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: 176 – 184 Gladstone Street South Melbourne

OUTLINE OF SUBMISSIONS

Introduction

1. These submissions are made on behalf of Carri Nominees Pty Ltd ("Carri Nominees"), the owner of land at 176-184 Gladstone Street, South Melbourne ("the Land").

2. These submissions are to be read together with:

   (a) The General Submissions filed jointly on behalf of Carri Nominees, Wadhawan Holdings Pty Ltd and Kador Group Holdings Pty Ltd; and

   (b) Carri Nominee’s submission to the Amendment, dated 15 December 2017 (Submission 123).

The Land

3. The Land is located on the north western side of Gladstone Street and has an area of 653.23m².
4. The Land is encumbered by a single storey building, which is presently occupied by a commercial signage company, Signwave. The building is utilitarian and of low aesthetic value.

5. Signwave's lease is due to expire in January 2020, at which point Carri Nominees intends to develop the Land. Planning for the future development of the Land is expected to commence later this year.

6. Gladstone Lane, a cobblestone laneway, is located to the north of the Land and provides access to the rear of properties fronting Gladstone Street. Immediately north of Gladstone Lane is a tram corridor, flanked by two strips of vegetation.

7. To the east of the Land is 174 Gladstone Street, a two-storey warehouse occupied by Aardvark Electrical Solutions. The warehouse has been built to the property boundaries.

8. To the south of the Land is Gladstone Street, which provides for a single lane of traffic in each direction and on-street car parking.

9. On the south side of Gladstone Street, directly opposite the Land, is a single storey panel beaters (at 163 Gladstone Street) and an eight storey building
comprising a ground floor retail/office tenancy and dwellings above (at 165 Gladstone Street).

10. To the west of the Subject Site is 188 Gladstone Street, which comprises a single storey warehouse/office building built to the property boundaries.

11. The broader surrounding area comprises a mix of industrial, commercial, retail and residential land uses in various building forms.

12. The existing area is predominantly low-scale. However, two 30-storey tower buildings have been approved in respect of the land at 134-150 Buckhurst Street, approximately 50 metres from the site.

13. The Land is significantly larger than its immediate neighbours and many other sites along Gladstone Street. A permit was issued on 1 September 2014 for a 30 storey tower development across the road and 134 – 150 Buckhurst Street. That development has an FAR of 11.9.1.

The Amendment as it affects the land

14. The Land is:

(a) in the Montague non-core area and subject to an FAR of 3.6:1;\(^2\) and

(b) subject to a discretionary building height of 29.4m;\(^3\)

15. The Land is located to the west of the Potential Montague Arts and Cultural Hub investigation area.\(^4\) Gladstone Street is neither a primary or secondary street.\(^5\)

Summary of position

16. In general terms, Carri Nominees submits that:

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1 Included at page 26 of the Permit Activity Book (document 245).
2 See the Minister’s Part B Changes to the CCZ schedule.
3 Ibid.
4 Figure 15 at page 53 of the Draft Fishermans Bend Framework.
5 Figure 13 at page 47 of the Draft Fishermans Bend Framework.
(a) The population target of 80,000 lacks a sound strategic basis and cannot properly inform the Amendment;

(b) There is no sound rationale for the numerical maximum discretionary heights, which are largely derived from a maximum population target of 80,000 residents;

(c) The Amendment inappropriately uses the proposed FAR regime as a density control, in circumstances where no sound justification for such a limitation has been provided;

(d) Even if the use of the FAR regime is acceptable in principle, the numerical ratios are not strategically justified and have the potential to unreasonably suppress development, particularly where the FAR is set substantially lower than the discretionary maximum height limit for a particular site; and

(e) The Amendment is premature because:

(i) no commitment to funding of key infrastructure, including public transport has been made; and

(ii) the metro rail route and station locations within Fishermans Bend has not been finalised;

Lack of strategic justification for the built form controls

17. The physical context of the Land supports more intense growth in this location.

18. The Land (and this part of Gladstone Street more broadly):

(a) Does not have any sensitive abuttals;

(b) Is located immediately to the south of the existing 109 tram route;

6 The upgrade of the nearby tram station to the east of the Land is identified as a long term project at page 70 of the Draft Fishermans Bend Framework (key project 14).
(c) Is capable of accommodating substantial built form without causing unreasonable shadow impacts on the public realm; and

(d) Is already subject to at least one approval of built form of substantial height and scale, proximate to the Land.

19. The physical context of the Land has not been given due regard in setting the discretionary height limit at 8 storeys.

