

**Draft Port Phillip Planning Scheme Amendment C195port  
240-246 Normanby Road, South Melbourne**

**Fishermans Bend Standing Advisory Committee Report – Tranche 5 Report**

*Planning and Environment Act 1987*

**23 June 2022**

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*Planning and Environment Act 1987*

Fishermans Bend Standing Advisory Committee Fishermans Bend Standing Advisory Committee Report –  
Tranche 5 Report pursuant to Section 151 of the PE Act

Draft Port Phillip Planning Scheme Amendment C195port

240-246 Normanby Road, South Melbourne


Members of the Fishermans Bend Standing Advisory Committee who considered this referral:



Tim Hellsten, Chair



Rachael O'Neill, Member



Philippa Crone, Member

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## Glossary and abbreviations

AHD	Australian Height Datum
CCZ1	Capital City Zone (Schedule 1)
the Committee	Fishermans Bend Standing Advisory Committee
Council	Port Phillip City Council
DDO30	Design and Development Overlay (Schedule 30)
DELWP	Department of Environment, Land, Water and Planning
DoT	Department of Transport
ESD	Environmentally Sustainable Design
FFL	Finished Flood Levels
Framework	Fishermans Bend Framework
Incorporated Document	<i>240-246 Normanby Road, South Melbourne</i>
OVGA	Office of the Victorian Government Architect
Taskforce	Fishermans Bend Taskforce

# 1 Overview

## (i) Referral summary

Amendment summary	
The Amendment	Draft Port Phillip Planning Scheme Amendment C195port proposes to introduce the Specific Controls Overlay (Clause 45.12) to the subject land and amend Clause 72.04 to refer to an Incorporated Document for 240-246 Normanby Road, South Melbourne
Common name	240-246 Normanby Road, South Melbourne
Brief description	The draft Amendment introduces site specific planning controls to facilitate the demolition of the existing buildings and for the use and development of a multi-storey building comprising retail premises, office and dwellings
Subject land	240-246 Normanby Road, South Melbourne
The Proponent	MG Normanby Road Pty Ltd
Council	City of Port Phillip
Application lodgement	Original proposal (33 storeys) – 1 September 2020 Current proposal (25 storeys) - 17 September 2021
Referral and notice of draft Amendment	23 September 2021 to parties identified in Clause 26 of the Committee's Terms of Reference
Date of referral	19 December 2021
The Committee	Members of the Standing Advisory Committee Tim Hellsten (Chair), Rachael O'Neill, Philippa Crone
Site inspection	13 April 2022
Consultation	Video conference Directions Hearing, 31 March 2022 Video conference roundtable, 19, 20 and 21 April 2022
Parties to the roundtable	<p>Department of Environment, Land, Water and Planning represented by Kate Morris of Harwood Andrews</p> <p>City of Port Phillip represented by Simon Gutteridge</p> <p>MG Normanby Road Pty Ltd represented by Barnaby McIlrath of Align Law instructed by Johan Moylan of Planning and Property Partners who called evidence from:</p> <ul style="list-style-type: none"> <li>- Tim Biles of Ratio on urban design</li> <li>- Stuart McGurn of Urbis on planning</li> </ul> <p>Chris Johnson, project architect of Fender Katsalidis attended on behalf of the MG Normanby Road Pty Ltd to provide an overview of the design concept and respond to Committee questions</p> <p>Fishermans Bend Taskforce represented by Aidan O'Neill of the Department of Jobs, Precincts and Regions</p> <p>Melbourne Water represented by Andrew Grant</p>

**Amendment summary**

	Office of the Victorian Government Architect represented by Jill Garner provided an overview of its position in relation to the September 2021 version of plans and the April 2022 version of amended plans
Citation	Fishermans Bend SAC Tranche 5 – 240-246 Normanby Road, South Melbourne [2021] PPV
Date of this Report	23 June 2022

**(ii) Findings**

The Committee finds:

- The proposed height of 25 storeys is acceptable and consistent with the design objectives and built form outcomes sought for the Montague North precinct.
- The proposed setbacks are acceptable and satisfy the built form outcomes of Design and Development Overlay Schedule 30.
- The podium height and façade treatment is generally appropriate subject to further design refinement.
- The Proponent's amended plans have resulted in significant design improvements to the outdoor and indoor communal areas, however some further design refinement at the connecting façade element and internal area design will achieve improved design outcomes.
- The proposal generally complies with Clause 58 requirements however further design changes are required to ensure balcony, bedroom and living area spaces meet the identified standards. This can reasonably be achieved through conditions in the Incorporated Document.
- The Proponent's without prejudice amended plans to move the entry to the loading bay further away from the Munro and Montague Street intersection along with Incorporated Plan conditions appropriately address access concerns.
- Detail design issues relating to car and bicycle parking provision, street lighting, Munro Street footpath construction can be appropriately managed through conditions in the Incorporated Document.
- The use of serviced apartments to meet the employment floor space ratio is appropriate.
- The Incorporated Document should accommodate the provision of at least one three-bedroom dwelling in the Affordable Housing mix with the housing provider to determine the final mix.
- The draft Incorporated Document should be amended generally consistent with the Department of Environment, Land, Water and Planning (DELWP) Final version of the Incorporated Document and with the further changes identified in the Committee's preferred version.

**(iii) Recommendation**

1. **Approve Port Phillip Planning Scheme Amendment C195port with the changes to the Incorporated Document as set out in the Committee's preferred version contained in Appendix E.**

## 2 Introduction

### 2.1 Terms of Reference

The Fishermans Bend Standing Advisory Committee (the Committee) was appointed by the Minister for Planning on 26 July 2020. The purpose of the Committee is set out in its Terms of Reference dated 29 April 2020 (Appendix A):

- a) Advise the Minister for Planning on only unresolved issues between the Proponent and other parties relating to site-specific planning controls pursuant to clause 45.12 to achieve appropriate land use and development outcomes for land within Fishermans Bend in advance of approval of an Infrastructure Contributions Plan.
- b) Provide a timely, transparent and consultative process for assessment of the suitability of site specific planning controls for land within Fishermans Bend.

The Terms of Reference set out that the Committee:

19 *In assessing the appropriateness of a site specific planning control to facilitate a proposal, it must consider:*

- a. Relevant aspects of the *Planning and Environment Act 1987*, the Planning Policy Framework, and the Local Planning Policy.
- b. The content and purposes of the planning controls introduced under Amendment GC81.
- c. The compliance of the proposal with the requirements of the permanent planning controls set out in paragraphs 14-15, or 17, of these Terms of Reference, as applicable.
- d. Whether any departure from the Framework compromises the objectives of the Framework.
- e. The cumulative effect on the preferred character of the relevant precinct or the ability to achieve the objectives of Fishermans Bend arising from any departures from the Framework or the requirements of the permanent planning controls.
- f. The provision of appropriate development contributions in the form of monetary contribution, land contribution, works in kind or a combination of these and the extent to which they are consistent with, and contribute to, the objectives of the Framework.
- g. All relevant submissions and evidence regarding the site-specific planning control to facilitate the proposal.

20 ... is directed not to consider submissions and evidence in relation to:

- a. The application or operation of the Infrastructure Contributions Overlay.
- b. The quantum of or need for public open space, roads and laneways.

The draft Amendment was referred to the Committee on 19 December 2021 (Appendix B) with the following documents provided by the DELWP on 22 March 2022 (refer Appendix D):

- Proponent without prejudice version of 240-246 Normanby Road, South Melbourne Incorporated Document, 17 September 2021
- Application form and accompanying letter
- Architectural plans, Fender Katsalidis, 17 September 2021
- Survey Plan, Reeds Consulting, 26 March 2015
- Urban Concept Report, Fender Katsalidis, September 2021



- Town planning report, including a Clause 58 assessment, Planning Property Partners, September 2021
- Traffic engineering report, Salt3, 13 September 2021
- Waste management plan, Salt3, 14 September 2021
- Sustainability Management Plan, NJM Design Consulting Engineers, 27 November 2020
- Noise Impact Assessment, ADP Consulting Engineering, 23 September 2021
- Wind Assessment, Global Wind Technology Services, 28 September 2021
- Office of the Victorian Government Architect (OVGA) Design Review Report, October 2021
- referral responses
- Table of issues in contention and agreement between the parties (received on 24 March 2022).

The members of the Committee dealing with Tranche 5 include:

- Tim Hellsten, Deputy Chair
- Rachael O'Neill, Member
- Philippa Crone, Member.

Amy Selvaraj, Senior Project Officer at Planning Panels Victoria, assisted the Committee.

## 2.2 Background to the draft Amendment and proposal

The draft Amendment involves amending the Port Phillip Planning Scheme to facilitate the development of 240-246 Normanby Road, South Melbourne (subject land) by:

- applying the Specific Controls Overlay to the subject land (SCO3)
- amending the Schedule to Clause 45.12 (Specific Controls Overlay) to reference a new Incorporated Document – *240-246 Normanby Road, South Melbourne* (Incorporated Document)
- amending the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to refer to the new Incorporated Document.

The draft Incorporated Document<sup>1</sup> prepared by the Proponent allows the use and development of the land in accordance with the specific controls set out in Clause 4 which take the form of conditions including:

- Approved and amended plans
- Aboriginal Cultural Heritage
- Façade Strategy and Materials and Finishes
- Reflectivity
- Affordable Housing
- Public Lighting Plan
- Landscaping and Public Realm
- Demolition Management Plan
- Construction Management - Piling
- Traffic, Parking and Loading/Unloading
- Waste Management Plan
- Noise Attenuation

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<sup>1</sup> Document 2

- Disability Access
- Wind Assessment
- Development Contribution
- Overshadowing
- Drainage/Engineering
- Environmental Audit and Compliance
- Remediation Works Plan
- Environmentally Sustainable Design
- Green Star rating
- Water Sensitive Urban Design
- Third pipe and rain tank water
- 3D Model
- Building Appurtenances
  - Advertising Signs
- Melbourne Water conditions
- Department of Transport conditions
- Expiry.

The development plans (Fender Katsalidis Architects, 17 September 2021) provide for:

- a 25 storey (83.3 metres, and 87.8 metres to the top of roof plant) storey building comprising a six storey podium level, street setbacks of the upper levels of tower element of 5 metres and rear setbacks of 5 metres as shown in Figure 1
- 135 serviced apartments at levels 1-5, 115 apartments (of one to four bedrooms on levels 6-24) including seven affordable dwellings (five by one bedroom and two two-bedroom apartments equating to six per cent of total dwellings)
- 569 square metres of ground floor retail floorspace in four tenancies (which with the serviced apartments/residential hotel provides for 4,400 square metres of non-dwelling floor space)
- ground floor lobby and separate lobbies for residential and serviced apartments accessed off Normanby Road
- basement level carparking including five share parking bays, 61 car parking spaces (in stacker bay arrangement and five electric vehicle charging bays), two motor bike spaces and storage arrangements for 153 bicycles
- communal indoor and outdoor amenities
- two crossovers to Munro Street – one to the basement carpark and one to a loading/waste collection area.

The current proposal follows earlier proposals for a 33 and 30 storey development which were submitted, reviewed and commented on by DELWP, Port Phillip Council (Council) and the Fishermans Bend Taskforce (Taskforce) among others, between 1 September 2000 and July 2021.

**Figure 1** Development proposal

Normanby Road and Montague Street view

Source: Fender Katsalidis Urban Design Report September 2021

## 2.3 Issues in dispute

The key issues in dispute or conditionally accepted are summarised in Table 1.

**Table 1** Summary of issues in dispute

Issues	Summary	Party	Report section
Building height	Height not justified and should be reduced	Taskforce Council	4.2
Tower setbacks	Tower setbacks should be increased to 10 metres or height reduced to 20 storeys	DELWP Taskforce Council	4.3
Building design	<ul style="list-style-type: none"> <li>Overall design treatment and whether it achieves design excellence</li> <li>Lack of design detail (materiality, depth, design quality and finishes)</li> <li>Relationship between podium and tower element</li> <li>Podium design and treatment</li> <li>Rooftop 'crowning element' element to screen plant</li> </ul>	DELWP Taskforce Council OVGA	4.4

Issues	Summary	Party	Report section
	Ground floor level and activation including: <ul style="list-style-type: none"> <li>• Munro Street interface treatment</li> <li>• integration of seats and planters at building edge</li> <li>• proportion of floor area usage for services</li> <li>• entry treatment including foyer and access design</li> <li>• podium canopy requiring minimum footpath, kerb and tree canopy setbacks</li> </ul>	DELWP Taskforce Council	4.4
Design detail	Flooding (floor levels): <ul style="list-style-type: none"> <li>• Residential, commercial and lobby finished floor levels 3.0m Australian Height Datum (AHD) and 2.2m AHD to loading areas, with basement ramps, basement, substations, lift and stairwell entries to be designed for flood events</li> <li>• Flood Risk Management Plan required</li> <li>• Rainwater tank design details</li> <li>• Internal amenity and Clause 58 Apartment Development objectives and standards including on site amenity and facilities, detailed design and internal amenity</li> <li>• Podium level communal open space arrangements</li> <li>• Floor to ceiling heights of levels 1-4 should be increased</li> </ul>	Melbourne Water* Taskforce DELWP Council  DELWP Taskforce Council	4.5
Access, parking and bicycle provision	Loading bay access proximity to Munro Street	Council Taskforce DoT	4.6
	Details of car stackers required	Council	
	Details of ramp angles required	Council	
	25-50 per cent of bays should access Electrical Vehicle (EV) charging point	Council	
	Bicycle arrangements: <ul style="list-style-type: none"> <li>• Bicycle maintenance and cleaning facilities required</li> <li>• Details of bicycle storage arrangements including alternative ground floor storage options</li> </ul>	DoT Council	
Employment floor area	Role of serviced apartments in achieving employment floor area ratio	Council	4.7
Affordable Housing	Affordable housing mix should include 3 bedroom dwellings	Council	4.8

\* Conditionally acceptable

## 2.4 OVGA Design Response Report

The OVGA's Design Response Report<sup>2</sup> considered that the design did not “*demonstrate a creative response to the challenge in the ambition and vision for Fishermans Bend.*” It was reluctant to provide detailed advice about how the design could be improved because of what it considered to be flaws in the general design response to context, urban design principles, resident amenity and the quality of materials and finishes. The Report outlined several opportunities to improve the design response:

- Podium:
  - all parts in the physical and visual realm of a pedestrian should be visually rich, tactile, and have depth and articulation
  - use the three elevations and street frontages to provide design presence and resident amenity
  - the podium must commit to the language, design and material quality of the type, including real brickwork, reduce metal walls and glazed shopfront hitting the street, add real detail, depth, grain, texture. The city's commitment to an 'eye level' city experience is not evident and should be considered critical
  - the roof of the podium provides over-scaled and under-detailed terraces for apartments on this level
- Tower element should be more refined
- Internal and external amenity:
  - operable windows and occupiable spaces at the building perimeter or balconies to provide 'eyes on the street' and interest and activity to the façade
  - internal circulation via open staircases could add vertical activity and a sense of space and connection
  - shared facilities on the podium roof are poorly located on the south of the building and suggest a more considered layout would enhance the tower amenity for all residents by capturing the northern sun and outlook.

## 2.5 Without prejudice version of amended plans

The Proponent's round table submission was accompanied by a without prejudice set of amended plans<sup>3</sup> (amended plans) which sought to respond to a number of issues raised by the parties which included:

- TP100 Ground floor plan:
  - vehicular crossover relocated 5 metres further from the intersection of Montague and Munro Streets
  - loading bay turn table decreased in size
  - commercial and organic waste bins relocated
  - overhead panel door to loading bay width decreased to fit within brick podium structure/frame
  - retail 01 area increased with associated glazing to Munro Street frontage increased
- TP101 Level 1 Floor Plan
  - pool environment (including sauna and relaxation spaces) extended to Munro Street

<sup>2</sup> Document 22

<sup>3</sup> Document 57

- two serviced apartments removed
- TP101 Level 2 Floor Plan - Gym and yoga spaces extended to Munro Street
- TP104 Level 4 Floor plan:
  - void from top of podium extended to this level
  - outdoor terrace and light well provided
- TP105 Level 5 Floor plan - void from top of podium extends to this level. light well provided with vertical green element to south-western wall
- TP106 Level 6 Floor plan:
  - void to podium levels below added to improve amenity
  - common amenity area increased and extended to Munro and Montague streets
  - landscape reconsidered as series of rooms to provide multiple options for residents
  - single apartment replaced with common amenity spaces
- TP107 Levels 7-11 – apartment levels modified to address Clause 58 provisions and submission comments
- TP107 Levels 12-14 – apartment levels modified to address Clause 58 provisions and submission comments
- TP107 Levels 15-23:
  - apartment levels modified to address Clause 58 standards and submission comments
  - balconies above 40 metres clarified as wintergardens
- TP200 Elevations:
  - changes to reflect rearrangement of loading bay and retail tenancy 01 including glazing and brickwork continuing to ground level
  - façade changes to levels 1 and 2 to reflect extension of amenity areas to Munro Street
  - apartment levels modified to address Clause 58 standards and submission comments

The OVGA provided a response to the amended plans<sup>4</sup> which is discussed in the body of this report.

## 2.6 DELWP's Day 1, Final versions of the Incorporated Document

DELWP provided a Day 1 Roundtable version of the draft Incorporated Document (Day 1 version) which amended the Proponent's version. This version included the requested conditions of the Department of Transport (DoT) and Melbourne Water, Fishermans Bend Taskforce (Taskforce) and City of Port Phillip (Council). The Day 1 version amended the purpose to identify that it is:

To facilitate the demolition of existing buildings and use and development of land in Clause 3 for use and development of a multi-storey building comprising accommodation (dwellings and residential hotel) and retail premise, in accordance with Clause 4 of this document.

Following the completion of the round table DELWP circulated an updated version of the Day 1 version of the Incorporated Document responding to round table submissions, the amended plans and OVGA's response to the amended plans. This version was circulated to the parties for comment on 6 May 2022 and a final DELWP version provided (Final preferred version of the Incorporated Document) on 20 May 2022.<sup>5</sup> This version of the Incorporated Document is discussed in Chapters 4 and 5.

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<sup>4</sup> Document 72

<sup>5</sup> Document 91

## 2.7 Limitations

### (i) Terms of Reference

Both DELWP and the Taskforce submitted that the Committee's Terms of Reference (specifically Clause 17b and 19c) curtailed the Committee's ability to set aside the mandatory setback provisions of DDO30 provisions.

The relevant Terms of Reference clauses read (Committee's emphasis) as follows:

17. The Advisory Committee is to consider a site-specific planning control to facilitate a proposal for land use and development within Fishermans Bend, subject to the proposal:
  - a. responding to local policy;
  - b. meeting the requirements of the Design and Development Overlay, the Parking Overlay and the Capital City Zone; and
  - c. making appropriate development contributions.
19. In assessing the appropriateness of a site specific planning control to facilitate a proposal, it must consider:
  - a. Relevant aspects of the Planning and Environment Act 1987, the Planning Policy Framework, and the Local Planning Policy.
  - b. The content and purposes of the planning controls introduced under Amendment GC81.
  - c. The compliance of the proposal with the requirements of the permanent planning controls set out in paragraphs 14-15, or 17, of these Terms of Reference, as applicable.
  - d. Whether any departure from the Framework compromises the objectives of the Framework.
  - e. The cumulative effect on the preferred character of the relevant precinct or the ability to achieve the objectives of Fishermans Bend arising from any departures from the Framework or the requirements of the permanent planning controls.
  - f. The provision of appropriate development contributions in the form of monetary contribution, land contribution, works in kind or a combination of these and the extent to which they are consistent with, and contribute to, the objectives of the Framework.
  - g. All relevant submissions and evidence regarding the site-specific planning control to facilitate the proposal.

The Committee considers these 'scope' components of the Terms of Reference should not be read so narrowly and must be considered in the context of the Committee's purpose set out in Clause 5 to advise the Minister on unresolved issues *"to achieve appropriate land use and development outcomes"* and after considering all the matters identified in Clause 19 and expressly excluding those set out in Clause 20 on which it is unable to consider submissions or evidence.

The Committee considers that Clause 17 of the Terms of Reference must be read in a general way otherwise there seems little point in referring a non-compliant proposals to the Committee which do not meet mandatory provisions and will not be countenanced. Ultimately it is incumbent on the Committee to provide its advice to the Minister in the context of Clauses 5, 19, 40 and 41 of the Terms of Reference.

**(ii) Limitations**

*Issues under consideration*

The Terms of Reference makes it clear that the Committee is to only consider the unresolved issues referred to it for advice. This means that the overall merits of the proposal have not been tested and the Committee confines its review to particular issues identified in the statement of agreement and issues in dispute.

*Consideration of submissions*

The Terms of Reference identify that the Committee will consider the matters referred to it by convening “*a round table or virtual forum using video conferencing or similar technology to discuss the issues in dispute*” and that further “*submissions or evidence can be provided by any party to address the issues in dispute*”.

The Committee received submissions from parties in a round table format via video conference.



## 3 Subject land and planning context

### 3.1 The subject land

The subject land at 240-246 Normanby Road, South Melbourne, is approximately 1,519 square metres in area with frontages to Normanby Road, Montague and Munro Streets (Figure 2). It contains a party wall easement with the adjoining property. The site is occupied by a vacant office, commercial display and warehouse building (to be demolished) and has two crossover access points to Munro Street.

The subject land is located opposite the six storey former Dunlop Pneumatic Tyre Company mill (66 Montague Street and 223-229 Normanby Road) (Dunlop site) which is located within a Heritage Overlay (HO218).

**Figure 2** Subject land (outlined in red)



Source: VicPlan

### 3.2 Planning Framework

#### (i) Planning Policy Framework (PPF)

- Clause 11 – Settlement, particularly 11.01-1R (Metropolitan Melbourne)
- Clause 13 – Environmental Risks and Amenity particularly policies regarding Floodplain Management, Contaminated and Potentially Contaminated Land and Noise abatement
- Clause 15 – Built Environment and Heritage, particularly policies relating to Urban Design – Metropolitan Melbourne and Building Design
- Clause 16 – Housing, particularly policies regarding Housing Supply and Housing Affordability
- Clause 17 – Economic Development
- Clause 18 – Transport, particularly policies regarding Sustainable Personal Transport and Car Parking
- Clause 19 – Infrastructure, including pipeline infrastructure and open space.

**(ii) Local Planning Policy Framework**

- Clause 21.03 – Ecologically Sustainable Development
- Clause 21.04 – Land Use
- Clause 21.05 – Built Form
- Clause 21.06 – Neighbourhoods
- Clause 21.07 – Incorporated Documents
- Clause 22.06 – Urban Design Policy for Non-Residential Development and Multi-Unit Residential Development
- Clause 22.12 – Stormwater Management (Water Sensitive Urban Design)(WSUD)
- Clause 22.13 – Environmentally Sustainable Development
- Clause 22.15 – Fishermans Bend Urban Renewal Area Policy.

**(iii) Zones and Overlays**

The Amendment proposes the application of the Specific Controls Overlay. The purpose of the Overlay along with the purposes of existing Zones and Overlays which currently apply to the site and are to be retained are shown in Table 2.

