

Planning and Environment Act 1987

Fishermans Bend Planning Review Panel Reports



19 July 2018

Planning and Environment Act 1987

Fishermans Bend Planning Review Panel

Report No. 1 – Volume 1

Overview

19 July 2018

Planning and Environment Act 1987

Report pursuant to section 151 of the Act

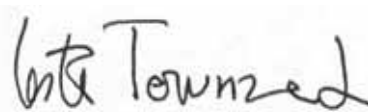
Fishermans Bend Planning Review Panel

Overview

19 July 2018



Kathy Mitchell, Chair



Lester Townsend, Deputy Chair



Sarah Carlisle, Member



Rodger Eade, Member



Peter Edwards, Member

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List of Abbreviations

AHD	Australian Height Datum
CBD	Central Business District
CCZ	Capital City Zone
D	Document number
DCP	Development Contribution Plan
DCPO	Development Contributions Plan Overlay
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
draft Amendment	draft Planning Scheme Amendment GC81
draft Framework	draft Fishermans Bend Framework
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority
ESD	Environmentally sustainable design
FAR	Floor Area Ratio
FAU	Floor Area Uplift
FAU note	Document titled <i>How to calculate floor area uplifts and public benefits in Fishermans Bend</i> , exhibited with the draft Amendment
GFA	Gross Floor Area
GIS	Geographic information system
ICO	Incorporated Contributions Overlay
ICP	Infrastructure Contribution Plan
ICPO	Infrastructure Contribution Plan Overlay
LACA	<i>Land Acquisition and Compensation Act 1986</i> (Victoria)
LPP	Local Planning Policy
LPPF	Local Planning Policy Framework
MAC	Ministerial Advisory Committee
Minister	Minister for Planning
MPS	Melbourne Planning Scheme
MSS	Municipal Strategic Statement
MWRRG	Metropolitan Waste and Resources Recovery Group
PAO	Public Acquisition Overlay
<i>Plan Melbourne</i>	<i>Plan Melbourne 2017–2050</i>
PPN	Planning Practice Note

PPPS	Port Phillip Planning Scheme
PPV	Planning Panels Victoria
Precinct	The defined precincts in Fishermans Bend
Precinct Plan	Work to be undertaken to settle on a structure plan for each Precinct
s	Section (of an Act)
S	Submission number
SIN	Supplementary Information Note
SPPF	State Planning Policy Framework
TEU	Twenty-foot Equivalent Units
TfV	Transport for Victoria
the Act	<i>Planning and Environment Act 1987</i> (Victoria)
the Review Panel	Fishermans Bend Planning Review Panel
the Taskforce	Fishermans Bend Taskforce
VCAT	Victorian Civil and Administrative Tribunal
Vision	Fishermans Bend Vision (September 2016)
VPA	Victorian Planning Authority
VPP	Victoria Planning Provisions

Executive summary

(i) Review Panel summary

Background

The renewal of Fishermans Bend is a bold and ambitious project for Victoria. Its delivery will require coordinated action and proactive partnership between State Government, Councils, private developers and the community. The proposed planning controls are one component of delivering this project.

Fishermans Bend has had a short but detailed planning history. The Lorimer, Montague, Sandridge and Wirraway Precincts were rezoned to Capital City Zone by the (former) Minister in July 2012, at around the same time that he declared Fishermans Bend a 'Project of State Significance' under Part 9A of the *Planning and Environment Act 1987*. It is widely recognised that insufficient background strategic work had been undertaken prior to the rezoning. This has resulted in some problems, and the Review Panel accepts that there is a need to put Fishermans Bend 'back on track' by putting in place a clear strategic framework, matched with appropriate controls, to support the transition of Fishermans Bend from an industrial precinct to a high density mixed use precinct.

The Fishermans Bend Vision was prepared by the Fishermans Bend Taskforce and released in September 2016. The Vision sets out that Fishermans Bend will evolve from a predominately industrial area to a high quality, high density, walkable, mixed use urban renewal area that provides a world class location for technology, education and research jobs. The draft Framework was released for consultation in 2017, followed by a draft Amendment to facilitate and implement the Vision and long-term strategic plan for the development of Fishermans Bend to 2050.

The Minister for Planning appointed the Fishermans Bend Planning Review Panel (the Review Panel) to consider submissions made to the publicly exhibited draft Framework and draft Amendment, hold a public Hearing and provide advice on the planning controls to realise the Vision and implement the draft Framework.

This is a milestone in a long and iterative process to refine and continue the strategic planning for Fishermans Bend. There is significant work to be undertaken and resolved, much of which needs to occur with robust third party involvement and engagement.

Engagement

The Review Panel convened an extensive and inclusive hearing process, it considered all submissions and supporting evidence and it reviewed the planning controls.

The Review Panel commends the significant involvement by the Taskforce, the Cities of Melbourne and Port Phillip, government agencies, neighbouring communities through community groups and local residents, and others with an interest in the urban renewal area.

It was put to the Review Panel that there was active engagement of all relevant parties in development of the draft Framework and draft Amendment. While it is clear that the Councils, government agencies and community groups were actively engaged, the active involvement of landholders within Fishermans Bend is less clear.

It would appear that the focus on engagement was about how Fishermans Bend should look by 2050, who its community should be, and how will it function as a key part of inner metropolitan Melbourne.

This is admirable and there is little wrong with that. However, such scenario building must also include the very people who own the land to make it happen. It appeared to the Review Panel that the Taskforce did not fully appreciate the critical role of landholders in contributing to development of Fishermans Bend. Without capital investment and a willingness to develop land, little will happen. The Review Panel appreciates the visionary aspect of planning for Fishermans Bend, but those putting in the land and capital to make it happen must be part of the journey, in conjunction with the State Government, Councils, agencies and adjacent communities.

The Review Panel was advised that approximately 200 residents currently live in Fishermans Bend. Current population projections (as provided for in the Vision) anticipate in the order of 80,000 residents by 2050. They will need to have access to a range of social and physical infrastructure, including public transport, shops, parks, schools, retail and business services, community services and jobs. To make this happen, significant investment by developers who are prepared to input into Fishermans Bend needs to occur.

Planning controls

This current planning process has been difficult and somewhat frustrating. The exhibited draft Amendment was poorly conceived and complex. In a time when planning is proposed to be simplified and easier to use, the Review Panel found the set of controls to deliver Fishermans Bend convoluted and difficult to navigate. The Review Panel questions how a planner assessing an application could apply the exhibited controls in a coherent manner.

The Review Panel was provided with the exhibition version of the planning controls, a Part A version at the commencement of the Hearing, revised Part B version, and a comprehensively revised Part C version on 14 May 2018. The revised Part C controls were quite different to the exhibited controls, and were presented late in the Hearing. The Review Panel did the best it could to ensure that affected parties had the opportunity to respond to the Part C controls, including convening a drafting workshop, and two extra days (after a month long break) for submissions on the Part C controls. However, some parties remained of the view that they had been given insufficient opportunity to properly consider the Part C controls and their impacts. There were key changes that could be conceived as a transformation. If this were a planning scheme amendment exhibited under section 20 of the *Planning and Environment Act 1987* (the Act), the Review Panel would likely have recommended it be abandoned.

Both Melbourne and Port Phillip had some involvement with the Taskforce's development of the draft Framework and draft Amendment. Despite this, while both Councils supported the high level Vision and draft Framework, both had significant concerns with the structure and workability of planning controls proposed. These concerns, along with many of the concerns expressed by landholders, had significant merit.

Given the extent of reviews and studies undertaken and the clear and compelling recommendations of the Fishermans Bend Ministerial Advisory Committee, the Review Panel is surprised at the lack of resolution in matters such as public transport, funding

mechanisms, structure planning, location of core retail, flooding and governance through the planning framework and controls.

As an Advisory Committee under the provisions of s151 of the Act, the Review Panel has a broader remit. Its Terms of Reference specifically provide that it is to provide advice to the Minister for Planning on the appropriateness of proposed planning scheme amendment GC81, including any recommendations for amendments to the proposed controls.

The Review Panel is conscious that inconsistencies in the draft Amendment, together with the Review Panel's findings and recommendations, are likely to lead to changes in the population in Fishermans Bend. The population could be significantly larger than the 80,000 population target which has been the basis of much of the planning to date. In an ideal world, much of that planning would be reviewed, to assess the impacts of a larger population. However, the history of planning for Fishermans Bend over the last six years, since the initial rezoning was undertaken, has created significant uncertainty which should not be allowed to continue.

The Review Panel has recommended a substantially revised set of controls that can be implemented immediately. These revised controls, together with other recommendations and findings the Review Panel has made, can form the basis of the further work that needs to be undertaken, including the preparation of Precinct Plans. This should not be seen as an endorsement by the Review Panel of the approach that was taken. The Review Panel considers that the better approach would have been to present the draft Amendment as part of a complete (or at least more complete) package, including (critically) infrastructure and funding plans.

Floor Area Ratio and Floor Area Uplift

A critical issue in the draft Amendment was the use of a Floor Area Ratio (FAR). The Minister submitted that the FAR had multiple purposes, including to 'eliminate' the need for compensation when land was set aside for public purposes, to achieve desired and diverse built form outcomes and precinct characters, to limit residential population and density, to secure employment generating uses, and to support a Floor Area Uplift (FAU) scheme to deliver public benefit.

The Review Panel considers that a more conventional approach such as an Infrastructure (or Development) Contributions Plan and Public Acquisition Overlays, is more appropriate to manage the acquisition of land for public purposes, and the associated compensation of affected landowners. The submission by the Minister that accompanied the Part C version of the draft Amendment recognised this. No Infrastructure (or Development) Contributions Plan or Public Acquisition Overlays were put before the Review Panel. The Review Panel's recommendations that the draft Amendment be progressed are made on the understanding that an Infrastructure (or Development) Contributions Plan is proposed to be prepared promptly. Until these mechanisms are in place, uncertainty will remain as to what land is to be acquired, and the associated acquisition mechanisms. This may lead to compensation claims, including for 'planning blight' under Part 5 of the Act.

In terms of limiting density, there was a mismatch between the FAR derived from the Vision's 80,000 residential population target and the maximum population possible within the built form envelopes and preferred character typologies of the various Precincts. The

FAU scheme created the potential for a population significantly larger than 80,000. The Review Panel considers that using a FAR to limit residential floorspace, instead of limiting the number of dwellings directly, is an unnecessarily complex approach that is likely to have adverse unintended consequences. The Review Panel has recommended the approach of limiting dwelling density directly, but has adjusted the proposed density limits to better reflect to preferred character of each Precinct, while recognising the potential of Fishermans Bend to accommodate much needed inner city growth.

While the exhibited version of the controls required a minimum FAR for employment generating uses, the Part C version effectively converted the minimum requirement into a capped maximum. The Review Panel does not support this change, and has recommended an approach more consistent with the exhibited controls.

The exhibited controls allowed a FAU for three forms of public benefit – social housing, additional open space and the delivery of community hubs. In the Part C version, FAU was limited to social housing. The Review Panel supports the use of an uplift scheme to deliver social housing, but given the changes made in the Part C version, and the further changes recommended by the Review Panel, this scheme would be clearer if it were explicitly named a ‘Social housing uplift’.

Going forward

The Review Panel considers that a population the range of 80,000 to 120,000 to 2050 is likely to be supportable without major implications for infrastructure decisions in the short term, for the reasons set out in Chapters 6 and 7.8.

The Review Panel does not see an urgent need for any further review of the population target. A population in the range of 80,000 to 120,000 is unlikely to impact many of the infrastructure decisions which are foreshadowed in the draft Framework – such as providing a new tram service crossing the Yarra River, enhancing bus services or the location of a fixed rail route. However, if a population significantly larger than this is to eventuate, infrastructure planning will need to be revisited.

Similarly the Review Panel sees little impediment to continuing the preparation of the Precinct Plans. Its recommendations are not a reason for significant change in this direction or emphasis in this process.

The Review Panel considers that a review of the planning for Fishermans Bend should be undertaken approximately five years after settlement of the planning controls and Precinct Plans. Such a review would represent both good planning and good public policy. Infrastructure planning should be reviewed and revised leading up to that review. Population targets or projections could be reviewed at that time.

The Review Panel is conscious that in suggesting this approach, there is some risk that population growth will move ahead of planning and infrastructure provision. This risk exists even if the draft Amendment as exhibited is implemented. It believes that on balance the pathway proposed involves less risk than either doing nothing, or implementing the controls as proposed in the exhibited draft Amendment or the Part C version.

The pathway forward involves a number of challenges, which include:

- specifying and costing projects to be included in a (yet to be prepared) Infrastructure Contributions Plan (or similar), which will need to be based on a detailed infrastructure plan
- the possibility that when planning in Fishermans Bend is reviewed in 2025 or thereabouts, some adjustment may need to be made to provide community infrastructure.

The Review Panel is less concerned about open space provision as there is a significant amount of high quality open space external to Fishermans Bend which can be utilised by residents.

As noted, significant changes were made to the controls through the Hearing process, and late in the process. The Review Panel has made recommendations about increasing the population range, and substituting the FARs with a dwelling density control. These issues were ventilated at the Hearing, but there was limited opportunity to ventilate the metrics proposed by the Review Panel.

The Act provides a process in sections 33 and 34 for further notice to be given of changes to planning scheme amendments, including taking submissions on the changes and referring them to a panel. While the draft Amendment is not a formal planning scheme amendment, a similar approach could be applied if that was thought appropriate or necessary.

Response to Terms of Reference

In accordance with its Terms of Reference, the Review Panel has provided primary recommendations which go to delivering a workable set of planning controls, based on the Minister's Part C controls, that will assist to realise the Vision for Fishermans Bend and implement the draft Framework. In this regard, the Review Panel provides a summary of the planning controls it recommends:

Table 1: Summary of Vision, draft Framework and controls

Control	Review Panel Comment
Vision	The overall Vision for Fishermans Bend is generally sound, and the high level Directions for each Precinct are supported. The residential population needs to be adjusted to be within the range of 80,000 to 120,000 by 2050. The employment target of 80,000 jobs by 2050 is supported.
Draft Framework	The draft Framework, in particular the general urban structure, is largely supported and provides a reasonable strategic basis for the planning controls. The draft Framework will need to be modified to reflect the Review Panel's recommendations, as it will be a Reference Document in the planning schemes. This work can occur after the preparation of the Precinct Plans to ensure ongoing consistency.
Local policy	Clause 21 and Clause 22 are supported as providing the overall strategic vision and guidance to allow for the exercise of discretion, subject to modifications.
Capital City Zone	The Capital City Zone is supported, subject to modifications.
Parking Overlay	The Parking Overlay is supported, subject to modifications.
Design and Development Overlay	The Design and Development Overlay is supported as the principal tool to guide built form, subject to modifications. Due to the varying nature of each of the Precincts, the Review Panel supports separate Design and Development Overlays for each.

Control	Review Panel Comment
Development Plan Overlay	The exhibited Development Plan Overlay is no longer being pursued. The Review Panel supports this approach. The use of Development Plan Overlays for larger sites (in single or multiple ownership) that provide for integrated mixed use development is supported on an opt-in basis, once Precinct Plans are prepared.

(ii) Review Panel recommendation

- 1. Progress Amendment GC81 for Fishermans Bend in accordance with the Review Panel revised versions (in Overview Report – Volume 2) of:**
 - a) Clause 22.XX
 - b) Capital City Zone
 - c) Parking Overlay
 - d) Design and Development Overlays for Lorimer, Montague, Sandridge and Wirraway Precincts.

PART A: BACKGROUND AND CONTEXT

1 Introduction

1.1 Fishermans Bend Planning Review Panel

On 20 October 2017, the Minister for Planning (the Minister) appointed the Fishermans Bend Planning Review Panel (Review Panel) as an Advisory Committee pursuant to section 151 of the *Planning and Environment Act 1987* (the Act) to consider and report on draft Amendment GC81 to the Melbourne and Port Phillip Planning Schemes.

The Review Panel comprises:

- Ms Kathy Mitchell (Chair)
- Mr Lester Townsend (Deputy Chair)
- Ms Sarah Carlisle
- Prof Rodger Eade
- Mr Peter Edwards.

The appointment was accompanied by Terms of Reference, signed by the Minister on 22 October 2017 (Appendix A).

Clause 19 of the Terms of Reference note the Review Panel may retain its own legal Counsel. The Review Panel retained Mr Peter O'Farrell of the Victorian Bar.

The Review Panel was greatly assisted in all aspects of its work by Ms Andrea Harwood (Senior Project Manager) with assistance from Mr Joseph Morrow (Project Officer), as well administrative staff of Planning Panels Victoria (PPV).