20. It is clear that the population targets, attributed on a precinct wide basis, have been given priority over a more localised assessment of the capacity of land (and broader streetscape) to accommodate growth. This represents a fundamental shortcoming of the Amendment as it applies to the Land.

21. The Gladstone Street example affirms the proposition that the overall urban structure for Fishermans Bend was designed to a population target that falls short of the reasonable development potential of Fishermans Bend. As a result of adopting the wrong starting point for an assessment of scale, the approach has demonstrably failed to achieve the optimal outcome for Fishermans Bend.

The operation of the FAR

22. There is a real question about whether the FAR controls for Fishermans Bend are set at a level that is strategically justified, given the lack of a sound rationale or empirical basis for the 80,000 population target. The General Submissions deal with this issue in detail.

23. The application of the proposed non-core FAR of 3.6:1 in this part of the Montague precinct generates a maximum height substantially lower than the discretionary height limit of 8 storeys (or 29.4m). Unless land is proposed to be utilised for parks or roads, this mismatch is likely to apply to the broader area.
24. This has the effect of unreasonably suppressing the height that can be achieved on the Land, without the need to negotiate an FAU with the Responsible Authority. This outcome:

(a) Creates a disincentive for investment in a precinct that is clearly capable of accommodating substantial growth in well in excess of the FAR;

(b) Undermines the strong policy imperative to maximise the development potential of land in this important urban renewal precinct; and

(c) Demonstrates that the singular, or at least a substantial purpose of the FAR and FAU regime is to ‘value capture’ the uplift in development potential derived from the rezoning of Fishermans Bend in 2012.

25. Ironically, the application of the FAR and FAU regime in this instance fails to increase the development potential of the Land where this is demonstrably appropriate, and on one view, merely imposes a new form of tax.

26. It might be said that the baseline FAR does not technically impact the development potential of land, as the opportunity to increase yield via the FAU is available to any landowner. However, this example illustrates the need to ensure that the FAR and FAU heights are set at levels that actually create and incentive for investment. This objective was a key theme in both the 2015 and 2017 MAC reports.

27. Even Ms Hodyl readily acknowledges that this part of Gladstone Street can and should accommodate much more growth than contemplated by the controls. Ms Hodyl’s evidence supported the inclusion of the Land and its neighbours within the Montague core.7

28. If the Minister agrees to this outcome, an FAR of 6.1:1 would apply to the Land (noting that Ms Hodyl also recommends the increase of the FAR in Montague from 6.1:1 to 6.3:1).8 It is assumed that the discretionary height

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7 Recommendation 4, Figure 2 at page 22 and 54 of Ms Hodyl’s evidence report.
8 Recommendation 7, Table 10 at page 35.
limit application to the Montague core would also apply a height limit of 42.2m.\textsuperscript{9} If this is not the case, the result can only properly be regarded as a serious and unjustified limit on development, contrary to policy at every level.

29. Irrespective of whether the Minister accepts Ms Hodyl’s recommendation to include the Land in the Montague core, the Review Panel is invited to scrutinise the justification for precise numerical FAR as it applies to this area.

30. Even if the Review Panel accepts the FAR and FAU regime as a valid, fair and lawful mechanism to control density (and inform built form outcomes), the nominated FAR must be based on a sound rationale. That rationale is lacking in respect of the FAR and FAU regime as it applies to Fishermans Bend generally, and particularly in this location.

31. As currently drafted, the FAR ought be acknowledged as an unreasonable impediment to the level of growth that should, and indeed must be achieved in this location, if the Amendment is to properly respond to the designation of Fishermans Bend as a priority urban renewal precinct.

32. The FAR is not justified and is not necessary to achieve the amenity or liveability outcomes proffered by Ms Hodyl and the Minister as the basis for the FARs.

33. Similarly, the recommended dwelling density for the Montague non-core area is 198 dwellings per hectare. Whilst the dwelling density is only a guide, the Review Panel should recommend its removal, consistent with Ms Hodyl’s characterisation of it as unnecessary and her recommendation to remove it.\textsuperscript{10}

\textsuperscript{9} Although the Minister’s Part C Version of the DDO does not reflect any change to the core area of Montague (document 262b). The new ‘Montague Maps’ (document M1a) do not appear to reflect Ms Hodyl’s recommended increase in height. The Minister’s Montague Submission (document M2) and list of mapping changes (document M1b) do not clarify this issue.

\textsuperscript{10} Recommendation 8 at page 35 of Ms Hodyl’s evidence report.
Conclusion

34. It is respectfully submitted that the Review Panel should make recommendations consistent with the matters set out above, and the matters raised in the General Submissions.

Nicola Collingwood

Instructed by Mills Oakley

30 April 2018