**Table 2 Existing controls**

Controls	Purpose and objectives
Clause 36.02 Transport Zone	Both Normanby Road and Montague Street are Transport Zone Category 2 (Principal road network) roads.  Purpose: <ul style="list-style-type: none"> <li>• To provide for an integrated and sustainable transport system.</li> <li>• To identify transport land use and land required for transport services and facilities.</li> <li>• To provide for the use and development of land that complements, or is consistent with, the transport system or public land reservation.</li> <li>• To ensure the efficient and safe use of transport infrastructure and land comprising the <b>transport system</b>.</li> </ul>
Clause 37.01 Capital City Zone (Schedule 1 – Fishermans Bend Urban Renewal Area)(CCZ1)	Purpose: <ul style="list-style-type: none"> <li>• To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.</li> <li>• To create a highly liveable mixed-use area where the scale of growth is aligned with the provision of public transport and other infrastructure.</li> <li>• To create a world leading sustainable urban renewal area that incorporates best practice sustainable design into all developments and supports sustainable transport patterns.</li> <li>• To provide public benefit in the form of Social housing where development exceeds the nominated Dwelling density.</li> <li>• To support the continued operation of strategically important existing uses and existing industrial uses that provide services to the construction industry, and ensure new development includes measures to mitigate potential amenity impacts from those industrial uses.</li> </ul>

Controls	Purpose and objectives
Clause 43.02 Design and Development Overlay - Schedule 30 (Fishermans Bend – Montague Precinct) (DDO30)	Purpose: <ul style="list-style-type: none"> <li>To identify areas which are affected by specific requirements relating to the design and built form</li> </ul> Design objectives of DDO30: <ul style="list-style-type: none"> <li>To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.</li> <li>To ensure, in Montague North, a mix of mid and high rise scales with hybrid and podium-tower typologies.</li> <li>To ensure, in Montague South, a mid rise scale encouraging hybrid and tooth and gap typology, supported by infill row, terrace and shop top developments that preserve identified character buildings and sensitively respond to heritage fabric.</li> <li>To ensure built form protects where possible, sunlight penetration to key open space, spines and other identified public open spaces, streets and laneways, and facilitates comfortable wind conditions, to deliver a high quality public realm.</li> <li>To encourage adaptable floorspace to facilitate a reduction in car dependence and an increase in commercial floor space over time.</li> </ul>
Clause 45.03 Environmental Audit Overlay (EAO)	To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.
Clause 45.09 Parking Overlay - Schedule 1 (Fishermans Bend Urban Renewal Area) (PO1)	<ul style="list-style-type: none"> <li>To identify appropriate car parking rates for various uses in the Fishermans Bend Urban Renewal Area.</li> <li>To provide for the future adaptation of car parking to other uses and innovations in transport technology.</li> <li>To encourage alternative forms of parking to be provided including car share and consolidated precinct based parking.</li> </ul>
Clause 45.11 Infrastructure Contributions Overlay - Schedule 1 (Fishermans Bend Infrastructure Contributions Plan (ICO1))	No current applicable content.
Clause 45.12 Specific Controls Overlay (SCO3)	To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

**(iv) Particular provisions**

- Clause 52.06 – Car Parking
- Clause 52.29 – Land Adjacent to a Road Zone, Category 1
- Clause 52.34 – Bicycle Facilities
- Clause 53.18 – Stormwater Management in Urban Development
- Clause 58 – Apartment Developments.

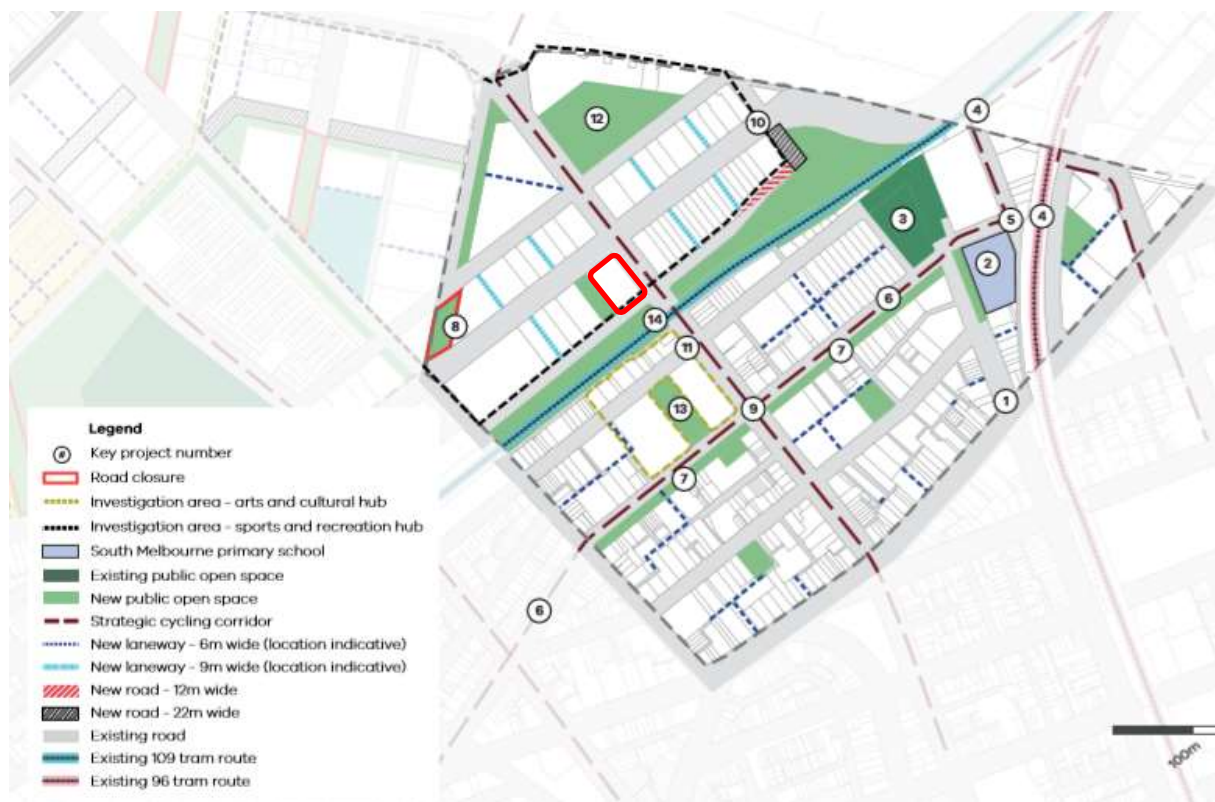
## (v) Fishermans Bend Framework Plan

The Fishermans Bend Framework, September 2018 (Framework) provides direction and guidance for the development of an 800 hectare urban regeneration area, to accommodate 80,000 residents and 80,000 jobs across five precincts by 2050. The vision for Fishermans Bend is to create liveable and vibrant neighbourhoods that are world leading examples of urban renewal.

The subject land (within red polygon shown in Figure 3) is located in the north-western portion of the Montague Precinct (sub-precinct M1). The precinct vision is for a “*diverse and well-connected mixed use precinct celebrating its significant cultural and built heritage, and network of gritty streets and laneways.*”

The key Framework direction for the subject land is its inclusion in a sub-precinct designated for ‘mixed-use high intensity (core activity)’ ‘predominantly mid rise building typologies (68 metres or 20 storeys)’ and dwelling ratios of 450 dwellings per hectare.

**Figure 3** Montague Precinct



Source: Fishermans Bend Framework

## 4 The issues

### 4.1 Context

The Urban Context report identifies the following architectural objective for the building:

The proposal seeks to create a series of urban, architectural and human scaled outcomes through a considered response to the surrounding context including the newly proposed public pocket park, street hierarchy and proposed infrastructure upgrades.

Presented as a 24 storey residential building including a single level basement, five level podium comprising serviced apartments and amenity. The podium is defined by a brick, steel and glass facade designed to illustrate the contemporary use of brickwork. Atop the podium, the tower proposes large family friendly residences within a slender tower form sculpted and curved in response to the surrounding proposed built form with a singular and unified architectural expression.

The ground plane has been designed to create a continuous active frontage along two streets offering a diverse range of potential uses including retail, bars, cafes, restaurants and small convenience stores etc. Services are contained to a portion of Munro Street to allow for the activation of the two main street frontages and corner of Munro Street.

The outcome of the analysis has led to the development of a proposed envelope outside the current applicable controls in order to deliver a better outcome for the site within the current context of the Fishermans Bend framework.

### 4.2 Building height

#### (i) Planning Scheme provisions

- Clause 22.15 applies to all use and development within Fishermans Bend. Objectives relevant to height and form include:
  - To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.
  - To create thriving, lively mixed-use neighbourhoods that have distinct identity and character consistent with the preferred character for each precinct.
- Clause 22.15-4.4 (Design Excellence) includes the following policies:
  - Encourage varied built form typologies that align with the precinct character area as detailed in the relevant Schedule to the Design and Development Overlay.
  - Encourage fine grain, pedestrian scale environment.
  - It is policy to assess proposals against the following criteria:
    - Buildings should contribute to a high quality public realm.
    - Developments should deliver variation in massing, building height, and roof forms and staggering or offsetting of tower footprints.
- Clause 43.02 (DDO30) which includes design objectives and built form outcomes and requirements including identification of building typologies and preferred precinct character. The subject site is within an area having a preferred hybrid building typology of:
  - Mid to high-rise developments. On larger sites, a hybrid of perimeter blocks with slender towers that create fast moving shadows and minimise the perception of visual bulk when viewed from streets.
- Building heights outcomes for DDO30 include that:
  - they respond to the preferred precinct character and building typologies
  - contribute to a varied and architecturally interesting skyline



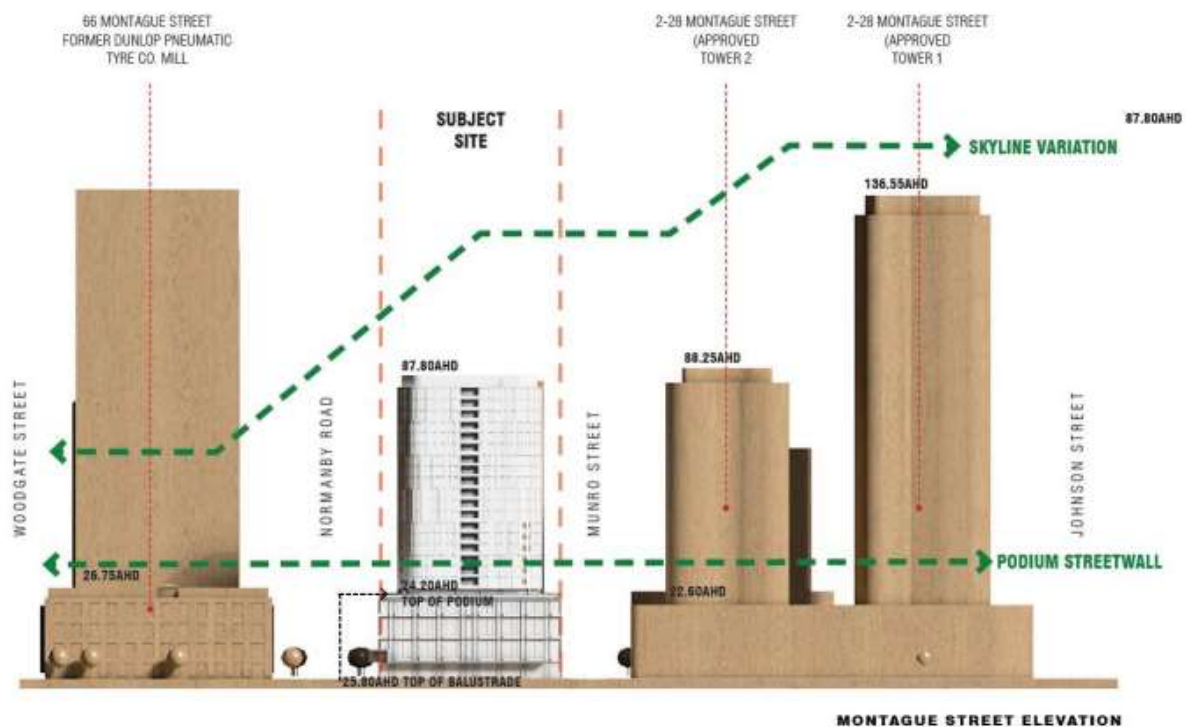
- limit impacts on the amenity of the public realm resulting from overshadowing and wind
- provide an appropriate transition and relationship to heritage buildings and existing lower scale neighbourhoods
- Within DDO30:
  - building heights requirements for hybrid areas “*should not exceed*” a height of 20 storeys or 68 metres. Non-habitable architectural features and building services may exceed the specified height
  - Preferred street wall height of at least four storeys and maximum of six storeys.

## (ii) What is proposed?

The proposal is for a 25 storey development<sup>6</sup> (83.3 metres AHD) which exceeds the preferred height by 5 storeys or 15.3 metres.

Figure 4 shows a comparison in height (Montague Street elevation) between the proposed development and nearby approved developments (which are also identified in Figure 5 in oblique view including buildings along Normanby Street). Precinct approvals are shown in Figure 6 which depicts approved heights and storeys, status of approvals and development (including those approved prior to GC81).

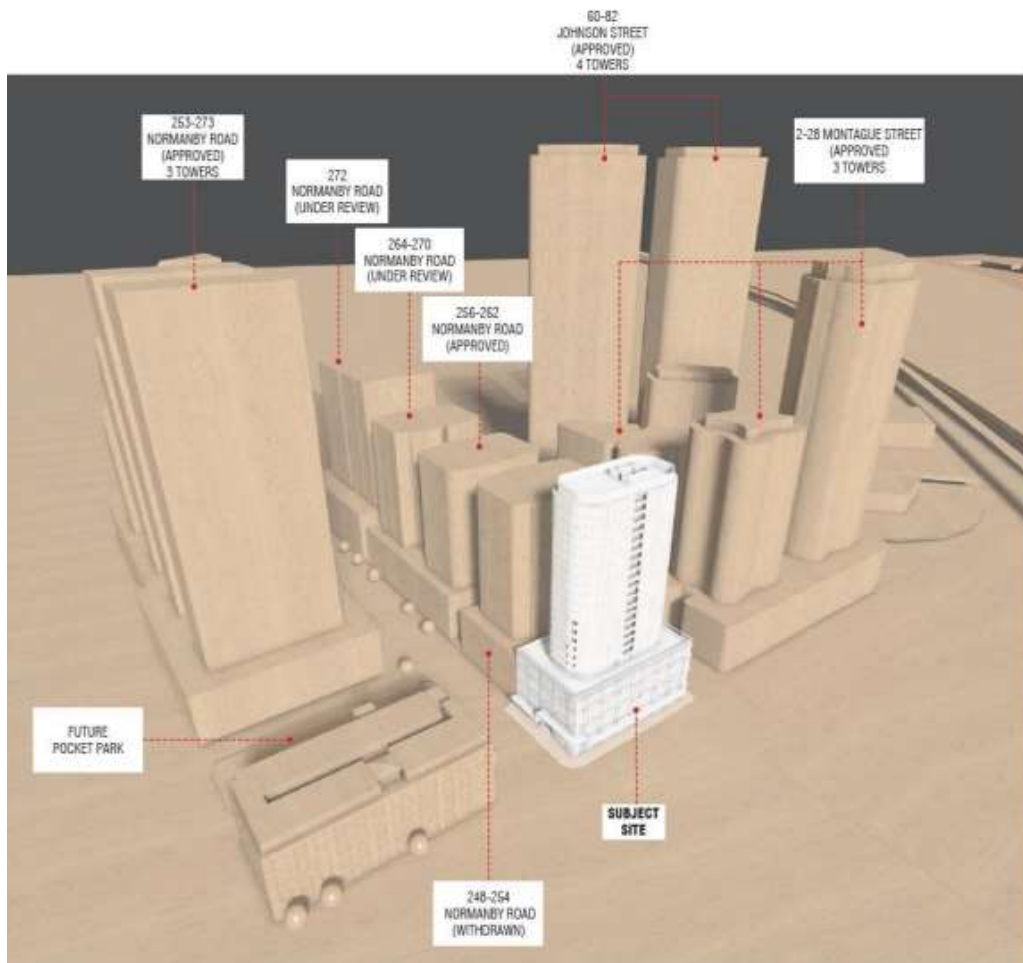
**Figure 4 Comparison of approved and proposed building heights – Montague Street elevation**



Source: DELWP Part A submission Figure 6

<sup>6</sup> Where the Urban Context Report references 24 storeys, it is noted that the plans show 24 storeys plus ground level (a total of 25 storeys)

**Figure 5 Comparison of approved and proposed building heights – oblique view**



Source: DELWP Part A submission Figure 6

**Figure 6 Precinct approved development and approved development heights**



Source: DELWP Appendix 1AA (Document 75). Key: Blue – approved, Green – commenced, Purple – permit expiry date, Orange – storeys, Red – pre GC81 approvals or 'legacy' permits, Yellow – GC81 approvals

**(iii) The issue**

The issue is whether the proposed building height is appropriate.

**(iv) Evidence and submissions**

DELWP, the Taskforce and Council all opposed the proposed height on the basis that it exceeds the preferred maximum building height of 20 storeys and because it will not achieve a ‘mid rise scale’ (7 to 15 storeys). All agencies submitted that they were supportive of a maximum building height of 20 storeys for the site.

DELWP’s Context Map<sup>7</sup> (Figure 6) showed the heights of buildings in the immediate vicinity of the site that had either approved permits, were presently under construction or were complete. Within the context of these varying heights, DELWP submitted that if the approved developments are constructed, they will punctuate the precinct with higher forms of development, *“giving the precinct a varied skyline and mix of mid and high rise building scales as encouraged by policy.”* It submitted that future approvals should be at the *“lower end of the height spectrum”* to maintain a balance of mid and high rise scales, which would be consistent with the design objectives for the precinct.

DELWP, Council and the Taskforce considered the current controls and preferred heights should be applied. Further, that exceedance of the preferred maximum height should only be allowed with good reason, and that the Proponent’s reliance on existing approvals where the preferred height was exceeded, did not constitute a sufficiently good reason. It further submitted that the Committee was directed to consider the cumulative impact of approvals by the Terms of Reference.

The Taskforce also submitted that the Proponent had placed *“significant weight”* on the proximity of the site to several sites that had existing approvals and DELWP, the Taskforce and Council sought to highlight the differences in site conditions or particular circumstances between previous approvals and the subject site. The Taskforce submitted that *“if the intention was to match the existing approvals, the current controls would have been sought and ultimately approved as part of Amendment GC81.”*

The Taskforce submitted that building height could not be considered in isolation of other design policy objectives, and that whilst the site has some physical attributes that lend themselves to absorbing a building that exceeds the preferred height, others such as its small size and its relationship with a heritage building and future park, limit its ability to accommodate a building of the height proposed.

In support for a 20 storey building height for the site, the Taskforce submitted that such a height would contribute to a variation in the skyline profile along an east-west axis, that would comprise building heights up to 40 storeys (from existing approvals) and future development sites where a predominantly ‘mid rise’ scale is encouraged.

DELWP submitted that it and the other agencies supported the concept of the building height reducing in scale or ‘transitioning’ from Munro Street to Normanby Road, which would effectively provide a transition from the approved height of 24 storeys on the Gurner site at 2-28 Montague Street and the six storey height of the former Dunlop site.

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<sup>7</sup> Document 75



On the issue of transition, the Taskforce focussed on the interface relationship with the adjacent Dunlop building and submitted that Clause 2.5 of DDO30 requires that building heights provide a transition and relationship to heritage buildings. It noted that the former Dunlop building was one of only two heritage buildings within the M1 precinct and on the basis that two additional levels had been built on top of the original building, it is unlikely to be redeveloped again in the foreseeable future. The Taskforce further noted that *“consideration of the relationship of the overall height of the proposed building with the heritage form is of paramount importance”* and that the proposed height of 25 storeys does not provide an appropriate transition.

The Proponent submitted that the proposed height would add interest to the skyline and complement the emerging physical context and was critical of DELWP and the Taskforce, submitting that the agencies had given inadequate weight to the emerging physical context and have applied *“blinkers of the DDO30 setback controls without proper regard to the physical context of the site and surrounds”*.

It sought to differentiate the subject site from that considered by the Standing Advisory Committee in Tranche 4 (272-280 Normanby Road), noting that whilst it had a residential interface and abutted the approved 15 storey building on the Gurner site, Council supported a 30 storey tower on that site. It also submitted that the site differed in context as it sits in the core of the Montague Precinct at the intersection of two arterial roads. The Proponent submitted that the subject site adjoins the ‘gateway site’ being the Gurner site and that the proposed tower would play a *“supporting role in helping shape the arrival to the Montague precinct.”*

The Proponent also submitted that the proposed height would *“represent a superior urban design outcome”*; that the proposal does not underdevelop the land; that there was potential for a higher building (that would continue to comply with the overshadowing requirements), but based on existing approvals, could add interest to the skyline. It submitted that a ‘transition’ on the site was not required as the 20 storey preferred maximum height shown on Map 2 in DDO30 also applied to the south side of the railway line, and that the drafting of the map would have differed if a transition was contemplated to the south of Normanby Road.

At the commencement of the round table, Mr Johnson, the project architect, provided an overview of the scheme to the Committee. He observed that in the revisions to reduce the height of the proposal, the proposed height was adopted because of the approval of a 24 storey building on the adjacent site (the Gurner site).

The Proponent relied on the urban design and planning evidence of Mr Biles and Mr McGurn. It was Mr Biles’ view that whether at 20 storeys or 25 storeys, a building on the site would be of the same built form character as the surrounding recent built and approved buildings and would *“fit comfortably in this emerging pocket of similarly scaled and taller buildings.”* He observed that the site is not unique by virtue of its size or shape or when compared with the larger site to the north. However, in his view, it is located at the centre of the Montague North precinct and is at a key junction and is a ‘peninsula’ site with three frontages.

Mr Biles observed that it is not only building height that contributes to a varied and architecturally interesting skyline, but it is informed by the tower’s shape, design and its contrast with surrounding forms. In his view, the proposal achieved this outcome and that variation and interest would be maintained by the contrast through the perspective from different views and at varying distances.

In terms of transition, it was Mr Biles' view that the building should have regard to the former Dunlop building and not the southern part of the precinct, to the south of the railway line and beyond. He considered that a transition was achieved in relation to the adjacent heritage building through the height of the podium.

Mr McGurn's evidence was that the proposed height was not significantly above the preferred height limit and that the proposed height will *"have a generally neutral impact on the surrounding area given that it provides skyline variation."* In his view, whilst the site is not large, the variation can be *"readily absorbed in the surrounding context of wide streets and tower forms."* He noted that a 'variation' of the preferred height limit would allow for a contrast of built forms when read in the context of the approved development on the Gurner site and the height that would otherwise likely be achieved on a mid block site. He also observed that a corner site delivers *"significant benefits"* in terms of outlook for apartments and active uses at each frontage of the podium.

#### **(v) Discussion and findings**

The Committee is of the view that the proposed height is acceptable, both within the context of approved and constructed developments, and within the planning framework for the Montague North precinct. The Committee agrees with Mr McGurn that all parts of the planning scheme must be reconciled meaning the 'building typology' in Table 1 must be read alongside the 'preferred precinct character' of the table and reference map (Map 2).

In the Committee's view, the expectation is that developments of '16 storeys and taller' will be achieved, and there is a preference for there to be a predominance of mid rise '7 storeys to 15 storeys', but that this must be read in the context of a fulsome review of the entire control:

- the preferred height limit of 20 storeys for the M1 precinct shown on Map 2
- a design objective to the Schedule *"to ensure, in Montague North, a mix of mid and high-rise scales with hybrid and podium-tower typologies"*
- the 'preferred precinct character' for Area M1 in Table 1 is *"mid to high rise developments"*

In this regard, the Committee also agrees with Mr McGurn, and as it has observed in reports for other Tranches, not all sites will achieve the same outcome and that the vision applies to the precinct, and cannot inform an outcome on a site by site basis. With the exception of particularly large sites, it is unlikely to achieve a *"predominantly mid rise"* outcome across a particular site.

The subject site is located centrally within the precinct, which means that as it relates to the heights shown on Map 2, it is located to the south of the Gurner site that has a preferred height limit of 24 storeys and sits amongst land that has a preferred height limit of 20 storeys. In the Committee's view, this is a relevant consideration as is the site's context having regard to existing approvals and its features, including its three street frontages.

