (adjoining land owner) – while not having any immediate plans to redevelop the site, has undertaken preliminary investigations into the development potential and access arrangements for that land.

* Four workshops attended by Council Officers and the proponent during which the various urban design, planning and statutory process issues were discussed with a view to finding resolution and moving the project forward.

* Multiple meetings between Council and the proponent to negotiate permit conditions and the extent and nature of developer contributions, held at the direction of the PDP, with progress reported back at the workshops.

* The PDP also briefed the Port Phillip Councillors twice, to inform them of the PDP process, findings of the targeted consultation program, and changes made to the proposal.

As a result of the process, the PDP was able to narrow the scope of issues, achieve improvements to the proposed development, and obtain broad agreement between Council and the proponent in relation to the nature and extent of development contributions. These negotiated outcomes are now contained in amended plans and a final draft set of permit conditions for consideration by the Minister, including provision for a S.173 agreement, although some disagreement remains between the parties as to whether this agreement is needed.
2 CONCEPT APPRAISAL

2.1 South Melbourne Structure Plan

Strategic objectives

The South Melbourne Central Structure Plan 2007 (SMCSP) identifies the site as part of the City Road Wedge precinct and sets the strategic directions for the precinct as:

- to become a dynamic mixed use precinct with the capacity for quality higher density development.
- to be a point of transition from SMC to Southbank and the Melbourne CBD to the north.

Key strategies articulated in the SMCP for the 'City Road Wedge Precinct' are to:

- support a vertical mix of land uses in multi-level developments;
- create a transition form of development from Southbank to South Melbourne;
- revitalise the area through mixed use and higher density development;
- respond to heritage values; and
- make improvements to the public realm and pedestrian environment.

The objectives and strategies of the SMSP support broader objectives of Melbourne 2030 and Melbourne@Smillion to encourage higher density housing and employment on strategic redevelopment sites and within established activity centres with good access to public transport, such as this site.

The SMSP emphasises the role of this precinct in creating a transition between low density development to the south and higher density development to the north and east of the Freeway. City Road, with its high traffic volumes, has a marked impact on the urban structure of the area. It provides a clear delineation between different urban forms and functions: land on the north is typically higher density mixed use of Southbank, while to the south, the established low rise character of South Melbourne prevails. Consequently, the PDP considers that the City Road Wedge functions as the ‘edge’, and part of, Southbank, irrespective of the municipal boundary at the Freeway.

The SMSP has been through extensive public consultation, has been given effect as a reference document within the Port Phillip Planning Scheme. The local community is well aware of the strategic redevelopment opportunity that this site presents.

The PDP therefore considers that there is clear policy support for, and a level of community expectation of, intensive mixed use redevelopment of the site, as is proposed, and for the precinct to be subject to substantial change.

2.2 Proposed change to Design and Development Overlay 8

The SMSP is given statutory effect within the Port Phillip Planning Scheme through the objectives and strategies of Clause 21.05 and DDO8.

DDO8 includes, amongst other provisions, mandatory street wall and podium setback provisions for the City Road Wedge which state that:
The street wall parapet height in this precinct must not exceed 16 m or 4 storeys, which ever is the lesser.

Above the streetwall, buildings must be setback 10m from City Road.

Council has confirmed that the primary aim of these provisions is to ensure a distinct separation between the tower and podium elements of any development.

Importantly, DDO8 also states that:

- New development must incorporate the existing significant heritage fabric by way of sensitive inclusion within the podium level.

The proponent has integrated the heritage buildings into the podium facades, and along City Road proposes a 16m building set back 3.5 - 8m from the existing 7.5m wall of the heritage building, which has the effect of defining a reduced streetwall height. Therefore, the development does not comply with the mandatory 10m setback 'from the streetwall', of podium level, despite the proposed towers complying with requirements.

The Council's Urban Design and Heritage Advisor supports the proposed design approach and agrees it achieves both tower setback and heritage protection objectives. The proponent has requested a minor change to the wording of the DDO, which is supported by Council, which proposes that the requirements of the DDO be reworded to read:

- Above a height of 16m, buildings must be setback 10m from City Road.

The PDP agrees that the proposed approach represents a more appropriate design outcome than would be achieved by strict interpretation of the mandatory controls, and agrees that DDO8 should be amended to clarify the wording of the setback requirements, as suggested by Council. These changes are shown in Appendix 2.

The PDP has also suggested that an additional objective be included in DDO8, as discussed further in Section 2.3.2. The recommended process for making the amendments to DDO8 is set out in Section 3.2

2.3 Design Issues

Council officers confirmed that, as a result of pre-application discussions, general agreement had been reached on many aspects of the application including the extent of retention of heritage fabric, the general quality of the design, the mix of uses, the relationship of the building to the public realm at street level and car parking and traffic generation.

Council's key outstanding concern related to the proposed maximum building heights of Towers 1 and 4 (the hotel).

Other issues warranting further attention included:

- Reuse of heritage buildings;
- the degree of activation of Cecil Street, including provision for active re-use of the heritage buildings;
- the level of commitment to environmentally sustainable design;
- provision for integrated urban art;
- provision for communal spaces and facilities within the development, and integration with the Port Phillip community;
- public accessibility and treatment of the through block link;
• developer contributions – including a public open space contribution, public realm and public transport improvements, and contributions for affordable housing

2.3.1 Building height

DDO8 sets out a discretionary 90m (25 storey) height limit for the site, which has been adopted by Council as its preferred outcome for the City Wedge precinct.

It is Council’s position that the adequate justification had not been provided to warrant significantly varying from the preferred height.

Council officers explained that the purpose of the 90m height limit was to achieve the strategic objective of the South Melbourne Structure Plan for the City Road Wedge:

• ‘To be a point of transition from South Melbourne Central to Southbank and the [Melbourne CBD] to the north’.

They also drew specific attention to the statement of preferred character and design objectives of DDO8 relating to providing a ‘transitional form’ and ‘distinction in scale’ between the low rise form of South Melbourne and high rise form of Southbank and the Melbourne CBD, and to ‘emphasis the edges’ of South Melbourne north and west of City Road with higher scale built form.

Council maintain that at 90m, built form would ‘step down’ from higher buildings north of City Road in Southbank and provide an appropriate transition to the area south of City Road where a preferred height of 6 storeys applies.