1.2 Terms of Reference and the role of the Review Panel

The Terms of Reference set out the method by which the Review Panel is to undertake its work including the hearing process and matters it must consider when making its recommendations. Clause 3 states that the purpose of the Review Panel is to "*advise the Minister for Planning on the appropriateness of the proposed planning scheme amendment GC81*". Clauses 16 to 21 outline the Review Panel process, including:

16. *The Review Panel is expected to carry out a public hearing on the planning scheme amendment.*
17. *The Review Panel 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.*
18. *The Review Panel may seek advice from experts where it considers this necessary.*
21. *The Review Panel will be briefed on relevant background information by the DELWP Taskforce.*

Clauses 27 to 30 outline the method by which the Hearing process is to be undertaken:

27. *The Review Panel may inform itself in any way it sees fit, but it must consider:*
 - a. *The State policy context of the Fishermans Bend area.*

- b. The extent to which the proposed changes to the Capital City Zone Schedule 1 (Port Phillip) and Capital City Zone Schedule 4 (Melbourne) allows for the Fishermans Bend Vision (September 2016) to be achieved.*
 - c. The extent to which all other proposed changes sought by GC81 allows for the Fishermans Bend Vision of (September 2016) to be achieved.*
 - d. All relevant submissions made in regard to the proposed changes to the Port Phillip and Melbourne Planning Schemes.*
 - e. An assessment of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes.*
- 28. The Review Panel will provide an opportunity for any person who requests to be heard through the submission process to present to it. Submitters are not required to have formal representation.*
- 29. The Review Panel may limit the time of parties appearing before it using the following timeframes:*
- a. Local Council – 3 hours*
 - b. Land Owner – 2 to 3 hours*
 - c. Agency or statutory authority – 1 hour*
 - d. Community Group – 1 hour*
 - e. Individual – 30 minutes*
- 30. The Review Panel may at its discretion:*
- a. Limit the time for presentation of evidence by witnesses*
 - b. Control cross examination of witnesses, including prohibition of cross examination in appropriate circumstances*
 - c. Conduct concurrent Hearings on matters as determined by the Review Panel, where in its opinion, no submitter who wishes to participate in the hearing is likely to be unfairly prejudiced by concurrent Hearings.*

The Review Panel is required to produce a written report for the Minister. Clause 35 outlines the matters it must consider in making its recommendations to the Minister:

- a. A summary of the Review Panel's reasons for recommending (or otherwise) amendments to the proposed planning scheme amendment.*
- b. A track change version of the proposed planning scheme schedules and clauses.*
- c. Any additional recommendations for amendments to the proposed Capital City Zone Schedule.*
- d. Any additional recommendations for amendment to all other proposed planning scheme changes sought by the planning scheme amendment.*

- e. Any changes required to the draft Fishermans Bend Framework as a result of recommendations made to the planning scheme amendment.*
- f. A summary of all submitters heard that presented on matters outside the consideration of the Review Panel.*
- g. A list of persons who made submissions considered by the Review Panel.*
- h. A list of persons consulted or heard.*

The Terms of Reference require that the Review Panel's report be provided to the Minister within 40 business days of the last Hearing date. The original final date of the Hearing was Thursday 24 May 2018, however, two days were added to the timetable to provide further opportunity for parties to make closing submissions (20 and 22 June 2018).

1.3 Review Panel process

(i) Notification and submissions

The draft Amendment was placed on public exhibition between 31 October and 15 December 2017. As outlined in Clause 22 of the Terms of Reference, the Department of Environment, Land, Water and Planning (DELWP), through the Fishermans Bend Taskforce (the Taskforce) was responsible for notifying relevant persons, including landowners and occupiers who may be affected by the draft Amendment.

As outlined in the Minister's Part A submission, the Taskforce notified:

- 14,505 land owners and occupiers directly on 1 November 2017
- approximately 41 community and interest groups
- advertisements in The Age, Herald Sun and a range of other newspapers between 28 October and 1 November 2017.

A total of 255 submissions (Appendix B) were received from:

- City of Melbourne (Melbourne)
- City of Port Phillip (Port Phillip)
- Government agencies or departments including, Environment Protection Victoria (EPA), Metropolitan Waste and Resource Recovery Group (MWRRG), Department of Health and Human Services, Port of Melbourne
- landowners
- interest groups, community organisations, local clubs
- cultural, health and education establishments
- commercial/business operations
- owners corporations
- individuals.

Submissions were received until 5.00pm on Friday 15 December 2017. Late submissions were received until 22 January 2018. Two submissions (S254 and S255) were received following the renotification of landowners and occupiers affected by the open space evidence of Ms Thompson for the Minister.

In accordance with Clause 33 of the Terms of Reference and PPV's Privacy Collection Notice, submissions were made electronically accessible on the Review Panel's website from 21 December 2017, and updated as appropriate.

The Review Panel maintained a comprehensive Document List that recorded all documents provided or handed up as part of the hearing process. Documents were uploaded on a daily basis for the general Hearing (Appendix D to this report) and for each of the Precinct based Hearings (Appendices A to each of the Lorimer, Montague, Sandridge and Wirraway Precinct Reports). In these reports, the relevant general Documents are noted with the prefix 'D' and 'L', 'M', 'S' and 'W' as appropriate in reference to the Precincts. A total of 549 Documents were tabled over the course of the proceedings.

(ii) Public Briefings and meetings

Consistent with its Terms of Reference at Clauses 17, 21 and 37, the Review Panel attended a public briefing over two sessions on 10 and 24 November 2017 at PPV. The purpose was for the Taskforce to brief the Review Panel on the draft Amendment and supporting information. The briefing dates and times were provided on the PPV website and were advertised in The Age newspaper (D1). Representatives of the two Councils were invited to attend, and the sessions were open to the public.

The briefings were attended by members of the Taskforce, DELWP and others. Although primarily aimed at presenting background material, the briefing provided an opportunity for the Review Panel to outline the way it intended to run its process in accordance with its Terms of Reference. Copies of the agendas (D2, D8), the speaking notes of the Review Panel (D3, D9) and the presentation materials provided by the Taskforce (D4, D6, D7, D10, D11, D12) and DELWP (D5) have been publicly available since the first Directions Hearing.

The Review Panel advised that due to Council officers not being available to attend these briefings, and consistent with Clause 17 of its Terms of Reference, the Review Panel invited officers from Port Phillip and Melbourne to meet with it to provide a short briefing. Initially the Review Panel sought a single meeting with the two Councils, but dates proved difficult so two separate meetings were held. The Chair and Deputy Chair met with officers of Port Phillip on 28 November 2017 and Melbourne on 12 December 2017. Each meeting was held at PPV, and went for approximately 30 minutes. Matters discussed related to the general format of the proposed Hearing schedule. The issues raised by the Review Panel at these meetings were similar to those recorded in the speaking notes (D3, D9). The meetings and matters discussed were disclosed at the first Directions Hearing.

Following receipt of the submissions and prior to the first Directions Hearing, a follow up letter was provided to all parties outlining how the Review Panel proposed to schedule the Hearing (D16).

(iii) Directions Hearings

Two Directions Hearings were held at PPV on 20 December 2017 and 2 February 2018. At the first Directions Hearing, the Review Panel tabled a preliminary list of key issues (D20). A number of procedural matters were raised during the course of the Directions Hearings and the Review Panel was required to make determinations and rulings. These matters are discussed further in Chapter 1.6.

(iv) Public Hearings

Public Hearings were held in three stages, over 59 hearing days and 47 sitting days as some of the Hearings were run concurrently. Stage 1 commenced on 1 March 2018 with general

submissions, the Minister, and submissions and evidence (with the exception of urban design and environmentally sustainable design (ESD)) from Melbourne and Port Phillip. Stage 1 concluded on 29 March 2018.

Stage 2 commenced on 9 April 2018 and concluded on 24 May 2018. The Review Panel ran the Precinct Hearings concurrently as part of Stage 2. Montague was held over a 13 day period, generally concurrent with Sandridge (seven days), then Lorimer (seven days), concurrent with Wirraway (six days). The final two days of Stage 2 were for submissions and a workshop relating to drafting of the controls, and closing submissions.

At the request of several landowners (see Chapter 1.6(vi)), the Review Panel determined it would extend the Hearings to allow for closing submissions from various parties. This Stage 3 resulted in two additional sitting days on 20 and 22 June 2018 to allow parties to provide further closing submissions in response to the Minister's Part C submission.

All Hearings were held at PPV. Those in attendance at the Hearing are listed in Appendix C of this report.

(v) Site inspections

The Review Panel undertook a half day site visit of Fishermans Bend on 28 November 2017. It was accompanied by four members of the Taskforce. The site visit was acknowledged as agenda item 5 (D3, D9) at the public briefing sessions. The agenda for the site visit (D13) and the map outlining the locations visited (D14) were tabled at the first Directions Hearing, as was the plan provided by the Taskforce showing planning permit activity (D15).

The Review Panel inspected various locations and sites within Fishermans Bend (D13), including (but not limited to):

- the proposed Yarra River tram bridge crossing alignment north of and within Lorimer
- the Ferrars Street School and the proposed Buckhurst Street Linear Park in Montague
- the Port Melbourne interface, the proposed Metro station at Fennel Street and the Port Phillip Council depot in Sandridge
- the Webb Dock Interface, JL Murphy Reserve and the proposed transport interchange within Wirraway
- the West Gate Park, Port of Melbourne interface and GMH site in the Employment Precinct.

The Review Panel attended an accompanied site inspection on 14 February 2018, which followed a replica itinerary from the 28 November 2017 site visit. Attendees included members of DELWP, the Taskforce, representatives of the Minister, Port Phillip, Melbourne, EPA, MWRRG, community groups and land owners. The inspection was a full day bus tour, inspecting the five Precincts within Fishermans Bend, including key sites such as the proposed underground rail station locations, interfaces with existing residential and port environs, the proposed Yarra River crossing location and the Ferrars Street primary school.

The Review Panel undertook an accompanied site inspection of the Port of Melbourne, including Webb, Swanston and Appleton Docks and their surrounds on Tuesday 22 May 2018. Attendance was open to any party with related issues and a number of parties attended or were represented.

Members of the Review Panel, individually and as a group, undertook a number of unaccompanied inspections of Fishermans Bend before, during and after the Hearings.

1.4 The proponent for the draft Amendment

Early in the Hearing, the Review Panel sought clarification about who the proponent was for the draft Amendment. This was because there was confusion over whether it was the Taskforce, DELWP or the Minister.

Ms Brennan SC confirmed that *“the proponent for draft Amendment GC81 is the Minister for Planning (Minister)”¹*, who is also the responsible authority for developments with a gross floor exceeding 25,000 square metres.

Ms Brennan advised that the Taskforce is an administrative office within DELWP, established in February 2016 to lead the planning for Fishermans Bend. The Taskforce was responsible for developing the draft Framework to implement the Vision. She noted this work included:

- a. *Preparing and commissioning various technical reports to inform the development of the Framework*
- b. *Undertaking consultation on the Framework*
- c. *Finalising the reports and Framework as directed by Government.*

Ms Brennan advised that the Taskforce was responsible for preparing the draft Amendment to implement the draft Framework in consultation with State Planning Services of DELWP. State Planning Services was responsible for notifying relevant persons, including landowners and occupiers who may be affected by the draft Amendment. Ms Brennan advised:

State Planning Services DELWP will ultimately be responsible for finalising the draft Amendment ...

The draft Amendment will be submitted to the Minister for approval.

Based upon that advice, and for the purposes of this report, the Review Panel refers to the proponent as the Minister, although it notes that the Minister will be acting in a different capacity, and pursuant to different statutory functions and duties, in receiving the Review Panel's report and advice, and approving the draft Amendment with or without changes.

1.5 Approach to this report

This Report No. 1 Volume 1 – Overview (the Overview Report) of the Review Panel outlines the background to the draft Amendment process. It discusses the key threshold issues that were raised in submissions, together with matters that were common across all Precincts. Report No. 1 Volume 2 – Amended planning controls (the amended planning controls report) includes the Review Panel's recommended planning controls.

These reports are accompanied by and should be read in conjunction with four reports that address the specific issues associated with each Precinct:

- Lorimer – Report No. 2
- Montague – Report No. 3

¹ SIN 1 (D151), [1].

- Sandridge – Report No. 4
- Wirraway – Report No. 5

The documents that the Review Panel has used as a base for considering submissions and evidence in relation to the draft Amendment include:

- Fishermans Bend Vision, September 2016 (the Vision)
- Fishermans Bend Framework, draft for consultation, October 2017 (the draft Amendment)
- Minister’s Part C version of the planning controls (D335 to D340 inclusive), 23 May 2018.

1.6 Procedural matters

Over the course of what was a lengthy hearing process, the Review Panel ruled on a number of procedural matters. Some of the more pertinent issues are summarised in this Chapter.

(i) Directions Hearing No. 1

Issue

The Review Panel wrote to all parties on 14 December 2017 (D16), indicating that the Hearing would commence on 12 February 2018.

The first Directions Hearing was held on Wednesday 20 December 2017. The evening beforehand, the Review Panel was provided with an affidavit from Ms Brezzi of Norton Rose Fulbright (D19c) and a submission from Mr Morris QC representing several submitters (D19b). Mr Morris sought an adjournment of the Hearing, as well as disclosure and information about the briefings, meetings and site inspection, as described in Chapter 1.3.

Following its opening, the Review Panel invited Mr Morris to speak to the matters raised. The affidavit included contentions that the time allocated for the commencement of the Hearing was insufficient, having regard to:

1. *The time allowed for public consultation*
2. *The time allowed for preparation for the Review Panel Hearing*
3. *Availability of experts*
4. *Availability of suitable Counsel*
5. *The apparent lack of direct notice to landowners, and*
6. *The Hearings conducted in November 2017 without sufficient notice to the Submitters or other potentially affected landowners.*²

Mr Morris clarified that the reference to ‘Hearings’ was a reference to the public briefings, meetings with Council officers and the 20 November 2017 site inspection.

Mr Morris submitted that the Hearing should not commence before 30 April 2018. He noted the significance of the draft Amendment and its importance to the public interest and to affected landowners. He submitted:

The content of the rules of natural justice is affected by the nature and significance of the interest of affected parties. In this case, the Amendment

² Affidavit of Ms Brezzi (D19c), [16].

*affects property interests – and in a substantial manner – and thus warrants a careful and considered process to ensure it is fair.*³

He noted that many landowners had spent considerable resources on “plans, consultants, metropolitan levy payments and abortive VCAT reviews, to the extent of many hundreds of thousands (and in one case at least millions) of dollars”. Mr Morris argued that the nature of the Hearing, the voluminous documents, the exhibition process, the forthcoming Christmas period, the potential unavailability of appropriate legal Counsel and witnesses, the lack of urgency, the notification process and the requirements of natural justice all justified the Hearing being delayed. He questioned the procedural fairness of the Review Panel having participated in the two public briefings, the meetings with Council officers, and the 28 November 2017 site inspection, given his clients had not participated in any of these.

His submissions were supported by many other represented and non-represented parties at the Directions Hearing.

A written submission by the Minister through Mr Tobin of Harwood Andrews (D23) was provided in response to the concerns raised. Mr Tobin outlined the general history behind planning for Fishermans Bend, the history of the public consultation processes, the notification processes relating to the exhibition of the draft Amendment and the notice published on the Fishermans Bend project website and in newspapers in relation to the public briefings. He noted the Review Panel is bound by rules of natural justice and its Terms of Reference, and submitted that there was no basis in procedural fairness to adjourn the Hearing from 12 February 2018.

Mr Tobin agreed to provide further information to Mr Morris and others about the briefings and site visit, noting that the Review Panel had tabled various documents relating to these matters in any event.

Neither Melbourne nor Port Phillip sought to adjourn the hearing dates.

At the conclusion of the various submissions, Counsel assisting the Review Panel made a number of observations, including about the basis on which adjournments may be considered appropriate.

Review Panel response

The Review Panel deliberated at length on the issues raised by Mr Morris and others, and by Counsel assisting. It noted that the process outlined in its Terms of Reference was not dissimilar to other recent and current Advisory Committee matters. The Review Panel noted that it was cognisant of its overriding roles, responsibilities and duty to afford all parties procedural fairness and natural justice, and noted that it had acted with equity and good conscience in all dealings with parties.

The Review Panel proposed a way forward that involved adjourning the Hearing for a short period, and then splitting it into two stages. Stage 1 would commence on Monday 19 February 2018, with submissions and evidence from the Minister and the two Councils. Stage 2 would commence on Monday 9 April 2018 for all other parties. Dates for filing evidence were to be staged accordingly.

³ Directions sought from Mr Morris QC (D19b), [6].

Following this indication, there was further discussion from the Councils in particular about concerns that they would be required to present evidence without the benefit of receiving and reviewing evidence from the various other parties. The Review Panel agreed that where appropriate, some evidence could be further staged. It noted that it would consider any requests to recall witnesses to address matters raised in other evidence, and that the Councils (and the Minister) would be provided with a right of reply at the conclusion of each Stage of the Hearing.

Following this discussion, the Minister indicated that he had changed his mind about the two stage process and argued that his case and evidence should also be deferred.

The Review Panel ruled that the Hearing would commence on 19 February 2018 and run in two stages on the basis discussed.

The critical outcomes of this Directions Hearing were articulated in Document 24, dated 28 December 2018.

(ii) Directions Hearing No. 2

Issue

The Review Panel received a written request on 19 January 2018 on behalf of the Minister to defer the commencement of the Stage 1 Hearing from 19 February to 13 March 2018, due to unavailability of some of its witnesses (D26). That letter requested an urgent Directions Hearing on 25 January 2018 to discuss the matter.

On 23 January 2018, the Review Panel responded in writing by proposing a revised hearing program that would allow the Minister to present his case and evidence in two parts (D27), meeting the availability constraints of the Minister. The Review Panel advised by email (D28) that it did not consider that a second Directions Hearing was required.

The Review Panel received a further letter on behalf of the Minister on 25 January 2019 (D29) noting that concerns remained about the proposed scheduling, and requested a Directions Hearing on 1 or 2 February 2018 to further discuss the matter. In its letter, Harwood Andrews noted on behalf of the Minister:

... the Minister is concerned that the Panel's refusal to grant the adjournment as requested will result in a denial of procedural fairness and that the proposed directions are inadequate to ensure the opportunity to properly advance the case in favour of Amendment GC81. In circumstances where the Minister is unable to fairly and efficiently present the case in favour of Amendment GC81, the Minister anticipates flow-on consequences for the orderly and efficient conduct of the both stages of the Hearing.⁴

The letter advised that the Minister had discussed the matter with both Councils and that they had collectively proposed an alternative staging process for filing of submissions and evidence, and Stage 1 dates.