If approved at 25 storeys, the proposal would sit within an immediate context (if the approved developments are constructed) with building heights that range between 15 storeys and 24 storeys and more broadly with heights that range between 38 storeys and 46 storeys. Within the context of approvals that have come before the Standing Advisory Committee, with the exception of the approval of the 38 storey building on the 'gateway site', the approvals have been considerably lower than 'legacy' permits and are aligned with the mid to high rise building definitions. The outcome, will in the Committee's view, allow developments that respond

appropriately to particular site opportunities and will respond appropriately to the preferred character for the precinct. In forming this view, the Committee has given regard, as required by its Terms of Reference, to the cumulative effect of the approvals on the preferred character, and is satisfied that the proposal will not undermine or alter the ability to achieve the objectives for Fishermans Bend.

This context, together with the fact that the height control is discretionary, does not give rise to a departure per se from the Framework or compromise the objectives of the Framework. That is not to say that the preferred height controls do not hold weight or inform appropriate outcomes, but that there may be circumstances where the height can be exceeded, and in the Committee's view, this is one of those sites. It is located near the entrance to the precinct and the broader Fishermans Bend area; it will sit amongst a variation of built form; and a corner site has siting advantages that a mid block site does not.

The Committee has adopted this approach in other matters that have come before it, and in the Tranche 4 report, also observed that there needs to be locational and/or site attributes that lend themselves to a higher form. It also added that it was keen to convey the message that whilst there may be opportunities for the called-in applications to exceed the preferred height controls, these may well be the exception rather than the rule. Further, there certainly should be no thought amongst proponents that there will be leniency given to allowing variation of the preferred controls based on a proposal being effectively caught up in the strategic planning for Fishermans Bend or relying on legacy permits to justify a departure from the preferred height limits.

Within the context of the approved towers and towers that are under construction within proximity to the subject site, the Committee is satisfied that the height will contribute to a varied and architecturally interesting skyline. As the Committee noted above, there is variation amongst the heights of towers.

Whilst there were submissions regarding 'transition' and the need to transition, the Committee also agrees with Mr McGurn that the controls reference 'transition' as it relates to heritage buildings and the lower scale neighbourhoods of South Melbourne and Port Melbourne. Given the distance from the latter two, the relevant consideration in this matter is the response in relation to the former Dunlop site. The controls do not otherwise require a transition of scale or built form beyond the different heights identified in Map 2 for the precinct.

Having regard to the site's location, the Committee does not consider it necessary for the building to transition in scale. There is no sensitive abuttal that may otherwise require a stepping down, such as a residential interface, or a change in preferred height controls. Having regard to the width of Normanby Road, which is in the order of 30 metres, the Committee agrees with Mr Biles, that the more relevant consideration or built form interface as it relates to the former Dunlop building, is that of the podium height and detailing.

The overall height of the former Dunlop building is 26.75 AHD and the proposed podium height is 24.2 AHD or 25.8 AHD to the frame. The design detail and appropriateness of the podium height is discussed in Chapter 4.4, but insofar as it relates to the adjoining building, on approach from the north or south on Montague Street, the podium will be read by pedestrians and motorists in the context of the adjacent building. The Committee is not persuaded that a 20 storey building would provide a perceptible or more sensitive response in relation to the former Dunlop building.

The Committee notes and agrees with Mr McGurn’s observations that it is not uncommon to have towers that have a more proximate relationship to heritage fabric than the interface between the subject site and the former Dunlop building. The Committee also agrees that it is necessary to consider and balance the broader objectives regarding built form outcomes for the precinct with the relationship to heritage buildings.

The other relevant built form outcome that the Committee must consider is the need to limit impacts on the amenity of the public realm as a result of overshadowing and wind.

As required by Clause 2.6 of DDO30 the proposed building will not cast additional shadow to the private open space shown in Map 4 between 11:00am and 2:00pm on 22 September.

The updated wind advice prepared by Global Wind Technology Services (GWTS) dated 11 April 2022<sup>8</sup> observes that the reduction in building height and modification to the shape of the tower will lead to a better wind environment and that the proposal will achieve the safety and comfort criteria of the planning scheme. No evidence was called in relation to this matter from any party. The Committee is satisfied that the requirements relating to a Wind Assessment in the Incorporated Document will ensure compliance with wind requirements of DDO30.

The Committee finds:

- The proposed height of 25 storeys is acceptable and consistent with the design objectives and built form outcomes sought for the Montague North precinct.

### 4.3 Tower setbacks

#### (i) Planning Scheme provisions

- Clause 21.15 as summarised at Chapter 4.2
- Clause 43.02 (DDO30) provisions for setbacks above street wall height require that buildings:
  - should meet the preferred setback (10 metres for buildings above 20 storeys), and
  - “*must meet*” the minimum setback (also 10 metres) for buildings above 20 storeys from side and rear boundaries.

#### (ii) What is proposed?

The proposal provides for a five metre tower setback from all boundaries.

#### (iii) The issue

The issue is whether the proposed tower setbacks are appropriate.

#### (iv) Evidence and submissions

All agencies opposed the proposed development on the basis of the proposed setbacks above street wall.

DELWP submitted that if the height of the proposed development was reduced to 20 storeys then it would comply with the minimum setback, but not the preferred setback (which is 10 metres). It submitted that a 5 metre setback would satisfactorily respond to the built form objectives of

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<sup>8</sup> Document 59

DDO30, because it would allow for views to the sky between buildings; allow daylight, sunlight and outlook for the proposed dwellings and serviced apartments; minimise the visual bulk of upper floors when viewed from adjoining streets; and ensure the tower does not overwhelm the public realm.

The Taskforce, in support of its position that the mandatory setback should be applied, referenced the urban design evidence that was led in the Amendment GC81 hearing, including Ms Hodyl's evidence, which was ultimately supported in terms of setbacks. The Taskforce submitted that GC81 Committee supported the setbacks that were adopted by the Minister for Planning and ultimately form the basis of the current controls. It submitted that there is no discretion to be applied, despite the proposal being a Planning Scheme Amendment. It also submitted that failure to meet the mandatory setbacks was evidence that the site is not suitable for a development of the scale proposed.

Council referenced the setbacks approved in the development for 256-262 Normanby Road and submitted that the 6.3 metre side setback would be a *"fairer outcome" to require on the subject site*. It submitted that the *"curved corners only slightly reduce the mass of the building."*

The Proponent submitted that the Planning Scheme Amendment allowed for the variation of setback controls. It was critical of DELWP and the Taskforce's approach where both agencies submitted that a 5 metre setback was appropriate for a 20 storey tower and submitted that they were *"insisting on compliance with a discretionary height control, for the sake of achieving compliance with a mandatory setback control that doesn't even apply at the discretionary height limit."*

The Proponent further submitted that the proposed setback along Montague Street responds to the limited setback of the addition to the former Dunlop building and that it would sit comfortably in the streetscape alongside the 24 storey building approved on the Gurner site.

Mr Biles' evidence was that the size and dimensions of the site would make it very difficult to achieve a *"viable tower."* In his opinion the proposal responds well to the desired outcomes of DDO30 and the setback variation was therefore appropriate. In support of his position, Mr Biles observed that:

- the tower would be separated from other buildings because of the width of the abutting streets
- the tower was slender which would facilitate fast moving shadows
- a comparable setback of 5 metres could be achieved within a redevelopment of the adjacent property, which combined to a separation of 10 metres, would achieve privacy (without screening), daylight and views of the sky between buildings.

Mr McGurn reached similar conclusions and noted that the variation of the setbacks was acceptable and would not significantly affect the surrounding area. In his opinion, if the adjacent site is developed, it would likely be oriented to the north and south.

#### **(v) Discussions and findings**

The Committee is satisfied that the tower setbacks from the street frontages achieve the built form outcomes of DDO30.

In the Committee's view, the massing shown in DELWP's 3-dimensional modelling (Document 50) demonstrates that the tower setbacks will sit well within the context of approved developments and existing development. In terms of Normanby Road and Munro Street, the 5 metre setbacks

align with the approved setback for the Tranche 1 (site 2) at 256-262 Normanby Road. If developed, the Committee considers that a building proposed for the adjacent site at 250-254 Normanby Road, would not exceed 20 storeys and it too would adopt similar setbacks.

Whilst the 24 storey building on the Gurner site is set back 10 metres from Munro Street and Montague Street, the Committee acknowledges that that site is considerably larger than the subject site. It is also well separated by the width of Munro Street and views of the towers on the Gurner site will 'open up' when pedestrians or motorists are heading north. The Committee also observes that the elliptical form of the tower achieves greater setbacks at each 'corner' compared with a more regular shape tower. As addressed in section 4.4 of the report, the Committee is satisfied, subject to further refinement, that the differentiation between the architectural language of the podium and tower also contributes towards the tower being more visually recessive, with the leading edge being to the highly detailed podium. This will be further enhanced by the Committee's recommendations for further refinement of the design.

The Committee also agrees to an extent with the Proponent's response to DELWP's submissions insofar that if the height of the building is reduced to 20 storeys then the 5 metre setbacks would be acceptable. In the Committee's view, if a 5 metre setback is deemed acceptable, then it is unlikely that a difference between 20 or 25 storeys would be appreciable to a pedestrian or motorist.

The Committee accepts the evidence of Mr Biles and Mr McGurn that the size of the site limits the ability to provide greater setbacks. Further, it accepts Mr McGurn's evidence that the redevelopment of the adjacent site would likely be oriented to the north and south, thereby minimising the number of apartments with orientation and outlook to the east. The Committee is satisfied that equitable development will be achieved between this site and the adjacent site and that outlook, daylight and sunlight will be achieved, as will appropriate screening between apartments, if required. The Committee notes that if the adjacent property is not consolidated with the one further to its west then its development potential is constrained. If it is consolidated with its adjacent site, then it will be able to accommodate similar side setbacks, which would then achieve a 10 metre separation between towers.

In terms of the proposed setbacks, the Committee is satisfied that the setbacks achieve the built form outcomes for the following reasons:

- comfortable wind conditions can be achieved in the public realm
- the slender tower coupled with the setbacks will achieve fast moving shadows to enable daylight and sunlight in the surrounding streets
- views to the sky will be maintained
- the tower will not overwhelm the public realm. Pedestrian and motorist views from within close proximity of the site will be to the tower and from further afield the tower will be read in conjunction with other buildings of varying setbacks and overall heights and within wide streets
- the tower will be well separated from the future public open space so that it will not overwhelm users of the park
- the curvature of the tower, coupled with more generous setbacks at the street corners, minimises the perception for visual bulk from streets
- the provision of a podium and tower ensure that the building will not read as a continuous wall when viewed from street level.

The Committee finds:

- The proposed setbacks are acceptable and satisfy the built form outcomes of Design and Development Overlay, Schedule 30.

## 4.4 Building design

### (i) Planning Scheme provisions

- Clause 21.15 is summarised at Chapter 4.2.
- DDO30 seeks the following built form outcomes for active street frontages include:
  - Address and define existing or proposed streets or open space and provide direct pedestrian access from the street to ground floor uses.
  - Address both street frontages if the building is on a corner.
  - Create activated building façades with windows and legible entries.
- DDO30 requirements include:
  - Active street frontages:
- All buildings should provide:
  - Openable windows and balconies within the street wall along streets and laneways.
  - Entrances that are no deeper than one-third of the width of the entrance.
- Ground floor building services, including waste, loading and parking should occupy less than 40 per cent of the ground floor area of the building.
- Buildings fronting the Primary (Normanby) and Secondary active streets (Montague) should:
  - Achieve a diversity of fine grain frontages.
  - Provide canopies over footpaths where retail uses are proposed.
  - Deliver the Clear glazing specified in Table 8
    - Primary active frontages - At least 80 per cent clear glazing along the ground level frontage to a height of 2.5m, excluding any solid plinth or base.
    - Secondary active frontages (Type 2) - At least 20 per cent clear glazing along the ground level frontage to a height of 2.5m, excluding any solid plinth or base.
  - Adaptable buildings:
- Lower levels up to the height of the street wall:
  - At least 4.0m floor to floor height at ground level.
  - At least 3.8m floor to floor height for other lower levels.
- Dwelling layout - The ability for one and two-bedroom dwellings to be combined or adapted into three or more bedroom dwellings.
  - Building finishes:
- Buildings should avoid blank façades.
- Building walls facing a street or public place should be detailed to provide visual interest.
- Buildings fronting main roads should use materials and finishes with a perpendicular reflectivity less than 15 per cent, measured at 90 degrees to the façade surface.

### (ii) What is proposed?

The overall building design presents as a podium and tower configuration.

The tower shape was modified from an earlier proposed rectilinear form to an oblong-shaped configuration, thus promoting the ability for minimising impact of daylighting (with fast moving shadows) to adjoining sites and the public realm. The longest eastern elevation of the tower is broken vertically with a repetitive series of planter boxes which provide a

create visual niche separation of the building and create an urban green gesture to the skyline (refer Figures 7 and 8).

The proposed street wall is represented as a three sided, six storey podium with a height of 24.2 metres AHD (or 25.8 metres AHD to frame) comprising of brick, glass and metal materials. The podium has both vertical and horizontal elements of brick masonry (and an eastern elevation with planter boxes), complimented with an architectural metal grid like framing element and associated landscaping to the podium rooftop.

Changes to the location of the loading dock entry have provided further opportunity to extend the lower level podium façade treatments to the Munro Street frontage.

**Figure 7 Eastern elevation**



Source: Proponent submission Attachment 1 – CGI perspective C01

**Figure 8 Northern and eastern elevations**



Source: Proponent's amended plans



### **(iii) The issues**

The issues are:

- whether the podium façade design:
  - includes an appropriate level of articulation, depth and activation of the architectural elements of the street wall
  - appropriately addresses the relationship between activating facades with the internal uses.
- whether the overall building design:
  - provides for an appropriate tower design response
  - provides an appropriate relationship between the podium and tower elements
  - requires further architectural treatments to screen the impact of rooftop plant.

### **(iv) Evidence and submissions**

#### **Street activation**

All agencies and the OVGA submitted that ground floor activation and the building entry experience was an important design challenge that required further consideration by the architects.

The Taskforce proposed the need to *“provide a visually legible expression”* to the main entry, and the activation of a perimeter *“seat/planter/plinth to edge”* of the ground floor tenancies. This proposed design response was reflected in the Day 1 version of the Incorporated Document.

It was Mr Biles’ evidence that the proposal provided permeable frontages to Normanby Road and Montague Street and that this would be enhanced through plinth or seating incorporated into the glazed frontages to *“include a degree of depth and incorporate more natural and tactile materials at ground level.”*

DELWP submitted that the relocation of the loading dock entrance depicted in the amended plans offered *‘better integration with the façade of the building’*. The amended design was supported by the other agencies and the OVGA.

The impact on street activation design outcomes resulting from increasing the floor heights in response to Melbourne Water’s recommendations was raised by all parties and is discussed in more detail in Chapter 4.5.

#### **Podium and façade design**

Council supported the proposed podium height/street wall as being a *“satisfactory response to the planning controls and context of the subject site including the heritage graded former Dunlop factory building opposite across Normanby Road”*.

While the proposal sought to increase the podium height from the ‘preferred 4-storeys’ to 6 storeys, Council and DELWP submitted that this complied with DDO30 and supported the design intent of the control.

The Taskforce considered that the podium height should be more responsive and respectful to the Dunlop building street wall height.

The Proponent submitted that *“the built form will respond to the preferred character and building typologies”*. It noted that Table 3 of the DDO30 provided for a preferred street wall height of four storeys or a lower where necessary to *“respond to an adjoining heritage place”* and that the

preferred street wall height was not mandatory, and in any case the Dunlop building was not adjacent but rather on the other side of Normanby Road.

Mr Gurn's evidence was that:

- ... a street wall ... of six storeys along each frontage is suitable in the context of DDO30 ... is activated with serviced apartments facing the surrounding streets.<sup>9</sup>
- The architectural language of the building provides a more solid podium base with of six storeys with the tower setback above. The podium is expressed as four 'layers', plus the framed treatment of the podium top. A canopy extends along each street frontage above the ground floor level, facing at the corner of Montague and Normanby Road to emphasise the entrance in this location.<sup>10</sup>

Mr Biles supported the proposed podium height considering its scale, materiality and proportion and arrangement responded to its context, the Dunlop building and the desired outcomes of DDO30.

The OVGA accepted *"the podium being an industrial design intent"* but considered that *"the podium must commit to the use"*. It, along with the Taskforce, identified the need for further articulation and refinement of the podium façade to include more depth and articulation of balconies and occupiable façade areas and that *"the ambition of the podium should be made of real materials, be tactile and well articulated"*. In response to the amended plans the OVGA identified that:

- There is little depth evident in facades and we query why there are no balcony spaces (even of 'Juliet' scale) to rooms
- Street shopfronts need depth, texture and articulation and required a commitment to the finishes
- We reiterate the need to commit to the language, design and material quality of the referenced 'industrial building type', including real materials, careful details, depth, grain, texture.
- ... we would like to have confidence that all three street walls have the required material and design quality.

Parties generally agreed that there was a need for further facade design investigation to be undertaken by the architect which could be addressed as an Incorporated Document condition.

DELWP's Final preferred version of the Incorporated Document identified additional conditions relating to the design of the podium, including the Taskforce's suggestions and consolidated related conditions at Clause 4.10.

### **Overall building design**

DELWP's considered the podium and tower typology as acceptable. It submitted however that the *"architectural elliptical form is not offering any benefit to the area"*.

Council was concerned that *"the podium and tower do not share an architectural theme"*. The Taskforce made a similar observation.

The OVGA was *"unconvinced by the rounded tower form"* noting it had become *"a repeated type throughout Fishermans Bend..."*.

Mr Johnson identified that *"the corners of the tower are filleted, creating curved transitions between elevation planes, further enhancing visual amenity..."*. This approach will minimise the

<sup>9</sup> Paragraph 73

<sup>10</sup> Paragraph 95

tower's impact and offer access to natural daylighting with fast moving shadows to the adjoining properties, street level and newly proposed park on Normanby Road.

Mr McGurn opined that the elliptical tower design created *“a floorplate which is responsive to the site and opens up views at the corners of the building”*.

Mr Biles considered the architectural expression of the building was responsive to the site's context at street level and from middle and longer range viewpoints. He considered the amended plans an improvement and considered that other detail could be managed through conditions.

The evidence of Mr Biles and submission of the Taskforce identified the potential prominence of the rooftop plant, proposing it be screened from view with a crowning element. The suggestion for a crowning element was broadly agreed amongst all parties, although the specific detail (including height, setbacks and materiality) was not. The Proponent sought some flexibility for its design.

## **(v) Discussion and findings**

### **Ground floor activation**

The Committee considers the ground plane activation is lacking and supports the Taskforce's suggestion to include integrated seating and planters. Such a change would provide greater street activation and depth to the façade at the street level interface. The design of the ground level treatments will however require further refinement to reflect the flooding considerations raised by Melbourne Water. Some flexibility in the Incorporated Document conditions will be required to accommodate the potential design solutions.

The building's entry is tight (in part due to the floor level requirements) requiring the provision of a disabled access lift. While this may be unavoidable, the Committee agrees with DELWP, Council and the Taskforce that further design refinement to provide an accessible ramp in lieu of the lift may offer a better journey and experience for tourists, visitors and residents.

The Committee agrees with the parties that the movement of the loading dock further west improves the activation of Munro Street and the overall appearance of the Munro Street podium.

### **Podium and façade design**

The parties collectively agreed the amended design was an improvement on the original design, and that the materials and finishes could be further refined with the proposed materiality acceptable with further resolution, through Incorporated Document conditions.

Through the round table process the tower form was discussed at length. The Committee considers that the proposed response offers a slender 'filleted' design as opposed to its original rectilinear form. While it considers the form apparent the Committee agrees with the submissions of the agencies that there is not an apparent material synergy between podium and tower. The podium is anchored to the street with horizontal and vertical masonry brick treatments, and the combination of glass and metal as an architectural framed grid appears disconnected with the tower's material palette of light grey and silver finishes without commitment to the industrial aesthetics. The Committee considers that a further subtle refinement of the palette would improve the continuity between the building elements.

The Committee considers that podium's height and brick aesthetic offers a continuity to the street wall along Montague Street and Normanby Road and as such is appropriate. The amended plans

offer a stronger materiality design response to the industrial form and brick characteristics of the area including the adjacent heritage Dunlop factory building. However, the Committee agrees with the OVGAs that the architect's commitment to the industrial style requires an authentic application and use of 'real' materials. As such, the design commitment requires further refinement to achieve a synergy and/or relationship with the tower.

The Committee supports the OVGAs' suggestions to enhance the podium level design and architectural language with improved connections between the serviced apartments and private outdoor areas by introducing operable podium façade treatments or 'Juliet balconies' rather than relying on a series of planter boxes.

The Committee broadly supports the changes to Clause 4.10 (Façade strategy) conditions identified in DELWP's Final preferred version of the Incorporated Document including relocation of Clause 4.6 amended plans conditions. It supports including related conditions about the design canopies with the façade strategy conditions.

### **Building design**

The Committee broadly supports the façade treatment design response articulated in the amended plans but considers they need further refinement and that this process requires the architect's design leadership.

The Committee agrees with Mr Biles that it is preferable for the building to have a 'crown' that better integrates and screens the rooftop plant.

The Committee finds:

- Activation of the Ground Floor would be enhanced with integrated seating and planters along the boundary perimeter. Given the potential impacts of flooding some allowance for further design flexibility and alternatives should be accommodated within the Incorporated Document conditions.
- The podium design and materiality requires further commitment to the language of the 'industrial design' intent, and could be achieved through further Incorporated Document conditions including but not limited to:
  - refinement of the ground floor activation
  - use of real brickwork and depth for design detailing including a limitation on metal elements to balcony and window reveals
  - a more detailed concise description of the façade's intent and methodology to deliver the 'industrial building' aesthetic.
- Further design consideration should be given to:
  - the potential for punctuated openings to articulate and create an engaging façade including through the use of treatments such as indents/recessed windows, Juliet balconies, and exposed columns
  - further façade activation to Munro Street aligned with proposed changes to internal communal areas.
- An architecturally designed 'crowning element' to screen the rooftop plant is appropriate.
- Further refinement of the materials is required to subtly connect the tower and podium.
- DELWP's Final version of the Incorporated Document is appropriate subject to the changes identified in the Committee's preferred version (Appendix E).

## 4.5 Design detail

### (i) Planning Scheme provisions

- Clause 21.15 supports:
  - Creating a benchmark for sustainable and resilient urban transformation that supports the creation of a climate adept, water sensitive, low carbon, low waste community.
  - Creating resilience against the impacts of sea level rise and flooding from storm events without compromising the urban form at the ground level.
  - Addressing the potential flood impacts with measures which in the first instance maintain activity at ground level.
- Relevant objectives relating to detailed building design include:
  - To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.
  - To encourage Affordable housing and the provision of community infrastructure, open space and housing diversity to support a diverse and inclusive community.
  - To ensure development is carried out in accordance with ecologically sustainable development principles.
  - To ensure development is carried out in accordance with ecologically sustainable development principles.
- Relevant policies of Clause 21.15-4.2 (Community and diversity) include:
  - Encourage a diversity of dwelling typologies and sizes within each precinct and within individual development sites.
  - Encourage design that delivers a range of housing types suitable for households with children through:
    - The development of mid-rise housing with access to private open space.
    - Living room sizes that exceed minimum requirements.
    - Access to outdoor communal green space including children's play spaces on ground level, podium levels or roof tops and locating some dwellings to achieve direct visual access to those play spaces.
    - Providing children's communal active indoor play or recreation space as part of indoor communal spaces.
    - Locating sufficient storage areas in areas with easy access to dwellings.
  - Encourage the delivery of adaptable floor plates including the opportunity to combine one and two-bedroom units to form larger apartments.
  - Encourage communal open spaces within residential development to include a range of facilities, garden and recreation areas, with consideration given to opportunities for a range of users.
  - Proposals of more than 100 dwellings should provide the following percentage of three-bedroom dwellings:
    - Montague: 25 per cent.
- Relevant policies of Clause 21.15-4.5 (Achieving a climate adept, water sensitive, low carbon, low waste community) in relation to flooding include:
  - Only consider the raising of internal ground floor level above street level as a last resort, except where the implementation of other measures coupled with an evidence based approach to risk management reasonably necessitates raising internal floor levels above street level.
  - It is policy to assess proposals in flood prone areas against the following criteria:
    - Design elements and materials should be resilient including water proof doors and windows, elevated power outlets and the like.
    - Land uses at ground floor level should be able to easily recover from the impacts of temporary flooding.