Following a review of relevant materials and a site visit the PDP is persuaded that the design objectives outlined above have been achieved and, more specifically that:

• the City Road Wedge functions as an extension of Southbank, and the delineation created by the municipal boundary/freeway is largely arbitrary;

• when viewed within the broader context of the Melbourne CBD further to the north, this proposal sits at the edge of and within the higher density urban form;

• City Road forms a clear boundary between South Melbourne and Southbank, and a clear distinction in scale is a provided from one side of the road to the other;

• the concept of ‘transition’ by definition relates to ‘evolution’, ‘transformation’ or ‘change’, and in an urban and built form context can be achieved through a change in height, variation of intensity, or a change in uses. The mixed use nature of the proposal forms a transition between the predominantly residential nature of South Melbourne, and the commercial uses that dominate in Southbank and the CBD;

• City Road will continue to act as an ‘edge’ between high and low rise built form.

The PDP also tested the potential amenity impacts of the additional height, and found that:

• the additional height will have minimal impact on pedestrians or motorists at street level as the podiums have the greatest impact on the street level experience and these have been appropriately resolved;

• the shadow analysis confirmed that the additional height of this development will not cause significant detriment – additional shadowing will fall predominately on road space;

• the site is an island site, with all boundaries fronting onto road with sensitive uses and public spaces well separated from the site;

• key stakeholders, including the owners of land adjacent to the site, and representatives of Melbourne City Council, did not object to the proposed height; and

• potential traffic generated by the additional yield can be accommodated and traffic generation from the development is further mitigated by support for public transport, cycling, and walking.
The PDP therefore considers that the objectives of the South Melbourne Structure Plan, and of DDO8 have been met. It has also tested the merits of the development against the discretionary height limit, and accepts that the additional height can be absorbed within the urban context without detrimental impact on the local area.

2.3.2 Cecil Street

Cecil Street is proposed as the primary vehicle access point for services and back of house facilities, as well as to the car park. The proposal originally presented to the PDP showed Cecil Street as predominantly fronted by car parking, vehicle and loading access and substations.

The targeted consultation process revealed the strategic importance of Cecil Street in accommodating the Principal Bike Route from South Melbourne to the City (funded by the State Government) and as the only logical location for the primary residential address for future redevelopment of the adjacent site at 378 City Road. Council Officers and the DPCD Urban Design Unit had also expressed concern regarding the treatment and lack of activation of the Cecil Street podium frontage, and the need to create a street address and sense of residential identity, and to properly consider the interaction between vehicle crossovers and the bicycle path.

As an outcome of the PDP process, a number of changes were made to the proposal to improve the treatment and activation of Cecil Street including:

- additional active frontages and retail spaces along Cecil Street, requiring the removal of some ground level car parking;
- provision for active re-use of the heritage building as a pedestrian entrance to the building to create a better sense of residential identity;
- rationalisation of vehicle and loading bay access points, and relocation of the essential services and substations;
- potential provision for integrated urban art within this part of the podium façade; and
- provision for pedestrian and cyclist priority in Cecil Street, including driveway and crossover design to make provision for ‘Copenhagen style’ bicycle lanes along Cecil street, and meet bicycle path sightline requirements.

The PDP also interviewed VicRoads to investigate the possibility of reprogramming signalisation to provide priority for pedestrian and cyclist at the Cecil Street/City Road intersection. VicRoads was unable to provide definitive advice at this point in time. However the PDP encourages Council to continue to pursue this matter.

The PDP has also identified the opportunity for development along Cecil Street to create a sense of residential identity and be designed as a shared space for vehicles, cyclist and pedestrians. It also encourages Council to consider the option of part of the existing roadway to be given over as additional public open space integrated into the freeway undercroft.

An additional objective, responding to the role of Cecil Street has also been drafted for inclusion in the DDO, which has been agreed by Council and the proponent. The proposed new objective is:

‘To enhance the cyclist and pedestrian experience of this part of Cecil Street as the principal cyclist route through the design of building frontages and the public realm’.

The changes to improve the activation of Cecil Street are now contained in amended plans and reflected in the set of draft permit conditions. The PDP has also recommended an additional objective be included within DDO8, to reflect the strategic importance of Cecil Street as part of the Principal Bicycle Network, and this has been agreed by Council Officers and the proponent. This is shown in Appendix 2.
2.3.3 Environmentally Sustainable Design (ESD)

From the outset of the PDP process, Council sought a greater level of commitment from the proponent to ESD as part of the planning and design process. Council considers that a development of this scale should be a demonstration project that reflects best practice in ESD. Council is especially keen to ensure that the development does not create an environmental impost on its future community.

There is currently a range of ‘Star Rating’ tools in operation or trial. Council requested that the development achieve a six star ‘Green Star Rating’ using the ‘Green Star Multi Unit Residential, or Mixed Use Pilot’ tool. The proponent has instead agreed to achieve an average 6 Star ‘First Rate’ Star Rating for the residential towers, which is commonly used for large scale residential developments and will be confirmed in the BCA compliance report required by the building surveyor.

The proponent had concerns that the ‘Green Star’ tools were inappropriate given the large scale, mixed use development and the trial nature of those tools. It also noted that there are few buildings in Melbourne that achieve a six star ‘Green Star’ Rating, and that attempting to do so would essentially make this project unviable, and to even reach a 4 star ‘Green Star’ rating was also cost-prohibitive, equating to an additional $19.5m build cost.

However, as a result of encouragement by the PDP an assessment, provided by the proponent, against the Green Star Mixed Use Pilot Tool identified initiatives that could be incorporated into the development, to bring the development closer to the 4 star Green Star Rating. In consultation with the Council Officers, and in addition to agreeing to achieve an average 6 Star First Rate Star Rating for the residential towers, the proponent has committed to providing the following additional features, over and above the initiatives originally proposed:

- upgrading the glazing on the residential towers to achieve the increase from 4 star to 5 First Rate Star Rating;
- smart metering to allow residents to easily monitor energy usage;
- minimising volatile organic compounds (VOC) into the atmosphere by using low VOC paints, sealants, adhesives, floor and ceiling coverings;
- increasing the bicycle storage facilities from 631 to 1274, providing one space per unit; and
- energy and water efficient dishwashers (within one star of the highest available rating - i.e. 3 star energy rated, 4 star WELS rates) to be supplied with each apartment.

The PDP acknowledges that this reflects an improvement from where the project started. However, the PDP agrees with Council that it is a missed opportunity to demonstrate leading practice or emerging innovations and become a ‘green landmark’ building.