⁴ Correspondence from Harwood Andrews (D29), page 1.

Review Panel response

A second Directions Hearing was held on 2 February 2018 at PPV. Parties were notified of this by email (D30).

Ms Brennan and Mr Watters of Counsel appeared at the second Directions Hearing on behalf of the Minister, and tabled a submission that outlined the reasons for the request to delay the commencement of the Stage 1 Hearing (D34). The submission noted that the Minister was unable to retain expert witnesses in time to file evidence and that he would be required to advance his submissions prior to key evidence. The submission noted that deferring Stage 1 as proposed by the Minister would not prejudice the dates for the proposed Stage 2. The Councils generally supported these submissions.

Many landowner parties opposed the Minister's request, citing procedural unfairness as a key reason.

The Review Panel noted that the Minister had indicated at the first Directions Hearing on 20 December 2017 that he was ready to proceed on the originally scheduled start date of 12 February 2018, and expressed concern that issues about availability of witnesses had not been raised then. Nevertheless, after considering the matters raised, and noting that Stage 2 would be unaffected, the Review Panel granted a short deferral for the Minister and Councils' cases to commence on 14 March 2018, rather than 1 March 2018.

Given parties had already been notified of the dates for Stage 1, the Review Panel commenced Stage 1 on 1 March 2018 so that those parties who were willing to make submissions in advance of the Minister could choose to do so. At that stage, the Review Panel noted that the Hearing would extend to 24 May 2018, given the extent of submissions, evidence and time requested by various parties.

Revised Directions and a summary timetable were issued on 5 February 2018 (D35), and a complete Version 1 timetable was issued on 9 February 2018 (D38b). At the request of landowners, the Review Panel issued a written Statement of Reasons for its Directions (D38a). The Directions were updated on 28 February 2018 (D56).

The Hearing commenced on Thursday 1 March 2018, in accordance with the Version 1 timetable (D38b).

(iii) Email from DELWP

Issue

During an afternoon break on 15 March 2018, the Chair opened an email that was in her inbox from a staff member of Statutory Planning Services DELWP addressed to 'all staff'. When she opened the email, it became apparent that the email related to the subject matter of the Hearing. The email was accompanied by four attachments. The Chair did not open the attachments.

At the end of the day, the Chair printed the email and showed it to the Deputy Chair. Neither opened the attachments. By this time, another email message from the author of the email was received advising that the email had been sent in error and requested that it be deleted by the recipients.

The Chair contacted Counsel assisting to advise of this matter. He asked the Chair to forward him the email, and when the Chair accessed her computer, both emails had been deleted.

At the Hearing on the following day, the Chair raised the sighting of this email as a procedural matter.

Ms Brennan responded by noting that the email was sent unintentionally to all staff, and that it was retracted as soon as the error became known. Various advocates called for the email to be made public, which Ms Brennan opposed. The matter was stood down briefly, and the Review Panel understands that discussions took place between the advocates which the Review Panel was not privy to.

The Review Panel asked that Ms Brennan provide a written response to the request for the email to be made public, which she provided on 21 March 2018 (D114). At Ms Brennan's request, D114 was noted on the Document List as a confidential document.

The Review Panel invited written submissions in response. Two were received from Mr Wren QC (D136) and Mr Canavan QC (D137) (noting both acted for multiple parties). Counsel assisting provided a written submission in response (D142). These submissions were noted on the Document List as confidential documents.

Review Panel response

After reviewing the submissions and considering the issues raised, the Review Panel determined that a copy of the email (but not the attachments) would be placed on the Document List (D180), with the names, position titles and email addresses of individuals named in the email redacted. The email, along with the relevant submissions (D114, D136, D137 and D142), was uploaded to the PPV website and the previously noted confidential status of the submissions was removed.

(iv) Terms of Reference

Issue

On 29 March 2018, Mr Canavan sought a ruling from the Review Panel on the Minister's submission⁵ that it is not the role of the Review Panel to review the Vision for Fishermans Bend (in particular the population and jobs targets reflected in the Vision). At the Review Panel's direction, this request was provided in writing (D160). The Minister tabled a written response (D171). Further responses were invited, although none were formally made. Mr Montebello alluded to the issue in his addendum to Document 182 at paragraphs 4 to 9.

Review Panel response

On 9 April 2018 the Review Panel advised that it would not be making any directions or findings in relation to Mr Canavan's request, as it was interested to hear remaining submissions and evidence on the issues which will form part of its overall considerations and findings in finalising its report to the Minister. Mr Canavan requested the reasons of the Review Panel in writing, which were tabled on 11 April 2018 (D201).

⁵ D151.

(v) Leave to recall Ms Hodyl**Issue**

In the week of 16 April 2018, Ms Brennan sought leave to recall Ms Hodyl to respond to Precinct specific urban design evidence. She noted that as a function of the staged timetable, Ms Hodyl was not able to review urban design evidence presented by the landowners. She argued that Ms Hodyl should be provided with the opportunity to respond to specific recommendations of other witnesses, and that the Review Panel would be assisted by Ms Hodyl's opinions.

Neither Melbourne nor Port Phillip provided any comments in response to this request.

Mr Tweedie SC strongly opposed the request. He considered it would give the Minister an unfair advantage and that it was procedurally unfair given the procedures established for the Hearing process. He then outlined what he considered to be the key timing issues, and that he would need to cross examine Ms Hodyl on the basis of changes to the draft Amendment documentation since exhibition (and since Ms Hodyl had given her evidence). Both Mr Wren and Ms Collingwood adopted and endorsed the arguments of Mr Tweedie.

Ms Forsyth then sought to respond by saying that she thought it might be appropriate for Ms Hodyl to be recalled.

Counsel assisting noted that the Review Panel could regulate its own proceedings and that it had an obligation to afford natural justice to all parties. He highlighted the concept of 'puttage', which related to the ability of a witness to defend or explain herself in the light of cross examination. He referred to section 46 of the Evidence Act, and noted that even though rules of evidence do not apply to an Advisory Committee, natural justice and procedural fairness do. He expressed the view that it would be fair for the Minister, and potentially of benefit to the Review Panel, to hear from Ms Hodyl on matters that were not known to her when she provided her evidence.

Mr Tweedie and Ms Collingwood further responded, with Ms Collingwood noting that if Ms Hodyl was to be recalled, any evidence should be confined to *"truly matters of which she is unaware"*.

Review Panel response

After considering all the issues raised, and noting that the Hearing process allowed the original evidence of Ms Hodyl to be tested at length, the Review Panel directed Ms Brennan to provide a brief or document on the specific issues upon which the Minister would be seeking further evidence from Ms Hodyl, and why.

The initial response was provided on 19 April 2018 (D251), but it did not comply with the Direction or address the issues requested by the Review Panel. While initially the Review Panel accepted the response, upon further review of the submissions made by landholders, the Review Panel reversed its decision to allow it and it sought a further response from Ms Brennan. This was resubmitted on 30 April 2018 (D277).

As is transpired, Ms Hodyl was not recalled to provide further evidence, although she did prepare further addenda responding to the recommendations of other experts (D277).

(vi) Use of Capital City Zone for the provision of open space and laneways**Issue**

Several submitters made legal submissions regarding the provisions in the Part B version of the proposed Capital City Zone schedule that required land identified for future streets, lanes and open space to be transferred to the relevant authority at no cost. The relevant provisions read:

4.0 Buildings and works

...

Permit requirement

A permit must not be granted or amended to construct a building or construct or carry out works in respect of land shown as a new road, street or laneway on the relevant Map in the schedule until an agreement made under section 173 of the Planning and Environment Act 1987 has been entered into by the landowner, the responsible authority and the local council (if not the responsible authority) which must provide for:

- *In respect of any part of the land which is shown as new roads, streets or laneways on the relevant Map in the schedule:*
 - *Its construction to the satisfaction of the responsible authority and the relevant road management authority; and*
 - *Its transfer to, or vesting in, the relevant road authority as a public road at no cost to the relevant road authority.*

A permit must not be granted or amended to construct a building or construct or carry out works in respect of land shown as new open space on the relevant Map in the schedule until an agreement made under section 173 of the Planning and Environment Act 1987 has been entered into by the landowner, the responsible authority and the local council (if not the responsible authority) which must provide for its transfer or vesting in the local council as public open space at no cost to the local council.

Legal issues raised included whether:

- the provisions (and therefore the draft Amendment) are legally valid
- the provisions amount to a de facto reservation of the affected land for public purposes
- the provisions trigger compensation under section 98(1)(a) of the Act, on the basis that the land is, in substance, 'reserved for a public purpose under a planning scheme'
- (if a permit application were refused), the provisions trigger compensation under section 98(2) of the Act, on the basis that refusal would be because the land 'is or will be needed for a public purpose'
- a Public Acquisition Overlay should be applied to the affected land.

The Minister submitted that the proposed approach was both lawful, and fair and equitable, because the affected landowners retained the ability to develop the full FAR entitlement on the balance of their sites. Ms Hodyl's evidence was that her modelling demonstrated that

this was possible on all but one of the affected sites (in response to which the proposed height limit was increased to allow the FAR to be achieved).

The Minister tabled an opinion from Mr Batt QC and Ms Foley which concluded that the provisions were lawful (D155).

Landowners argued that the proposed approach amounted to an unlawful acquisition of property without compensation. They argued that it was unfair, and failed to take into account the fact that:

- developing the same amount of floorspace on a smaller footprint is generally more expensive, as the building must be built higher
- the value of the remaining site may be reduced, for example by virtue of land that could have been used for communal open space for the private use of residents having been lost to a public park
- they would lose the ability to take advantage of a FAU on the affected part of the site
- they would lose the ability to develop uncapped commercial floorspace, over and above that allowed by the FAR, on the affected part of the site (as provided for in the exhibited version of the control, but not in the Part C version).

Mr Canavan and Mr Morris made extensive oral submissions in relation to this matter, which the Review Panel directed be put in writing by Friday 11 May 2018 (D290 and D296). Written submissions were provided in Documents 301 and 304.

Review Panel response

Recognising it is not the role of the Review Panel to make legal rulings, the Review Panel considered that it would benefit from a legal opinion from Counsel assisting regarding the legal issues raised by parties. On 8 May 2018, the Review Panel sought the legal opinion from Counsel assisting by 18 May 2018 (D299).

On 14 May 2018, the Minister tabled the Part C version of the controls (D307, D308, D309, D310) that, in essence, resiled from the Clause 4.0 provisions. Instead:

- land required for public purposes is now proposed to be acquired through the mechanisms under the recently passed *Planning and Environment (Public Land Contributions) Act 2018* in association with a (yet to be prepared) Infrastructure Contributions Plan (ICP)
- land required for streets and laneways is now proposed to be acquired through either:
 - an ICP (for streets and laneways that benefit land beyond the site), or
 - as part of developer works (for local streets and laneways that benefit the land itself).

While this change of position raised other issues, the Review Panel advised Counsel assisting that it no longer required a legal opinion.

(vii) The Part C version of the controls

Issue

On Day 39 (16 May 2018), Mr Canavan submitted that the hearing process should be abandoned, or in the alternative, be adjourned to provide a fair opportunity to consider the changes introduced in the Part C controls, together with the proposed introduction of an

ICP. In putting forward this proposition, he submitted that he had no time to review the Part C controls. He argued that the changes proposed in the Part C controls were extensive and substantial, and effectively represented a different amendment to that exhibited. He submitted that the controls will affect approximately 300 landowners, and that it would be unfair to allow the Part C controls to be tabled and to continue the Hearing on that basis.

Mr Canavan reiterated many earlier submissions he made at various times during the course of the Directions Hearings and the Hearing itself. He alleged (among other matters):

- indecent and undue haste of the process
- a lack of procedural fairness
- that the process was being driven by political intent and ambition of the Minister
- that the integrity, independence and competence of the Review Panel were compromised (including innuendo that the Review Panel was being influenced by officers of DELWP and/or the Minister), and implied that the reputation of PPV has been 'sullied' as a result.

The Review Panel had set aside time for closing submissions on 23 May 2018 on the timetable since Version 1 (which was issued on 9 February 2018). Notwithstanding, Mr Canavan argued that none of his team were able to prepare and attend on that day.

Ms Collingwood endorsed Mr Canavan's submissions to the extent that her clients needed more time to consider the Part C controls before making closing submissions, as did Mr Moylan.

Port Phillip responded that the Hearing should not be abandoned or delayed. Mr Montebello submitted that the Part C controls, including the proposed introduction of an ICP, effectively responded to the repeated calls from Port Phillip and many others (including the landowners represented by Mr Canavan) for a Development Contributions Plan or similar to deal with public infrastructure.

Melbourne noted that the provision of an Infrastructure Contributions Overlay or similar had always been on the table, and was a direct response to submissions. Melbourne noted it could meet the timeframes proposed, and suggested that a further opportunity be provided to other parties for closing, but within 10 days of 24 May 2018.

The Minister wholly rejected the claims made by Mr Canavan and noted that the Review Panel had repeatedly provided the landowners with a fair opportunity to be heard, unopposed by the Minister. Ms Brennan noted the considerable flexibility provided by the timetable, including the opportunity for the landowners to hear the entirety of the Minister's case before having to file evidence or prepare submissions – which she submitted was a considerable advantage to the landowners. She rejected arguments put by some that the process had in some way compromised the integrity of the planning system in Victoria. She reiterated that the role of the Review Panel (as an Advisory Committee) is different to that of a Panel, and that the opportunity for closing submissions had been timetabled from the beginning of the process.

Ms Brennan noted that many of the changes proposed in the Part C controls had been as a direct consequence of the many submissions of Mr Tweedie in particular relating to the proposed mechanisms in the Capital City Zone (CCZ) for acquiring public land. She noted that the application of ICPs in urban renewal areas, and the land acquisition mechanisms

provided for under the Public Land Contributions Act, were supported by the Property Council of Australia.

Review Panel response

The Review Panel categorically rejected any allegation or assertion that it had not acted in accordance with procedural fairness and the principles of natural justice throughout the course of the Hearing. The Review Panel confirmed that it had not been told, directed or given any advice on this process by the Minister, the Deputy Secretary Planning of DELWP or anyone else in DELWP, including in relation to the timetable and the hearing schedule.

The Review Panel has inquired into the draft Amendment comprehensively and systematically throughout the process. It has repeatedly asked for significant information from the Minister to inform its considerations, and confirmed during the Hearing that it would independently assess the draft Amendment on the basis of the submissions and evidence before it, and would provide its advice and recommendations to the Minister without fear or favour.

In relation to the particular matters raised about deferring closing submissions, the Review Panel confirmed it would continue with the timetabled final week (D298), but would set aside the week of 18 June 2018 to provide the opportunity for any party who required more time to prepare and present its closing submissions. In this regard, it issued Direction 26 on 17 May 2018 (D321).

Subsequently, the Review Panel scheduled two further days for closing submissions, on 19 and 21 June 2018. Ten written submissions were received and seven parties made closing submissions at the Hearing (D357, D358, D359, D360, D361, D362, D363, D364, D365, D366, D368, D369, D370, D371). This was followed by further closing submissions from the two Councils and the Minister (D372, D373, D374).

(viii) Further matter

While not raised as a procedural matter, the Review Panel provides some comment on the extent and usefulness of cross examination at the Hearing. It was a very long Hearing, with many witnesses and extensive cross examination. Some cross examination went for several hours, even days in the case of Ms Hodyl and Mr Sheppard (noting Mr Sheppard provided evidence for several parties). Cross examination is useful for a matter such as this, but the Review Panel found that much of it was not helpful to its deliberations.

Long and extensive cross examination can and does result in fatigue for all – the witness, the advocate and those Hearing the matter.

In the Review Panel's opinion, there was too much cross examination that was not particularly relevant to the issues being dealt with. Much of it was laborious. Extensive cross examination can defeat its own purpose, that is, it can get to the point where what is being asked is not being helpful due to lack of purpose and precision. Some really good short sharp points are far better and more helpful than many long and less direct points.

2 About Fishermans Bend

Fishermans Bend is an inner Melbourne area of approximately 455 hectares, located south west of Melbourne’s CBD. At its furthest point, it is four kilometres from the CBD. It is geographically bound by the Yarra River to the north and west, South Melbourne to the east and Port Melbourne to the south.

Fishermans Bend is divided into five precincts in the following municipalities (Figure 1):

- Lorimer (Melbourne)
- Montague (Port Phillip)
- Sandridge (Port Phillip)
- Wirraway (Port Phillip)
- Employment (Melbourne).

The Lorimer, Montague, Sandridge and Wirraway Precincts are currently zoned CCZ. The Employment Precinct is currently zoned Industrial Zone and Commercial 2 Zone.

The draft Amendment proposes to introduce a revised suite of planning controls to the CCZ zoned Precincts, in order to facilitate the urban renewal of Fishermans Bend. The draft Amendment is underpinned by the draft Framework and the Vision.

Figure 1: Fishermans Bend Precincts



Source: draft Framework, page 20

The existing land uses in Fishermans Bend are predominantly industrial and commercial with a small amount of residential. Built form within the area largely comprises low level industrial and commercial building stock. Land parcel sizes vary from large sites through much of the area, to small, fragmented parcels in the Montague Precinct. There are some higher rise modern buildings.

The majority of land (approximately 90 per cent and approximately 300 landowners) is in fragmented private ownership. It is home to several major businesses.

There are three major freight transport routes that run through or adjacent to Fishermans Bend – Lorimer Street, Plummer Street and Williamstown Road. There are elevated crossings over the West Gate Freeway at Salmon and Ingles Streets, as well as West Gate Freeway access points at Todd Road and Montague Street. A light rail line exists along Montague Street, in addition to one bus route which services the area.