- Any level change required between street level and internal ground floor should be integrated into the design of the building to maintain good physical and visual connection between the street and internal ground floor.
- Essential services, such as power connections, switchboards and other critical services should be located to address potential flooding events.
- Development and public realm layout and design should integrate best practice Water Sensitive Urban Design.
- It is policy to assess proposals in relation to energy efficiency against the following criteria:
  - Residential developments should achieve an average 7 star Nationwide House Energy Rating Scheme (NatHERS) rating for each building.
- Relevant policies of Clause 21.15-4.6 (Communal open spaces) include:
  - Create private and communal open spaces within developments to supplement the public open space network.
  - Encourage development with an interface to existing or proposed open space to:
    - Avoid unreasonable amenity or microclimate impacts to the open space.
    - Ensure vehicle movement to or from the development does not unreasonably impact on the function, useability or amenity of the open space.
  - Encourage internal and external communal spaces within the same development to connect to one another and be designed as multifunctional, adaptable spaces.
  - Encourage the provision of additional publicly accessible areas at ground level that contribute to the creation of a network of passive, formal and informal recreational spaces.
  - It is policy to assess proposals against the following criteria:
    - Communal open space should be designed to meet the needs of a range of potential users.
    - The location, design and layout of publicly accessible open space areas at ground level should be integrated with adjoining areas of open space.
- Clause 58 sets out objectives (which must be met) and standards (should be met) for apartment development and decision guidelines relating to urban context and design, amenity impacts, on site amenity and facilities, detailed design and internal amenity.

## **(ii) Amended plans**

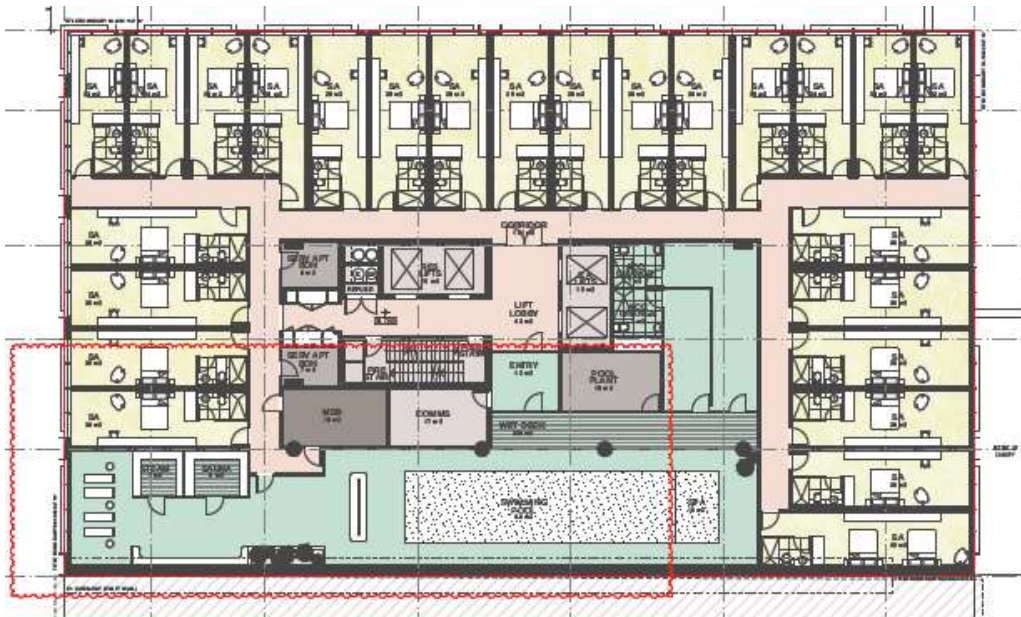
The without prejudice plans include changes to the communal areas, providing a greater sense of use and connection with the outdoors and improved access to daylight.

The Proponent's architect provided a 'Schedule of changes' which summarised the key amended plan changes for communal areas:

- Level 01 Floor Plan: (refer Figure 9)
  - 1. Pool environment extended to Munroe Street.
  - 2. Two (2 of) serviced apartments removed.
  - 3. Sauna, steam and relaxation spaces relocated to Munro Street.
  - 4. Pool Plant and comms room relocated.
- Level 02 Floor Plan: (refer Figure 10)
  - Gym Active spaces extended to Munroe Street. Overlooking of Pool void retained. Yoga Room located against Munroe Street façade.
  - Comms & Cleaners Room relocated.
- Level 04 Floor Plan: (refer Figure 11)
  - Void from top of podium extended to this level. Outdoor terrace and light well provided. Minor loss of area to apartment gym
- Level 05 Floor Plan: (refer Figure 12)

- Void from top of podium extended to this level. Light provided with vertical green element to south-western wall. Minor loss of area to amenities.
- Level 06 Floor Plan: (refer Figure 13)
  - Void to podium levels below added to improve amenity.
  - Common amenity area increased and extended to Munro & Montague Streets to take advantage of views and sunlight.
  - Landscape reconsidered as series of rooms to provide multiple options for residents.
  - Single apartment replaced with common amenity spaces.

**Figure 9** Amended plans - Level 1: Pool Area, Steam and Sauna Areas



**Figure 10** Amended plans - Level 2: Serviced Apartment gym, Yoga Studio and void to pool below

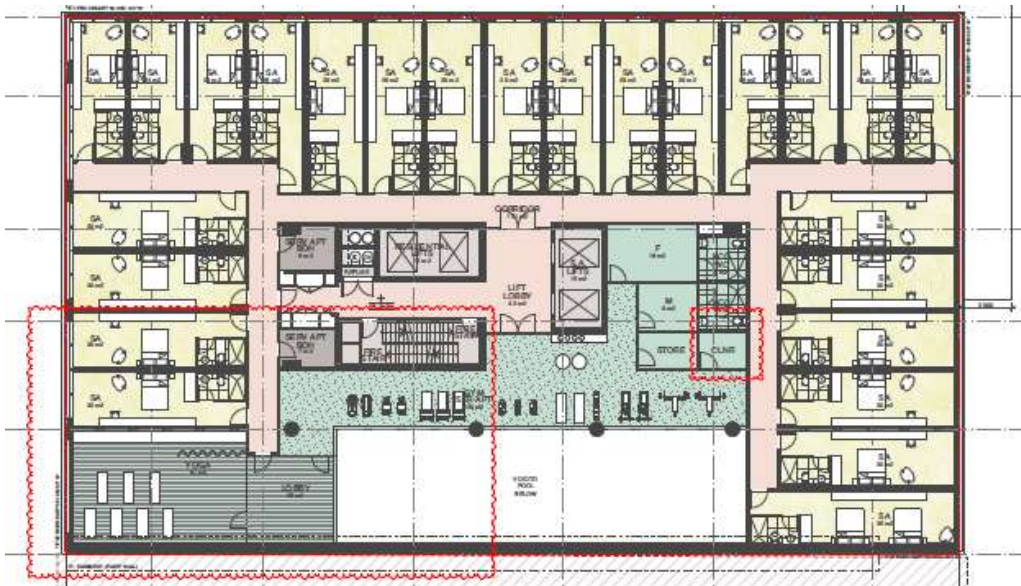




Figure 11 Amended plans - Level 4: Apartment gym and Terrace

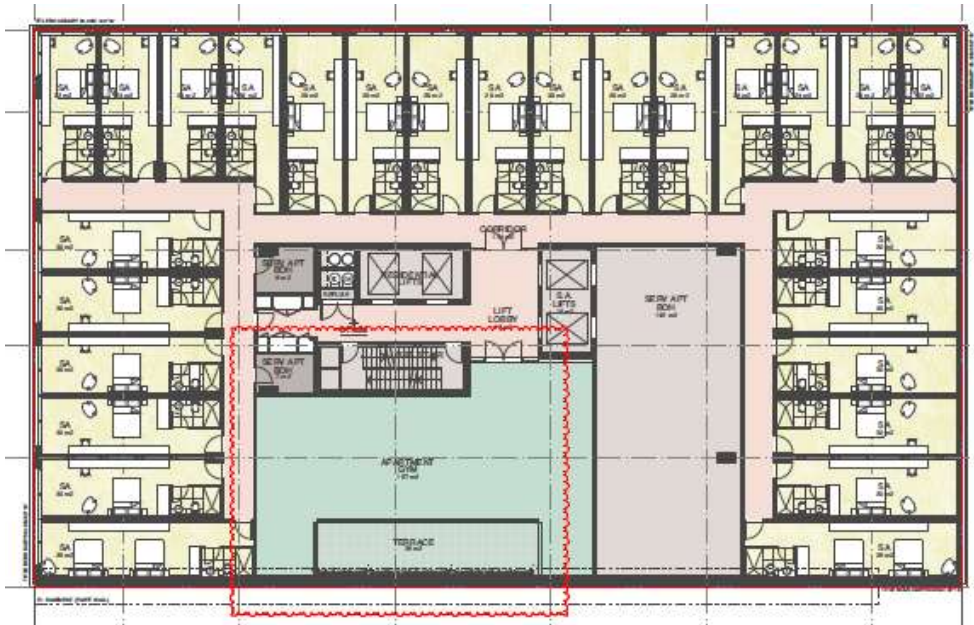
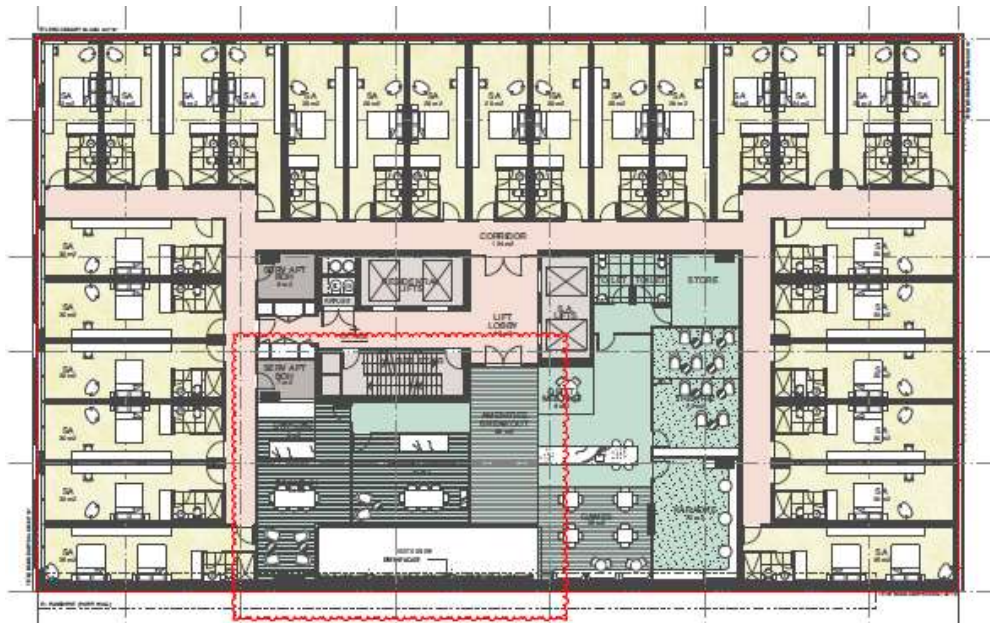
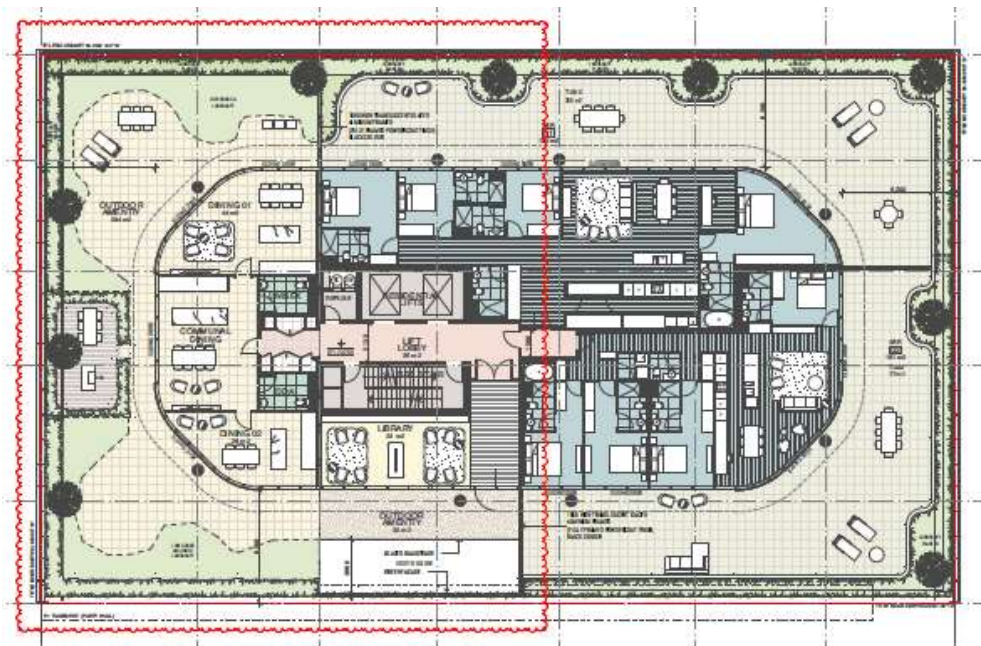


Figure 12 Amended plans - Level 5: Amenities/Void and Green wall





**Figure 13 Amended plans - Level 6: Amenities (Indoor/Outdoor & Terrace)/Green wall**



### (iii) The issues

The issues are whether:

- the proposal appropriately responds to issues of flooding and maintains ground floor activation
- the design of communal amenities provides for:
  - good design outcomes for buildings occupants and visitors
  - achieve access to natural daylighting and natural ventilation
- the design response appropriately addresses Clause 58 including for:
  - common areas
  - balconies
  - accessible apartments
  - resident storage.

### (iv) Evidence and submissions

#### Flooding and finished floor levels

Melbourne Water is the relevant drainage authority and floodplain management authority for the precinct and a recommending referral authority (relevant to this site) under Clauses 37.04, 66.01 (Subdivision referrals) and 66.04 (Referral of permit applications under local provisions).

Melbourne Water's submission identified ten conditions for inclusion in the Incorporated Document including conditions relating to Finished Floor Levels (FFL), preparation of a Flood Risk Management Plan, a section 173 Agreement under the PE Act and rainwater tanks. The FFL identified were:

- 3 metres AHD for residential and commercial ground floor with the exception of transition areas and including lift and stair lobbies
- 2.2 metres AHD for all service areas including loading bay waster areas
- 3 metres AHD for electrical installations including substations, basement ramp apex and entry/exit points, lift entries, stairwells, window openings and vents.

The 3 metre AHD level requested exceeded earlier advice of 2.4 metres (the applicable flood level including 300 millimetres freeboard) and which had been widely applied to development in the precinct. Melbourne Water explained the increase to 3 metres was to include a 600 millimetre freeboard to account for the impacts of Yarra River flooding and sea level rise impacts, to provide flood safety for people and vehicles exiting and entering properties and to avoid flood damage.

Melbourne Water attended the round table to provide an explanation of the recommended flood levels and respond to questions of the parties relating to the likely flooding impacts (depth and velocity), timing of any future flood mitigation works and proposed Port Phillip Planning Scheme amendment to introduce the new flood level approach. The Committee thanks Melbourne Water for its participation in the round table and willingness to respond to party questions.

DELWP's Day 1 version of the Incorporated Document includes the Melbourne Water conditions however DELWP did not support the setting of the FFL at 3 metres for commercial ground floor areas, instead supporting a 2.4 metre AHD level for commercial ground floor levels proposing alternative conditions in its final version of the Incorporated Document to this effect.

DELWP, Council, the Taskforce and the Proponent were concerned about the impacts a 3 metre floor level would have in achieving the urban design objectives of DDO30 and the CCZ1 including active interfaces and good levels of physical and visual connections between the public and private realm. However, their views about how to respond differed.

Council did not support DELWP's position and argued there is a duty of care to respond to updated flood modelling. Council suggested that if a reduced floor level was to be accepted that it be indemnified. Council supported appropriate architectural treatments consistent with the *Good Design Guide for Buildings in Flood Affected Areas of Fishermans Bend, Arden and Macaulay* (City of Port Phillip, City of Melbourne and Melbourne Water, 2021).

The Taskforce supported the DELWP position including for transitional spaces. It identified that the subject land was not the subject of a Flood Overlay, Land Subject to Inundation or Special Building Overlay, and Clause 22.15-4.5 sought the raising of internal ground floors to manage flooding as "*a last resort*". It considered the Melbourne Water requirement lacked strategic justification, and the outcomes sought, including any new controls, should instead be progressed through either a planning scheme amendment or through the implementation of Melbourne Water's flood mitigation strategy for Fishermans Bend.

The OVGA advocated for "*collaboration with appropriate parties to ensure urban design and landscape opportunities are coordinated to appropriately integrate external / internal spaces and to avoid difficult transitions from ground to retail tenancies*".

The Proponent submitted that while the floor level recommendations could be met, they would compromise the building design and street integration. It submitted that it appeared a FFL of 3 metres was not a declared flood level under the *Water Act 1989*. It considered the recommended FFL ad hoc and out of scope of the Amendment. The Proponent preferred a FFL of 2.4 metres and considered the proposed floor heights a matter for wider strategic assessment and application through a Planning Scheme amendment process particularly when no flood related overlays applied to the site. Mr McGurn expressed a similar view.

### **Communal areas**

DELWP and Council identified various issues with the proposed communal areas, including its location, orientation and access to sunlight. Both considered that the changes to the communal

areas depicted in the amended without prejudice plans represented improvements, but that further consideration and refinement was required.

Council submitted that the amended plans had achieved the outdoor communal space area standard, but still posed issues with satisfying the wind comfort criteria for sitting. It sought further conditions *“to confirm that this could be achieved”*.

In its initial review, the OVGA referred to the Clause 58.05-2: Building Entry and circulation objective *“To ensure internal communal areas provide adequate access to daylight and natural ventilation”* and Standard 19 which identifies that *“Buildings should ... provide common areas and corridors that ... maintain clear sightlines”*.

The OVGA’s review of the amended plans identified that while *“the orientation of community facilities on the Podium rooftop is significantly improved”*, it recommended further design consideration of:

- the Munro Street façade where it intersects with the Level 1 swimming pool zone and Level 2 yoga space and Level 3
- providing the proposed void area with more 3-dimensional quality, for example adding an internal stair that could impact the façade on Munro Street
- the void introduced over the pool being enhanced with a vertical landscaping element.

The Taskforce agreed with the findings of OVGA on the communal open space.

The Proponent submitted that the amended plans have responded to concerns about the arrangement of communal areas, the submissions and the concerns of the OVGA and the recommendations of Mr McGurn. It submitted that its changes demonstrated an ability to *“go well beyond compliance with the standards of Clause 58 relating to solar access for communal areas”*.

DELWP’s Final version of the Incorporated Plan includes conditions relating to further plan changes to achieve Clause 58 compliance.

### **Clause 58 – Residential apartments and building functionality**

DELWP’s Clause 58 assessment identified concerns with the proposal’s non-compliance with:

- Integration with the Street (Standard D5) because it had *“not appropriately responded to all the frontages at the ground level due to changes in grade between public and private realm. DDA (Disability Discrimination Act) compliance is not achieved”*
- Energy efficiency (Standard D6) *“noting the SMP (Sustainability Management Plan) has not been updated to respond to the 25-storey proposal”* and suggested the objective be met through a condition in the Incorporated Document
- Private Open Space (Standard D19) because the private open space dimensions of many apartments were not met and that *“a number of balconies as shown on the typical apartment layout plan are less than 8 square metres and do not achieve the minimum dimensions specified in Table D8”*
- Building storage (Standard D20) with the provision of adequate storage not demonstrated on the plans
- Functional Layout (Standard D25), with a concern that some bedrooms and some living areas would not achieve the minimum internal room dimensions specified in Table D12 and in some instances relied on kitchen and/or dining areas to meet the minimum dimensions.

DELWP submitted that these issues should be addressed to ensure minimum floor areas or dimensions were achieved but that this could be dealt with as conditions of the Incorporated Plan. It provided proposed conditions in its Final preferred version of the Incorporated Document.

Council was concerned that sufficient storage provision had not been made and agreed with the *concerns raised by DELWP* and that the majority “*could be resolved*” via the Incorporated Document.

The OVGA raised issues around the functionality of the internal design of the building observing ‘*corridors within the Podium retain their narrow, dogleg shape, they turn awkward corners and they meet the façade unconvincingly*’.

Mr McGurn’s evidence supported changes to the proposal to respond to the ‘*issues in contention and OVGA design report*’ and provided a series of recommendations relating to Clause 58 Standards D6, D7, D19 and D25 which were generally supported by the Proponent. The Proponent was of the view that more detailed design changes could be managed through Incorporated Plan conditions but encouraged a balanced and flexible assessment of the Standard dimensions to ensure improved design and amenity outcomes were not compromised.

#### **(v) Discussions and findings**

##### **Flood levels and Finished Floor levels**

The Committee acknowledges the policy tensions between designing to mitigate the impacts of flooding (and associated impacts on safety and property damage) and creating high-quality built form and public realm outcomes.

While it appears that the proposal can be designed so that it meets the Melbourne Water recommended FFL, this would compromise the built form and public realm outcomes sought by DDO30 and the CCZ1. While plans were not produced showing the impacts of a 3 metre AHD FFL for the commercial floor area and foyer, the impacts are likely to include increased windowsill heights and additional steps to the building main entry, further separating the public and private realm and opportunities for better articulation and interaction. Such an outcome would be unfortunate and undesirable.

The Committee understands the basis for DELWP’s position because there is no flood control in place supporting the setting of a flood level at the planning stage; there is little current strategic support for a FFL which is significantly higher than previously applied and advised; and the height is based on new modelling that has not had the benefit of testing through an Amendment process. The Committee agrees with DELWP, the Taskforce and the Proponent that a more strategic approach to setting flood levels is preferable to an ad hoc approach. While Council advised that an Amendment is being progressed to introduce the Good Design Guidelines and additional flood controls, it is still some time away from implementation. Similarly, a strategic response which accounts for future proposed precinct mitigation works is appropriate although there is no clear timeline for the funding or delivery of these works.

The Committee is also cognisant of:

- Clause 22.15-4.5 for which it is policy to:
  - Only consider the raising of internal ground floor level above street level as a last resort, except where the implementation of other measures coupled with an evidence based approach to risk management reasonably necessitates raising internal floor levels above street level.

- ...assess proposals in flood prone areas against the following criteria:
  - Design elements and materials should be resilient including water proof doors and windows, elevated power outlets and the like.
  - Land uses at ground floor level should be able to easily recover from the impacts of temporary flooding.
- ...
- Clause 71.02-3 (Integrated decision making) which provides for planning and responsible authorities to endeavour to “*balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations*”.

In this context the Committee supports the advice of the floodplain management authority. It concludes that applying a lower FFL would not provide for a net community benefit or result in sustainable development. The position of Melbourne Water was informed by more recent flood modelling. By contrast the other parties did not provide the Committee with any evidence or information to suggest that the potential impacts of flood and stormwater on the subject land could be adequately addressed by a 2.4 metre FFL for commercial floor areas or that the impact on such areas could “*easily recover from the impacts of temporary flooding*”.

The Committee agrees with Council that there are opportunities to apply a range of architectural treatments that can respond to infrequent or temporary impacts of storm and flood waters. This could include appropriately designed window forms that continue below floor level.

The Committee prefers the Melbourne Water FFL condition for ground commercial floor areas, however it encourages DELWP, the Proponent and Melbourne Water to pursue further discussions to achieve a more integrated and considered approach to the issue. To this end, the Committee recommends some additional flexibility be included in the Melbourne Water condition to enable design options to be achieved. This is considered appropriate given the potential lead times for a future flood control and Good Design Guide Amendment, precinct mitigation work design and three year commencement date condition provide the opportunity for Melbourne Water to review its flood level setting approach.