The PDP has ensured that the full range of agreed ESD initiatives can be secured by way of permit conditions. The PDP notes also that the 6 Star First Rate average rating for the residential components will also be confirmed in the BCA compliance report required by the building surveyor. It encourages DPCD to explore the inclusion of further measures in this development.

2.3.4 Communal spaces and facilities

Council sought to ensure that the development included provision for a high quality community space and facilities in the development. Some discussion occurred with Councillors about facilities being accessible to the wider community and the need for meeting spaces, but also about the need to provide shared amenity and facilities that provide gathering spaces for residents and a sense of belonging.

Council officers confirmed that the site has good access to a range of public facilities in nearby South Melbourne. The proponent had concern about providing a public meeting space within the
3 PLANNING APPROVAL PROCESS

3.1 Planning Controls and Planning Permit

3.1.1 Design and Development Overlay 8

A amendment to the mandatory podium setback requirements is needed to enable a permit application for the proposed development to be considered.

The proposed changes to the DDO8 have been tested during the course of the PDP inquiry process, including with the land owner of adjacent land at 378 City Road. The recommended new wording is:

- Above a height of 16m, buildings must be setback 10m from City Road.

The PDP also requested an objective be included in DDO8-10 to reflect the role of Cecil Street, being:

- To enhance the cyclist and pedestrian experience of this part of Cecil Street as the principal cyclist route through the design of building frontages and the public realm.

The proposed change to the mandatory podium setback requirements in DDO8 will enable a planning permit application to be considered for the current development proposal and is supported, as is the inclusion of an additional objective relating to the role of Cecil Street. No other changes are required to any of the other planning controls that apply to the site.

3.1.2 Planning Permit Application

Extensive pre-application discussions have occurred between Council and the proponent, and the proposal has been further refined during the PDP process, with the changes now contained in a set of amended plans which should form the basis of any development assessment.

The PDP considers that the proposed development, as amended during the PDP process, should be supported, subject to the (draft) permit conditions also agreed through the PDP process.

3.2 Options to progress the development

3.2.1 Combined amendment and permit

Council supported the proposed change(s) to DDO8, in principal. However, it is Council’s preference that the amendment should be undertaken as a combined planning scheme amendment and permit (pursuant to Section 96A of the Planning and Environment Act 1987).

A combined process will enable the permit and amendment to be considered concurrently, providing significant time and cost savings, enabling the development to commence, and public benefits and developer contributions to be delivered. Furthermore, a combined permit and amendment is not reviewable by VCAT.

An alternative option is to undertake a separate Ministerial amendment to change DDO8, and subject the planning permit to the usual procedures. Council has committed to facilitate and deliver this process. However, it is the PDP’s view that it will result in substantially a duplication of process, and is unlikely to resolve the primary outstanding issue (building height) or result in significant additional value or benefits being achieved for the community.
The proposal to change DDO8 to enable a permit to be considered is a simple and efficient way to deal with the statutory issues. It is considered preferable to an amendment to introduce a site specific control or overlay that would still require subsequent permits to be obtained.

Given the inter-relationship between the amendment and permit, and the substantial progress made in relation to both proposed plans and draft permit conditions, the PDP agrees that it would be appropriate and efficient to consider both matters concurrently.

3.2.2 Exemptions from notice

It was Council's position that a combined amendment and permit should be subject to full public exhibition and panel hearing process.

The proponent has requested the Minister for Planning to consider the amendment request pursuant to Section 20(4) of the Act, which provides for the Minister to exempt himself from the requirements to give notice of the application. Where a planning application is also lodged under Section 96A of the Act, the application is to be treated as if it was an amendment, and the Minister may exempt himself from the notice requirements under 96C of the Act.

It is the PDP's charter to identify ways to provide faster approvals process, work closely with proponents and local government to speed up decision-making, and resolve issues and facilitate strategic planning outcomes. It has provided a forum for extensive discussions and negotiations between the proponent and Council, has undertaken consultation with key stakeholders, and given due consideration to all issues identified.

However, given the relatively minor and inconsequential nature of the proposed changes to the DDO, and the extent of targeted consultation undertaken by the PDP in relation to those changes, it would be particularly onerous and unnecessary to subject the combined amendment and application to a full public exhibition and consultation process.

The PDP has undertaken a robust and rigorous process of review of the proposed permit application. Key stakeholders have been consulted. A variety of changes have been made to the plans as a result of discussions and negotiations during the PDP process. Discussions have progressed to a point where a set of draft permit conditions have been largely agreed upon by Council and the proponent. The areas of disagreement between the Council and the proponent (primarily building height) have had adequate opportunity to be aired and are unlikely to change. Subjecting the application to a further process may re-open issues that have been resolved.

The proposed development is consistent with the strategic directions of the SMSP, and the merit of the development has been tested against, and responds appropriately to, the design objectives of DDO8.

The PDP recommends that the Minister use his powers under Section 20(4) of the Act to exempt the amendment and permit from the usual notice procedures. It is also believes that further consultation with Council (under Section 20(5)) is unlikely to reveal any new positions.

3.2.3 Council as Responsible Authority

The proponent has requested that the Minister takes on the role as Responsible Authority (RA). However the PDP considers that it would be appropriate for the Council to remain RA, and, with the level of local knowledge it holds, that it is best placed to administer and enforce any permit issued. Council agrees with this position.

Council has specifically requested that if the Minister does decide to take on RA status for the administration of the permit, that enforcement responsibilities are also assumed. Council does not wish to be placed in a position where it is responsible for enforcement, but has had no role in the
approval of the permit, endorsement of plans, or issuing of secondary consents. The PDP considers that this is a fair request.

The PDP recommends that Council remain the Responsible Authority for the administration and enforcement of the permit, including endorsement of more detailed plans ‘to the satisfaction of the Responsible Authority’ or other secondary consents required under the draft permit conditions.

4 ENDORSEMENT

This is the report of the Priority Development Panel in response to the Minister’s request for advice dated 19 October 2009. The findings of the Working Group were endorsed by the Panel on 17 December 2009.

Jane Monk
Chair PDP
Date: 23/12/09
5 APPENDICES

Appendix 1 – Letter of Referral to PDP

Letter from the Minister for Planning, to the PDP, requesting advice and setting the scope of the referral

Appendix 2 – Proposed Changes to DDO – 8

DDO-8 with recommended changes to mandatory podium setback requirements enable consideration of the proposed development and an additional objective relating to the role of Cecil Street.