Some key land use factors that influence Fishermans Bend's future development include:

- much of the area is comprised of large industrial lots and wide roads designed for industrial transport
- the vast majority of the land is privately owned, and ownership is fragmented
- much of the area has challenging geotechnical factors and land and groundwater contamination due to past industrial practices
- large areas are subject to flooding
- public open space, community infrastructure, public transport and residential amenity are currently limited
- the area is bound to the south by existing low-rise residential areas, and to the east by more intensive residential development in Southbank.

2.1 Planning history of Fishermans Bend

Fishermans Bend has had a short but detailed planning history. On 5 July 2012, the (former) Minister declared Fishermans Bend a 'Project of State Significance', pursuant to section 201(f) of the *Planning and Environment Act 1987* (the Act). On 29 June 2012, he approved Amendment C170 to the Melbourne Planning Scheme and Amendment C102 to the Port Phillip Planning Scheme, to rezone the land in the Montague, Lorimer, Wirraway and Sandridge Precincts to the CCZ, and to make the (then) Metropolitan Planning Authority responsible authority for applications over certain thresholds. The rezoning occurred in the absence of a strategic framework or comprehensive development guidelines.

(i) Fishermans Bend Urban Renewal Area Draft Vision, 2013

In September 2013, the *Fishermans Bend Urban Renewal Area Draft Vision* was released by Places Victoria in collaboration with the State Government, Port Phillip, Melbourne and the Office of the Victorian Government Architect. It outlined key aspirations and qualities for Fishermans Bend:

The Fishermans Bend Urban Renewal Area provides a unique opportunity to expand Melbourne Central City to the southwest, connecting the existing Central Business District to Port Phillip Bay. By 2050, Fishermans Bend could accommodate up to 40,000 new jobs and 80,000 residents.⁶

It anticipated 24,000 new residents by 2025 and 80,000 new residents by 2050.⁷

The draft Vision covered the four CCZ Precincts, but did not include the Employment Precinct. The Employment Precinct was added in 2015.

⁶ Fishermans Bend Draft Vision 2013, page 7.

⁷ Ibid, page 7.

(ii) Amendment GC7 and the Fishermans Bend Strategic Framework Plan, 2014

In July 2014, Amendment GC7 introduced the *Fishermans Bend Strategic Framework Plan (July 2014)* as an Incorporated Document to the Melbourne and Port Phillip Planning Schemes. The Framework Plan was prepared by the Metropolitan Planning Authority (now the Victorian Planning Authority), and introduced guidance in the form of discretionary height limits and design guidelines for the CCZ Precincts.

Following the change of government in late 2014, Amendment GC29 was introduced in April 2015. Amendment GC29 made the Minister the responsible authority for determining permit applications in the CCZ Precincts above certain thresholds (this was formerly the role of the Metropolitan Planning Authority), introduced interim mandatory heights controls of between 4 and 40 storeys, and updated the Framework Plan to remove reference to discretionary height limits and the sustainable transport plan.

(iii) Fishermans Bend Vision 2016

The *Fishermans Bend Vision, the Next Chapter in Melbourne's Growth Story (September 2016)* was released by the Taskforce in response to public consultation on a recast Vision. The 2016 Vision brought the total Fishermans Bend renewal area to 485 hectares through the inclusion of Westgate Park and surrounding Parks Victoria land holdings. Its aim was to set the underlying principles that would guide a subsequently prepared Fishermans Bend Framework and Precinct Plans for each of the CCZ zoned Precincts.

(iv) Amendment GC50

In November 2016, Amendment GC50 introduced interim mandatory built form controls and policy changes to encourage employment uses, dwelling diversity and affordable housing in Fishermans Bend. They included mandatory street wall heights, tower setbacks and separation distances. These were set to expire on 31 March 2018. In addition, a revised set of interim design guidelines were introduced into the amended *Fishermans Bend Strategic Framework Plan*, focusing on improving building and street amenity and improving the delivery of affordable and diverse housing.

The interim controls were extended to 31 March 2019, through Amendment GC89 which was gazetted on 29 March 2018.

2.2 Fishermans Bend Ministerial Advisory Committee

The Minister appointed the Fishermans Bend Ministerial Advisory Committee (the MAC) in July 2015 to review the process undertaken to date for the planning of Fishermans Bend. The MAC submitted a Stage 1 report in October 2015 to the Minister which included 40 recommendations for future planning in the area. All were either fully or partially supported by the State Government.

The MAC Report No. 1 sought to 'maximise' the development potential of Fishermans Bend, noting it to be a finite resource. Its first priority recommendation was to use the 2013 draft Vision as a baseline from which to recalibrate and articulate the economic, social and environmental vision for the area.

To progress the recalibrated vision, the MAC recommended that further work should "test a number of macro scenarios that consider various options for the ultimate population,

density, mix and servicing requirements". This testing does not appear to have been undertaken.

The MAC prepared a further report dated October 2017 which made comments and recommendations on the draft Framework. The MAC Report No. 2 included 75 recommendations covering a range of matters including statutory and strategic planning, transport, housing and implementation mechanisms and processes. The Minister referred the MAC Report No. 2 to the Review Panel for its consideration as a submission on 17 December 2017 (D17).

Despite the recommendations made in the MAC Report No. 1 and the apparent absence of further scenario testing in relation to population, the MAC Report No. 2 supported the revised 2016 Vision (which refers to targets of 80,000 residents and 60,000 jobs), and endorsed the approach to land use planning through the linking of population and employment targets with built form controls.

2.3 Planning permit activity

To date, 23 planning permits have been issued within the Lorimer, Montague, Sandridge and Wirraway Precincts since they were rezoned to CCZ in 2012.⁸ The first planning permits for residential development were approved in January 2014. The planning permits issued to date are generally for residential buildings, containing limited commercial uses. Issued permits are generally clustered in the Montague and Lorimer Precincts. The Review Panel notes that few permits have been acted upon.

2.4 Existing governance arrangements

(i) Responsible Authority

Pursuant to Clause 61.01 of the Melbourne and Port Phillip Planning Schemes, the Minister is the responsible authority for matters under Divisions 1, 1A, 2 and 3 of Part 4 and Part 4AA of the Act, and for matters required by a permit or the scheme to be endorsed, approved or undertaken to the satisfaction of the responsible authority, in relation to developments with a gross floor area exceeding 25,000 square metres. The Councils are the responsible authority for developments with a gross floor area less than 25,000 square metres in their respective municipalities.

(ii) Development contributions

A Development Contributions Plan Overlay (DCPO) applies to the CCZ zoned Precincts pursuant to Clause 45.06 of the Melbourne and Port Phillip Planning Schemes. The DCPO was introduced through Amendments C170 and C102 to the Melbourne and Port Phillip Planning Schemes respectively, on 5 July 2012.

Despite reference to a Development Contributions Plan (DCP) being prepared in the *Fishermans Bend Strategic Planning Framework* 2014 and in the 2016 amended version, this has not occurred. The Schedule to the DCPO allows a permit to be granted before an

⁸ Minister for Planning 'Part A Submission' (D49b), page 6.

approved DCP is in place if (among other things) the applicant enters into an agreement under section 173 of the Act that makes provision for development contributions.

All permits granted in Fishermans Bend to subdivide land or construct a building or carry out works include a condition requiring applicant to enter into a section 173 agreement requiring payment of a levy. Levies have been collected at the following rates (indexed quarterly):

- \$15,900 per residential dwelling
- \$18,000 per 100 square metres of office area
- \$15,000 per 100 square metres of retail floor area.

The Victorian Planning Authority is currently the collecting agency for contributions collected under the section 173 agreements.

(iii) Metropolitan Planning Levy

The Metropolitan Planning Levy commenced on 1 July 2015. It applies to permit applications for projects valued over \$1 million in 2015–16 in the Melbourne metropolitan area. The levy is set at \$1.30 per \$1,000 of development cost, or 0.13 per cent of the whole value of the development that exceeds the threshold amount. The Act does not provide for exemptions from payment of the levy, however, the levy does not apply to planning permits amended under section 72 of the Act. The levy is adjusted on 1 July each year in line with the Consumer Price Index.

The State Revenue Office is the collection agency for this levy. The levy is not refundable, including where:

- the cost of development is reduced after the levy has been paid
- the planning permit is refused, lapses or is subsequently cancelled
- the development does not proceed.

Planning Practice Note 82: Applying the Metropolitan Planning Levy (May 2016) states that the Metropolitan Planning Levy is intended to support the delivery of *Plan Melbourne* initiatives through DELWP and the Victorian Planning Authority. Budget Paper 5, published by the Victorian Government in May 2018, states that revenue from the Metropolitan Planning Levy is expected to be \$26 million in 2018–19 and grow by an average of 2.6 per cent a year over the forward estimates.

3 Legislative, policy and planning context

3.1 Planning and Environment Act 1987

Planning authorities must implement the objectives of planning in Victoria. These are set out in section 4 of the Act. Those of particular relevance in the context of the draft Amendment are:

4 Objectives

(1) *The objectives of planning in Victoria are*

- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land*
- (b) *...*
- (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria*
- (d) *...*
- (e) *to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community*
- (f) *to facilitate development in accordance with the objectives ...*
- (g) *to balance the present and future interests of all Victorians.*

(2) *The objectives of the planning framework established by this Act are*

- (a) *to ensure sound, strategic planning and coordinated action at State, regional and municipal levels*
- (b) *...*
- (c) *to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels*
- (d) *to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land*
- (e) *to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes*
- (g) *to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities*
- (h) *...*
- (l) *to provide for compensation when land is set aside for public purposes and in other circumstances.*

Part 9A of the Act sets out powers for the compulsory acquisition of land and closure of roads in connection with projects declared to be of State significance. Under section

201E(3), the Minister may declare specified land required for a declared project to be 'special project land'. Under section 201I, the Secretary can compulsorily acquire special project land. Normally, land has to be reserved under a planning instrument by the application of a Public Acquisition Overlay (PAO) before it can be compulsorily acquired, but section 5(4B) of the *Land and Acquisition Act 1986* (LACA) states that this requirement does not apply to special project land.

Part 9A adopts the provisions of the LACA dealing with the mechanics of the acquisition process (serving notices of intention to acquire, notices of acquisition etc), and the assessment and payment of compensation.

3.2 Housing Affordability Act

On 1 July 2018, the *Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017* (the Housing Affordability Act) came into force, making changes to the Act to support affordable housing. The Housing Affordability Act seeks to implement policy initiatives set out in the State Government's Homes for Victorians policy for voluntary arrangements to facilitate the provision of social and affordable housing, using section 173 agreements.

The Housing Affordability Act added:

- a new objective – "*to facilitate the provision of affordable housing in Victoria*"
- a new definition – "*affordable housing is housing, including social housing, that is appropriate for the housing needs of very low, low, and moderate income households*"
- an explicit head of power to use section 173 agreements for voluntary affordable housing agreements (the new section 173(1A)).

An Order in Council has been made which specifies the income ranges for very low, low and moderate income households.⁹ The Minister has published a notice specifying what has to be taken into account for the purposes of determining what is appropriate for the housing needs of very low, low and moderate income households. DELWP has published a model section 173 agreement which can be used as a basis for affordable housing agreements.¹⁰ The income ranges for Melbourne for the purposes of the definition of affordable housing are:

- very low – \$25,220 to \$52,940
- low – \$40,340 to \$84,720
- moderate – \$60,510 to 127,080.

Importantly, the Housing Affordability Act does not provide a head of power for planning schemes to mandate the provision of affordable housing. Rather, it supports voluntary arrangements for the provision of affordable housing, via section 173 agreements.

On 29 August 2017, Amendment VC139 introduced other reforms and initiatives from *Homes for Victorians* into all planning schemes, including a new Clause 16.01-1 (Integrated Housing) in the SPPF.

⁹ Order in Council made under section 3AB of the Act dated 29 May 2018.

¹⁰ Available at <https://www.planning.vic.gov.au/policy-and-strategy/affordable-housing>.

3.3 Public Land Contributions Act 2018

The infrastructure contributions regime in Part 3AB of the Act currently relies on monetary levies to fund the acquisition of land for parks, roads and other public purposes. Under the current system, the land needs to be acquired through a compulsory acquisition process (which generally requires a PAO to be applied unless an exemption applies), or negotiated purchases using the funds collected under the ICP.

The *Planning and Environment Amendment (Public Land Contributions) Act 2018* (the Public Land Contributions Act) came into effect on 2 July 2018. It introduces key changes to the infrastructure contributions regime in Part 3AB, including a new land contribution model that allows landowners to transfer land directly as part of their infrastructure contribution. Under the new system, landowners vest public purpose land in the relevant development agency directly when the land is subdivided or developed. Development agencies will be able to acquire land for public purposes in advance of development, if the timing of the development of the land does not align with the timing of the need for the land for public purposes.¹¹

The Public Land Contributions Act includes a land equalisation and credit system that seeks to ensure that landowners who contribute a greater percentage of their land than required under the ICP are compensated by way of a 'land credit amount'. The land credit amount is funded by landowners contributing a smaller percentage (or no land), who will pay a 'land equalisation amount'.

The Public Land Contributions Act introduces a valuation process for individually valuing public purpose land and resolving disputes about value. The valuation process is administered by the Valuer-General, and sits outside the planning system.

3.4 Transport Integration Act 2010

The *Transport Integration Act 2010* establishes a framework for the provision of an integrated and sustainable transport system in Victoria, through a vision statement, transport system objectives and decision making principles. The vision set out in the Act is:

Victoria aspires to have an integrated and sustainable transport system that contributes to an inclusive, prosperous and environmentally responsible state.

The Act recognises that transport planning and land use planning are interdependent. Planning authorities are 'interface bodies' under the *Transport Integration Act*. When a planning authority prepares a planning scheme amendment that is likely to have a significant impact on the transport system, it must have regard to the transport system objectives and decision making principles set out in the Act.

3.5 Land Acquisition and Compensation Act 1986

The LACA sets out the process for acquiring land for public purposes, and for determining the amount of compensation payable. It applies wherever land is acquired using powers under a special Act (such as Part 9A of the Act) to compulsorily acquire land.

¹¹ Pursuant to the new section 172D to be introduced into the *Planning and Environment Act* by the *Public Land Contributions Act*.

The LACA generally requires land to be reserved under a planning instrument (via the application of a PAO) before it can be compulsorily acquired. There are some exceptions to this, including where land is declared by the Minister to be special project land under Part 9A. The LACA sets out a process which has to be followed when authorities seek to exercise powers of compulsory acquisition, including serving notices to the land owners and occupiers.

The LACA sets out a regime for assessing and determining compensation when interests in land are compulsorily acquired. Under section 41, regard must be had to the following factors when assessing compensation:

- the market value of the interest
- any special value to the claimant
- any loss attributable to severance (partial acquisition)
- any loss attributable to disturbance
- the enhancement or depreciation in value of the claimant's interest in other land adjoining or severed from the acquired land by reason of the implementation of the purpose for which the land was acquired
- any legal, valuation and other professional expenses.

Submissions were made that compensation allowable under the LACA is likely to be broader in scope than the land credit amount that might be payable where land is acquired under the Public Land Contributions Act mechanism.

3.6 Climate Change Act 2017

The *Climate Change Act 2017* was passed following an independent review of the earlier *Climate Change Act 2010*, and became operational on 1 November 2017. It provides a foundation to manage climate change risks and support Victoria's transition to a net zero emissions, with a climate resilient economy.

Section 20 of the Act requires the State Government to ensure that its decisions appropriately take climate change into account:

20 Decision and policy making

The Government of Victoria will endeavour to ensure that any decision made by the Government and any policy, program or process developed or implemented by the Government appropriately takes account of climate change if it is relevant by having regard to the policy objectives and the guiding principles.

The policy objectives are set out in section 22, with the six guiding principles.

The *Plan Melbourne Five Year Implementation Plan 2017–2050* outlines various initiatives and actions relating to climate change that link to the policy framework established under the *Climate Change Act*:

Committing Victoria to reducing greenhouse gas emissions by setting a long-term target of net zero emissions by 2050 ...

Action 85 Improvement of natural hazard, climate change and environmental adaptation and risk-mitigation strategies in planning schemes

Action 86 Whole-of-settlement adaptation and risk-mitigation strategies

Action 88 Incorporate climate change risks into infrastructure planning.

3.7 State and local policy

(i) State Planning Policy Framework (SPPF)

The draft Amendment enjoys significant planning policy support from various elements of the SPPF, particularly its responsiveness to the directions articulated in *Plan Melbourne*. Relevant clauses include the following:

Clause 9.01 requires planning authorities to consider and apply *Plan Melbourne* in decision making.

Clause 10.01 seeks to ensure planning authorities endeavour to balance conflicting objectives in favour of net community benefit and sustainable development for current and future generations.

Clause 11.04-1 seeks to create a diverse and integrated network of public open space commensurate with the needs of the community.

Clause 11.06-1 seeks to create a city structure that drives productivity, attracts investment and supports innovation and the creation of jobs.

Clause 15.01-1 promotes the creation of good quality, safe and functional urban environments that provide a sense of place and cultural identity.

Clause 15.01-2 encourages architectural and urban design outcomes that enhance the public realm, contribute positively to local urban character and minimise detrimental impact on neighbouring properties.

Clause 15.01-5 seeks to recognise and protect cultural identity, neighbourhood character and sense of place.

Clause 15.02-1 encourages land use and development that is consistent with the efficient use of energy and minimisation of greenhouse gases.

Clause 16.01-1 promotes a housing market that meets community needs. To achieve this, it encourages an increase in the supply of housing in urban areas in appropriate locations. It encourages that the planning system support the delivery of appropriate quality, quantity and type of housing.