If DELWP intends to pursue its preferred Incorporated Document condition regarding floor heights for commercial areas it should do so as an amended plans condition rather than as a Melbourne Water condition. It is not reasonable to require the floodplain manager to ensure compliance to its satisfaction to a level that is less than one it has set.

The Committee further notes that Melbourne Water’s rainwater tank conditions should be merged with rainwater tank conditions required as part of the ‘Third pipe and rain tank water’ to avoid unnecessary duplication. Melbourne Water acknowledged that this was a reasonable approach during the round table.

The Committee finds:

- That Melbourne Water’s recommended Finished Floor levels be adopted in the Incorporated Document subject to some additional flexibility as set out in the Committee’s preferred version of the Incorporated Document (Appendix E).
- As identified in Chapter 4.4 additional activation treatments at ground floor will need to respond to the design challenges posed by potential flooding.

## Communal areas

The Committee acknowledges that the communal area functionality is greatly improved in the without prejudice plans and will achieve a better outcome for the end-users (residents, guests and

visitors) through improved access to direct and indirect natural daylight and natural ventilation. However, further opportunity remains for design improvements.

The Committee agrees with the OVGA, noting that further design considerations could be achieved in relation to an operable façade for natural cross ventilation and more natural daylighting.

The Committee agrees with DELWP in relation to the connectivity of the communal spaces through cross ventilation and natural daylighting is an appropriate suggestion. The OVGA's suggestion for an interconnecting stair and Council's suggestion of additional light wells would offer an increased end-user experience and provide an appropriate internal design gesture.

Issues associated with wind impacts on communal areas are discussed at Chapter 5.

The Committee finds:

- The amended plans for the communal areas provide a significantly enhanced arrangement and are generally supported subject to further design refinement to achieve better daylight and natural ventilation and with a vertical stair.
- Further design consideration and/or refinement is required:
  - to accommodate the potential for vertical connection of the communal amenities (Levels 1-3) with a stair;
  - to vertically connect the pool area with the light well and offer natural daylighting and ventilation as an internal 3D experience and design gesture.
- DELWP's Final version of the Incorporated Document is appropriate subject to the changes identified in the Committee's preferred version (Appendix E). The proposed Clause 4.6 Amended plans condition – 'Communal facilities at Level 6 and within the podium levels relocated to maximise solar access' is not required as it has been addressed by the amended plans.

### **Clause 58 – Residential apartments and building functionality**

The Committee agrees with OVGA observations concerning the awkward dog-leg circulation corridors illustrated on Levels 1-4 for residential apartments accessing their communal facilities. The amended design is inconsistent with Clause 58 provisions relating to building entry and circulation objectives for residents to access communal areas located in the podium.

The Committee has concerns with the non-compliance of several Clause 58 Standards. While it agrees with the Proponent that slavish application of minimum dimensions should not come at the cost of appropriate alternative responses which offer the same amenity outcome, the following should be complied with:

- Clause 58.05-3 Private open space Standard D19 including balconies. The Committee notes that there are no proposed conditions proposing the exclusion of air-conditioning units from balconies and considers one appropriate.
- Clause 58.07 Internal Amenity Standard D26 for bedroom and living room dimensions.
- Clause 58.05-4 Storage Objective Standard D21.

The Committee finds:

- The compliance required with Clause 58 Standards can be addressed through Incorporated Plan conditions.
- DELWP's Final version of the Incorporated Document is appropriate subject to the changes identified in the Committee's preferred version (Appendix E).

## 4.6 Access and parking

### (i) Planning Scheme provisions

- Clause 22.15-4.9 (Sustainable Transport) identifies that it is policy to:
  - Design internal connections to give priority to bicycle and pedestrian movements.
  - Provide high levels of and easy access to bicycle parking facilities, including end of trip change rooms, showers and lockers.
  - Encourage developments to provide less than the preferred maximum number of car spaces.
- Clause 37.04 (Schedule 1) to provides minimum parking provisions for bicycles, motorcycles and car share.
- Parking Overlay, Schedule 1 requires a permit to provide more than the maximum car parking space provision.
- Clause 52.34 sets out bicycle parking provision ratios for employees, customer/visitors based on retail and office floor space.

### (ii) What is proposed?

Two vehicle access points are provided to the site from Munro Street, one to a loading area and one to the basement carpark.

The number of car parking and bicycle parking spaces meet the requirements of the Parking Overlay, Clause 37.04 and Clause 52.34.

### (iii) The issues

The issues are:

- whether the location of the loading dock access is appropriate
- whether car parking access, dimensions and car stacker provision is appropriate
- whether sufficient provision for bicycle parking has been made
- whether a Green Travel Plan is required.

### (iv) Evidence and submissions

#### Access

Council, the Taskforce and DoT raised issues about the proximity of the Munro Street loading bay to the Montague Street intersection. DoT requested a condition requiring the preparation of traffic safety audit.

In response, the Proponent's amended plans shifted the loading bay access five metres further from Montague Street intersection and made internal changes to the loading dock area. These changes were informed by a peer review of the loading dock location by OneMileGrid which also supported left turn-in and left turn-out only arrangement and a loading dock management plan.

Council's submission supported this approach. It also observed that the loading bay access door be located in such a manner that avoided any part of it extending across the footpath when closing/opening.

DELWP's Day 1 version of the Incorporated Document included DoT's condition for a traffic safety audit and the consolidation of vehicle access points further away from Montague Street in addition to Council's requirement for left turn-in and left turn-out only arrangement (with centre



median) for the loading bay. Council advised on 11 May 2022 in its response to DELWP's Final round table version of the Incorporated Document that the centre median was no longer required.

DELWP's Final preferred version of the Incorporated Document included Council's requested condition alterations.

In response to DELWP's Final preferred version of the Incorporated Document, the Proponent did not support a condition requiring the provision of pedestrian sight triangles but did not identify why.

### **Car parking**

Council's submission sought:

- further details about car stacker platform dimensions and model of the car stacker system to be used
- tandem spaces to not be located behind stackers so as not to impede access to them
- at least one level of each stacker to accommodate a B99 vehicle
- DDA compliant spaces to be provided
- details of the parking access ramp to ensure appropriate clearance and accessible grades
- EV charging points provided to at least 25 percent (and preferably 50 per cent) of spaces. Council observed that many brands of stackers enabled the retrofitting of EV charging points.

The Proponent submitted that many of the details sought by Council had been included in the updated traffic engineering report (Salt3, September 2021). Mr McGurn recommended the inclusion of the following condition in the Incorporated Plan:

Increase the number of charging bays which provide EV.

The Proponent, noting Council's EV charging requirement was not based on a standard, submitted it accepted Mr McGurn's condition suggestion regarding EV charging points and would further accept suitably worded conditions addressing detailed design of car stackers, access ramp angles and provision of disabled bays. In its response to DELWP's Final without prejudice version of the Incorporated Document it proposed that only 5 parking bays be accessible to EV charging.

DELWP's Day 1 version of the Incorporated Plan included Council's requirements for EV charging points, ramp and car stacker details.

### **Bicycle parking**

DoT's submission sought the provision of a dedicated bicycle maintenance bay and proposed a condition be included in the Incorporated Document.

Council submitted:

- the location of all bicycle parking in the basement was not convenient and could be improved by moving some spaces to the ground floor in exchange for the ground floor service areas, and reducing the angle of basement ramps
- plans should distinguish between resident, visitor and staff bicycle parking racks and identify that spaces meet Australian standards along with horizontal and vertical rails
- in relation to the DoT suggestion to provide a bicycle maintenance facility, did not seek its provision but did not oppose the suggestion.

The Proponent submitted that it would accept suitably worded conditions addressing bicycle maintenance facilities. This was consistent with the evidence of Mr McGurn who also recommended the following condition be included in the Incorporated Document:

Require plans to show bicycle parking generally in accordance with Clause 37.04 for residents and staff of the residential hotel facility.

DELWP's Day 1 version of the Incorporated Document included DoT's condition for a bicycle maintenance bay and requirement that the bicycle parking meets the provisions of Clause 37.01 (Table 1).

DELWP's Final preferred version of the Incorporated Document includes DoT's condition with the amended plans condition (4.6) (but also retains it under the DoT set of conditions) and proposes a further amended plans condition to respond to Council's request to relocate some bicycle parking to the ground floor level:

Bicycle parking partly relocated to ground floor level and building services relocated to basement.

In response to DELWP's Final preferred version of the Incorporated Document the Proponent did not support a condition requiring the rearrangement of bicycle parking to include ground floor accessible spaces

### **Green Travel Plan**

DoT's submission included a requirement for a Green Travel Plan.

This was not opposed by Council or the Proponent and was accommodated in DELWP's Day 1 version of the Incorporated Document.

### **Other**

Council submitted that a footpath should be required to be provided along the Munro Street frontage and a condition included for a street lighting assessment. The Final roundtable version of the Incorporated Document included a footpath construction requirement in amended plans condition 4.6. The Proponent noted that this should be worded as 'provision of' rather than 'construction of'.

## **(v) Discussions and findings**

### **Access**

The Committee supports the amended plans proposal to move the loading dock area as it will provide for a greater level of building activation to Munro Street as well as provide a safer point of access (particularly with the proposed Day 1 version of the Incorporated Document entry/exit turn condition requirements).

As a result of the changes the Committee does not consider a further safety audit is required.

The Committee is not satisfied that there is a reasonable pedestrian safety basis for requiring the pedestrian sight triangles and recommends the proposed amended plan condition be removed. The Committee supports the inclusion of a further Facade strategy condition that requires consideration of loading area and basement access door design which would enable Council's issue of pedestrian safety associated with closing doors to be addressed as well as the opportunity to integrate the doors with the overall building design.

The Committee finds:

- That the Proponent's amended plans for the loading bay access along with DELWP's Final preferred version of the Incorporated Document appropriately manages issues related to vehicle access to the site subject to minor alterations identified in the Committee's preferred version of the Incorporated Document.
- The DoT requirement for a road safety audit should be deleted from the Incorporated Document.

### **Car parking**

One of the key changes made at an early stage of this development was to accommodate carparking in a basement level. The Committee agrees that this is positive outcome in terms of the building's presentation to the street.

Council's issues relating to car parking are ones of detail and can be addressed via conditions in the Incorporated Document.

Clause 22.15 seeks development which responds to opportunities to provide for innovation, address climate change, Environmentally Sustainable Design (ESD) provision and liveability within the Fishermans Bend Precinct. The Committee has some concern with Council's requirement for 25 to 50 per cent of parking bays to be provided with EV charging points as it lacks a clear policy foundation within Clause 22.15, Clause 37.04 or elsewhere in the Planning Scheme. While the Committee has no concern with the broader merit of such a requirement as set out by Council per se, it should be applied in a consistent manner, preferably through policy to ensure the requirements are clear and understood, rather than in an ad hoc manner.

The Committee notes the capacity for some stacker models to accommodate EV charge points which would provide a mechanism to achieve a higher rate of provision in the future as demand grows. The Committee agrees that it is appropriate to allow provision for five points, and notes that there may be capacity to accommodate more when the proposal is constructed. The Committee observes that with the increasing popularity and use of E-scooters there is also some merit in accommodating changing areas for them if this can be accommodated.

The Committee finds:

- That the Final preferred version of the Incorporated Document appropriately manages issues related to car parking detail including dimensions and access ramp angles, EV charging subject to minor changes identified in the Committee's preferred version of the Incorporated Document.

### **Bicycle parking**

The parties acknowledged that the number of parking bicycle spaces was compliant and not in question. It is refreshing to see a proposal which has sought to accommodate on site bicycle parking rather than seek to reduce the requirements. The Committee agrees that the details of provision raised in submissions (including of dimensions and standards) can in the main be addressed with conditions in the Incorporated Document.

The Committee supports the thrust of Council's endeavours to have bicycle spaces located conveniently on the ground floor. This is consistent with Clause 22.15 which supports internal connections that give priority to bicycle and pedestrian movements. The Committee considers that it is unnecessary to shift all spaces to the ground floor and acknowledges that this might not be possible without other significant design impacts. The Committee supports a condition in the Incorporated Document that seeks to accommodate some bicycle parking spaces on the ground

floor where this can be practically achieved. This requires some variation to DELWP’s final version wording.

While the DoT requirement for a bicycle maintenance facility is considered reasonable given the dwelling numbers proposed and the lack of other end of trip facilities, the detailed nature of the requirement is somewhat arbitrary and not a standard set out in the Planning Scheme. Its provision was not sought by Council. The Committee notes however that Clause 22.15 supports the provision of “*high levels of and easy access to bicycle parking facilities, including end of trip change rooms, showers and lockers*”. Whether it was intended that maintenance facilities fall within these parameters is unclear, however provision of such a facility does encourage this form of transport consistent with the wider policy objectives. The Committee notes that the Proponent is prepared to accept the condition and therefore supports its inclusion as part of the wider amended plans condition (4.6) rather than as a stand-alone condition. The condition should be further amended to ensure that sufficient and suitable electricity supply points are provided to support the charging of E-bikes as identified in the Committee’s preferred version of the Incorporated Document (Appendix E).

The Committee finds:

- That the Final preferred version of the Incorporated Document appropriately manages issues related to bicycle parking and maintenance facilities, with further changes as proposed in the Committee’s preferred version of the Incorporated Document.

### **Green Travel Plan**

With the extensive bicycle parking provided onsite, the bicycle maintenance facility, EV charging points, car share spaces and limited supply of on site carparking, it seems unnecessary to require the provision of a Green Travel Plan.

While the requirement was accepted by the Proponent, it was not sought by Council (who under the condition wording will need to assess and monitor it) the Committee is not convinced it will provide any clear benefit or assist in achieving the wider policy goals for the precinct.

The Committee finds:

- There is no clear basis for the proposal to require a Green Travel Plan as a condition of the Incorporated Document for the current proposal.

## **4.7 Non-residential floor space mix**

### **(i) Planning Scheme provisions**

Clause 22.15 includes the following objectives:

- To promote employment generating floor space in all precincts that supports growth in the knowledge, creative, design, innovation, engineering, and service sectors.
- To create thriving, lively mixed-use neighbourhoods that have distinct identity and character consistent with the preferred character for each precinct.

Clause 22.15-4.1 (Providing for employment floor area) sets out a preferred minimum plot ratio of employment generating uses of 1.6:1 for the Montague Precinct.

DDO30 seeks to provide for the future conversion of proposed non-employment areas and uses to employment uses by setting floor to floor heights for lower building levels and the adaptation of car parking areas to other uses through similar means.

**(ii) The issue**

The issue is whether the provision of service apartments satisfies the requirement for employment uses.

**(iii) Evidence and submissions**

All parties agreed that the proposal meets the preferred minimum plot ratio of employment generating uses of 1.6:1, largely through the provision of 135 serviced apartments which are not nested within the definition of ‘Dwelling’.

Council’s submission included an analysis of the retail and commercial floor space provision for the seven approved developments in the Montague Precinct. While Council’s submission did not oppose the proposal on the basis of the reliance on the serviced apartment floor area, it identified a concern that a significant portion of approved commercial floor space in the Montague Precinct was comprised of hotel rooms and serviced apartments (approximately 88 per cent of commercial floor area to be provided in those approved developments). While the current proposal marginally increased this proportion of commercial floor space mix, it had the potential to undermine the target of 80,000 jobs target for Fishermans Bend.

Council invited the Committee to make comments about the role of serviced apartments in the context of the Fishermans Bend Precinct’s employment objectives.

Mr McGurn’s evidence was that:

Serviced apartments have generally been accepted in the precinct as supporting the desire for ‘employment generating uses’ on the basis that they are not dwellings.

He considered accommodation of this nature *“typically has a short term turnover supporting travellers, relocations and other people requiring accommodation for a short to medium period of time”*. This form of accommodation included economic activity associated with servicing during turnover, maintenance and provided economic contribution to retail and hospitality venues. As the precinct develops and transitions there would likely be a shift to a full variety of retail and commercial uses in the precinct.

Mr McGurn supported the description of the serviced apartment component of the proposal as ‘Residential hotel’ as proposed by DELWP.

The Proponent did not object to the serviced apartment component (an innominate use) being characterised as a ‘Residential hotel’ on the basis that APA Group did not oppose the development given its location outside the minimum Area of Consequence of the South Melbourne-Brooklyn high pressure transmission gas pipeline. It noted that the description was largely irrelevant from an employment generation perspective and a technicality.

DELWP advised that of the current precinct approvals, the current proposal was the only one to rely solely on serviced apartments to meet the employment ratio.

The Taskforce agreed with the evidence of Mr McGurn and considered the proposal’s provision of serviced apartments met a shortage of short term accommodation in an area close to the CBD and the Melbourne Convention Centre. It considered that the issue of non-residential mix should be examined as part of a broader framework review rather than on an ad hoc basis.

#### **(iv) Discussions and findings**

The Committee agrees with the parties that the commercial floor area ratio requirements of Clause 22.15 have been met by the proposal. The provision of serviced apartments (whether or not defined as serviced apartments or residential hotel) is clearly acceptable within Clause 22.15-4.1. The proposed use is not a dwelling. Importantly the proposal also includes retail and commercial floor space at ground level which will more usefully provide for ground level activation than serviced apartments but will also support that use.

It is not appropriate that each proposal should seek to achieve a mix of different commercial uses, rather the objective is to encourage a mix of commercial and retail uses across the wider Fishermans Bend Precinct and within the core precincts. The Committee agrees with Mr McGurn that a broader range of retail and commercial uses will likely follow as development activity progresses in the Montague Precinct and more residents move to it. It is reasonable to assume in the early development of the precinct it will not be viable to provide large commercial or retail footprints until there is a population present (residents, workers and visitors) to sustain it. It is also reasonable to expect that as a gateway precinct close to the CBD and Convention Centre that there will be a demand for short term accommodation and that while a number of developments comprise hotel or serviced apartment rooms, not all of them may be developed.

The Committee considers that a holistic review of the Fishermans Bend Framework is needed to determine whether the commercial floor space provisions of Clause 22.15 are achieving the intended employment outcomes or need further nuancing. The Committee agrees with Mr McGurn's evidence position that if there is something about the proposed use that doesn't meet the intent of the control, then it is a broader question for wording of the policy and should be considered as part of any future review of the Framework, particularly as more development and activity occurs within the precinct.

While largely technical, the Committee supports the use description of 'Residential hotel' over 'serviced apartments' as proposed by DELWP and considers this more clearly describes the intended long term use of this component of the proposal.

The Committee finds:

- The provision of service apartments satisfies the requirement for employment uses and is appropriate in this location.
- The reference to serviced apartments in the purpose of the Incorporated Document should be replaced with 'Residential hotel'.

## **4.8 Affordable housing mix**

#### **(i) Planning Scheme provisions**

Clause 22.15 includes the following objective:

To encourage Affordable housing and the provision of community infrastructure, open space and housing diversity to support a diverse and inclusive community.

Clause 22.15-4.3 (Providing for Affordable Housing) identifies that development should provide at least six per cent of dwellings as affordable housing in a mix of one, two and three-bedroom dwelling formats.

**(ii) What is proposed?**

The proposal provides seven social housing apartments (mix of one and two bedroom formats) that will be gifted to a registered housing provider. This achieves the six per cent minimum provision but excludes any three-bedroom dwellings in the mix.

**(iii) The issue**

The issue is whether the Affordable housing apartment bedroom number mix is appropriate.

**(iv) Evidence and submissions**

Council's initial submission was that provision of three-bedroom dwellings was required to meet with dwelling mix sought by Clause 22.15-4.3.

DELWP submitted that the registered housing agency or provider to whom the dwellings would be transferred should determine the appropriate mix based on their understanding of housing needs in the locality. It identified that the Day 1 version of the Incorporated Document included a revised Affordable housing condition<sup>11</sup> that allowed for a mix of one, two and three-bedroom dwellings *"unless otherwise required by a registered housing agency or other housing provider"*.

The Proponent and Mr McGurn considered there was no demonstrated need or benefit to include three-bedroom dwellings in the Affordable housing mix. It considered that the Affordable housing provision was consistent with the requirement. However, it agreed that the Day 1 amended version of the Incorporated Document provided sufficient flexibility to consider the final mix.

While Council disagreed with the Proponent's view that there was no need to or benefit of including three-bedroom dwellings in the Affordable housing mix, it agreed that the Day 1 version condition was sufficiently flexible to determine the final mix.

**(v) Discussion and findings**

The Committee considers that is no compelling reason to depart from the requirements of Clause 52.15-4.3 and exclude the potential inclusion of at least one three-bedroom dwellings in the Affordable housing mix. It agrees however, that the final mix should be determined by the likely need, which, as observed by DELWP, is best determined by the registered housing provider. The Committee supports the proposed amended wording proposed by DELWP in the Day 1 version of the Incorporated Document to achieve this outcome.

The Committee finds:

- That there is no reason that a three-bedroom dwelling should be excluded from the Affordable housing mix.
- The proposed changes included in the Day 1 version of the Incorporated Document by DELWP and retained in the Final preferred version to allow for a mix of one, two and three-bedroom dwellings in the Affordable housing mix *"unless otherwise required by a registered housing agency or other housing provider"* are appropriate.

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<sup>11</sup> Condition 4.13



## 5 Incorporated Document drafting

### (i) Final version the Incorporated Document

At the conclusion of the round table DELWP circulated a 'Final round table version the Incorporated Document'<sup>12</sup> and parties were provided with an opportunity to review and make 'without prejudice' comments on it.

Council proposed only minor modifications to improve legibility including deleting the requirement for a centre median. It questioned whether DELWP was counting the serviced apartments as dwellings for calculating the required development contribution. It was of the view that if they were not a residential use and were being provided to meet the employment floor space ratio requirements they should be accounted for as generating a commercial floor area development contribution.

The Taskforce supported DELWP's Final round table version but made the following observations or suggested changes:

- identified that the amended plans condition relating to integrated seating and planters at the ground floor building edge to Normanby Road and Montague Street was only required if FFL were reduced to 2.4 metres otherwise transitional spaces were preferred
- proposed amended wording relating to the façade strategy for the podium to articulate the type of design outcomes sought.

Melbourne Water confirmed its position relating to FFL.

The Proponent's response identified minor wording and formatting improvements and:

- clarified the amended plans conditions reference to architectural plans
- proposed the removal of amended plans conditions that had effectively been addressed in the Proponent's amended plans (relating to apartment size, communal facility design) and the consolidation of others with the Façade strategy conditions
- proposed changes to the façade strategy condition consistent with Mr McGurn's evidence
- proposed changes to clarify sensitive uses in the Environmental Audit condition and build in the capacity for the responsible authority to vary the requirements for compliance with an Environmental Audit Statement
- proposed changes to the ESD condition to align it with Clause 22.15
- proposed changes to Melbourne Water's condition for a s173 Agreement to not apply to demolition, remediation and basement excavation works
- did not support conditions proposing bicycle parking being relocated to the ground level, three-bedroom dwellings being included in the Affordable housing mix or Council's propose changes to the wind assessment condition considering they went beyond the scope of DDO30.

DELWP's subsequently provided the 'Final preferred version of the Incorporated Document'<sup>13</sup> which accommodated most of the changes requested by parties. The key changes are

<sup>12</sup> Document 81

<sup>13</sup> Document 91

summarised in Table 3 along with the parties position on them and the Committee's position unless specifically discussed elsewhere in Chapter 4.

The key outstanding issues relate to:

- building height and setbacks
- ground floor levels
- elements of particular conditions.