Appendix 3 – Plans as amended

Complete set of plans, as amended during the PDP process, for consideration as part of a planning permit application

Appendix 4 – Draft Permit Conditions

Draft permit conditions as agreed between the applicant and Port Phillip Council at the conclusion of the PDP process. The drafting will require review and editing by DPCD

Appendix 5 – Summary of Developer Contributions

Summary of the scope of negotiated developer contributions and estimated costs
Ms Jane Monk
Chair
Priority Development Panel
Level 1, 8 Nicholson St
EAST MELBOURNE VIC 3002

Dear Ms Monk

REQUEST FOR ADVICE FROM THE PRIORITY DEVELOPMENT PANEL - 400-430 CITY ROAD, SOUTHBANK

I have received a request from Urbis, on behalf of Wadhawan Holdings, to amend the Port Phillip Planning Scheme, pursuant to Section 20(4) of the Planning and Environment Act 1987 (the Act) to facilitate a proposal to redevelop land at the above address for a mixed used development comprising residential apartments, a hotel and associated facilities, retailing and car parking.

The amendment sought is to alter the mandatory setback requirements within Design and Development Overlay Schedule 8 (DD08) which applies to the site to accommodate the proposal.

The proposal has the potential to be a significant project for inner Melbourne, both in terms of generating construction jobs and providing future housing opportunities. I consider the project is of a scale that warrants a master planned approach.

In order to inform my decision regarding Urbis' request, and in accordance with the General Terms of Reference for the Priority Development Panel, I am requesting the PDP to provide:

- A concept appraisal of the project, having regard to the general and precinct specific objectives of DD08
- Advice in relation to the appropriate planning controls for the project and options for progressing the development proposal.
In preparing its advice, I ask that the Priority Development Panel work closely with the proponent and Council, and to conduct targeted consultation with key stakeholders as relevant. I also ask that the PDP has regard to the South Melbourne Central Structure Plan and Urban Design Framework, and that the PDP provide its advice within two months of the date of this referral.

Yours sincerely,

JUSTIN MADDEN MLC
Minister for Planning

Cc  Cr Frank O'Connor, Mayor, City of Port Phillip
    Mr Brendan Rogers, Director, Urbis
Preferred Character

- New medium-to-high rise buildings will provide a transitional form between the low-medium rise SMC and the high-rise towers of Southbank.
- Substantial buildings will provide for a mixture of residential, commercial and other uses.
- The tower elements of any new buildings will be well set back from City Road so as to appear to sit behind the buildings on City Road and be part of the Southbank precinct.
- Residential and commercial or other uses at ground and lower levels will establish in new or refurbished buildings, which should retain or establish a hard edge to street frontages and generate streetscape activity.
- New or refurbished buildings and public realm improvements will exhibit innovative and contemporary design, with features that enhance the public realm while retaining elements of the area’s industrial character and heritage.
- Whilst recognizing that the preferred character contemplates substantial change to such buildings, every effort must be made to retain the most significant elements of any significant or contributory heritage buildings.
- Subject to any heritage considerations, active street frontages will be established and new development will be required to make a contribution to the improvement of the public realm of the area.
- New development will facilitate pedestrian amenity and connectivity.

Design Objectives

- To ensure that the new built form adopts a transitional scale between the built form south of City Road and the Southbank high-rise.
- To ensure development is appropriately sited, oriented and spaced to ensure adequate and equitable access to sunlight and outlook.
- To ensure tower elements of new development is appropriately set back from City Road to appear to form part of the Southbank precinct.
- To create visual order and consistency in the street wall built form on both sides of City Road.
- To protect the public realm and create a safe pedestrian friendly environment by minimising the wind impacts of new development and minimising overshadowing of abutting footpaths.
- To enhance the pedestrian amenity of City Road, Cecil Street and Whiteman Street through the contribution of sensitive building design at street level, public realm improvements and planting to improve the street level environment to provide connections that are accessible, safe, interesting and pleasant.
- For sites within the Heritage Overlay, if there is any conflict between the building, siting and design requirements of the Port Phillip Heritage Policy at Clause 22.04 and the building siting and design requirements of this overlay, the requirements of this overlay shall prevail.
• To encourage adaptive re-use of heritage buildings as appropriate so that they form a unique and valued part of the contemporary urban fabric and that new development reflects the preferred character in this area.
• To ensure site responsive design that takes into consideration the location of the Precinct adjacent to the Freeway and associated amenity issues and required setbacks.
• To encourage urban art as an integrated component of any new development.
• Ensure appropriate acoustic measures are employed to provide protection from the freeway noise.

Requirements

• The streetwall parapet height in this precinct must not exceed 16 metres or 4 storeys, whichever is the lesser.
• The overall maximum building height should not exceed 90 metres or 25 storeys.
• Above a height of 6.0m buildings must be setback 10m from City Road.
• New development must incorporate the existing significant heritage fabric by way of sensitive inclusion within the building podium level. Buildings may be built to the boundary on Cecil Street and Whiteman Street where it can be demonstrated that the design is appropriate in the streetscape context.
• Buildings must be set back from the Freeway structure in accordance with VicRoads specifications.
Who is the planning authority?

This amendment has been prepared by the Minister for Planning and the Minister for Planning is the planning authority for this amendment.

Land affected by the amendment

The amendment applies to the land within the City of Port Phillip section of the Fishermans Bend Urban Renewal Area declared to be of State significance under section 201(f) of the Planning and Environment Act 1987. This land is generally outlined as the ‘Wirraway Precinct’, ‘Sandridge Precinct’ and the ‘Montague Precinct’ in the map below. (The corresponding amendment to the Melbourne Planning Scheme is Amendment C170, which applies to the balance of the land contained within the Fishermans Bend Urban Renewal Area (FBURA). The land affected is generally bound by the Westgate Freeway, Todd Road, Williamston Road/ Boundary Street and City Road in Port Melbourne/ South Melbourne.

What the amendment does

The amendment implements a comprehensive suite of changes to the Port Phillip Planning Scheme to facilitate the transition of the Fishermans Bend Urban Renewal Area (FBURA) from a primarily industrial precinct to a genuine mixed use precinct with a residential and commercial focus.

In particular, the amendment makes the following changes to the Planning Scheme:
- Modifies the schedule to Clause 61.01 of the Port Phillip Planning Scheme to make the Minister for Planning the responsible authority for administering the Fishermans Bend area for development proposals over a certain threshold.

- Rezones the land within the Fishermans Bend Urban Renewal Area to the Capital City Zone (CCZ1) excluding existing areas in public ownership.