Clause 16.01-2 encourages the location of new housing in or close to activity centres and urban renewal precincts that offer good access to services and transport.

Clause 16.01-5 seeks to deliver more affordable housing closer to jobs, transport and services through the facilitation of a mix of private, affordable and social housing in activity centres and urban renewal areas.

Clause 17.01-1 encourages development which meets community needs for retail, entertainment, offices and other commercial services. It seeks to achieve a net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Clause 18.02-1 promotes the use of sustainable personal transport, such as walking and cycling.

Clause 18.02-2 promotes the integration of planning for cycling with land use and development planning and to encourage alternate modes of travel.

Clause 18.02-3 facilitates greater use of public transport and promotes increased development close to high quality public transport routes in Melbourne.

Clause 18.03-2 seeks to plan for and manage the environs of commercial trading ports so that development and use are compatible with port operations and provide reasonable amenity expectations.

Clause 18.05-1 seeks to further develop the key Transport Gateways and freight links and maintain Victoria's position as the nation's premier logistics centre.

(ii) *Plan Melbourne 2017–2050*

Plan Melbourne is the Victorian Government's planning strategy to guide the development of Melbourne in the period to 2050. It is a Reference Document within the SPPF and was updated by the *Plan Melbourne Five Year Implementation Plan 2017–2050* in March 2017. It underpins the strategic policy provided by Clauses 9 and 11 of the SPPF.

Plan Melbourne seeks to support development and housing needs for an anticipated population of 7.8 million people in metropolitan Melbourne by 2051.

Fishermans Bend is one of several priority precincts identified in *Plan Melbourne* as playing a central role in accommodating Melbourne's projected significant growth (Figure 2).¹² Fishermans Bend is located within the inner metropolitan region, where an additional 215,000–230,000 dwellings are anticipated to meet the forecast population growth to 2051.

Within Fishermans Bend, each of the Lorimer, Montague, Sandridge and Wirraway Precincts are identified as "*major urban renewal precincts*" playing an important role in accommodating future housing and employment growth and making better use of existing infrastructure. The Employment Precinct is identified as a National Employment and Innovation Cluster, where the clustering of nationally-significant industries and business activity is encouraged.

Relevant Directions and Policy under *Plan Melbourne* include:

Direction 1.1 seeks to create a city structure that strengthens Melbourne's competitiveness for jobs and investment:

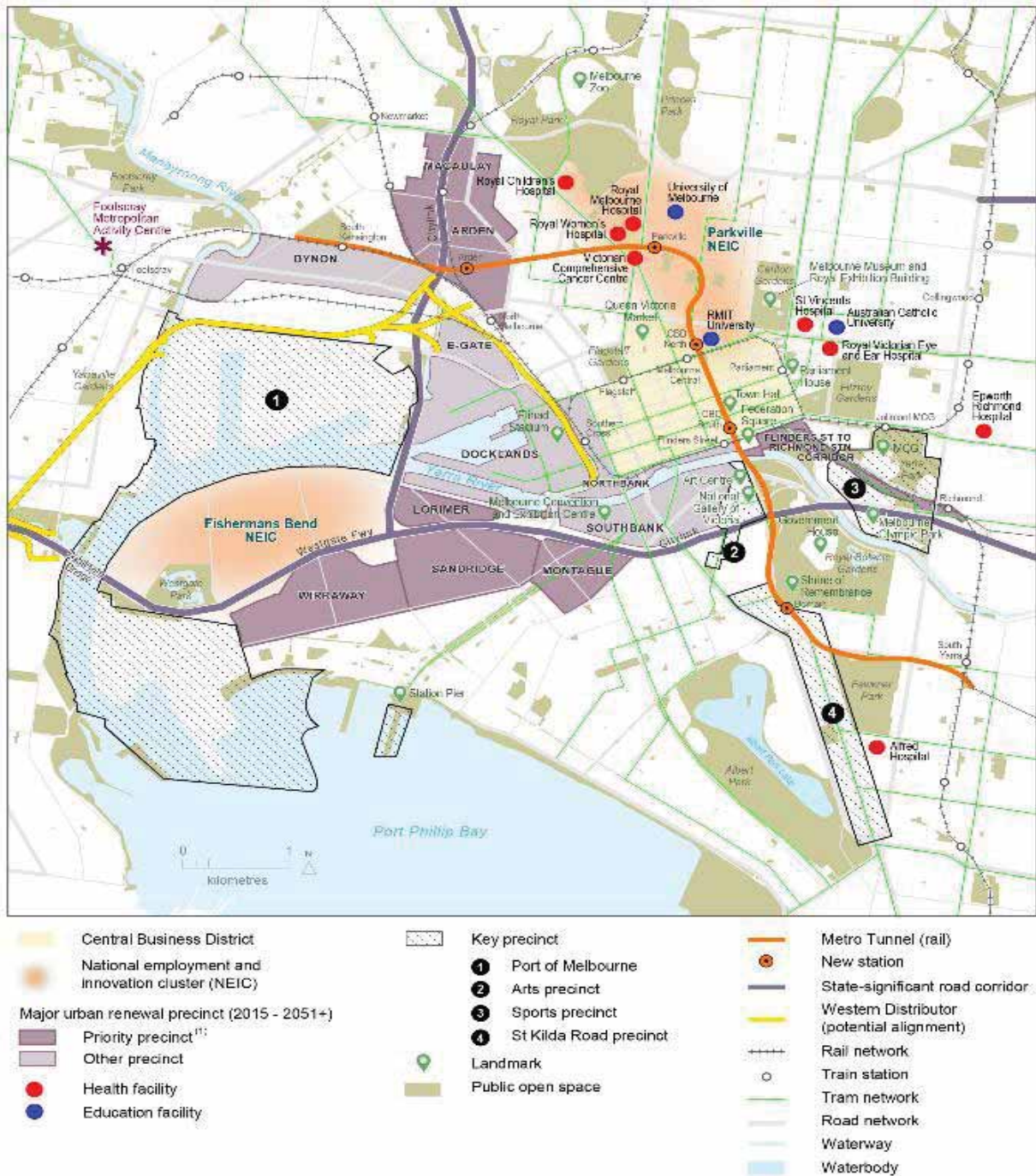
Policy 1.1.1 supports the Central City becoming Australia's largest commercial and residential centre by 2050.

Policy 1.1.2 encourages the redevelopment of major urban renewal precincts to deliver high quality, distinct and diverse neighbourhoods offering a mix of uses.

Policy 1.1.3 supports the development of national employment and innovation clusters. *Plan Melbourne* identifies seven clusters, one of which is the Employment Precinct within Fishermans Bend.

¹² Plan Melbourne 2017 – 2050 (2017), page 26.

Figure 2: Melbourne at 2050 proposed structure



Source: *Plan Melbourne*, page 26

Direction 2.1 seeks to manage the supply of new housing in the right locations to meet population growth and create a sustainable city.

Policy 2.2.1 supports well-designed, high density residential developments that support a vibrant public realm in Melbourne’s Central City. It emphasises the need to “*maximise development opportunities*” in this precinct in order to minimise the need to increase residential densities in other parts of the city.¹³

¹³ Ibid, page 50.

Direction 2.2 seeks to deliver more housing closer to jobs and transport.

Direction 2.3 seeks to increase the supply of social and affordable housing.

Direction 4.4 seeks to respect Melbourne's heritage as we build for the future.

Policy 4.4.1 supports the recognition of the value of heritage when managing growth and change.

Direction 5.4 supports the delivery of local parks and green neighbourhoods in collaboration with communities.

Policy 5.4.1 encourages the development of a network of accessible, high quality, local open spaces.

Direction 6.3 supports the integration of urban development and water cycle management to support a resilient and liveable city.

Policy 6.3.2 encourages the improved alignment between urban water management and planning by adopting an integrated water management approach.

(iii) Local Planning Policy Frameworks

The draft Amendment is underpinned by local planning policy support from the Local Planning Policy Frameworks (LPPF) of the Melbourne and Port Phillip Planning Schemes.

Clauses 22.27 and 22.15 of the Melbourne and Port Phillip Planning Schemes respectively, contain a policy titled '*Employment and Dwelling Density within the Fishermans Bend Urban Renewal Area*'. The policy applies to all land in Fishermans Bend and guides the exercise of discretion where permits are triggered under the zone and overlay controls. It anticipated the provision of 60,000 jobs and 80,000 residents and seeks to:

Ensure development is in accordance with the Vision for Fishermans Bend and contributes to achieving the distinctive vision for each neighbourhood.

Ensure communities have access to a full range of local services and facilities. This will include a mix of residential, commercial, educational, health, spiritual, public and civic uses offering a mixture of housing and employment opportunities to ensure a vibrant community is created.

Ensure large developments are comprehensively planned to create integrated neighbourhoods and deliver high amenity, diversity and a good mix of land uses.

Other local policy provisions relevant to the urban renewal of Fishermans Bend include:

Melbourne

Clause 21.04 – Settlement – identifies Fishermans Bend as an urban renewal area.

Clause 21.13-3 – Urban Renewal Areas – recognises that Fishermans Bend has been declared a site of state significance and has been rezoned as part of an expanded CCZ. The policy states that the area is part of the Expanded Central City and will accommodate CBD jobs and residents, in high densities. The policy refers to the Fishermans Bend Strategic Framework Plan, July 2014 (amended September 2016), an Incorporated Document at the Schedule to Clause 81.01.

Port Phillip

Clause 21.06 – Local Areas – similar to Melbourne, the Port Phillip local policy provides guidance for the Fishermans Bend Urban Renewal Area at Clause 21.06-8. It sets out the vision for the precinct which seeks to promote a mix of land uses to complement the functions and built form of the Central City and the Docklands. The vision encourages the co-location of employment and housing, to improve access for residents to services and employment and improve housing affordability and choice.

3.8 Victoria's 30-year Infrastructure Strategy

In 2015, the Victorian Parliament created Infrastructure Victoria as an independent advisory board and tasked it with preparing *Victoria's 30-year Infrastructure Strategy*. Released in December 2016, the Strategy sets out a range of infrastructure initiatives to enable Victoria to be a thriving connected and sustainable state where residents can access jobs, education and services.

The Strategy assessed in excess of 280 infrastructure options based on factors such as cost, the expected contribution of the option to meeting needs over time, the economic social and environmental impacts of the option, relationship between options, level of community support and alternate future scenarios. It draws upon other local, regional and state plans.

The Strategy identifies key recommendations, and those relevant to the renewal of Fishermans Bend include:

Recommendation 1 seeks to increase densities in established areas and around employment centres to make better use of existing infrastructure.

Recommendation 3 seeks to investigate social housing and other forms of affordable housing for vulnerable Victorians to significantly increase supply.

Recommendation 10.8.1 seeks to extend the tram network into Fishermans Bend within five to 10 years.

Recommendation 10.10.2 supports the expansion of public transport capacity through the delivery of future stages of Melbourne Metro to Fishermans Bend in the next 15 to 30 years.

4 The draft Amendment

4.1 Draft planning scheme provisions

Draft Amendment GC81 to the Melbourne and Port Phillip Planning Schemes has been prepared by the Taskforce on behalf of the Minister as Planning Authority.

As exhibited, the draft Amendment proposes the following changes to the Melbourne Planning Scheme:

- Amend various clauses in the Municipal Strategic Statement to provide strategic direction to realise the vision for the Lorimer Precinct within Fishermans Bend.
- Replace the current Fishermans Bend Urban Renewal Area Local Policy at Clause 22.27 with a new policy.
- Apply the Environmental Audit Overlay to land in the Lorimer Precinct between Lorimer Street, Graham Street and the West Gate Freeway.
- Update Schedule 4 to the CCZ to include provisions for land uses, subdivision, floor area ratios, floor area uplift, building Green Star requirements, provision of streets and laneways, core and non-core areas, open space network and advertising signs.
- Update Schedule 67 to the Design and Development Overlay to include built form controls covering; building heights, setbacks and separation, overshadowing, wind, active street frontages, adaptable buildings, building finishes and landscaping.
- Update Schedule 13 to the Parking Overlay to set maximum car parking rates.
- Amend schedules to Clauses 61.03 and 81.01 to list new maps and remove reference to the *Fishermans Bend Strategic Framework Plan (September 2016)*.

Similar changes are proposed to the Port Phillip Planning Scheme. Those that are specific to Port Phillip include:

- Amend various clauses in the Municipal Strategic Statement to provide strategic direction to realise the vision for the Montague, Sandridge and Wirraway Precincts.
- Introduce a new Schedule 2 to Clause 43.04 (Development Plan Overlay) to:
 - Land on the corners of Williamstown, Salmon and Plummer Streets
 - Land on the corners of Plummer and Bridge Street
 - Land between Bridge Street, Bertie and Ingles Street, to the north of Williamstown Road
 - Land bounded by Boundary Street, Woodgate Street, Doran Street and Munro Street.

4.2 Summary of changes since exhibition

The exhibited version of the draft Amendment was updated and amended three times by the Minister during the course of the Hearings.

Part A (D49) is the exhibited version of the planning controls but updated to reflect the Minister's changes from a review of the submissions and the evidence of Mr Glossop.

Part B (D94) was provided on 14 March 2018 to reflect the ongoing submissions made by various parties and the evidence of witnesses.

Part C (D349) was provided on 14 May 2018, towards the conclusion of the Hearing. This version removed the Clause 3 and 4 provisions relating to provision of private land for public

purposes and made other changes that responded to ongoing concerns about the drafting of the controls.

As noted in its Directions of 5 February 2018 (updated 28 February 2018), the Review Panel prepared a Consolidated Day 1 version of the proposed controls for use at the Hearing (D66). Document 66 combined the provisions from the two planning schemes, where they were similar, and included paragraph reference numbers. The Review Panel did not make any changes to the content of the controls, except for reconciling small inconsistencies between the two schemes. The Review Panel's Directions required parties to identify recommended changes using track changes to Document 66. This did not occur.

What was exhibited and then translated to the Part A version, and what has been provided as the Part C version, are vastly different. Significant changes and updates are highlighted in high level summary form in Table 2 to Table 8. The Review Panel acknowledges the tables are lengthy, but it is critically important in understanding the multiple changes to the draft Amendment.

Table 2: Changes to the MSSs (minor drafting changes not included)

Part A version	Part C version
Melbourne MSS	
21.04-1.2 (urban renewal areas)	
References four mixed use precincts and one employment precinct	Reference to Employment Precinct deleted
21.08-3 (Industry)	
Five strategies supporting Objective 1 'To improve the long-term viability of the City's industries'	Sixth strategy added, to support ongoing operation of concrete batching plants in Lorimer
21.13-3 (Lorimer)	
New policy to guide redevelopment of Lorimer Precinct. Specific policies for Housing; Economic development; Built environment and heritage; Preferred character for subprecincts; Transport and Infrastructure	Reference to the Vision and draft Framework inserted Drafting changes to Housing and Economic Development policies Changes to descriptions of preferred building typologies Preferred character outcomes deleted (shifted to Lorimer DDO) New Transport policy added (support continued access to existing industrial uses including the concrete batching plants) Streets and laneways policy expanded to include green streets and blue laneways (which serve a drainage function) New Flooding (etc) policy added New maps inserted showing subprecinct boundaries and community hub investigation areas
21.17 (Reference Documents)	
Reference Documents included Vision, draft Framework, Community Infrastructure Plan, Urban Design Strategy and Planisphere Open Space Strategy	Integrated Transport Plan and Sustainability Strategy added as Reference Documents Corrections to dates/titles of Reference Documents

Part A version	Part C version
Port Phillip MSS	
21.05-2 (Urban structure and character)	
	<p>Minor drafting change to Strategy 1.5</p> <p>New Strategy 11.5 added (ensure new development considers the potential impacts from existing industrial uses)</p>
21.06-8 (Neighbourhoods)	
New local strategies, neighbourhood character descriptions and preferred subprecinct character outcomes added for Montague, Sandridge and Wirraway	<p>Building typology elements of preferred character outcomes deleted (shifted to DDOs, but with changes)</p> <p>Additional strategies for Sandridge inserted: 6.8.30 (encourage taller buildings in retail/commercial core, transitioning to lower non-core areas); and 6.8.31 (additional through block links through commercial buildings)</p>
	<p>Infrastructure funding measure added: DCP changed to ICP; reference to public transport infrastructure deleted; reference to public open space and land required for infrastructure added</p> <p>New measure inserted: investigate preferred size and location of community hubs within community hub investigation areas</p>

Table 3: Changes to MSS maps

Part A	Part B	Part C
Melbourne		
No maps included	New Lorimer map provided which shows bike paths and cycling corridors; subprecinct boundaries; existing and future open space; indicative (new) laneways; proposed roads and indicative (new) 12 metre wide streets	Community hub investigation area maps added
Port Phillip		
Map of subprecinct boundaries included	No Part B version, but new maps provided as part of Part B controls New maps provided for Montague, Sandridge and Lorimer which show bike paths and cycling corridors; subprecinct boundaries; existing and future open space; indicative (new) laneways; proposed roads and indicative (new) 12 metre wide streets	Community hub investigation area maps added