**Table 3** Summary of key changes to Incorporated Document included in DELWP's Final preferred version

Condition	Change proposed	Party position	Committee position
4.6 Amended plans	Correct references to amended plans	Proponent proposed	Support
	Specific apartments to meet Clause 58 Standards D19 and D25	No changes requested	Support
	Consolidate public realm related conditions to Façade Strategy condition	Proponent proposed No changes requested	Support
	Clarification of ground level seating and planter provision	Requested by Proponent Taskforce support only where ground floor level reduced to 2.4 metre AHD	Support with changes (refer Chapter 4.4)
	Loading dock arrangements refined	Proponents proposed wording	Support
	Add conditions relating to ground floor tenancy access to waste store; bicycle parking partly relocated to ground floor; provision of pedestrian sight triangles; Munro Street footpath	Council proposed Proponent does not support rearrangement of bicycle parking or provision of pedestrian sight triangles	Support in part with changes (refer Chapter 4.6)
4.7 Clause 58 Assessment (New)	New condition	Proposed by Mr McGurn No changes requested	Support
4.10 Façade Strategy	Amended to include relocated amended plan conditions	Proponent proposed (with additional design treatments proposed but not included)  Further changes proposed by Taskforce relating to podium design detail	Support with changes (refer Chapter 4.4)
4.19 Public Lighting Plan	Add reference to DoT	Proposed by Council No changes requested	Support
4.26 Traffic, Parking,	Include Council requirements relating to stacker details and	Proposed by Council	Support in part (refer discussion)

Condition	Change proposed	Party position	Committee position
and Loading	access, tandem spaces, disabled bays, bicycle parking details	Proponent sought removal of service truck length dimension	below and Chapter 4.6)
4.27 (subset of Traffic conditions)	Amended to include reference to security gates	Proposed by Council No changes requested	Support
4.34 Waste Management Plan	Additional details included	Proposed by Council Minor changes identified by Proponent accepted	Support
4.38 Noise Attenuation Measures (New)	Requirements for acoustic report prior to occupation	Proposed by Council No changes requested	Support
4.40 Wind Assessment	Amended to include requirements for podium and balconies	Proposed by Council Proponent does not support	Support with changes
4.43 Development Contribution	Include development contribution rate for serviced apartments	Requested by Council Proponent had no opportunity to respond	Support in part (refer discussion in this Chapter)
4.44 Overshadowing	Amended to clarify intent	Proposed by Proponent No changes requested	Support
4.47 Environmental Audit	Amended to reflect current legislation	Proposed by Council Proponent requested changes to limit to sensitive uses not included	Support (refer discussion below)
4.48 Environmental Audit Statement	Updated to reflect current legislation document references	Proposed by DELWP to reflect changes to 4.47 Proponent requested changes to allow variation of the requirement by the responsible authority not included	Support (refer discussion below)
4.52 Environmentally Sustainable Design	Amended to improve clarify and reference to Model for Urban Stormwater Improvement Conceptualisation (MUSIC) software modelling	Proposed by DELWP and Council Proponent's suggestions to simplify condition not included	Support with changes (refer discussion below)
4.67 Melbourne Water	Remove reference to 'residential' so applies to all ground floor areas except commercial areas	Proponent suggests including serviced apartments and deleting 'ground'  Not supported by Melbourne Water	Not support (refer Chapter 4.5)

### **Vehicle dimensions**

DELWP's Final version of the Incorporated Document and earlier iterations of it included requirements for the car stackers to accommodate a B99 vehicle and the loading bay to accommodate an 8.8 metre length truck. The basis of these requirements is unclear but was not explored directly during the round table. The Committee considers that they should be clarified and confirmed in the Incorporated Document (refer yellow highlighted sections in the Committee's preferred version in Appendix E) so as to avoid unintended consequences.

### **Wind assessment**

The Committee acknowledges the comments of the Proponent that Clause 42.11 (Wind effects on the public realm) of DDO30 relates specifically to the pedestrian environment and other public spaces with comfortable wind conditions specified for set distances into the public realm from a building, not within it. While there are no specific amenity provisions within Clause 22.15, the CCZ1 or DDO30 relating to managing wind impacts within a development, those clauses do encourage design excellence and liveability outcomes. The Committee further observes that Standard D17 of Clause 58 (Wind impact objectives) seeks to ensure built form, design and layout do not generate unacceptable wind impacts within the site or on surrounding land (Committee's emphasis).

The Committee considers that it is appropriate to ensure communal spaces are comfortable and useable and that the impact of climatic conditions such as wind should be factored into their design. It supports the thrust of the requirement sought by Council for the assessment of wind impacts within the development to communal and private open space areas with changes as set out in its preferred version of the Incorporated Document.

### **Development contributions**

DELWP agreed with Council that the serviced apartments, being non-residential floor area, generate a commercial floor area development contribution. The Committee agrees with this position in broad terms although it is not in a position to comment on development contributions generally under its Terms of Reference. The Committee observes that this rate might be on the high side for serviced apartments that might not otherwise be able to generate the same level of floor area economic activity as an office or other commercial use.

### **Environmental Audit and Statement**

The Committee does not support the Proponent's suggestions to amend the Environmental Audit or Statement conditions. The Committee prefers DELWP's Final version wording of those conditions with a minor grammatical alteration.

### **Environmentally Sustainable Design**

The Committee agrees in part with the observations of the Proponent that the ESD condition should reflect the requirements of the Planning Scheme or otherwise have a clear nexus with the proposal. The Committee recommends changes to the condition to simplify it and improve readability and include amended linkages to the relevant Planning Scheme provisions.

**(ii) Committee’s preferred version of the Incorporated Document**

The Committee has identified recommended changes to DELWP’s Final preferred version of the Incorporated Document in its preferred version of the Incorporated Document based (Appendix E).

**(iii) General observations and suggestions for changes to the Incorporated Document**

The Committee makes a number of general observations and suggestions about ‘tidy up’ changes to the Final version of the Incorporated Document:

- Amended plans conditions:

The Committee is of the view that with so many amended plans conditions there would be some utility for restructuring them into a more logical order to ensure that the intent of the changes is clear. It is suggested that sub conditions be structured under headings such as – Building height and setbacks; floor levels; building façade treatments and finishes; vehicle access and footpaths; pedestrian entry and foyer; parking detail; bicycle and provision and Clause 58 standards for example.

- DoT conditions:

It is unclear to the Committee if the following DoT Incorporated Document condition is necessary:

All disused or redundant vehicle crossings along Normanby Road / Montague Street must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to the Department of Transport prior to the occupation of the buildings.

It was not apparent during the Committee’s viewing of the site that there are disused or redundant vehicle crossings along Normanby Road / Montague Street. The condition should be removed as it is superfluous and in part duplicates similar Council proposed conditions.

- General conditions:

The Committee has not reviewed every condition, particularly where they relate to matters not raised at the round table or in submissions. The Committee suggest that DELWP should undertake a final review of the Incorporated Document to ensure consistent names, terms and punctuation styles, and that any duplication or inconsistencies are removed from the final version along with any other superfluous conditions. For example - consistent or appropriate use of ‘Council’ or ‘Responsible Authority’, the appropriate use of ‘provision’ versus ‘requirement’, and styles consistent with the *Practitioner’s Guide to Victorian Planning Schemes* some of which the Committee has already corrected in its preferred version.

## 6 Summary of reasons and recommendations

### 6.1 Reasons

The key issue presented by the proposal was that of height and building setbacks. The Committee considers that the issues of detailed design can be adequately addressed through the Incorporated Document conditions as set out in this report.

#### **Height and setbacks**

The Committee is of the view that the proposed height is acceptable and consistent with the planning framework, when read in totality, for the Montague North precinct.

The subject site is located centrally within the precinct, has the site benefit of three street frontages and will sit in the context of similar scale towers and higher built form. It is not the role of each individual site to achieve 'mid to high rise development' and the Committee is satisfied that if approved at 25 storeys, the proposal will sit comfortably within the immediate context and will contribute towards achieving the preferred precinct character of DDO30.

The Committee is satisfied that the proposal complies with the built form outcomes for the precinct and will contribute towards achieving a varied and architecturally interesting skyline. The Committee is also satisfied that the shape of the tower will limit impacts on amenity to the public realm, including achieving fast moving shadows, and that wind impacts can be satisfactorily tested and managed through the requirements of Clause 4.40 of the Incorporated Document. The Committee is satisfied that an appropriate transition and relationship with the former Dunlop building is achieved.

The Committee is also satisfied that the proposed setbacks to the tower are acceptable. Whilst it accepts that the size of the site limits the ability to achieve greater setbacks, that is not the reason it has supported the setbacks. In the Committee's view, the massing shown in DELWP's 3-dimensional modelling (Document 50) demonstrates that the tower setbacks will sit well within the context of approved developments and existing development.

In addition to the observations made in relation to height, the Committee is satisfied that the setbacks achieve the built form outcomes and also notes that views to the sky will be maintained; views of the tower from pedestrians, motorists and users of the future park will not be overwhelmed; and the curvature of the tower, coupled with more generous setbacks at the street corners, minimises the perception of visual bulk from streets. Having regard to the likely development potential of the adjacent site, the Committee is satisfied that equitable development outcomes will be achieved.

In forming this view, the Committee has given regard, as required by its Terms of Reference, to the cumulative effect of the approval on the preferred character, and is satisfied that the proposed variations will not undermine or alter the ability to achieve the objectives of the Fishermans Bend Framework.

## **Building design**

The Committee considers that the ground floor level achieves a reasonable level of activation, but would be enhanced through additional design treatment including integrated seating and planters. The design treatments will need to accommodate some flexibility to respond to potential flooding and increased Finished Floor levels. The building entry area is tight and would benefit from further design consideration including potential replacement of the street access level lift with a ramp if possible without compromising foyer area functionality.

The Committee supports a podium and tower treatment and considers the height of the podium level appropriate however further design refinement is required to improve façade depth, variation and materiality and to provide for more subtle design integration with the tower element. A crowing element should be added to the building to conceal plant and to provide a more finished level of design.

## **Design detail**

The advice of Melbourne Water as the flood authority in relation to flood levels must be preferred over the temptation to lower the floor levels because of built form design considerations. This will require further design consideration to ensure that appropriate levels of activation can still be achieved while responding to flooding risk.

It is concerning that there is a different approach to flood level and design responses between Melbourne Water, DELWP and the Taskforce. This is a matter that requires further resolution to achieve appropriate built form outcomes, particularly at street level.

The communal area arrangements have been significantly improved as a result of the round table process including OVGA's inputs. Further design refinement is required including to the design of apartments to ensure compliance with Clause 58 Standards, however the Committee is confident that these changes can be readily addressed through the Incorporated Document.

## **Access and parking**

Issues relating to access and parking including bicycle parking were largely matters of detail or, rather than compliance with standards or planning scheme requirements, and can be addressed by conditions of the Incorporated Document.

## **Non-residential floor space**

The provision of serviced apartments satisfies the requirement for employment uses and is appropriate in this location.

## **Affordable housing**

That there is no reason that a three-bedroom dwelling option should be excluded from the Affordable housing mix. The Committee considers that DELWP's version of the Incorporated Document provides an appropriate arrangement for Affordable housing.

## **Proposed changes to the Incorporated Document**

The round table process provided the opportunity for DELWP to prepare a Final version of the Incorporated Document in response to issues discussed. The majority of Incorporated Document changes proposed by DELWP dealt with detailed design issues that were broadly agreed by the parties and accepted by the Proponent – the key exceptions relating to building heights, setbacks and floor levels.



Generally, the Committee has accepted the changes to the Incorporated Document proposed by DELWP with changes explained in Chapter's 4 and 5 and included in its preferred version of the Incorporated Document (Appendix E).

The Committee suggests that DELWP should undertake a final check of the document to ensure the language and use of terms is consistent with the Practitioner's Guide or if some of the conditions can be consolidated or simplified to reduce the significant number of requirements identified in the Incorporated Document.

## 6.2 Recommendation

The Committee recommends:

- 1. Approve Port Phillip Planning Scheme Amendment C195port with the changes to the Incorporated Document as set out in the Committee's preferred version contained in Appendix E.**

## Appendix A Fishermans Bend SAC Terms of Reference



### Fishermans Bend Standing Advisory Committee

An advisory committee was appointed pursuant to section 151 of the *Planning and Environment Act 1987* to advise on outstanding issues relating to site-specific planning controls to facilitate proposals to redevelop land within Fishermans Bend prior to the introduction of an Infrastructure Contributions Plan. Site specific planning controls relate to :

- land subject to permit applications called in by the Minister before the approval of Amendment GC81; and
- land subject to a proposal for use and development in Fishermans Bend that responds to local policy set out in the relevant planning scheme, meets the requirements of the controls introduced by Amendment GC81 and makes appropriate development contributions.

### Name and Membership

1. The Advisory Committee is to be known as the 'Fishermans Bend Standing Advisory Committee'.
2. The Advisory Committee is to have members with the following skills:
  - a. Statutory and Strategic Land Use Planning
  - b. Planning Law
  - c. Urban Design and Architecture
3. The Advisory Committee will include an appointed Senior Panel Member as Chair, a Deputy Chair and members.
4. The Fishermans Bend Task Force and the Development Approvals and Design unit within the Department of Environment, Land Water and Planning (DELWP) will liaise with Planning Panels Victoria (PPV) to support the Advisory Committee process.

### Purpose

5. The purpose of the Advisory Committee is to:
  - a. Advise the Minister for Planning on only unresolved issues between the Proponent and other parties relating to site-specific planning controls pursuant to clause 45.12 to achieve appropriate land use and development outcomes for land within Fishermans Bend in advance of approval of an Infrastructure Contributions Plan.
  - b. Provide a timely, transparent and consultative process for assessment of the suitability of site-specific planning controls for land within Fishermans Bend.

### Background

6. Fishermans Bend is Australia's largest urban renewal project covering approximately 480 hectares of mainly industrial land. The area includes land in the City of Melbourne and the City of Port Phillip. Fishermans Bend is identified as a priority precinct in Plan Melbourne and will play a key role in accommodating significant population and employment growth.
7. In 2012, the former Minister for Planning declared Fishermans Bend a project of State significance and approved Melbourne Planning Scheme Amendment C170 and Port Phillip Planning Scheme Amendment C102.
8. On 3 October 2016 the Minister for Planning released the *Fishermans Bend Vision – The next chapter in Melbourne's growth story, September 2016*.

9. In November 2016 the Minister introduced interim planning controls as part of Planning Scheme Amendment GC50 (updated by Amendment GC59).
10. In October 2017, the Minister released the draft *Fishermans Bend Framework*. Proposed permanent planning controls through draft Amendment GC81 were prepared to enable the realisation of the Vision and support implementation of the Framework.
11. On 19 December 2017 and 21 February 2018, the Minister called in twenty six applications for land use and development in Fishermans Bend from VCAT (pursuant to clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998*) and from himself (as the responsible authority under section 97B of the *Planning and Environment Act 1987*) (the Applications).
12. Consideration of the Applications was deferred until the permanent planning controls for Fishermans Bend were approved as it was considered that the cumulative impact of the applications raised major issues of policy.
13. Amendment GC81 was introduced into the Melbourne Planning Scheme and Port Phillip Planning Scheme under section 20(4) of the *Planning and Environment Act 1987*. It introduced permanent planning controls, and included the final *Fisherman's Bend Framework, September 2018* (the Framework) as a reference document. It included the Infrastructure Contributions Overlay, which prevents a permit from issuing until an Infrastructure Contributions Plan (ICP) is incorporated into the scheme.

*Land subject to permit applications called in by the Minister before the approval of Amendment GC81*

14. The Advisory Committee is to consider a site-specific planning control to facilitate a proposal for land use and development within Fishermans Bend, subject to the proposal:
  - a. responding to local policy;
  - b. meeting the requirements of the Design and Development Overlay, Parking Overlay and Capital City Zone other than:
    - i. the dwelling density requirement;
    - ii. the requirement to be generally in accordance with the Fishermans Bend Framework (September, 2018); and
    - iii. the permit condition requirement to enter a section 173 agreement to provide a new road or laneway; and
  - c. making appropriate development contributions.
15. In relation to the requirements to be generally in accordance with the Fishermans Bend Framework (September 2018) and to provide new roads and laneways, proponents will be encouraged but not required to meet these requirements.
16. Proponents who lodged a permit application prior to the approval of GC81, may prepare a site specific planning control to facilitate a proposal which responds to the permanent planning controls as set out in paragraphs 14 and 15.

*Land subject to new proposals*

17. The Advisory Committee is to consider a site-specific planning control to facilitate a proposal for land use and development within Fishermans Bend, subject to the proposal:
  - a. responding to local policy;
  - b. meeting the requirements of the Design and Development Overlay, the Parking Overlay and the Capital City Zone; and
  - c. making appropriate development contributions.

## Scope

18. The Advisory Committee may inform itself in anyway it sees fit.



19. In assessing the appropriateness of a site specific planning control to facilitate a proposal, it must consider:
- Relevant aspects of the *Planning and Environment Act 1987*, the Planning Policy Framework, and the Local Planning Policy.
  - The content and purposes of the planning controls introduced under Amendment GC81.
  - The compliance of the proposal with the requirements of the permanent planning controls set out in paragraphs 14-15, or 17, of these Terms of Reference, as applicable.
  - Whether any departure from the Framework compromises the objectives of the Framework
  - The cumulative effect on the preferred character of the relevant precinct or the ability to achieve the objectives of Fishermans Bend arising from any departures from the Framework or the requirements of the permanent planning controls.
  - The provision of appropriate development contributions in the form of monetary contribution, land contribution, works in kind or a combination of these and the extent to which they are consistent with, and contribute to, the objectives of the Framework.
  - All relevant submissions and evidence regarding the site-specific planning control to facilitate the proposal.
20. The Advisory Committee is directed not to consider submissions and evidence in relation to:
- The application or operation of the Infrastructure Contributions Overlay.
  - The quantum of or need for public open space, roads and laneways.

## Method

21. The Minister for Planning may refer a proposal for advice on unresolved issues associated with the site-specific planning control to facilitate the proposal in accordance with the scope outlined within these Terms of Reference.
22. The Advisory Committee may apply to the Minister for Planning to vary these Terms of Reference in any way it sees fit before submitting its report(s).
23. The Advisory Committee may meet and invite others to meet with it when there is a quorum of at least two Committee members including either the Chair or Deputy Chair.
24. The Advisory Committee may seek advice from experts, including legal counsel where it considers this is necessary.
25. Planning Panels Victoria is to provide administrative support as required.

## Notice

26. DELWP will be responsible for notifying the City of Port Phillip and City of Melbourne (as appropriate) and relevant persons including land owners and occupiers who may be affected by the proposed request for site specific planning controls.
27. The Advisory Committee is not expected to carry out any additional public notification or referral but may do so if it considers it to be appropriate.
28. Submissions will be collected by DELWP. Copies of submissions will be made available to the City of Melbourne and the City of Port Phillip (as appropriate) and other submitters upon request.
29. Petitions and pro-forma letters will be treated as a single submission and only the first name to appear on the first page of the submission will receive correspondence in relation to the Advisory Committee.
30. DELWP will provide recommended conditions to be considered as part of any site specific planning control, should the Advisory Committee determine to recommend adoption of the site specific planning control.

## Process

### Pre-referral to Advisory Committee

31. Proponents, through DELWP, will submit their finalised proposals and relevant submissions to the Office of Victoria Government Architect (OVGA) for a Design Review. The OVGA will provide a design response within 5-10 business days that will be provided to all parties to each proceeding.
32. The Proponent will respond to any issues raised through the Design Review report and provide a final application to DELWP who will distribute to the parties.
33. The relevant Proponent, Council, DELWP, Fishermans Bend Taskforce, relevant agencies and the OVGA will meet to discuss the final application and prepare a short report that provides a statement of agreement and contentions, outlining the remaining issues in dispute.

### Referral to Advisory Committee

34. The proposal, 'statement of agreement and issues in dispute' and submissions will be referred to the Advisory Committee by letter from the Minister for Planning or delegate of the Minister for Planning.
35. The Advisory Committee will convene a round table or virtual forum using video conferencing or similar technology to discuss the issues in dispute.
36. Further submissions or evidence can be provided by any party to address the issues in dispute.

## **Submissions are public documents**

37. The Advisory Committee must retain a library of all documentation provided to it until a decision has been made on its report or five years has passed from the time of its appointment.
38. Any supporting documentation must be made available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain in confidence.
39. All information may be made publicly available online where consent has been given.

## **Outcomes**

40. The Advisory Committee must produce a short written report for the Minister for Planning on each request for a site-specific planning control to facilitate a proposal or, where a round table or other forum is conducted.
41. The report is to provide a brief summary of the following:
  - a. The site-specific planning control and the proposal and submissions and evidence received.
  - b. The recommendations and rationale regarding resolution of issues in dispute through the site-specific planning control and its consistency with the Framework.
  - c. A copy of the site-specific planning control including recommended conditions to form part of the site specific planning control.
  - d. A list of persons consulted or heard.
42. The report will be publicly released at the discretion of the Minister for Planning.

## **Timing**

43. The Advisory Committee is required to commence its work within 10 business days after receipt of a referral for a proposal.
44. The Advisory Committee is required to submit its report in writing no later than 20 business days from the completion of the round table or other forum for each referred matter.

## **Fee**

45. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
46. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning, who may ask the Proponent of any matter to meet those costs.



**Richard Wynne MP**  
**Minister for Planning**

**Date:** 29 / 04 / 2020



## Appendix B Letter of referral



Hon Richard Wynne MP

Minister for Planning  
Minister for Housing

8 Nicholson Street  
East Melbourne, Victoria 3002

1

Mr Nick Wimbush  
Co-Chair, Fishermans Bend Standing Advisory Committee  
Level 5, 1 Spring Street  
MELBOURNE VIC 3000

Ref: MBR045860



Dear Mr Wimbush

**REFERRAL TO FISHERMANS BEND STANDING ADVISORY COMMITTEE  
240-246 NORMANBY ROAD, SOUTH MELBOURNE**

I write to advise you that I have decided to refer draft planning scheme Amendment C195port, which proposes to introduce a site-specific planning control at 240-246 Normanby Road, South Melbourne, to the Fishermans Bend Standing Advisory Committee for independent advice.

The Department of Environment, Land, Water and Planning (DELWP) will work with Planning Panels Victoria to notify relevant government agencies and parties of the proposed planning scheme amendment request in accordance with item 26 of the standing advisory committee terms of reference dated 29 April 2020.

I will consider the advice of the advisory committee before I make any decision on the draft planning scheme amendment.

If you would like further information, please contact Jane Homewood, Executive Director, Statutory Planning Services, DELWP, on email [jane.homewood@delwp.vic.gov.au](mailto:jane.homewood@delwp.vic.gov.au).