- Removes Design and Development Overlays (Schedule 2, 8 & 9) from the land within the Fishermans Bend Urban Renewal Area.

- Introduces a new Schedule to the Development Contributions Plan Overlay (DCPO2) to the Fishermans Bend Urban Renewal Area.

- Introduce the Parking Overlay and associated schedule (PO1) to the overlay for the Fishermans Bend Urban Renewal Area.

- Introduces a new Local Planning Policy Clause 22.10– Urban Design within Fishermans Bend.

- Updates the Local Planning Policy to reflect the changes to strategic direction.

**Strategic assessment of the amendment**

- **Why is the amendment required?**

  The Government has committed to facilitating urban renewal in areas close to central Melbourne that have traditionally had an industrial base, but can accommodate change. FBURA has been identified as an inner-city area suitable for large scale urban renewal incorporating a mix of land uses including residential, commercial, retail, industrial, recreation, education, entertainment and community uses.

  In recognition of the important potential of the area, the Government has declared the Fishermans Bend Urban Renewal Area as an area of State significance under section 201(f) of the **Planning and Environment Act 1988**.

  This amendment, and Amendment C170 to the Melbourne Planning Scheme are the first steps in facilitating the large scale urban renewal envisaged by the Government for the Fisherman's Bend area.

  Making the Minister for Planning the Responsible Authority for the Fisherman's Bend area will enable the new Urban Renewal Authority (currently Places Victoria) to deliver and manage the future development of this key precinct across the two municipalities of Melbourne and Port Phillip. Additionally, it will allow the Government to negotiate with both Councils, key stakeholders, and other government agencies including Places Victoria to deliver and manage the built form outcome.

  These powers will also provide a single point for key planning approval and other planning matters thereby ensuring consistent and certain decision making.

  The changes to the Local Planning Policy Framework are required to update the Government’s vision for this area at the local level.

  The rezoning of the land from Industrial and Business Zones to Schedule 1 to the Capital City Zone recognises the new direction for FBURA, away from the traditional industrial focus to a mixed use precinct with a residential and commercial focus. Residential and some commercial uses are currently prohibited or significantly restricted in a greater part of the precinct.

  The introduction of a Development Contributions Plan Overlay is the first step in obtaining appropriate developer contributions as sites are comprehensively redeveloped in the area. The timely provision of transport and community services to support the transition of FBURA is vital to a prosperous and vibrant new community.

  The removal of the Design and Development Overlays are required to ensure that built form controls are not inconsistent with achieving the strategic vision for the FBURA.
The introduction of a Parking Overlay to the Fisherman’s Bend Urban Renewal Area is required to set maximum parameters to ensure sustainability objectives.

- **How does the amendment implement the objectives of planning in Victoria?**

  The amendment will facilitate the redevelopment of the Fishermans Bend Urban Renewal Area, and in doing so will implement the following objectives of planning in Victoria:
  
  - Providing for the fair, orderly, economic and sustainable use and development of land.
  - Securing a pleasant, efficient and safe working, living and recreational environment.
  - Enabling the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.
  - Facilitating development in accordance with the above objectives.
  - Balancing the present and future interests of all Victorians.

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

  **Environmental effects**

  There are no significant environmental factors identified under section 12(2)(b) of the Act. There will be micro environmental factors for this urban area associated with such a large shift in strategic direction and these are considered to be largely positive.

  There will be urban consolidation benefits. For example urban renewal in this inner city location will reduce the need for fringe land to be developed for residential purposes. This, in turn, will reduce car dependency and associated pollution.

  There will be medium to long term improvements to the built environment and urban form as a result of the shift to residential and commercial development.

  The renewal of the Fisherman’s Bend area will need to address a number of key environmental challenges prior to redevelopment, including potential contamination. This has been addressed through appropriate provision within the new zoning control and there will be a long term benefit in undertaking remediation work and addressing issues related to contaminated land in this area.

  **Social and Economic effects**

  The amendment enables the future development of Fisherman’s Bend to occur in a coordinated manner. This will ensure all social and economic impacts of future redevelopment will be considered. Of particular importance, will be a review of industrial land uses and businesses in the precinct.

  The renewal project at Fisherman’s Bend, will deliver substantial social and economic benefits to the state of Victoria. The social benefits of the Fisherman’s Bend renewal will include better access for residents to services and employment, and a diversity of activities in this key area of Melbourne.

  In terms of economic benefits, the project will provide opportunities for co-location of employment and housing, increasing productivity through means such as decreased travel times for residents and reducing the need for fringe development.

  Urban renewal for residential purposes will result in the loss of some industrial and commercial land. The project will however incorporate a mix of uses including retail, commercial and recreational, in addition to residential, enabling the precinct to be developed into a diverse and vibrant inner city area.
It is considered that the broad social and economic benefits delivered by the proposal will result in a net-community benefit.

- **Does the amendment comply with the requirements of any Minister’s Direction applicable to the amendment?**

The amendment complies with the requirements of the Ministerial Direction on the Form and Content of Planning Scheme pursuant to s 7(5) of the Planning and Environment Act 1987 (the Act).

Pursuant to section 12 of the Planning and Environment Act 1987, the amendment complies with the following applicable Ministerial Directions:

- Ministerial Direction No. 1 (Potentially Contaminated Land)
- Ministerial Direction No. 11 (Strategic Assessment of Amendments) and
- Ministerial Direction No. 9 (Metropolitan Strategy)

- **How does the amendment support or implement the State Planning Policy Framework?**

The amendments support and implement the objectives and strategies of the State Planning Policy Framework. In particular the amendment will facilitate:

- A sufficient supply of land for residential, commercial, retail, industrial, recreational, institutional and other community uses by considering an opportunity for consolidation, redevelopment and intensification of an existing urban areas. (Clause 11.02)
- Adequate safeguards to ensure the potential for contamination on the future land use is assessed (where the subject land is known to have been used for industry) (Clause 13.03-1)
- The increased supply of housing in existing urban areas and the facilitation of increased housing yield in appropriate under-utilised urban areas (Clause 16.01-1).
- Development which meets the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient and sustainable use of commercial facilities and infrastructure (Clause 17.01).
- Urban development to make jobs and community services more accessible by ensuring access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport (Clause 18.01-1).
- Planning for development of social and physical infrastructure in an efficient, equitable, accessible and timely manner (Clause 19).