Table 4: Changes to 22.XX

Part A (No Part B version)	Part C
Objectives	
Objectives for Fishermans Bend	Fifth objective: reference to Vision added; reference to social cohesion deleted New objective: ESD New objective: encourage transition to support growth of Fishermans Bend and protect industrial uses
Definitions	
Public benefits included social housing, additional open space and community hubs	Definitions brought across from CCZ; public benefit definition amended to refer only to social housing
Dwelling density	
Dwelling density policy, and maximum dwelling densities, included	Deleted
Housing diversity	
Housing diversity policy described various types of housing	'Family-friendly' changed to 'households with children'; 'developments that allow people to age in place' changed to 'households for older people'; 'key worker housing and affordable housing' changed to 'households with low to moderate incomes and key workers'
Affordable housing target	
Six per cent affordable housing	20 per cent affordable housing target, of which six per cent is social housing (Minister described change as a 'drafting' error)
Adaptable floor plates	
Not mentioned	New policy (encourage adaptable floor plates to combine one and two bedroom units to form larger apartments)
Community hubs	
Policy to encourage early delivery of community infrastructure hubs	Deleted
ESD	
Policy to create a benchmark for sustainability, with no reference to Clause 22.13	Reference to Clause 22 added. Does not specify which scheme, but Review Panel assumes it is the PPPS, as Clause 22.13 of the MPS has no content
Managing flood impacts	
Specified various measures for dealing with flood impacts	Changes including raising floor levels to be a 'last resort'; flood levee; primary consideration to mitigating risk to human life
Third pipe systems	
Specified various measures relating to third pipe and rainwater tanks	Deleted (shifted to CCZ)
Public and communal open space	
Specified various policies and measures for public and communal open space included	Deleted dimensions of onsite public open space; encouraging 'publicly accessible areas' rather than 'public open space' at ground level; policy relating to 'additional open space' under FAU scheme deleted

Part A (No Part B version)	Part C
Landscaping requirements	
Not included	Included as per Document 335 (omitted in error)
New streets and laneways	
New streets, lanes and pedestrian connections to be not more than 100 metres apart	Changed to 50-70 metres for core areas (100 metres in non-core) New policy to encourage direct access to public open space
FAU	
Policy considerations for proposed public benefits	Deleted
Protection of existing industrial uses	
Not mentioned	New policy: Amenity Impact Plans to address reverse amenity impacts from existing industrial activities

Table 5: Changes to the CCZ

Part A	Part B	Part C
FAR		
Montague core area FAR 6.1:1	Montague core area FAR adjusted up (6.3:1)	
Sandridge core area FAR 8.1:1	Sandridge core area FAR adjusted down (7.4:1)	
Dwelling FAR		
No separate dwelling FAR specified	Total FAR split into dwelling FAR and non-dwelling FAR; Table 1 amended to specify 'Total FAR' and 'Accommodation FAR'; new condition in Table of Uses that Accommodation and Dwelling must not exceed 'residential FAR'	Condition in Table of Uses deleted (as this effectively prohibited FAU – unintended consequence)
Non-dwelling FAR		
Non-dwelling FAR uncapped	Total FAR capped imposing cap on non-dwelling FAR (minimum non-dwelling FAR requirements in local policy is the same as the difference between total FAR and dwelling FAR in the CCZ)	
FAU		
Cannot exceed FAR unless s173 agreement for public benefit Application requirement for report detailing public benefit and FAU proposed Decision guidelines about public benefit	Public benefit purpose changed to refer to where FAR exceeded rather than where planned infrastructure provision exceeded New decision guidelines – whether public benefit proposed Definition of public benefit inserted – social housing, additional open space and community hubs	Public benefit definition amended – restricted to social housing Changes to application requirement and decision guidelines for public benefit, to reflect changes to eligible public benefits

Part A	Part B	Part C
New streets, lanes and open space		
Permit applications to 'make provision for' new streets, lanes and open space; layout of streets and lanes to be 'consistent with' CCZ maps	<p>New purpose added – to facilitate public open space and roads through FAR</p> <p>New requirement that permits must be 'generally in accordance with' the CCZ maps</p> <p>New requirement that permit must not be granted unless s173 agreement requiring roads, streets and lanes to be constructed and transferred to relevant authority, and open space to be transferred to relevant authority, at no cost</p>	Purposes and requirements removed Minister indicated open space will be delivered under future ICP, and new streets and roads will be delivered either under future ICP or (if local) as part of developer works. Mandatory permit condition inserted for the latter
Crossovers		
Not included	New requirement that permit must not allow crossovers on 'no crossover' streets	
Bicycle and motor cycle parking rates		
----- Not included -----		Included (shifted from Parking Overlay, no change to rates)
Protection of existing uses		
<p>Sensitive uses within Clause 52.10 threshold distances require permit</p> <p>Application for a sensitive use within 300 metres of existing industrial or warehouse use, or 100 metres of freight route alignment or West Gate Freeway, or port, must provide Amenity Impact Plan</p> <p>Decision guideline – measures to mitigate against off-site amenity impacts of existing uses</p>		<p>New purpose to support continued operation of existing uses which facilitate urban renewal</p> <p>Amenity Impact Plan requirements expanded</p> <p>Existing Uses with Adverse Amenity Potential Incorporated Document added</p> <p>New decision guidelines for applications for subdivision/buildings and works associated with an ongoing industrial/warehouse use</p>
Protection of concrete batching plants		
---- Not included (apart from above general measures) ----		<p>Permit trigger added for sensitive uses within 300 metres of concrete batching plants with Amenity Impact Plan required</p> <p>Decision guideline added for measures to mitigate against off-site amenity impacts</p>
Protection of pipelines		
----- Not included -----		<p>Permit for sensitive uses within specified distance of the pipelines with licensee's views to be considered and condition requiring Construction Management Plan endorsed by pipeline licensee</p>

Part A	Part B	Part C
Exemptions for continuing uses and amendments to existing permits		
----- Not included -----		Exemptions for subdivision or buildings and works in accordance with a permit issued before the GC81 approval date Exemptions for continuing industrial or warehouse uses Exemption from FARs for amendments to existing permits, provided level of non-compliance is not increased
List of things for which no permit required		
List of matters for which no permit required	No change	List reduced (to avoid duplication with other provisions in the scheme)
Medium density residential application requirement		
----- Not included -----		Applications to address Clause 55
Third pipe systems and rainwater tanks mandatory permit conditions		
----- Not included -----		Included (shifted from local policy)
Addressing local policy application requirement		
----- Not included -----		Applications to detail how they respond to local policy
Maps		
Separate maps for core areas and active street frontages; street and laneway layouts); open space layout	Maps updated to provide one map per precinct, consolidating all information from previous maps and adding private open space; potential Metro stations; existing and future tram corridors; new bridges/bridge upgrades; road closures; potential freight alignment; community hub investigation areas	

Table 6: Changes to the DDO

Part A	Combined Part C version	Precinct specific Part C versions
No changes to text in Part B version, but amended DDO maps were tabled Table 6 does not summarise changes made to metrics of the built form controls		
Combined/ separate		
----- Single DDO for all Precincts -----		DDOs for each precinct
Permit exemptions		
Clause 2.0 listed permit exemptions for a number of minor works		Deleted former categories of minor works already listed in Clause 62.01; added verandas, awnings, sunblinds or canopies
ResCode		
Requirement that buildings and works for dwellings meet the requirements of Clauses 54 and 55		Deleted

Part A	Combined Part C version	Precinct specific Part C versions
Definitions		
Scattered throughout the DDO	Consolidated into one location New definitions of amenity wall, non-amenity wall and building separation distance added Definition of street wall height altered	Definitions of amenity wall, non-amenity wall, building separation distance, gross developable area, residential floor area deleted Definition of net developable site area added to Wirraway DDO, omitted from others in error
Building typologies		
-----	Not included -----	Included (based on building typologies formerly described MSSs, but wording has been altered)
Built form requirements and outcomes		
Requirements expressed in text, some identified as requirements, others not Outcomes expressed in text, buildings should satisfy the outcomes	Restructured to tabulate requirements and outcomes General requirements added that buildings must meet the requirements and should achieve the outcomes Outcomes varied from the Part A version	Deleted general requirements that buildings must meet the requirements and should achieve the outcomes Some built form outcomes changed from 'should' to 'must' Outcomes varied from the combined Part C version, and in several cases new outcomes introduced
Identifying mandatory and discretionary controls		
Controls expressed in text 'Must' and 'should' both used for mandatory and discretionary controls Mandatory controls identified by 'a permit cannot be granted to vary this requirement'	Controls expressed as a built form requirement in tables Discretionary controls generally expressed as 'must' meet the built form requirements Some controls (eg setbacks above street wall heights) have both discretionary and mandatory built form requirement; 'must' meet the mandatory requirements and 'should' meet the discretionary requirements Mandatory controls continue to be identified by 'a permit cannot be granted to vary this requirement' No change to what is mandatory and what is discretionary	New introductory words introduced identifying built form requirements expressed as 'must' as mandatory, and built form requirements expressed as 'should' as discretionary New general requirement that buildings and works 'must' achieve the relevant built form outcomes Mandatory controls continue to be identified by 'a permit cannot be granted to vary this requirement', but this is expressed as a general requirement at the start of the DDO, not individual requirements in the tables of built form requirements
Metrics/measures for building heights, street wall heights, setbacks, overshadowing etc		
Described in text only except for overshadowing which were shown in a table	Presented the text in tabular form Diagrams included demonstrating heights, setbacks and building separation requirements	

Part A	Combined Part C version	Precinct specific Part C versions
Street wall heights		
----- All mandatory maximums, expressed in metres -----		Discretionary preferred street wall heights introduced (mandatory maximum street wall heights retained) Street wall heights expressed as storeys, not metres
Setbacks above the street wall		
All mandatory minimums	Preferred setbacks introduced (mandatory minimums retained)	
Side and rear setbacks		
--- All mandatory minimums, building heights expressed in metres ---		Discretionary preferred setbacks introduced (mandatory minimums retained) Different setbacks below and above the street wall introduced
Building separation		
--- All mandatory minimums, building heights expressed in metres ----		Discretionary preferred separations introduced (mandatory minimums retained) Different separations below and above the street wall introduced
Overshadowing controls		
Expressed in table, by category (district park, precinct park, neighbourhood park)	Table retained, but categories removed and areas shown as 'A', 'B' etc on DDO maps	Table removed, overshadowing requirements mapped instead
Protection included for streets	Protection for streets retained	Text refers to overshadowing of streets, but maps do not show any overshadowing controls for streets apart from Plummer Street
Protection included for existing residential zoned land outside Fishermans Bend	Protection for existing residential zoned land outside Fishermans Bend retained	No protection for existing residential zoned land outside Fishermans Bend
Site coverage requirements		
----- Included for all non-core areas -----		Removed (but see landscaping requirements below)
Landscaping requirements		
Included for all public, communal and private open space	Additional requirement added that non-core areas in Sandridge and Wirraway include 30 per cent ground level outdoor open space or landscaping	Removed

Part A	Combined Part C version	Precinct specific Part C versions
Exemptions for continuing uses and amendments to existing permits		
None included		Exemptions for applications associated with existing industrial uses which facilitate the urban renewal of Fishermans Bend, and amendments to permits issued before GC81 approval date
Maps		
Separate maps for core areas and active street frontages (map 1); building heights (map 2); overshadowing (map 3)	Maps consolidated into one map per Precinct, showing all information from previous maps and adding existing and proposed roads, indicative (new) laneways and indicative (new) streets	Maps split into four separate maps per Precinct: building typologies (map 1, new); building heights and open space (map 2); active street frontages and new laneways (map 3); overshadowing (map 4)

Table 7: Changes to the DPO

DPO	
Included to protect and provide for master planning of five key strategic areas: <ul style="list-style-type: none"> - Normanby Road civic spine - Sandridge central activity area, including potential Metro station - realignment of Plummer Street to connect with Fennel Street - JL Murphy Reserve interface - Wirraway transport interchange, including a potential Metro station and tram route 	DPO removed

Table 8: Changes to the Parking Overlay

Part A (No Part B version tabled)	Part C
Parking objectives	
Lists a number of objectives to be achieved	New objectives inserted: to identify appropriate car parking rates; to encourage alternative forms of parking including car share and precinct based parking Objective to ensure design of car parking areas contributes to public realm deleted (shifted to DDOs)
Permit requirements	
Permit not required to reduce car parking spaces below the specified rates	Deleted
Permit cannot be granted to provide more than the maximum rates in the schedule, unless alternative parking provided	Permit required to exceed the maximum rates in the schedule
Car share spaces	
No exemption for spaces above maximum rates	Exemption for spaces above the maximum rates if provided for car share

Number of spaces	
Maximum expressed as a requirement (maximum number of spaces required)	Maximum expressed as a limit (maximum spaces to be provided)
Application requirements	
Application requirements for applications to exceed maximum rates	New requirement (statement which demonstrates how the car parking will transition to other uses over time)
Decision guidelines	
Decision guidelines for applications to exceed maximum rates	<p>New decision guidelines added: objectives of the schedule; availability of public transport; number and type of dwellings, including the number of bedrooms; off-site parking to be conveniently located; proportion of car share, motor cycle and bicycle spaces</p> <p>Decision guidelines deleted: effect on freight routes; alternate parking arrangements; suitability of car parking plan</p>
Rates for care share, motor cycle and bicycle spaces	
Specified rates for car share, motor cycle and bicycle spaces	Deleted (shifted to CCZ)
Design standards	
Specified a number of design standards for car parking	Deleted design standards: active sleeving (shifted to DDOs), off-site parking to be conveniently located (shifted to decision guidelines)
Specified priority for location of crossovers (secondary streets, side/rear laneways)	Changed priority for location of crossovers (service roads, side/rear laneways, secondary streets)
Crossover standards limited to crossovers on primary street frontages	Crossover standards not applied to crossovers on service road
Mandatory requirement that crossovers and unloading areas not be located on public transport routes, active frontage streets and cycling paths/corridors	Mandatory requirements regarding crossover locations changed to discretionary
Decision guidelines for car parking plans	
Specified a number of decision guidelines	<p>New decision guidelines included: rates of car share spaces; availability of precinct parking</p> <p>Decision guideline deleted: impacts of car parking areas on high amenity active streets</p>
Reference Documents	
Only the Integrated Transport Plan	Draft Framework included as a Reference Document

4.3 Recommendations

For the reasons expressed in this Report, the Review Panel recommends that the Minister for Planning:

- 1. Progress Amendment GC81 for Fishermans Bend in accordance with the Review Panel revised versions (in Overview Report – Volume 2) of:**
 - a) Clause 22.XX
 - b) Capital City Zone
 - c) Parking Overlay
 - d) Design and Development Overlays for Lorimer, Montague, Sandridge and Wirraway Precincts.

These recommendations are provided in both 'clean' and 'track change' in Report No. 1, Volume 2.

PART B – ISSUES

5 Key issues

The Review Panel has received and reviewed a large volume of material. In addressing the key issues, the Review Panel has had to be selective in referring to the more relevant or determinative material in the reports. Consistent with the Terms of Reference, the Review Panel has considered all submissions (including submissions made in response to the exhibited Amendment and submissions made at the Hearing), evidence and other relevant information in reaching its conclusions, regardless of whether it is specifically mentioned in the reports.

5.1 Key issues

Many issues emerged during the course of the Hearing. There was particular emphasis on some matters over others. This report provides the overview of common themes, while the Precinct Reports focus on the site specific matters raised by submitters.

In summary, the key issues related to the:

- Vision for Fishermans Bend
- population and (to a lesser extent) employment targets required to achieve the Vision
- form of planning controls proposed to achieve the Vision and implement the Framework
- preferred built form outcomes for the whole of Fishermans Bend and each of the Precincts, including:
 - FAR and FAU mechanisms
 - heights
 - setbacks
 - interfaces
 - overshadowing
- current permit approvals and applications
- affordable and social housing requirements
- economic viability of the draft Framework as a result of the planning controls and potential outcomes
- public open space, its location and how it is to be delivered
- overall transport framework, including public transport (tram and train infrastructure), car parking, cycling and pedestrian opportunities
- infrastructure, including:
 - social and community
 - physical assets, including laneways and local new roads
 - timing of provision
 - funding options
- environmental issues, including:
 - flooding
 - air quality
 - waste
 - high pressure gas transmission pipeline protection
- governance

- built form excellence and design review
- environmental sustainability
- heritage
- community involvement and engagement
- the way forward in providing for development of Precinct Plans and critical infrastructure

5.2 Elements with broad support

While the Hearing was robust and many issues were highly contentious, there were a number of key elements which received broad support. These include:

- the overall broader Vision of Fishermans Bend and the designation of the four Precincts (as well as the Employment Precinct)
- employment targets
- continued use and application of the CCZ
- use of the DDO, although both Councils and others recommended separate schedules for each Precinct
- targeted use of the Development Plan Overlay for larger sites within or across Precincts (eg Goodman sites)
- application of the Parking Overlay, with the key issue being its structure and the car parking rate
- provision of public transport, and designating the alignments for both tram and rail routes as soon as possible to allow for Precinct planning (although the timing of the delivery of public transport was contentious)
- overall quantum and distribution of public open space, except for some particular sites where alternative sites were suggested
- designation of community hubs for social infrastructure.

Based on the information, submissions and evidence before it, the Review Panel considers the overall Vision for Fishermans Bend and the draft Framework is generally sound. It provides a good basis for moving forward to development of the Precinct Plans and for having permanent controls in place.

The employment (jobs) target is generally achievable.

The CCZ is the correct zone for Fishermans Bend, and while the Mixed Use Zone may have been considered appropriate for some areas in the Wirraway and Montague Precincts, the Review Panel is content to confirm its support for the CCZ.

The use of the DDO is appropriate, although for reasons expressed in this report, the Review Panel supports the Councils' submissions that there should be separate schedules for each of the Precincts. However, the Review Panel emphasises the need for consistency between the schedules.

The use of the Development Plan Overlay for master planning large sites or specific areas is appropriate, but on an 'opt-in' basis.

Applying the Parking Overlay is acceptable and assists in achieving good and sustainable outcomes.

Providing public transport is critical in ensuring that Fishermans Bend can develop at the earliest opportunity, and the designation of public transport routes should be clarified as soon as practically possible.

There is general recognition that providing quality public open space is important for liveability.