Yours sincerely

HON RICHARD WYNNE MP  
Minister for Planning

19/12/21



## Appendix C Submissions

No.	Submitter
1	Department of Transport
2	Melbourne Water
3	APA Group
4	City of Port Phillip
5	Fishermans Bend Taskforce, Department of Jobs, Precincts and Regions

## Appendix D Document list

No.	Date	Description	Provided by
1	21 Dec 21	Letter of Referral from Minister - 19 12 21	Minister for Planning
<b>Application Plans and Supporting Documents</b>			
2	22 Mar 22	Draft Incorporated Document (March 2022)	Mr Stark, (DELWP)
3	"	Instruction Sheet	"
4	"	Application Form (1 September 2020)	"
5	"	Cover Letter (17 September 2021)	"
6	"	Architectural Plans (17 September 2021)	"
7	"	Survey Plan (26 March 2015)	"
8	"	Urban Context report (September 2021)	"
9	"	Town Planning report (September 2021)	"
10	"	Traffic Engineering report (13 September 2021)	"
11	"	Waste Management Plan (14 September 2021)	"
12	"	Sustainability Management Plan (27 November 2020)	"
13	"	Noise Impact Assessment (23 September 2021)	"
14	"	Wind Assessment (28 September 2021)	"
<b>Response of parties and OVGA design review report</b>			
15	"	Fishermans Bend Taskforce (1st Response) – 2 10 2020	"
16	"	Fishermans Bend Taskforce (2nd Response) – 19 03 2021	"
17	"	Fishermans Bend Taskforce (3rd Response) – 21 10 2021	"
18	"	APA Group Response – 22 10 2021	"
19	"	Department of Transport Response – 30 04 2021	"
20	"	Melbourne Water (Final Response) – 15 03 2022	"
21	"	Melbourne Water (First response) – 23 03 2021	"
22	"	OVGA Design Review Report – October 2021 Rev A	"
23	"	Port Phillip City Council (1st Response) – 26 03 2021	"
24	"	Port Phillip City Council (Officer Report) – 25 03 2021	"
25	"	Planning Committee (Meeting Minutes) – 25 03 2021	"
26	"	Port Phillip City Council (2nd Response) – 17 09 2021	"
<b>Table of Issues in Agreement and Contention</b>			
27	24 Mar 22	Issues in contention table	Ms Morris, Harwood

No.	Date	Description	Provided by
			Andrews for DELWP
<b>Round table documents</b>			
28	25 Mar 22	Directions Hearing notification letter	SAC
29	4 Apr 22	Directions, Distribution list and timetable (version 1)	SAC
30	6 Apr 22	Email from Proponent to Advisory Committee - Providing dimensioned plans (Direction 1)	Mr McIlrath for Proponent
31	"	Dimensioned plans - 240 Normanby Road, South Melbourne TP – 6 4 22 (Direction 1)	"
32	"	Dimensioned plans - Floor Plans - 6 4 22 (Direction 1)	"
33	7 Apr 22	Email from DELWP to Parties - providing DELWP Day 1 draft Incorporated Document	Ms Morris, Harwood Andrews for DELWP
34	"	DELWP - Day 1 - Round table version - draft Incorporated Document C195port	"
35	8 Apr 22	Letter from DELWP to Parties – Round table Zoom invitations and OneDrive document sharing platform details (Direction 4)	Ms Morris, Harwood Andrews for DELWP
36	11 Apr 22	Timetable and Distribution list (version 2)	SAC
37	12 Apr 22	Proponent - Expert Witness Statement - Tim Biles - Urban Design	Align Law for Proponent
38	"	Proponent - Expert Witness Statement - Stuart McGurn - Planning	"
39	"	Email from DELWP to Advisory Committee – Part A submission and appendices (Direction 6)	Ms Morris, Harwood Andrews for DELWP
40	"	DELWP - Part A Submission C195port - 240-246 Normanby Road	"
41	"	Appendix 1 - Map of approved building heights – 7 03 22	"
42	"	Appendix 2 - DELWP Clause 58 Assessment of 240-246 Normanby Road	"
43	"	Appendix 3 – Day 2 - Round table version of draft Incorporated Document C195port	"
44	"	Appendix 4 - Title Search & Consolidation Plan 161780W	"
45	"	Appendix 5 - Planning Property Report - 240-246 Normanby Road, South Melbourne	"
46	13 Apr 22	Submission	Mr Roebuck for Fishermans Bend Taskforce

No.	Date	Description	Provided by
47	“	Submission	Mr Grant for Melbourne Water
48	14 Apr 22	Letter from DELWP to SAC - Correction to Part A Appendix 1, screen shots and draft planning scheme map (Specific Control Overlay)	Ms Morris, Harwood Andrews for DELWP
49	“	Appendix 1A - Map of approved building heights (Corrected version)	“
50	“	Views to C195port - 240-246 Normanby Road	“
51	“	Draft Port Phillip C195port 001 Specific Control Overlay Map 03	“
52	“	Submission (240-246 Normanby Road, South Melbourne)	Mr McIlrath for Proponent
53	“	Attachment 1 - Computer Generated perspectives C01	“
54	“	Attachment 1 - Computer Generated perspectives C02	“
55	“	Attachment 1 - Computer Generated perspectives C03	“
56	“	Attachment 1 -Computer Generated perspectives C04	“
57	“	Attachment 2 - Without prejudice plan package (220408)	“
58	“	Attachment 3 - One Mile Grid Peer Review (13.4.22)	“
59	“	Attachment 4 - Letter from author of wind statement	“
60	“	Attachment 5 - Email chain with Raddison Group (staffing levels)	“
61	“	Attachment 6 - Response to expert recommendations	“
62	“	Attachment 7 - Edits to Day 2 version of draft Incorporated Document (14.4.22)	“
63	17 Apr 22	Submission - C195port - 240-246 Normanby Road	Mr Gutteridge for City of Port Phillip
64	“	Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden & Macaulay June 2021 (Adopted July 2021)	“
65	19 Apr 22	Appendix 1A - Map of approved building heights in storeys	Ms Morris, Harwood Andrews for DELWP
66	“	Spacious PD v Melbourne CC [2015] VCAT 1895	Mr McIlrath for Proponent
67	“	Yarrabank Developments Pty Ltd v Melbourne CC [2017] VCAT 888	“
68	“	Urban Context report C164port Part 3	“

No.	Date	Description	Provided by
69	20 Apr 22	Presentation - Chris Johnson	"
70	"	Schedule of Changes on without prejudice document set	"
71	"	Proponent Site visit images (39 images)	"
72	"	OVGA Memo to AC regarding the without prejudice plans	Ms Garner for OVGA
73	21 Apr 22	City of Port Phillip comments on DELWP - Day 2 Round table version of Incorporated Document	Mr Gutteridge for City of Port Phillip
74	"	Proponent - further edits to Proponents Attachment 7 Day 2 version draft Incorporated Document (20.4.22)	Mr McIlrath for Proponent
75	"	Appendix 1AA - Map of approved building heights with storeys and expiry dates	Ms Morris, Harwood Andrews for DELWP
76	"	Further submission from Fishermans Bend Taskforce to AC – References to GC81 process (C195port)	Mr O'Neill and Mr Roebuck for Fishermans Bend Taskforce
77	"	Appendix 1 - Urban Design evidence - Leanne Hodyl	"
78	"	Appendix 2 - Expert evidence of Mark Sheppard for Norton Rose Fulbright	"
79	"	List of decisions referring to the urban design concept 'Marking the corner'	Mr McIlrath for Proponent
80	6 May 22	Email from DELWP to parties - Final round table version draft Incorporated Document with DELWPs changes contained in Doc 43 and response to Docs 73 (City of Port Phillip) and 74 (Proponent)	Ms Morris, Harwood Andrews for DELWP
81	"	DELWP - Final round table version draft Incorporated Document incorporating parties' changes	"
82	10 May 22	Fishermans Bend Taskforce - Comments on DELWP Incorp Doc - 6 May version - Tracked	Mr Roebuck for Fishermans Bend Taskforce
83	"	Providing response to DELWP Incorp Doc 6 May version	Mr Grant for Melbourne Water
84	"	Melbourne Water - Comments on DELWP Incorp Doc - 6 May version - Tracked	"
85			
86	"	City of Port Phillip comments on DELWP Incorp Doc - 6 May version - Tracked	"

No.	Date	Description	Provided by
87	13 May 22	Providing response to DELWP Incorp Doc 6 May version and schedule of plans	Mr McIlrath for Proponent
88	“	Proponent - Comments on DELWP Incorp Doc - 6 May version - Tracked	“
89	“	Proponent - Schedule of plans (Drawing Pages)	“
90	20 May 22	Email from DELWP to parties - Final preferred version of the draft Incorporated Document	Ms Morris, Harwood Andrews for DELWP
91	“	DELWP’s Final preferred version of the draft Incorporated Document	“

## Appendix E      Committee preferred version of the Incorporated Document

Tracked Added

~~Tracked Deleted~~

## **PORT PHILLIP PLANNING SCHEME**

### **INCORPORATED DOCUMENT**

**Specific controls for 240-246 Normanby Road, South Melbourne**

**May 2022**

Incorporated document pursuant to Section 6(2)(j) of the *Planning and Environment Act 1987*

Incorporated document in the Schedules to Clauses 45.12 and 72.04 of the Port Phillip Planning Scheme



## 1. INTRODUCTION

- 1.1. This document is an Incorporated Document in the schedules to Clauses 45.12 and 72.04 of the Port Phillip Planning Scheme (the Planning Scheme) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987* (Vic) (Act).
- 1.2. The Land identified in Clause 3 of this document may be used and developed in accordance with the specific control contained in Clause 4 of this document.
- 1.3. The control in Clause 4 prevails over any contrary or inconsistent provision in the Planning Scheme.
- 1.4. The Minister for Planning (the Minister) is the responsible authority for administering Clause 45.12 of the Planning Scheme with respect of this Incorporated Document except that:
  - a) The Port Phillip City Council (the Council) is the responsible authority for matters expressly required by the Incorporated Document to be endorsed, approved or done to the satisfaction of the Council;
  - b) The Port Phillip City Council is the Responsible Authority for matters under Division 2 of Part 9 of the Act except in relation to any agreement that makes provision for development contributions;
  - c) The Victorian Planning Authority is the responsible authority for matters under Division 2 of Part 9 of the Act relating to any agreement that makes provision for development contributions; and
  - d) The Council is the responsible authority for the enforcement of the Incorporated Document.

## 2. PURPOSE

- 2.1. To facilitate the demolition of existing buildings and use and development of the land identified in Clause 3 for use and development of a multi-storey building comprising accommodation (dwellings and residential hotel) and retail premises in accordance with Clause 4 of this document.

## 3. LAND DESCRIPTION

- 3.1. The control in Clause 4 applies to the land at 240-246 Normanby Road, South Melbourne being the land contained in Certificate of Title Volume 9674 Folio 241 and more particularly described as the land in Plan of Consolidation 161780W. The land is identified in Figure 1 below.



Figure 14: Map of Land subject to this Incorporated Document (240-246 Normanby Road, South Melbourne)

#### 4. CONTROL

##### Exemption from the Planning Scheme requirements

- 4.1. Subject to Clause 4.2, no planning permit is required for, and no provision in the Planning Scheme operates to prohibit, control or restrict the use or development of the land in accordance with the provisions contained in Clause 4.
- 4.2. A permit is required to subdivide the land and any such application is:
  - a) Exempt from the requirements in Clause 45.11 (Infrastructure Contributions Overlay)
  - b) Exempt from the requirements in Clause 53.01 (Public Open Space Contributions) of the Planning Scheme, if applicable.
- 4.3. Notwithstanding Clause 4.2(b), any planning permit allowing subdivision of the land must include a condition requiring payment to the Council, before a statement of compliance is issued, of a public open space contribution equal to 8% per cent of the site value of the land.

##### Compliance with the endorsed plan

- 4.4. The use and development of the land must be undertaken generally in accordance with all documents approved under Clause 4.

##### Layout and use of the development not to be altered

- 4.5. The development and layout of uses on the land as shown on the approved plans must not be altered or modified without the prior written consent of the responsible authority.

##### Amended plans

- 4.6. Before the development starts, excluding demolition, excavation, piling and site preparation works and works to remediate contaminated land, amended plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and fully dimensioned including to show natural ground level, floor levels, wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) and three copies plus an electronic copy must be provided. The plans must be generally in accordance with the architectural plans prepared by Fender Katsalidis entitled Drawing TP000, TP004, TP005, TP250, TP520, TP601 dated 17 September 2021 and TP099 to TP107, TP112, TP115,

TP124, TP125, TP200, TP201, TP506 to TP507, TP512 and TP515 dated 8 April 2022, but modified to show:

- ~~a) — The maximum building height reduced to 20 storeys.~~
- a) Greater variation in the configuration and room size of the serviced apartments.
- ~~b) — Communal facilities at Level 6 and within the podium levels relocated to maximise solar access.~~
- b) Internal circulation via open staircases introduced to add vertical activity, [connection of communal spaces](#) and a sense of space and connection with the street.
- c) Apartments 04, 05, 06, 07 on TP107 (Levels 7 to 11) to comply with Standard D19 in Clause 58 [of the Planning Scheme](#).
- d) Apartments 04, 05, 06, 07 on TP112 (Levels 12 to 14) to comply with Standard D19 in Clause 58 [of the Planning Scheme](#).
- e) Apartments 04, 05, 06, on TP115 (Levels 15 to 23) to comply with Standard D19 in Clause 58 [of the Planning Scheme](#).
- f) Apartment 03 on TP115 (Levels 15 to 23) to comply with Standard D25 in Clause 58 [of the Planning Scheme](#).
- ~~g) — Consolidation of vehicle access and services by relocation of the loading bay further to the south-west.~~
- g) Integrated seating and planters at the ground floor building edge [or other appropriate design treatments to support activation and façade depth and articulation](#) to Normanby Road and Montague Street.
- h) The DDA lift in the building lobby removed and replaced with an accessible ramp, if practicable.
- i) Adoption of a crowning element to the tower form to screen the roof plant of the building.
- j) Compliance with the minimum bicycle parking requirements of Table 2 of Clause 37.01 and 52.34 of the ~~Port Phillip~~ Planning Scheme.
- ~~k) — The proposed canopy treatment rationalised to accord with the resolution of the podium form.~~
- k) Minimum finished floor levels to comply with Melbourne Water ~~requirements~~ [conditions \(numbers 4.x and 4.y\)](#).
- l) At least ~~5 25 % (and preferably 50 %) of all~~ car spaces to have access to an electric vehicle charging point. [Car stacker models installed must be capable of enabling at least 25 per cent of car spaces to be accessible to a charging point in the future.](#)
- m) Loading dock access to Munro Street designed to be left-in [and](#) left-out with suitable signage.
- n) Make and model and dimensions of car stacker ~~to confirm stackers can accommodate B99 vehicle.~~
- o) Length of ramp grades and ramp angles dimensioned including transition sections.
- p) A minimum of one storage facility for each dwelling and ground floor tenancy in accordance with Clause 58 [of the Planning Scheme](#).
- ~~q) — Natural light to Level 1, 2, 3, 5 and 5 communal (and serviced apartments) facilities increased.~~
- ~~r) — The podium and tower refined to ensure a consistent architectural theme.~~
- ~~s) — Podium canopies designed to achieve:~~
  - ~~i) — A minimum underside clearance of 2.7 m above the footpath;~~

- ~~ii) A minimum setback of 700 mm from the Montague Street and Normanby Road kerb line;~~
- ~~iii) A setback from the canopy of any existing tree.~~
- q) The podium internally rearranged to achieve the following:
  - i) Inclusion of operable windows, occupiable spaces or balconies at the perimeter.
  - ii) Resolution of the roof of the podium to address over-scaled and under-detailed terraces for apartments on this level.
- r) Further design consideration and/or refinement to vertically connect the pool area with the light well to offer natural daylighting and ventilation.
- s) A dedicated bike maintenance bay (minimum 2.5 metres x 1.5 metres) clearly marked and signed adjacent to the bike parking area and including:
  - i) All-In-One bike service rack with tools;
  - ii) Air pump suitable for bicycle tyres;
  - iii) Water tap, wall mounted and positioned over a grated drain;
  - iv) General purpose power outlets including outlets suitable for e-bike charging;
  - v) Suitable lighting, with timeclocks or sensors set to a minimum of 10 minutes.
- ~~t) Any changes, technical information and plan notations (or otherwise) required as a consequence of any provision in Clause 4 of this Incorporated Document.~~
- t) Internal access to the waste store/back of house areas for all ground floor tenancies;
- u) Relocation of a portion of Bicycle parking ~~partly~~ to ground floor level through the relocation of some and building services relocated to the basement where practical.
- v) ~~Vehicle crossing exits to incorporate pedestrian sight triangles in accordance with Clause 52.06 of the Planning Scheme.~~
- w) ~~Construction~~ Provision of a footpath along the Munro Street frontage.
- x) Any changes, technical information and plan notations (or otherwise) required as a consequence of any provision in Clause 4 of this Incorporated Document.

## Clause 58 Assessment

- 4.7. Concurrently with the submission of amended plans for approval under this Incorporated Document, an assessment of the proposal detailing to the satisfaction of the responsible authority how the dwellings accord with the objectives and standards of Clause 58 in the Planning Scheme must be submitted to and approved by the responsible authority.

## Aboriginal Cultural Heritage

- 4.8. Before the development starts, including demolition, excavation, piling, site preparation works and works to remediate contaminated land, one of the following must be provided to the Responsible Authority:
- a) A report prepared by a suitably qualified professional confirming to the satisfaction of the Responsible Authority that a Cultural Heritage Management Plan (CHMP) pursuant to the *Aboriginal Heritage Act 2006* is not required; or
  - b) A certified Preliminary Aboriginal Heritage Test (PAHT) under sections 49B and 49C of the *Aboriginal Heritage Act 2006* in respect of the development of the Land; or
  - c) A letter from Aboriginal Victoria confirming a CHMP has been approved for the Land.
- 4.9. All buildings and works on the Land must be carried out or constructed in accordance with the requirements of any approved CHMP or otherwise in accordance with the requirements of the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2018*.

## Façade Strategy and Materials and Finishes

- 4.10. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a Façade Strategy must be submitted to and approved by the by the Responsible Authority, in consultation with the Council. The Façade

Strategy must be generally in accordance with the Urban Context Report, prepared by Fender Katsalidis Architects, dated September 2021 and must include:

- a) A podium design demonstrating a commitment to the language, design and material quality of an 'industrial building', including real brickwork, detail, depth through the provision of punctuated openings for windows and balconies, grain and texture through a juxtaposition of vertical and horizontal expression and a limitation of metal elements to balcony and window reveals.
- b) The architectural expression of the tower and podium (including canopy) refined.
- c) Refinement of the architectural presentation of the ground floor to Munro Street to enhance its amenity, material quality and provide a better relationship to the balance of the architectural composition.
- d) [The proposed canopy treatment rationalised to accord with the resolution of the podium form.](#)
- e) [Podium canopies designed to achieve:](#)
  - i) [A minimum underside clearance of 2.7 metres above the footpath;](#)
  - ii) [A minimum setback of 700 millimetres from the Montague Street and Normanby Road kerb line;](#)
  - iii) [A setback from the canopy of any existing tree.](#)
- f) Expression of the building corridors to Munro Street within the façade design and architectural composition of the tower element.
- g) A concise description by the architect of the building design concept and how the façade works to achieve this.
- h) A schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. This can be demonstrated in coloured elevations and/or renders from key viewpoints, to show the materials and finishes linking them to a physical sample board with clear coding.
- i) Elevation details generally at a scale of 1:50, or other suitable scale agreed to by the Responsible Authority, illustrating typical building details, entries and doors, utilities, and any special features which are important to the building's presentation.
- j) Cross sections or other method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and/or material.
- k) Information about how the façade will be accessed, maintained and cleaned.
- l) Example prototypes and/or precedents that demonstrate the intended design outcome as indicated on plans and perspective images, to produce a high-quality built form outcome in accordance with the design concept.
- m) Details of any façade illumination, in accordance with the lighting plan required by the corresponding condition below.
- n) [Details of the loading bay and basement carparking area access doors.](#)

## Reflectivity

- 4.11. Except with the consent of the Responsible Authority, all external facade materials and finishes must be of a type that does not reflect more than 20% [per cent](#) of visible light when measured at an angle of incidence normal to the surface of the facade.

## Affordable Housing

- 4.12. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, the owner must enter into an agreement with the Responsible Authority, with the Minister a party to the agreement, under section 173

of the Planning and Environment Act 1987, for the delivery of affordable housing (as defined in the Act).

- 4.13. The agreement must be registered on title to the Land and the owner must be responsible for the expense of preparation and registration of the agreement including the Responsible Authority's and Minister's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and ending of the agreement (where applicable).
- 4.14. The agreement must be in a form to the satisfaction of the Responsible Authority and the Minister and must include covenants that run with title to the land to:
- a) Provide for the delivery of at least ~~6%~~ **per cent** of the total number of apartments for affordable housing as defined by Section 3AA of the *Planning and Environment Act 1987* before the development is occupied. This may be provided by utilising one or more of the following mechanisms for the delivery of affordable housing:
    - i) Transferring dwellings within the development to a registered housing agency or other housing provider or trust entity approved by the Responsible Authority at a minimum ~~35%~~ **per cent** discount to market value; or
    - ii) Leasing dwellings within the development as affordable housing under the management of a registered housing agency or housing provider or trust approved by the Responsible Authority at a minimum ~~35%~~ **per cent** discount from market rent for a period of not less than 30 years for the building approved under this control. The overall value of the leased dwellings must be equivalent or higher to Clause 4.14(a); or
    - iii) any other mechanism providing a contribution of equivalent or higher value to Clause 4.14(a)(i) to the satisfaction of the Responsible Authority.
  - b) The affordable housing delivered under Clause 4.14(a) must:
    - i) be delivered within the development approved by this Incorporated Document;
    - ii) take the form of one or two or three bedroom dwellings generally representative of the approved dwelling mix, unless otherwise required by a registered housing agency or other housing provider;
    - iii) be functionally and physically indistinguishable from conventional dwellings within the development;
    - iv) include access to all common facilities within the building at no extra fee for occupants of affordable housing dwellings; and
    - v) allocate one or more bicycle parking space per dwelling for the life of the affordable housing;unless otherwise agreed in writing by the Responsible Authority.
  - c) Provide that if the affordable housing is delivered under Clause 4.14(a), the agreement must contain a mechanism for review of the minimum discount from market rent by reference to updated income and rental figures upon request by the Responsible Authority to ensure the housing continues to meet the definition of affordable housing in the Act and by reference to relevant Regulations, Ministerial Notices, Orders in Council and the like.
- 4.15. The agreement may provide that:
- a) In lieu of delivering all or part of the affordable housing in accordance with Clause 4.14(a), the Responsible Authority may agree to payment of an equivalent amount of money to a registered housing agency or other housing provider or trust to be expended for affordable housing in the Fishermans Bend Urban Renewal Area provided the Responsible Authority and Minister are satisfied that:
    - i) the owner has made best endeavours to secure a registered housing agency recipient or other housing provider or trust for the affordable housing and has not been successful; and
    - ii) the payment amount is equivalent to the value of the affordable housing that would otherwise have to be delivered less the value of any affordable housing provided within the development.



- 4.16. For the purpose of these provisions, 'value' means the monetary value of a dwelling offered for sale at the date of the transfer (if applicable) or otherwise at the date of the agreement as determined by an independent valuer (appointed by the President of the Australia Property Institute – Victorian Division).

### **Public Lighting Plan**

- 4.17. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a detailed lighting plan must be prepared and approved by the Council. This plan must identify all proposed lighting sources, lux levels and spillage details and address how the lighting will integrate with the existing lighting in the interfacing public spaces.
- 4.18. All public lighting must conform with AS1158.3.1-2000 Lighting for roads and public spaces Pedestrian area (Category P) lighting – Performance and design requirements, AS/NZS 428:2019.2 Control of the obtrusive effects of outdoor lighting and the Public Lighting Code December 2015 (v2).
- 4.19. The approved lighting plan must be implemented as part of the development to the satisfaction of the Council and the Department of Transport (as applicable).

### **Landscaping and Public Realm**

- 4.20. Before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, a detailed landscaping and public realm plan(s) must be submitted to and be approved by the Council. The plan(s) must include:
- a) A planting schedule of all proposed trees and other vegetation including botanical name, common names, pot sizes, sizes at maturity, and quantity of each plant and their protection and maintenance.
  - b) How the landscaping responds to water sensitive urban design principles, including how rainwater will be captured, cleaned and stored.
  - c) Details of all hard landscaping materials, finishes and treatments and urban design elements including paving, lighting, seating and balustrading.
  - d) Details of surface materials and finishes and construction of any retaining walls, pathways, kerbs and access ways.
  - e) Elevations, sections, levels and details including materials and finishes of any public realm works.
- 4.21. Prior to the commencement of all landscaping works, a Landscape Management Plan detailing the ownership, maintenance regime and management responsibilities of the open spaces associated with the development must be submitted to and be approved by the Council.
- 4.22. All landscaping shown in the approved landscape and public realm plans must be carried out and completed prior to occupation of buildings unless otherwise agreed by the Council and thereafter maintained to the satisfaction of the Council.

### **Demolition Management Plan**

- 4.23. Before demolition starts, a detailed Demolition Management Plan (DMP) must be submitted to and approved by the Council. The DMP's objectives must be to minimise the impact of works associated with the demolition on neighbouring buildings and structures and activities conducted in the area generally. The DMP must address the following matters:
- a) Staging of dismantling/demolition.
  - b) Site preparation.
  - c) Public safety, amenity and site security.