- **How does the amendment support or implement the Local Planning Policy Framework?**

The amendment supports the Local Planning Policy Framework (LPPF) including the Municipal Strategic Statement. In particular it will implement:

- **Clause 21.05-1 Residential Land Use** which seeks to
  - Encourage design excellence for all residential development, with an emphasis on preserving and enhancing the built and natural environment of Port Phillip, and conserving resources and energy.
  - Encourage a range of housing types to suit the diverse needs of Port Phillip’s community.
• **21.05-8 Commercial Land Use** which encourages viable commercial precincts that
  - Emphasise Port Phillip’s competitive commercial strengths.
  - Maximise job opportunities.
  - Ensure that commercial operations are environmentally sustainable, particularly in relation to resource use and waste management.
  - Offer a high level of amenity and adequate services and facilities for workers.
  - Are adequately served by public and private transport and pedestrian networks.

• **Clause 22.03 Industrial Areas Policy** which encourages a range of new and existing industrial, mixed industrial/commercial and warehouse uses to consolidate the long term industrial function of the area.

• **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment uses the most appropriate Victorian Planning Provision tools to achieve the strategic objectives of the Scheme.

• **How does the amendment address the views of any relevant agency?**

The views of relevant agencies will be addressed at the further detailed planning stage of the project. Places Victoria and the City of Port Phillip will play a crucial role in implementing the objectives of the Fisherman’s Bend Urban Renewal Area.

• **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

This amendment does not directly affect the requirements of the Transport Integration Act 2010. There will be a number of significant transport requirements that will need to be considered to enable the sustainable and orderly planning and development of this precinct. This will be considered and addressed within the structure planning stage of the project and will involve the key agencies and stakeholders in the process.

**Resource and administrative costs**

• **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment will impact upon the resources of the Department of Planning and Community Development in administering and enforcing the planning scheme in these areas as a result of the redevelopment of the area.

**Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

City of Port Phillip
99a Carlisle Street
St Kilda VIC 3182

The amendment can be inspected free of charge at the Department of Planning and Community Development website at [www.dpcd.vic.gov.au/planning/publicinspection](http://www.dpcd.vic.gov.au/planning/publicinspection)
Planning and Environment Act 1987

PART 9A – PROJECTS OF STATE OR REGIONAL SIGNIFICANCE

Notice for Declaration of Project under Section 201F

I, Matthew Guy, Minister for Planning, by this notice declare the project to be a development of State significance.

In this notice, the ‘Project’ means the ‘Fishermans Bend Urban Renewal Area’ as shown on the map below and will relate to the large scale urban renewal project incorporating a mix of land uses including residential, commercial, retail, industrial, recreation, education, entertainment and community uses.

MATTHEW GUY MLC
Minister for Planning
REASONS FOR DECISION TO EXERCISE POWER OF INTERVENTION

UNDER SECTION 20(4) OF THE PLANNING AND ENVIRONMENT ACT 1987

PORT PHILLIP PLANNING SCHEME AMENDMENT C102

The Planning and Environment Act 1987, the Heritage Act 1995 and the Victorian Civil and Administrative Tribunal Act 1998 provide for the intervention of the Minister for Planning in planning and heritage processes.

In exercising my powers of intervention I have determined to:

- Make publicly available written reasons for each decision; and
- Provide a report to Parliament at least every twelve months detailing the nature of each intervention.

REQUEST FOR INTERVENTION

1. I have decided to initiate this intervention.

WHAT POWER OF INTERVENTION IS BEING USED?

2. I have decided to exercise my powers to exempt myself from all the requirements of sections 17, 18 and 19 of the Planning and Environment Act 1987 (the Act) and the regulations in respect to Amendment C102 to the Port Phillip Planning Scheme.

3. Section 20(4) of the Planning and Environment Act 1987 enables the Minister for Planning to exempt an amendment which the Minister prepares from any of the requirements of sections 17, 18 and 19 of the Act or the regulations.

4. In seeking to exercise this power, section 20(4) of the Act requires that the Minister must consider that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate.

BACKGROUND

5. I have decided to declare Fisherman's Bend as a project of state significance under section 201F of the Planning and Environment Act 1987. The area will be known as the Fishermans Bend Urban Renewal Area.

6. Fishermans Bend Urban Renewal Area will consist of four precincts to be called Montague, Wirraway, Sandridge (City of Port Phillip) and Lorimer Street Precinct (City of Melbourne). These precincts represent approximately 240 ha of land situated on either side of the Westgate Freeway in Port Melbourne and South Melbourne.

7. Amendment C102 to the Port Phillip Planning Scheme is proposed for the Montague, Wirraway and Sandridge Precincts. This land is generally bound by the Westgate Freeway, Todd Road, Williamston Road/ Boundary Street and City Road in South Melbourne/ Port Melbourne.

8. A separate Amendment (C170 to the Melbourne Planning Scheme) is proposed for the Lorimer Street Precinct.

9. Amendment C102 to the Port Phillip Planning Scheme proposes to do the following:
   - Modifies the schedule to Clause 61.01 of the Port Phillip Planning Scheme to make the Minister for Planning the responsible authority for administering the Fishermans
Bend area for development proposals over a certain threshold. (This includes development over 10,000 sqm gross floor area and/or over four storeys.)

- Rezones the subject land from part Industrial 1 Zone and part Business 3 to the Capital City Zone – Schedule 1 (Fishermans Bend Urban Renewal Area). (With the exception of existing areas in public ownership).
- Removes Design and Development Overlays DDO2, DDO8 and DDO9 from the land.
- Introduces a new Development Contributions Plan Overlay (DCPO2) over the land.
- Introduces a new Car Parking Overlay (PO1) over the land.
- Introduces a new Local Planning Policy at Clause 22.10 – Urban Design within Fishermans Bend Policy for Fisherman’s Bend.
- Updates the Local Planning Policy to reflect the changes to strategic direction.

State significance of the project

10. The Victorian Coalition Government has committed to implementing a planning system that delivers certainty whilst actively planning for Melbourne’s future growth through long-term urban renewal. In particular there is a commitment to facilitating urban renewal in areas close to central Melbourne that traditionally had an industrial base but can accommodate change. Similar to the Docklands, these areas will take the pressure of high density development off many existing suburbs.

11. The Fishermans Bend Urban Renewal Area is a project of state significance due to its size, wide ranging strategic implications and importance in delivering State planning objectives. The area is currently characterised by larger industrial sites, warehousing and small office parks. The sites are generally low scale and low density and many are under-developed considering their inner suburban location.