The extent and location of the community hubs for social infrastructure, including for activity centres are broadly supported, albeit with some tweaking.

5.3 Issues to be resolved

Noting the elements with broad support, the key issues to be resolved include:

- whether there should be a population target for Fishermans Bend, and if so, what should it be
- the detail and workability of the FAR and FAU
- how affordable and social housing should be delivered and by whom
- specific location of public open space, how it should be acquired and funded, and whether it should be subject to mandatory or discretionary overshadowing controls
- the overall transport framework and the timing of public transport
- flooding and integrated water management
- environmentally sustainable design
- governance
- funding for social and physical infrastructure, and the mechanism by which this should occur
- transitional provisions for existing permits and live (current) permit applications
- the final form of the planning controls and their content and structure.

The resolution of these key issues forms the basis of the remainder of this report.

6 Population and employment

6.1 Context and key issues

The Vision provides for a population of 80,000 people and 60,000 jobs. The draft Framework provides for the same population, and 80,000 jobs.

The population target informs the Amendment in a number of ways:

- it underpins the FAR calculated for the core and non-core areas of each Precinct
- it provides the basis for forecasting demand for open space, schools, community infrastructure and public transport
- it is translated into the dwelling density policy in Clause 22.XX.

The issue of the population targets for Fishermans Bend was controversial, with the majority of landholders submitting that the residential population target proposed is too low. The key issues to be addressed are:

- whether the proposed population target can be reviewed
- genesis of the population and jobs targets
- whether population (rather than urban form) is an appropriate starting point for developing the planning controls
- whether the proposed residential densities are appropriate
- the appropriateness of the population target
- the appropriateness of the jobs target.

6.2 Whether the proposed population target can be reviewed

(i) Evidence and submissions

The Minister submitted:

... the role of the Review Panel is not to review the Vision; it is not to interrogate how the background documents have informed the draft Framework; and it is not to interrogate the draft Framework, except to the extent that the proposed controls have been informed by the draft Framework to achieve the Vision.¹⁴

Mr Tweedie submitted that that Review Panel is not only entitled to review these documents, it has a legal obligation to do so, because:

There has been extensive submissions and evidence called by the Minister with regard to the Vision, and in particular the population targets included in the Vision, and the draft Framework.¹⁵

Mr Tweedie was supported by others including Ms Collingwood and Mr Wren.

In closing, the Minister reaffirmed his position by submitting:

¹⁴ Supplementary Part B submission (D151), [2].

¹⁵ Submission by Mr Tweedie (D252), [11].

*Nothing in the Terms (of Reference) requests the Review Panel to review the Vision and, although not expressly excluded, it is respectfully submitted that such a review is inconsistent with the clear intent of the Terms.*¹⁶

However, the Minister's Part B submission acknowledged that:

... the FAU scheme has the potential to result in an increase in the overall number of workers and residents in Fishermans Bend, including potentially beyond the 80,000 population and employment targets.

Under cross examination by Mr Tweedie, Ms Hodyl acknowledged that under the FAR/ FAU controls proposed, a population as high as 149,000 could result.¹⁷

In closing, Mr Tweedie submitted that the Minister had not sought to change the Terms of Reference to clarify that the Review Panel is not to review the population target. Nor had he declined to answer questions about the population target in the Review Panel's preliminary list of key issues (D20) on the basis that they did not fall within the Terms of Reference.

(ii) Discussion

The Review Panel acknowledges that a population of 80,000 is referenced in numerous policy documents, including the Vision, the draft Framework and the *Plan Melbourne Implementation Plan*. However, it is cognisant that the controls proposed by the Minister, and as acknowledged by Ms Hodyl, could result in a significantly higher population than the 80,000 proposed.

The Terms of Reference neither require nor prohibit the Review Panel from reviewing the Vision. Having said that, it is not the role of the Review Panel to undertake a broad review of the Vision, or a full scale review of the population target, as it does not have the material before it or available resources to undertake such a review.

However, given that the Minister has acknowledged that the population could exceed the number set out in the Vision, the Review Panel is of the view that it is obliged to comment on the proposed population target. The Review Panel notes that while the Minister relies on population targets as set out in the *Plan Melbourne Implementation Plan*, the jobs target of 60,000 referred to has now been increased.

(iii) Findings

The Review Panel finds:

- it is not its role to undertake a 'first principles' review of the proposed population targets
- given that the proposed controls allow for a population significantly in excess of the proposed 80,000 residents, it is legitimate, indeed important, for it to address the target.

¹⁶ Closing submission of the Minister for Planning (D350), [27].

¹⁷ Minister's Part B submission (D94), [61].

6.3 Genesis of the proposed target population and jobs

It is useful to understand the genesis and strategic underpinning of the proposed population target of 80,000 by 2050.

(i) Background reports

Places Victoria commissioned a report that identified low, mid and high development scenarios which provided ‘bookends’ for considering future development within Fishermans Bend. The report notes that Melbourne’s projected population was anticipated to reach between 5.6 and 6.4 million by 2050, requiring the delivery of 30,000 new dwellings each year. Population level tested ranged between 35,250 and 141,000, complemented by up to 58,000 jobs¹⁸. The report concluded that the high growth scenarios of 141,000 population and 58,000 jobs was optimal.

Two additional studies undertaken in November and December 2012 by SGS Economics and Planning and AECOM assessed population scenarios ranging from 9,750 people to 141,000 people.

(ii) Fishermans Bend draft Vision, Places Victoria (2013)

The draft Vision identified the opportunity for a population of 80,000 residents and 40,000 jobs by 2050, with 24,000 new residents by 2025.¹⁹ This was based on an expected Melbourne population of 6.5 million by 2053.²⁰ Following the draft Vision (2013) the State Government, DELWP and SGS Economics and Planning all released reports between July 2014 and September 2017 quoting the 80,000 target population figure. The recast Vision adopted by the State Government in 2016 refers to a target population figure of 80,000, and 60,000 jobs.

(iii) Fishermans Bend Ministerial Advisory Committee

The MAC Report No. 1 (in 2015) sought to ‘maximise’ the development potential of Fishermans Bend, noting it to be a finite resource. The report acknowledged that the population targets prepared in 2012 were based on development trends far lower than those evident in 2015.²¹ The MAC recommended that further work should “*test a number of macro scenarios that consider various options for the ultimate population, density, mix and servicing requirements*”²². This testing does not appear to have been undertaken.

Despite the recommendations made in the MAC Report No. 1 and the apparent absence of further scenario testing recommended by the MAC, the MAC Report No. 2 (2017) supported the revised 2016 Vision (and the population target of 80,000) and acknowledged that the population targets were confirmed “*by extensive research and consultation*”.²³ This report endorsed the approach to land use planning through the linking of population and employment targets with built form controls.

¹⁸ Fishermans Bend Urban Renewal area Real Estate Market Assessment, MacroPlan Dimasi (2012), Table 24.

¹⁹ Fishermans Bend Draft Vision 2013, page 7.

²⁰ Ibid, page 16.

²¹ MAC Report 1, page 28.

²² Ibid, page 28.

²³ Report to the Minister for Planning on Draft Fishermans Bend Framework 2017 (D18), page 16.

(iv) Policy references to the population target

Plan Melbourne designates Fishermans Bend as a ‘Priority Precinct’ and Major Urban Renewal Precinct.²⁴ It seeks to ‘maximise development opportunities’ of this precinct in order to minimise the need to increase residential densities in other parts of the city.²⁵ The *Plan Melbourne Five Year Implementation Plan 2017–2050* references planning for 80,000 residents and 60,000 jobs, which appear to have been adopted from the 2016 Vision.

The *Fishermans Bend Strategic Framework Plan 2014*, an Incorporated Document in the Melbourne and Port Phillip Planning Schemes, refers to an anticipated population of 80,000.

(v) Findings

The Review Panel finds:

- the apparent genesis of the population target is work undertaken by and for Places Victoria in 2012 and 2013
- the 80,000 (by 2050) population is referred to in the *Plan Melbourne Five Year Implementation Report*, but that report also refers to 60,000 jobs
- while policy including *Plan Melbourne* and the *Fishermans Bend Strategic Framework Plan 2014* refer to a population target of 80,000, there is no evidence that the target has been seriously reconsidered since 2013, notwithstanding that development trends in 2012 were far lower than those evident in 2015.

6.4 Urban form or population as the starting point**(i) Evidence and submissions**

The Minister submitted that the population target of 80,000 is at the heart of the planning for Fishermans Bend. In evidence, Ms Hodyl stated that she had been given the 80,000 target as the starting point for her urban design work and subsequent evidence for this Hearing. In her view, it was not open to her to query the 80,000 target.

Indicative of her approach, Ms Hodyl stated in the Urban Design Strategy:

*If the nominated residential population target is to be realised, and population distribution is to be aligned with infrastructure provision, then significant modifications in development patterns are required to reflect this preferred and sustainable level of growth.*²⁶

Ms Hodyl explained that the development of the FARs and the allocation of them between Precincts had been an iterative process to ensure there was a good fit between the population targets, the FARs and the preferred character for each Precinct.

The approach taken by Ms Hodyl received broad support from Melbourne, but emphasised that it was important that the population target should not be so high as to compromise the desired urban design outcomes.

²⁴ Plan Melbourne 2017 – 2050 (2017), page 26.

²⁵ Ibid, page 50.

²⁶ Urban Design Strategy, page 19.

Port Phillip pursued the issue of whether a population target was an appropriate starting point with Mr Sheppard in cross examination, but it did not take an explicit position on this.

Other submitters and expert witnesses were critical of starting the planning process with a specific population target. For instance, Mr Tweedie submitted:

... the starting point of a population target in the proposed Amendment, established by the Vision and developed into the proposed controls through the Urban Design Strategy, is misconceived.²⁷

It was a common criticism of opposing landowners that the FARs were not derived from an identification of preferred character. It was asserted that the population target or density dictated the urban form of Fishermans Bend and that this is “*an unforgiveable case of the tail wagging the dog*”. In evidence, Mr Sheppard stated that the starting point should be the desired scale of development and built form, and that this should generate a population outcome through an iterative process. He stated:

The proposed FAR and height controls need to be reviewed to ensure the contribution of the renewal area to Melbourne's growth is optimised. In my view, the process for determining the appropriate scale of development should start by designing a desired built form character for each area that balances amenity outcomes and provision for growth, with estimates of the resulting floor area used to inform infrastructure planning. The reverse process that has been adopted is a case of the tail wagging the dog, which has resulted in wastefully conservative densities in places.²⁸

Part of Mr Sheppard's criticism was that substantial differences in density or character are not necessary to ensure a distinctive sense of place in each neighbourhood.

The Minister submitted that the principal difficulty for the landowners in making the submission that density had dictated the urban form of Fishermans Bend, rather than preferred built form or character outcomes, is that their own witnesses either:

... did not refer to the preferred character for the various subprecincts they considered, suggesting an ignorance of the work which informed the subprecinct character and associated heights ... [or]

... the witnesses referred to that work and made no adverse comment about it, inviting the inference that the witnesses supported the character and heights, or at least did not oppose them.²⁹

Mr Shimmin took a slightly different tack and, in criticising the use of the population target as the basis of planning, stated that the result was that infrastructure provision ceases to be a driver of development but rather had become a constraint.

²⁷ Submission by Mr Tweedie (D253) [58].

²⁸ Evidence of Mr Sheppard [27].

²⁹ Minister's Part C submission (D350), [82].

(ii) Discussion

The Review Panel notes that different professionals may legitimately argue different starting points for this process. Using a truly iterative approach should result in similar outcomes regardless of the starting point.

The Review Panel accepts that both a population target and a desired urban form outcome are legitimate starting points for planning for urban renewal. However, each should be considered and adjusted through an iterative analysis to ensure a high level of rigour and veracity. In Ms Hodyl's analysis, the 80,000 population target was a fixed point. In other words, the process was not truly iterative.

(iii) Findings

The Review Panel finds:

- there needs to be an iterative process to ensure an appropriate balance between the future population, the desired and appropriate built form and the infrastructure that is needed to support the development of Fishermans Bend
- either a population target or a desired built form outcome would be equally legitimate starting points.

6.5 Residential densities

Some submitters sought to advance the argument that the population densities proposed are too low and that Fishermans Bend can sustain higher densities and hence a higher population than proposed. It is this issue which is addressed here. The relationship between density controls and built form outcomes is addressed in Chapter 7.

(i) Evidence and submissions

In both the *Urban Design Strategy* and evidence, Ms Hodyl included a chart³⁰ which compared the proposed population density of 323 persons per hectare in Fishermans Bend with selected inner metropolitan and international examples.³¹

Ms Hodyl was subject to detailed cross examination on these comparisons. Mr Tweedie pursued a number of themes, including whether some of the international examples cited were appropriate and useful comparisons, the size of each comparator area, its history and whether the comparisons used were urban renewal areas. Mr Tweedie asked how many examples could be given in the international context which were outside the broad range of 300–353 dwelling per hectare on which her chart focused. Mr Tweedie put to Ms Hodyl that her own Figure 4 indicated that there were precincts in Melbourne, Sydney and Brisbane where population densities exceeded 400 person per hectare.

In evidence, Mr Sheppard provided a useful chart comparing planned population and employment densities in a number of inner Melbourne precincts.³² He concluded that the densities proposed in Fishermans Bend *"leaves a potential shortfall of approximately*

³⁰ Figure 3.

³¹ Urban Design Evidence (D53), fig 3.

³² Evidence of Mr Sheppard (D165b), page 14.

120,000 dwellings to be provided in Fishermans Bend and other incremental opportunities within the Inner Metro region”.

Under cross examination Mr Montebello took Mr Sheppard through recent growth trends in both Yarra and Port Phillip and suggested to him that if trends continued, those municipalities would be making a significant contribution to accommodating growth without the need to increase density in Fishermans Bend. Mr Sheppard stated that he had acknowledged in his evidence that there would be a contribution to growth by “*other incremental opportunities*”.

Melbourne submitted that an overall population density of 323 dwelling per hectare is appropriate.

(ii) Discussion

The Review Panel acknowledges that the targets for accommodating growth set out in *Plan Melbourne* for the central area are significant, and that population densities are likely to increase, based on recent trends. Mr Sheppard’s data indicated that the proposed population densities in Fishermans Bend are not disproportionately out of scale with other inner precincts for which prospective population density targets are available. However, population density slightly higher than proposed would not necessarily be out of scale either.

(iii) Findings

The Review Panel finds:

- population density is a legitimate input into the determination of the future population figure
- while the population densities proposed are not out of proportion to other central area growth precincts, a moderate increase in density would not necessarily be out of scale either.

6.6 Appropriateness of the proposed population target

(i) Evidence and submissions

Melbourne supported the population target of 80,000. Port Phillip did not explicitly adopt the 80,000 target, but noted that it is included in the Vision. Port Phillip contended that the population target could be an order of magnitude and need not be exact, but a target is needed as the basis of infrastructure planning. It submitted that if the population under the originally proposed FAU scheme eventuated, 11 more community hubs and 27.65 more hectares of open space would be needed. Mesh Consultants calculated the construction cost of one recreation hub as up to \$66 million.

Mr Tweedie submitted:

- *it is not necessary to adopt or adhere to any population target as the basis upon which to prepare a set of planning controls for Fishermans Bend (and, in particular, built form controls) other than as an indicative figure to assist with planning the necessary infrastructure*
- *even if this were not the case, the 80,000 figure is simply the wrong figure. It represents a gross under-estimate of the potential for Fishermans Bend to*

*accommodate Victoria's future population growth, and a lost opportunity that will adversely impact upon the whole community of Victoria.*³³

Mr Wren examined the evidence of the Minister's experts in transport and open space and concluded " *there is no substance to the concerns raised about density and infrastructure and accordingly those arguments should be dismissed*".³⁴ In response to cross examination by Mr Canavan, Ms Hodyl acknowledged that in an ideal world, infrastructure should be provided if land is available in the right location (such as Fishermans Bend). She further acknowledged that providing infrastructure in Lorimer and Montague is easier than in the other two Precincts.

A number of submitters who argued that the population target of 80,000 was too low argued that a population figure that optimised the use of infrastructure was in the best interests of Melbourne as a whole. Despite this, no submitter nominated or offered an appropriate alternative population target.

Mr Wren pursued the notion of optimising the area's infrastructure in cross examination of Ms Hodyl. Ms Hodyl conceded that higher population density in Fishermans Bend should be tested on this basis.

In response to a question from the Review Panel, Mr Kiriakidis acknowledged that the planned transport infrastructure could probably provide for a population of 100,000 but he was unprepared to say how much more than this without further analysis.

Ms Thompson's open space evidence indicated that there are no generally accepted provision ratios for an area such as Fishermans Bend. Her criteria for provision (discussed in Chapter 9) focused on easy and safe travel distance, diversity and adequacy of open space, rather than tying it directly to population.

Mr Shimmin sought to show that the forecasts of population based on both *Victoria in Future* and his own firm's forecasts result in a shortfall in housing provision which he considered should be accommodated by increased housing provision in Fishermans Bend. Mr Sheppard's evidence on dwelling density made the same point. The Minister refuted these arguments through SIN 3 (D151) and its attachments prepared by DELWP demographers.

Mr Shimmin acknowledged the difficulty of both short and long-term population forecasting, indicating that net migration is a key driver of population growth which is difficult to predict due to significant shifts in policy over time.

In closing, Mr Tweedie reiterated that the proposed controls and a target population of 80,000 are inconsistent with one another.

(ii) Discussion

The Review Panel agrees with the Minister's comment in closing that the issue of the appropriate population targets became a larger issue than it should have been. It is highly likely that the proposed controls will lead to the 80,000 target being exceeded, probably by a significant amount.