- d) Management of the construction site and land disturbance.
- e) Operating hours, noise and vibration controls.
- f) Air and dust management.
- g) Waste and materials reuse.
- h) Stormwater and sediment control.
- i) Management of public access and vehicle, bicycle and pedestrian linkages around the site during demolition.
- j) Protection of existing artworks in the public realm.
- k) Site access and traffic management (including any temporary disruptions to adjoining vehicular, bicycle and pedestrian access ways).
- l) Details of temporary buildings or works (such as landscaping works to activate and improve the site and street frontage) to be constructed should works cease and the site remain vacant for 6 months after completion of demolition.

4.24. Demolition must be carried out in accordance with the approved DMP to the satisfaction of the Council.

#### **Construction Management - Piling**

4.25. Piling must be by bored, screw, or sheet piling (or similar), unless otherwise agreed by the Council.

#### **Traffic, Parking and Loading/Unloading**

4.26. Before the development starts, excluding demolition, piling, excavation, site preparation works, and works to remediate contaminated land, an updated traffic engineering assessment including functional layout plans and other supporting information as appropriate must be submitted to and be approved by the Council. The traffic engineering assessment must be generally in accordance with the Traffic Impact Assessment Report prepared by Salt3, dated 13 September 2021 but modified to include:

- a) The make, model and dimensions (including usable platform dimensions and height clearance) of the car stackers, including at least one level of each stacker to accommodate a standard vehicle and a B99 vehicle;
- b) Updated swept path drawings for changes to the loading bay and specified make and model of car stackers;
- c) Details and specifications and dimensions of the loading bay turntable confirming accommodation of the proposed 8.8m service track;
- d) The tandem spaces in front of the car stackers deleted, or modified so that each car space is independent accessible, or allocated to a single dwelling;
- e) Assessment and allocation of disabled spaces in accordance with Australian Standard AS2890.6-2009 (disabled) and the Building Code of Australia;
- f) Details and specification of bicycle facilities including:
  - i) the location and number of resident, visitor and staff bicycle parking;
  - ii) details and dimensions of bicycle racks;
  - iii) All bicycle spaces to be installed in accordance with the Australian standards, ensuring each space has a clear 1.5m access aisle.
  - iv) Horizontal rail spaces to be 1.8m long with 1m centres.
  - v) Vertical rails to be installed in a staggered arrangement per Figure B7 – AS2890.3.

4.27. The internal design of the car park and loading docks, the positioning of boom gates or security gates, card readers, control equipment, including car park control points, and ramp



grades must be generally in accordance with Clause 52.06 of the Planning Scheme or as otherwise agreed by the Council.

- 4.28. The loading and unloading of vehicles and delivery of goods to and from the building must at all times take place within the boundaries of the site and should not obstruct access to the car park of the development to the satisfaction of the Council.
- 4.29. Traffic access and parking and loading/unloading arrangements must not be altered without the prior written consent of the Council.
- 4.30. Before the development is occupied, vehicle crossings must be constructed in accordance with the Council's Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Council. All redundant crossings must be removed and the footpath, nature strip, kerb and road reinstated as necessary at the cost of the owner/developer and to the satisfaction of the Council.
- 4.31. The area set aside for car parking and access of vehicles and other accessways must be constructed, delineated and clearly lined marked to indicate each car space, the access ways and the direction in which vehicles must proceed along the accessways in accordance with the endorsed plans. Parking areas and accessways must always be kept available for these purposes and maintained to the satisfaction of the Council.
- 4.32. Mechanical exhaust systems to the car park must be sound attenuated to prevent noise nuisance to the occupants of the building and surrounding properties to the satisfaction of the Council.
- 4.33. Bicycle parking must be provided, located and appropriately signed in accordance with the endorsed plans.

#### **Waste Management Plan**

- 4.34. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an amended Waste Management Plan (WMP) must be submitted to and approved by the Council. The WMP must be generally in accordance with the Waste Management Plan prepared by Salt3 dated 14 September 2021, but amended to include:
  - a) A Loading Dock Management Plan (~~LDMP~~) setting out management of deliveries to and from the site including:
    - i) Waste collection to be outside of peak traffic times;
    - ii) Times and protocols for deliveries, furniture delivery, laundry collection and delivery;
    - iii) Truck movements into and out of the site restricted to left-in and left-out only;
    - iv) Left-in and -Left-out signage to be displayed at the entry and exit of the loading bay;
    - v) Specification of a waste collection vehicle that can operate within the approved floor to floor height dimensions of the Loading Dock.
- 4.35. The approved WMP must be implemented to the satisfaction of the Council. Waste storage and collection must be undertaken in accordance with the WMP and conducted in such a manner so as not to affect the amenity of the surrounding area and cause any interference with the circulation and parking of vehicles on abutting streets, to the satisfaction of the Council.
- 4.36. Waste storage and collection arrangements detailed in the approved WMP must not be altered without the prior consent of the Council.

#### **Noise Attenuation**

- 4.37. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an Acoustic Report prepared by a

qualified acoustic consultant must be submitted to and approved by the responsible authority. The report must be generally in accordance with the report prepared by ADP Consulting, dated 23 September 2021, and must achieve compliance with the following noise criteria for all dwellings within the development of:

- a) 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am; and
- b) 40dB(A) for living areas, assessed as an LAeq,16h from 6am to 10pm.

Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed and be based on average external noise levels measured as part of a noise level assessment.

All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with Divisions 1 and 3 of Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Council.

### **Incorporation of Noise Attenuation Measures**

4.38. Upon completion and prior to the occupation of the development, a report by a suitably qualified acoustic consultant must be submitted to and approved by the responsible authority:

- a) Certifying that the dwellings and serviced apartments incorporate the noise attenuation measures as specified in the endorsed Acoustic Report and shown on the endorsed plans; and
- b) Verifying the dwellings and serviced apartments achieve the internal noise levels specified in the clause **[insert appropriate clause number]** in this approval; and
- c) Detailing the site testing methodology and process adopted for a) and b) above;

all to the satisfaction of the responsible authority.

### **Disability Access**

4.39. Before development is occupied, a Disability Discrimination Act Assessment/Audit, prepared by a suitably qualified consultant, must be submitted to the Council. This document must provide an assessment of the development (including public realm works or publicly accessible areas) against the applicable accessibility provisions of the *Building Code of Australia* and the applicable provisions of the *Disability (Access to Premises – Buildings) Standards 2010*.

### **Wind Assessment**

4.40. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, an amended comprehensive wind tunnel test and environmental climate assessment report must be submitted to and approved by the responsible authority, in consultation with the Council. The amended report must be generally in accordance with the report prepared by 4.14 dated 20 November 2020, but modified to address any changes required under this incorporated document and must:

- a) Include wind tests taken at various points within the surrounding public realm and podium and tower rooftop open space areas to determine the wind impacts of the development and provide recommendations for any modifications which must be made to the design of the building to improve any adverse wind conditions.
- b) Demonstrate (or provide built form recommendations) that the development will ensure all publicly accessible areas, including footpaths will not be unreasonably affected by 'unsafe wind conditions' as specified in Table 7 of Schedule 30 to Clause 43.02 (Design and Development Overlay) of the Planning Scheme.
- c) Demonstrate (or provide built form recommendations) that the development will be able to achieve 'comfortable wind conditions' as specified in Table 7 of Schedule 30 to

Clause 43.02 (Design and Development Overlay) of the Planning Scheme [including to the future Public Open Space opposite across Normanby Road and Montague Street](#).

- d) Demonstrate [that the development will generate acceptable wind impacts consistent with the achievement of the](#) wind comfort criteria outlined in ~~Schedule 30 to Clause 43.02 (Design and Development Overlay)~~ [Standard D17 of Clause 58.04-4](#) of the Planning Scheme for [the following](#) areas: ~~within the assessment distance as follows~~
- i) Sitting: Areas ~~in the public realm that are~~ designated for outdoor seating and balconies, the podium rooftop private and communal open space areas ~~and the future Public Open Space opposite across Normanby Road and Montague Street~~;
  - ii) Standing: The building / tenancy entries ~~and all adjoining public footpaths and nature strips on the site frontages~~;
  - iii) ~~Walking: The remaining publicly accessible areas.~~
- 4.41. Any further modifications required to the development in order to ensure acceptable wind conditions to the surrounding streets and public areas must be carefully developed as an integrated high-quality solution with the architectural design and must not rely on street trees or wind amelioration screens within the public realm, to the satisfaction of the responsible authority.
- 4.42. The recommendations and requirements of the approved Wind Impact Assessment Report must be implemented to the satisfaction of the responsible authority before the development is occupied.

### Development Contribution

- 4.43. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, the owner of the Land must enter into agreement(s) pursuant to section 173 of the *Planning and Environment Act 1987* with the responsible authority and make application to the Registrar of Titles to have the agreement(s) registered on the title to the Land under section 181 of the Act to the satisfaction of the responsible authority. The agreement(s) must:
- a) Require the developer to pay a development contribution of:
    - \$17,538.55 per dwelling;
    - \$198.55 per ~~sqm~~ square metre of gross off/commercial floor area; and
    - \$165.46 per square metre of gross retail floor area.
  - b) Require that development contributions are to be indexed annually from 1 July 2020 using the *Price Index of Output of the Construction Industries (Victoria)* issued by the Australian Bureau of Statistics.
  - c) Require registration of the agreement on the title(s) to the affected Land as applicable.
  - d) Include a schedule of the types of infrastructure to be delivered by the Victorian Planning Authority or their successor.
  - e) Confirm that contributions will be payable to the Victorian Planning Authority or their successor.
  - f) Confirm that the contributions will be used by Victorian Planning Authority or their successor, to deliver the schedule of types of infrastructure.
  - g) Require payment of the development contribution/s before the earliest of the following:
    - The issue of an occupancy permit for the development; or
    - The issue of a statement of compliance in relation to the subdivision of the Land in accordance with the development allowed under this Incorporated Document.

- h) Confirm the procedure for refunding monies paid if an approved Development Contribution Plan or Infrastructure Contributions Plan for the area is less than the amount stipulated in the agreement.
- i) The agreement must make provision for its removal from the Land following completion of the obligations contained in the agreement.

The owner of the Land must pay all reasonable legal cost and expenses of this agreement including preparation, execution and registration on title.

### **Overshadowing**

- 4.44. The building must not result in any overshadowing of parks protected by mandatory overshadowing controls in a manner contrary to Clause 43.02 [Design Development Overlay - Schedule 30](#) (~~Design and Development Overlay~~) of the Planning Scheme.

### **Drainage/Engineering**

- 4.45. Before the development starts excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, or as otherwise agreed by the Council, a stormwater drainage system design incorporating integrated water management design principles, must be submitted to and approved by the Council. The stormwater drainage system design must:
  - a) Include a detailed response to Clause 22.12 (Stormwater Management (Water Sensitive Urban Design)) of the Planning Scheme.
  - b) Incorporate a legal point of discharge to the satisfaction of the Council.
- 4.46. The stormwater drainage system must be constructed in accordance with the approved plans, connected to the existing stormwater drainage system and completed prior to the occupation of the building to the satisfaction of the Council.

### **Environmental Audit**

- 4.47. Before the development starts, ~~(excluding demolition, excavation, piling and site preparation works, and works to remediate contaminated land)~~, or a sensitive use commences on the Land, the responsible authority must be provided with either:
  - a) A Preliminary Risk Screen Assessment (PRSA) Statement in accordance with the *Environment Protection Act 2017* stating that an environmental audit is not required for the proposed use of the Land; or
  - b) An Environmental Audit Statement (EAS) under Part 8.3 of the *Environment Protection Act 2017* stating that the Land is suitable for the proposed use of the Land.

### **Compliance with Environmental Audit Statement**

- 4.48. Where an EAS is issued for the Land, the buildings and works and the use(s) of the Land that are the subject of this Incorporated Document must comply with all directions and conditions contained within the statement.
- 4.49. Where an EAS is issued for the Land, before the commencement of the use, and before the issue of a Statement of Compliance under the *Subdivision Act 1988*, and before the issue of an occupancy permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 2017* must be submitted to the responsible authority to verify that the directions and conditions contained within the statement have been satisfied.
- 4.50. Where an EAS is issued for the Land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) of the Land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and*

*Environment Act 1987*, which must be executed before the commencement of the permitted use and before the certification of the Plan of Subdivision under the *Subdivision Act 1988*. The agreement must be registered on title to the Land and the owner must be responsible for the expense of preparation and registration of the agreement including the responsible authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and ending of the agreement (where applicable).

### Remediation Works Plan

- 4.51. Before any remediation works are undertaken in association with the environmental audit, a 'remediation works plan' must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plans are permitted to be carried out before the issue of a Certificate or Statement of Environmental Audit.

### Environmentally Sustainable Design

- 4.52. Before the development starts, piling (excluding demolition, excavation, piling, site preparation works, retention works, and works to remediate contaminated land), a revised Environmentally Sustainable Design (ESD) Statement must be prepared by an accredited professional and must be submitted to and be approved by the Council. The ESD Statement must be generally in accordance with Sustainability Management Plan & Water Sensitive Urban Design Response prepared by NJM Design, dated 25 November 2020, but modified to show:
- a) Details of how the proposal will achieve the 5 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.
  - b) Treatments to ensure a minimum 60-point target score is achieved during construction if unforeseen changes arise ~~Credits targeted in the SMP updated to include a 10% buffer above the minimum 60-point requirement to ensure that at least 60 points are achieved during construction if unforeseen changes arise.~~
  - c) Details how the proposal will achieve the Energy and Urban heat island effect criteria of Clause 22.15-4.5 of the Planning Scheme.
  - d) Details of the Integrated Water Management system including how the rainwater tank and third pipe requirements of Schedule 1 to Clause 37.04 Capital City Zone and the application requirements of Clause 22.12-4 of the Planning Scheme are achieved; ~~demonstrated achievement of the mandatory rainwater tank and third pipe requirements of to the CCZ1 Clause 4.3 and the stormwater quality requirements of Clause 22.12 of the Port Phillip Planning Scheme;~~
  - e) MUSIC modelling in accordance with Clause 22.12 of the ~~Port Phillip~~ Planning Scheme.
- 4.53. The performance outcomes specified in the approved ESD Statement must be implemented prior to occupancy at no cost to the Responsible Authority or the Council and be to the satisfaction of the Responsible Authority.
- 4.54. Any significant change during detailed design, which affects the approach of the endorsed ESD Statement, must be assessed by an accredited professional and a revised statement must be endorsed by the Council prior to the commencement of construction.

### Green Star Rating

- 4.55. Where alternative Environmentally Sustainable Design measures are proposed to those specified in this clause, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes.
- 4.56. Prior to the commencement of buildings and works, evidence must be submitted to the satisfaction of the Council, that demonstrates the project has been registered to seek a

minimum 5 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.

- 4.57. Within 12 months of occupation of the building, certification must be submitted to the satisfaction of the Council, that demonstrates that the building has achieved a minimum 5 Star Green Star Design and As-Built rating (or equivalent).

### Water Sensitive Urban Design

- 4.58. Prior to the endorsement of plans under this Incorporated Document, a Water Sensitive Urban Design (Stormwater Management) Report that outlines proposed stormwater treatment measures must be submitted to, be to the satisfaction of and approved by the Council.
- a) The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended. This can be demonstrated by providing;
    - i) A STORM report with a score of 100% ~~per cent~~ or greater (or MUSIC modelling for large scale developments).
    - ii) A plan showing the catchment area in ~~square metres~~ ~~m~~<sup>2</sup>.
    - iii) The stormwater device included on the relevant floor plans (devices are to include raingarden(s), rainwater tank(s), permeable paving etc. or a combination of one or more).
  - b) The report must demonstrate how the stormwater device will be maintained on an on-going basis. This can be demonstrated by providing a maintenance manual including the following information:
    - i) A full list of maintenance tasks.
    - ii) The required frequency of each maintenance task (monthly, annually etc.).
    - iii) Person responsible for each maintenance task.
- 4.59. Prior to the occupation of the building, a report (or reports) from the author of the approved Sustainability Management Plan and Water Sensitive Urban Design Response, or similarly qualified person or company, must be submitted to the satisfaction of the Council and must confirm all measures specified in the approved SMP and WSUD reports have been implemented.

### Third pipe and rain tank water

- 4.60. A third pipe must be installed for recycled water and rainwater to supply all non-potable uses within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.
- 4.61. An agreed building connection point must be provided from the third pipe, designed in conjunction with the relevant water supply authority, to ensure readiness to connect to a future precinct-scale recycled water supply.
- 4.62. A rainwater tank must be provided that:
- a) has a minimum effective volume of 0.5 cubic metres for every 10 square metres of catchment area to capture rainwater from 100% ~~per cent~~ of suitable roof rainwater harvesting areas (including podiums); and
  - b) is fitted with a first flush device, meter, tank discharge control and water treatment with associated power and telecommunications equipment approved by the relevant water authority;
  - c) is designed to discharge in response to predicted rainfall events that could cause flooding to the satisfaction of the relevant water authority;



- 4.63. Rainwater captured from roof harvesting areas must be re-used for toilet flushing and irrigation, or controlled release.

### 3D Model

- 4.64. Before the development starts, excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land (or as otherwise agreed with the Responsible Authority), a 3D digital model of the development and its immediate surrounds must be submitted to and approved by the Responsible Authority. The 3D model must be in accordance with the *Technical Advisory Note for 3D Digital Model Submissions* prepared by the Department of Environment, Land, Water and Planning. The development must be in accordance with the endorsed 3D model, to the satisfaction of the Responsible Authority.

### Building Appurtenances

- 4.65. All building plant and equipment on the roofs and public thoroughfares must be concealed to the satisfaction of the Council.

### Advertising Signs

- 4.66. No advertising signs either external or internal to the building/s shall be erected, painted or displayed without the prior written approval of the Council.

### Melbourne Water

- 4.67. [Unless an alternative design response is agreed by Melbourne Water](#), ~~t~~The Finished Floor Levels (FFLs) of residential [and commercial](#) ground floor areas (including all lift and stair lobbies) must be set no lower than 3.0 metres ~~(m)~~ to Australian Height Datum (AHD) with the exception of transitional areas containing landings, steps or ramps to the satisfaction of Melbourne Water.
- ~~4.68. The FFLs of commercial ground floor areas must be set no lower than 2.4 metres to AHD with the exception of transitional areas containing landings, steps or ramps to the satisfaction of Melbourne Water. This does not include associated lift and stair lobbies, which must be set no lower than 3.0 metres to AHD.~~
- 4.68. The service area, including the loading bay waste areas, are to be set no lower 2.2 metres to AHD.
- 4.69. Any/all basement entry and exit points, including lift entries, stairwells, windows, openings and vents, that could allow entry of floodwaters to the basement, must be set no lower than 3.0 metres to AHD.
- 4.70. Any/all basement ramps must incorporate a flood proof apex set no lower than 3.0 metres to AHD to prevent floodwaters entering the basement levels during a flood event.
- 4.71. All areas with electrical installations (e.g. electrical substations, switch rooms etc.) are recommended to be set no lower 3.0 metres to AHD, or at a height specified by the relevant authority.
- 4.72. Prior to the commencement of works, a Flood Risk Management Plan (FRMP) prepared by a suitably qualified professional must be provided to the satisfaction and approval of Melbourne Water and the Responsible Authority. The FRMP is to detail on-going effective management of flood risks. The approved FRMP must include:
- a) Details of any flood mitigation measures proposed and how they are to be regularly maintained and managed, including during a flood event.
  - b) Identification of who the FRMP is intended for and who must have a copy.

- c) Instructions on how this plan is provided to residents / occupants including when updated following a review.
  - d) Identification of who is responsible for the maintenance, dissemination and execution of the plan before, during and after the flood event.
  - e) A plan showing where vehicular or pedestrian access is and is not available during a flood event. This includes vehicular and pedestrian access from the building to the surrounding streets.
  - f) Further detail of duration, time to peak during a 1% AEP flood event and other relevant events and how this informs risk management response (including but not limited to evacuation and shelter-in-place procedures). This information is to be provided in an easy to comprehend format such as a table or similar.
- 4.73. The FRMP must be implemented to the satisfaction of the Responsible Authority and Melbourne Water.
- 4.74. Prior to the commencement of work, the landowner/s must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Responsible Authority and Melbourne Water Corporation. All costs associated with the creation of an agreement must be borne by the permit holder. The agreement must be registered on title and run with the land, and must provide, to the satisfaction of the Responsible Authority and Melbourne Water, for:
- a) The FRMP which has been approved by the Responsible Authority and Melbourne Water Corporation under this permit to be implemented by the Owners Corporation (or equivalent).
  - b) The Owners Corporation (or equivalent) to provide a copy of the FRMP (or any updated version) to all owners/occupiers of the site.
  - c) Prospective and future owners of the property to be informed that the Land, and surrounding area, is subject to inundation.
  - d) Identify the use of any flood mitigation measures.
  - e) Identify the on-going maintenance requirements for the life of any flood mitigation measures. The maintenance plan must be treated as any other essential service with mandatory annual reporting and maintenance servicing.
- 4.75. ~~Rainwater tanks must be shown with 10m<sup>3</sup> of storage per 200m<sup>2</sup> of roof area for the buildings.~~
- 4.76. ~~Rainwater tanks must be shown to be designed to discharge in response to predicted rainfall events that could cause flooding.~~

## **Department of Transport**

### Amended Plans

- 4.77. ~~Unless otherwise agreed in with the Department of Transport, before the development starts, excluding demolition, excavation, piling, site preparation works and works to remediate contaminated land, amended plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted but modified to show:~~
- ~~a) a dedicated bike maintenance bay (minimum 2.5 metres x 1.5 metres) clearly marked and signed adjacent to the bike parking area and include:~~
    - ~~i) All-In-One bike service rack with tools;~~
    - ~~ii) Air pump suitable for bicycle tyres;~~
    - ~~iii) Water tap, wall mounted and positioned over a grated drain;~~
    - ~~iv) General purpose power outlet;~~



~~v) Suitable lighting, with timeclocks or sensors set to a minimum of 10 minutes;~~

~~all to the satisfaction of the Department of Transport.~~

#### Green Travel Plan

~~4.79 Prior to the occupation of the development, a Green Travel Plan must be submitted to and approved by the Responsible Authority in consultation with the Responsible Authority Council and the Department of Transport. The Green Travel Plan must include (but is not limited to) the following:~~

~~a) objectives for the Plan;~~

~~b) the objectives must be linked to measurable targets, actions and performance indicators;~~

~~c) a description of the existing active private and public transport context;~~

~~d) initiatives that would encourage residents, employees and visitors to the development to utilise active private and public transport and other measures that would assist in reducing the amount of private vehicle traffic generated by the site including end of trip facilities;~~

~~e) timescale and costs for each action;~~

~~f) the funding and management responsibilities, including identifying a person(s) responsible for the implementation of actions; and~~

~~g) a monitoring and review plan requiring annual review for at least five years.~~

~~4.80 The Green Travel Plan when approved must be implemented and complied with to the satisfaction of the and at no cost to the Responsible Authority.~~

#### Roads

~~4.75 Prior to the endorsement of plans under this Incorporated Document, a road safety audit must be submitted to and approved by the Department of Transport and the Responsible Authority. The road safety audit must be undertaken by a suitably qualified road safety auditor and must identify and address sightline issues associated with loading vehicles and vehicles exiting from the carpark onto Munro Street.~~

~~4.76 All disused or redundant vehicle crossings along Normanby Road / Montague Street must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to the Department of Transport prior to the occupation of the buildings.~~

#### **Expiry**

**4.75** The control in this document expires in respect of land identified in Clause 3 of this document if any of the following circumstances apply:

a) The development is not started within three (3) years from the gazettal date of Amendment C195port; or

b) The development is not completed within five (5) years from the gazettal date of Amendment C195port; or

c) The use is not started within one (1) year of completion of the development.

**END OF DOCUMENT**