12. On 18 February 2011, the Victorian Coalition Government announced its intention to redevelop the Fishermans Bend area for residential and commercial purposes and the establishment of an urban renewal authority to coordinate and manage its development.

13. There is a current shortage of housing supply in central areas and new planning initiatives are required to ensure that the supply of housing keeps pace with population growth and demographic change. A high density inner-city growth corridor will increase housing supply and diversity in existing urban areas close to existing social and physical infrastructure.

14. State Planning Policy within the Planning Scheme encourages the increased supply of housing in existing urban areas and development which meets the communities’ needs for retail, entertainment, office and other commercial services. It encourages urban development to make jobs and community services more accessible by ensuring access is provided to developments in accordance with forecast demand.

15. Local Planning Policy in the Municipal Strategic Statement (MSS) includes a vision for Port Phillip as a city that promotes sustainable economic growth, high accessibility to goods and services, and prosperous conditions for all residents and businesses.

16. Fishermans Bend is of State significance and immediate introduction of revised controls into the Planning Scheme will facilitate these State and local planning policy objectives without delay. In particular the Amendment will provide a clear framework to encourage the extensive and strategic regeneration of an inner urban area. It will encourage significant levels of new residential dwellings and employment opportunities and facilitate integrated planning of new and upgraded infrastructure.

Co-ordination of Decision Making
17. The redevelopment of Fishermans Bend from an industrial area into a mixed use area with a strong and vibrant residential population is the long term plan and requires significant co-ordination between agencies to make efficient use of services and facilities. Places Victoria will coordinate and project-manage its development.

18. There is also a requirement to ensure coordination of Government agencies and stakeholders through an integrated planning assessment and approval process. This will ensure an efficient and timely approval process that aims to capture investment opportunity for Victoria. For example infrastructure provision such as new transport links require significant strategic planning and co-ordination of resources and this will significantly benefit from commencing as soon as possible.

**BENEFITS OF EXEMPTION**

19. The benefits of exemption may be categorised in three areas as follows:

- **State significance**
- **Delay**
- **Impractical Compliance**

**State significance**

20. The Amendment will facilitate State Planning Policy and Local Planning Policy without delay by identifying a large area of land for regeneration and setting up a framework for development to occur. It will promote residential and commercial development (where they were previously restricted or prohibited) whilst ensuring existing industry can continue to operate in the area.

21. Because of the significance of the project to Victoria's interests, it is unlikely that the project will change if the amendment was not to be exempted from sections 17, 18 and 19 of the Act and the regulations.

**Delay**

22. Because of the significant changes to the strategic direction of the Fishermans Bend Urban Renewal Area, and its significant size, the requirements of sections 17, 18 and 19 of the Act and the regulations would be likely to be exceedingly costly, and may cause a delay of up to two years.

23. Following the Government's announcement on 18 February 2011, the Fishermans Bend Urban Renewal Area is at risk of speculation and uncertainty regarding its future. Without the immediate introduction of this framework, the Fishermans Bend Urban Renewal Area, as well as its landowners and neighbours may suffer from years of speculation and uncertainty regarding the possible outcome of the planning scheme amendment process. This will be likely to deter investment in existing uses and affect property prices.

24. Delay in the planning scheme amendment process will delay the coordinated planning of the project's required infrastructure by Places Victoria and the possible use of the powers of the Secretary to the Department of Business and Innovation under Part 9A of the Act for this project of State significance.
Impractical Compliance

25. The Fishermans Bend Urban Renewal Area is approximately 240 hectares in size, covering several hundred landowners and businesses. There are also several hundred neighbouring landowners. Because of the project's significant size and significant changes to the strategic direction of the area, it is likely that compliance with the requirements of sections 17, 18 and 19 of the Act and the regulations would be likely to be unwieldy, onerous and impractical. This issue would be avoided if the amendment were to be exempted from such compliance.

EFFECTS OF EXEMPTION ON THIRD PARTIES

26. The amendment will not be subject to the usual exhibition and panel process, and so third parties will not have the opportunity to make a submission at exhibition and panel stage of the amendment and possibly influence the outcome, including changes which affect land use and development rights.

27. The amendment will affect the City of Port Phillip, land owners and tenants within the area, and others who use the land and surrounds. These groups will not be provided with an opportunity to comment on the shift in the strategic direction of the area or the Planning Scheme changes regarding zoning, overlay controls, the Local Planning Policy Framework and alterations to the responsible authority status.

ASSESSMENT AS TO WHETHER BENEFITS OF EXEMPTIONS OUTWEIGH EFFECTS ON THIRD PARTIES

28. It is considered that the interests of Victoria, and particularly this part of Victoria, would be better served if the delay associated with compliance with the notice requirements for an amendment was avoided.

29. The development of Fisherman's Bend as an innovative urban renewal project that facilitates a mix of residential, retail, commercial, entertainment will achieve a number of key State policy objectives. It is considered that exemption is appropriate because these key State Planning Policy objectives will be met without delay.

30. The rezoning of the land will enable a clear and flexible framework for development from the outset. Without this framework the precinct may suffer from years of speculation regarding the possible outcome of a planning scheme amendment/masterplanning process. This is not conducive to certainty in the planning system and should be avoided.

31. Implementing a new strategic policy position will allow Places Victoria to commence the planning for the large scale redevelopment of the area without delay and will allow the complicated process of consideration of new infrastructure provision to begin immediately.

32. It is envisaged that there will be scope for future detailed development planning for the precinct that will be led by Places Victoria and involve consultation and involvement with a wide range of stakeholders including the local community, Melbourne and Port Phillip Councils and agencies such as the Department of Transport, Port of Melbourne and the Department of Business and Innovation. This amendment establishes the framework to enable these future consultative and strategic planning processes to occur in a structured and coordinated manner.

33. Given the significance of the project to Victoria's interests, it is unlikely that any changes would be made if the amendment was not to be exempted from sections 17, 18 and 19 of the Act and the regulations.

34. Accordingly, I consider that the benefits of exempting myself from sections 17, 18 and 19 of the Act and the regulations outweigh any effects of the exemption on third parties.
DECISION

35. I have decided to exercise my power to exempt myself from all the requirements of sections 17, 18 and 19 of the Planning and Environment Act 1987 and the regulations in respect of C102 to the Port Phillip Planning Scheme.

REASONS FOR INTERVENTION

36. In accordance with the Ministerial Powers of Intervention in Planning and Heritage Matters Practice Note I provide the following reasons for my decision to exercise my power under section 20(4) of the Planning and Environment Act 1987.

37. I am satisfied that -

The interests of Victoria or any part of Victoria make such an exemption appropriate because:

- It will facilitate the large scale, State significant, Fishermans Bend urban redevelopment project without delay which will meet a range of State planning objectives including improving sustainability, urban consolidation and increasing employment and housing opportunities and diversity.
- The project was publically announced by the Victorian Government in February 2011 and there is a need for clarity as to future provisions and processes to avoid unnecessary land speculation.
- The coordinated planning of the project's infrastructure will occur without delay.
- The size of the land and the number of properties involved would likely make compliance with the requirements of section 17, 18 and 19 of the Act too unwieldy.

Signed by the Minister

MATTHEW GUY MLC
Minister for Planning

Date: 29 June 2012
STATE REVENUE OFFICE
PLANNING AND ENVIRONMENT ACT 1987
Metropolitan Planning Levy (MPL) Certificate

Wadhawan Holdings Pty Ltd
PO Box 5299
South Melbourne VIC 3205

Certificate Number: MPLCERT5690
Issue Date: 19 May 2017
Expiry Date: 17 August 2017

PART 1 - APPLICANT DETAILS
Details of person who applied for this Certificate:
Name: Wadhawan Holdings Pty Ltd
Address: PO Box 5299
South Melbourne VIC 3205

PART 2 - LEVIALE LAND DETAILS
Address of land to which the Metropolitan Planning Levy applies:
Street Address: 400-430 City Road
Southbank VIC 3006

Formal Land Description:
Vol/Folio: 10439 / 972 Lot/Plan: 2 / PS421775 Block/Subdivision:

Crown Reference:
Other: The rest of the site is 10-24 Cecil Street and 115-125 Whiteman Street

Municipality: Port Phillip City Council
Estimated Cost of Development: $571,149,000

PART 3 - MPL PAYMENT DETAILS
MPL Application ID: MPL5690
MPL Paid: $742,493.70
MPL Payment Date: 16 May 2017

PART 4 - CERTIFICATION
The Commissioner of State Revenue confirms that the whole of the amount of the MPL has been paid in respect of the estimated cost of development.

Paul Broderick
Commissioner of State Revenue
PART 5 – EXPLANATORY NOTES

General

• The Metropolitan Planning Levy (MPL) is imposed for the privilege of making a levyable planning permit application.

• A levyable planning permit application is an application made to a responsible authority or planning authority under sections 47 and 96A of the Planning and Environment Act 1987 (PEA) for a permit required for the development of land in metropolitan Melbourne, where the estimated cost of the development for which the permit is required exceeds the threshold amount (see MPL threshold amount).

• As a statutory requirement of making a levyable planning permit application, the applicant must give the responsible authority or planning authority a current MPL Certificate. The estimated cost of development stated in the MPL Certificate must be equal to or greater than the estimated cost of development stated in the levyable planning permit application. If the applicant fails to comply with this requirement, the application for a levyable planning permit is void.

• The applicant for the levyable planning permit application is liable for the MPL.

• The Commissioner of State Revenue (Commissioner) has the general administration of the MPL.

MPL threshold amount

• The threshold amount is $1 million for the 2015-2016 financial year.

• For the financial year beginning on 1 July 2016 and each subsequent financial year, the Consumer Price Indexed (CPI) adjusted threshold amount will be calculated in accordance with section 96R of the PEA.

• On or before 31 May each year, the Commissioner must publish the CPI adjusted threshold amount for the following financial year on the SRO website.

How MPL is calculated

• The amount of MPL is $1.30 for every $1000 of the estimated cost of the development for which the levyable planning permit is required.

• If the estimated cost of the development for which the levyable planning permit is required is not a multiple of $1000, the estimated cost is to be rounded up or down to the nearest $1000 (and, if the amount by which it is to be rounded is $500, it is to be rounded up).

Notification and Payment of MPL to the Commissioner

• Before making a levyable planning permit application, the applicant must submit a completed Application for Metropolitan Planning Levy (MPL) Certificate and pay the whole MPL amount to the Commissioner. This Application must state the estimated cost of the development and any other information required by the Commissioner.

• If, after the Commissioner has issued a MPL Certificate which has not expired (see MPL Certificate), and the estimated cost of the development increases before the levyable planning permit application is made, the applicant must submit an Application for Metropolitan Planning Levy (MPL) Certificate (Revised) and pay the whole additional MPL amount to the Commissioner. This revised Application must state the increased estimated cost of the development and any other information required by the Commissioner.

MPL Certificate

• The Commissioner must issue a MPL Certificate if he is satisfied that the whole amount of the MPL has been paid in respect of the estimated cost of the development.

• Subject to section 98U(3) of the PEA, a MPL Certificate expires 90 days after the day on which it is issued.

Revised MPL Certificate

• The Commissioner must issue a revised MPL Certificate if:

  • the Commissioner has issued a MPL Certificate, which has not expired;

  • the estimated cost of the development increases before the application for a levyable planning permit is made; and

  • he is satisfied that the whole amount of the MPL has been paid in respect of the increased estimated cost of the development.

• The Commissioner may also issue a revised MPL Certificate to:

  • Correct any error in the information listed in the MPL Certificate (except the estimated cost of development as explained below), or

  • the estimated cost of the development stated in the MPL Certificate is different from the estimated cost of the development stated in the Application for Metropolitan Planning Levy (MPL) Certificate lodged by the applicant.

  • A revised MPL Certificate expires 90 days after the day on which it is issued.

Refund of MPL

• The only circumstance under which a person who has paid a MPL is entitled to a refund is where there has been a mathematical error in calculating the amount of the MPL by reference to the estimated cost of the development stated in the original or revised Application for Metropolitan Planning Levy (MPL) Certificate. Other than that, a person who has paid a MPL is not entitled to a refund of the whole or any part of the MPL.

Certificate number

• The Certificate number is on the top right corner on the front of this Certificate.

• Quoting this Certificate number will give you access to information about this Certificate and enable you to enquire about your application by phone.

• You should quote this number in any correspondence.

For more Metropolitan Planning Levy information please contact the State Revenue Office:

Mail
State Revenue Office, GPO Box 4376, MELBOURNE VIC 3001 or DXX260090 Melbourne

Internet
www.sro.vic.gov.au

Email
mpl@sro.vic.gov.au

Phone
13 21 61 (local call cost)

Fax
03 9628 6886