³³ Submission by Mr Tweedie (D253), [19].

³⁴ Submission by Mr Wren (D263), [135].

The Review Panel agrees in part with Mr Tweedie that it is not necessary to plan for a precisely fixed population target. At the same time, it does not agree that planning can proceed without any target. While the target population and the date by which it will be achieved are somewhat artificial constructs projected on best estimates, they constitute an important framework around which planning, including the required supporting infrastructure, can proceed.

It is very difficult to predict the key drivers of population growth in Fishermans Bend beyond 2050, nor is it possible to predict how other changes including technological change will impact the ability to service that population with appropriate infrastructure. That said, current planning needs to allow for Fishermans Bend's likely growth beyond 2050. The question arises about what this means for population targets and infrastructure planning now.

In considering whether 80,000 is an appropriate target as the base for the next phase of planning, the Review Panel has taken into account the preferred character of Fishermans Bend, the capacity for flexibility in infrastructure planning, the opportunity for reviewing any target it proposes and the population levels implied in the Minister's proposed controls.

Some infrastructure, such as trams and trains, are able to be upgraded to provide increased service without significant further land provision (for example by adding higher frequency services onto the existing lines). This is not necessarily the case for other forms of infrastructure, such as schools, community hubs and open space which may require further land provision to account for population growth. It is prudent, then, to consider provision for a population exceeding 80,000. While regard can be given to advances in technology and community attitudes helping to alleviate potential future problems with infrastructure provision, such as vertical schools or durable surfaces increasing open space usage, it would be unwise to rely on such vagaries to fix notions of future infrastructure requirements in the present.

The Review Panel is of the view that the 80,000 target is inappropriately low. The exhibited controls potentially facilitate a population almost double that proposed if the full FAR and FAU was taken up. Having said that, the Review Panel considers a population target of almost double to be too high to be sustainable, at least in the short term, as it is likely to require significant reworking of much of the infrastructure planning undertaken to date.

Based on its assessment of the various competing influences and constraints, the Review Panel recommends that planning proceed on the basis of a population in the target range of 80,000 to 120,000. The upper level in this range is based on a judgement by the Review Panel rather than on any modelling, which the Review Panel does not have the data and resources to undertake. In Chapter 7.7 the Review Panel recommends density controls consistent with this range.

The reason why the Review Panel recommends a population in this range, rather than a higher range, is that the majority of the infrastructure planning to date and conclusions drawn from it will stand. Planning for a population of up to 120,000 will not fundamentally compromise the major infrastructure decisions to be made in the next few years.

The Review Panel believes that at this stage an even higher population target involves too many risks, without undertaking significant extra work, particularly in relation to

infrastructure planning. The Review Panel does not consider it appropriate to delay progressing the Amendment in order to undertake this work.

The Review Panel considers that a review of the planning for Fishermans Bend should be undertaken within the next five years. Such a review would represent both good planning and good public policy. The review should include infrastructure planning and capacity analysis, population targets or projections, and implications of an increased population for built form and preferred character outcomes.

the Review Panel notes that several submitters and experts, including the MAC and Mr Milner, criticised the draft Amendment being put forward without key parts of the package (in particular, infrastructure and funding plans and an ICP or DCP). While the Review Panel agrees that it would have been preferable for the draft Amendment to have been presented as a more complete package, it does not consider that the draft Amendment should necessarily be delayed while this work is being completed, unless the Minister considers otherwise.

(iii) Findings

The Review Panel finds:

- under the proposed controls, the population of Fishermans Bend will reach 80,000 and is highly likely to exceed that figure at some time in the future
- a set target of 80,000 is too simplistic and restrictive
- the proposed controls and Precinct and infrastructure planning for the next 10 years should proceed on the basis of a target population in the range 80,000 to 120,000 by 2050
- key population and employment drivers should be reviewed by 2025, taking into account changed population drivers, infrastructure provided or committed to at the review date, changes in technology, or any other key planning parameters.

6.7 Appropriateness of the proposed jobs target

(i) Evidence and submissions

The Minister submitted:

*The provision of 40,000 jobs in the CCZ precincts of Fishermans Bend is an essential element of the draft Framework which seeks to leverage Fishermans Bend's strategic location in proximity to the CBD, Webb Dock and other major employment areas.*³⁵

These are complemented by a further 40,000 jobs proposed for the Employment Precinct.

The Minister's submission was supported by evidence from Mr Szafraniec who drew on the *Fishermans Bend Economic and Employment Study, 2016* of which he was the principal author. That report identified 30,000 jobs currently in the broader Fishermans Bend precinct (16,000 of which are in the four CCZ precincts), and forecast 60,000 jobs at 2050, with 20,000 of those in the Employment Precinct. The draft Framework increases that

³⁵ Minister's Part B submission (D94), [85].

number to 40,000, with 80,000 overall, based partly on the subsequent decision by the University of Melbourne to relocate its Engineering faculty to the Employment Precinct.

In his analysis, Mr Szafraniec examined the prospects for job growth in Fishermans Bend in the context of expected job growth in metropolitan Melbourne and in the context of the CBD and other central area employment precincts. He concluded:

... a target of 80,000 jobs at Fishermans Bend (with 40,000 within the four CCZ precincts) based on strong policy and investment, in my opinion, is reasonable and consistent with employment growth forecasts in competing precincts.³⁶

In cross examination he indicated that achieving the targets was to some extent dependent on the appropriate development of the former GMH site.

Mr Szafraniec undertook a detailed analysis of the floorspace required to accommodate jobs across a broad range of industry sectors and concluded that an average provision of 31 square metres of floor space per job is required. He concluded that the controls proposed in draft Amendment are adequate to facilitate this.

Under cross examination by Mr Montebello, Mr Szafraniec stated that if the provision of infrastructure is delayed, reaching job targets would also be delayed. He assumed tram provision “soon” and the train closer to 2050. Mr Szafraniec did not see the potential for residential development to “crowd out” commercial floor space as an issue which would change his view on the ability to achieve job targets.

In answer to Counsel assisting, Mr Szafraniec stated that the controls as proposed appear to be reasonable in terms of sending the appropriate signal to the market but that the controls would need to be monitored. He also emphasised the need to carefully manage the transition for existing businesses.

Melbourne submitted that it supported the 80,000 jobs target, but submitted that there is a significant risk that the target won't be reached because of a discretionary commercial FAR. It added that its position was supported by the expert evidence of both Ms Hodyl and Mr Milner. Ms Hodyl argued for the minimum non-dwelling floor area to be mandatory stating:

I agree with Submission 153 (City of Port Phillip) that considering the current pressure to deliver residential uses, it is unlikely that the inclusion of this policy as it is currently drafted will be sufficient to deliver commercial floor area to support economic growth.³⁷

Mr Milner supported “a stronger assurance that land will be set aside for predominantly employment outcomes”.³⁸

In its initial written submission, Port Phillip expressed its concern about the job targets being met because of the trend in current residential approvals and the competition from better serviced areas such as Docklands and Arden Macaulay.³⁹

In closing, the Minister submitted that there are already in excess of 16,000 jobs located in Fishermans Bend and that existing employment levels in Montague and Wirraway already

³⁶ Evidence of Mr Szafraniec (D51), [54].

³⁷ Urban Design Evidence (D53), [61].

³⁸ Evidence of Mr Milner (D73), [143].

³⁹ Submission by City of Port Phillip (S153), page 18.

exceed their jobs targets. Mr Wren and others placed some emphasis on the importance of providing for existing industry which wished to continue operating in the area for the foreseeable future.

(ii) Discussion

No submissions or evidence have been provided which have convinced the Review Panel that the target of 40,000 jobs for the four CCZ zoned Precincts is inappropriate. There do appear to be some risks that the target may not be met. Risks include the way in which the requirement for non-dwelling floor space is measured and the timing and nature of the key light and heavy rail infrastructure.

The Review Panel does not place a great deal of weight on the jobs targets in Montague and Wirraway already being exceeded as it would be expected that many existing jobs will be lost as small employment intensive firms are replaced by residential uses, at least in the short term. Commercial development, particularly in Wirraway, appears likely to lag behind residential development by some considerable period.

The Review Panel addresses the issue of the use of non-dwelling FAR to encourage jobs in Chapter 7.4.

(iii) Findings

The Review Panel finds:

- the target of 40,000 jobs for the four Capital City Zone Precincts is appropriate and probably achievable, but will depend to some extent on early investment in public transport.

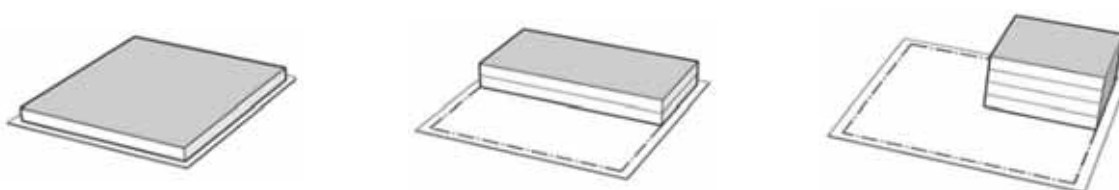
7 Floor Area Ratio and Floor Area Uplift

7.1 Context and key issues

The *Urban Design Strategy* proposed a limit on the amount of residential floor space that could be built, based on a target population of 80,000. It proposed that a minimum amount of commercial floor space be required in core areas, but recommended no limit on the maximum amount of commercial floor space that could be built.

The *Urban Design Strategy* recommended imposing these limits by way of a FAR. FAR is the ratio of the gross floor area of the building to compared to area of a site. Figure 3 is an illustration of the concept showing a FAR at a ratio of 1:1.

Figure 3: FAR illustrated (1:1 Ratio)



1 storey: 100% site coverage 2 storeys: 50% site coverage 4 storeys: 25% site coverage

Source: Review Panel

The draft Amendment sets:

- a maximum FAR for core and non-core areas (which is contained in the CCZ)
- a minimum floor area 'not used for dwelling' for core areas only (which is contained in Clause 22.XX).

In the Part A version of the controls, the maximum FAR in core areas could be exceeded with commercial floorspace.

In the Part B version, the CCZ included:

- a maximum 'Total FAR' for core and non-core areas
- a maximum 'Accommodation FAR' in core areas.

The maximum 'Accommodation FAR' appears to have been derived by subtracting the minimum commercial floor area requirements in Clause 22.XX from the maximum Total FARs for core areas. The Part B version removed the ability to exceed the maximum FAR in core areas with commercial floorspace. This effectively capped commercial floorspace at the minimum floor area requirements in Clause 22.XX.

The Part C version replicated the Part B version, although the terminology was changed from 'Accommodation FAR' to 'dwelling FAR' and 'non-dwelling FAR'. The Review Panel will refer to 'non-dwelling FAR' as 'commercial FAR', this being the term used in the *Urban Design Strategy*.

Table 9 shows the total, dwelling and commercial FARs for core and non-core areas, and the minimum commercial floorspace requirements in core areas, derived from the Part C controls.

FAU is development of dwellings above the floorspace limits allowed by the FAR, in return for delivering a public benefit. There is no limit on the amount of FAU, other than a limit imposed through the height and other built form controls.

Table 9: FARs presented in Part C version of the controls

	Capital City Zone			Local policy
	Maximum dwelling FAR	Maximum commercial FAR	Maximum total FAR	Minimum commercial FAR
Lorimer (all core)	3.7:1	1.7:1	5.4:1	1.7:1
Montague core	4.7:1	1.6:1	6.3:1	1.6:1
Montague non-core			3.6:1	–
Sandridge core	3.7:1	3.7:1	7.4:1	3.7:1
Sandridge non-core			3.3:1	–
Wirraway core	2.2:1	1.9:1	4.1:1	1.9:1
Wirraway non-core			2.1:1	–

Source: Part C controls

The FAR control has a number of purposes. These fall into two broad categories:

- purposes aimed at limiting development:
 - using the FAR as a density control to achieve a population target
 - influencing the mix of uses on a site (primarily seeking to ensure commercial floorspace is provided in core areas)
 - moderating built form to deliver built form diversity and avoid complete build out of the building envelopes on every site
 - avoiding the need to compensate landowners for land required for public purposes (open space and streets, roads and laneways)
- A purpose aimed at supporting more development:
 - underpinning the FAU scheme, which needs a base from which the uplift is calculated.

The key issues to be addressed are:

- how the FARs were set
- using the FAR as a density control
- using the FAR to influence the mix of uses on a site
- using the FAR to moderate built form
- using the FAR to avoid compensation
- using the FAR to underpin FAU.

7.2 How the FARs were set

(i) Context

The use of the FAR had its genesis in the *Urban Design Strategy*, which considered five approaches to controls in Fishermans Bend:

- continue with the current interim controls
- extend Central City controls to Fishermans Bend
- introduce capped FAR that aligns with 100 per cent population targets, with no FAU
- introduce uncapped FAR aligned with population targets, and incentivise community benefit through targeted FAU

- introduce revised mandatory height controls to ensure population targets, but with no FAR and FAU.

The *Urban Design Strategy* assessed these approaches against a number of criteria and concluded:

*This analysis demonstrates that the introduction of a FAR control, with or without a FAU, in conjunction with generally discretionary height controls would be the most beneficial approach for Fishermans Bend and the most direct way to achieve the vision and the urban design objectives.*⁴⁰

The *Urban Design Strategy* observed that this could have a significant impact on current development applications, but noted that this is necessary to “put Fishermans Bend back on track”.

There have been a number of changes to the FAR since the *Urban Design Strategy*:

- the Part A controls applied the total FAR to dwellings instead of the dwelling specific ratios – this was corrected in later versions
- there were changes to the Sandridge ratios as the result of the extension to the Montague core area.

There have been a number of changes to the FAU since it was proposed in the *Urban Design Strategy*:

- Part B controls prohibited any FAU, but this was a drafting error
- FAU was initially proposed for social housing, community facilities and additional open space, but the Part C controls limit the FAU to only social housing.

Commercial floor area was intended as a minimum requirement in the *Urban Design Strategy*. There have been a number of changes since:

- it has gone from ‘commercial’ in the *Urban Design Strategy*, to ‘employment’ in the draft Framework, to ‘non-dwelling’ in the controls (although as noted above, this report refers to ‘commercial’ in line with the *Urban Design Strategy*)
- it was originally proposed as a minimum requirement in core areas, but was changed to be a part of the maximum FAR in the Part C version (although the Part C version of Clause 22.XX still refers to it as a “preferred minimum FAR which should be set aside for a use other than Dwelling”⁴¹).

(ii) Submissions and evidence

One of the factors used to derive the FARs was the target population of 80,000 residents and 40,000 jobs. The Minister submitted in Part A:

*The target population and the FAR are matched, that is, the FAR provides sufficient development yield to deliver 80,000 residents and 40,000 jobs (with the remaining 40,000 jobs occurring in the Employment Precinct). Any change in the target population would need to be reconciled with changes to the FARs applied across Fishermans Bend.*⁴²

⁴⁰ Urban Design Strategy, page 30.

⁴¹ Part C Clause 22.XX-3.

⁴² Minister’s Part A submission [159].

The Minister submitted in Part C:

So, notwithstanding assertions by various submitters, the Review Panel must not proceed on the basis that decanting 80,000 people into homes in Fishermans Bend was the sole criterion which informed the FARs.⁴³

There was criticism in submissions that the FARs had been set unnecessarily low because of the restrictive nature of the population and jobs targets. There was also criticism that population was the wrong starting point for setting the FARs – a case of the ‘tail wagging the dog’ – and the starting point should have been the desired urban form.

The Minister’s description of the process of calculating the FARs, shown in Table 10, suggests that total gross floor area (GFA) required to accommodate 80,000 residents and 40,000 jobs was the starting point for calculating the FAR. This is discussed in Chapter 6.

Table 10: How the FAR was calculated (as described by the Minister)

Step	Calculation
Step 1	The total GFA required to accommodate 80,000 residents and 40,000 jobs was calculated.
Step 2	The GFA was adjusted to account for existing buildings under construction and approvals for development (it was assumed that 90 per cent of all approved dwellings will proceed ⁴⁴). The GFA does not account for any floorspace reflected in live permit applications, or any FAU.
Step 3	The adjusted GFA was distributed between the four Precincts according to the overall vision – land use, character and housing diversity – and the transport strategy.
Step 4	The Precinct level GFA was split into core and non-core areas based on transport provision and the desired character of the core and non-core areas.
Step 5	The GFA was converted into a FAR control by dividing the GFA by the gross developable area ⁴⁵ assuming that every site will redevelop by 2050.
Step 6	The FAR was increased to acknowledge that not every site is expected to develop by 2050. It was adjusted to meet the 2050 target population on the assumption that 75 per cent of land will be redeveloped by 2050.
Step 7	This results in the final proposed FAR as included in the <i>Urban Design Strategy</i> .

Source: Prepared by Review Panel from Minister’s Part A submission [161]

Step 3 involved distributing the FAR between the different Precincts. The *Urban Design Strategy* provided the background to how this was done. The distribution of the FARs was influenced by five “key drivers”:⁴⁶

- alignment with the Precinct residential and employment population targets for 2050
- alignment with the transport strategy to ensure the highest densities are located in the core areas
- delivering the minimum amount of commercial development needed to realise the job targets

⁴³ Minister’s Part c submission [81].

⁴⁴ Urban Design Strategy, page 74.

⁴⁵ The gross developable area is the total area within Fishermans Bend excluding existing parks and schools and proposed parks that occupy whole sites. *Urban Design Strategy*, page 13.

⁴⁶ page 74.

- moderating FARs for development delivery trends to ensure that population targets are met by 2050 (that is, the 75 per cent build out assumption applied in Step 6)
- aligning FAR controls with preferred built form outcomes to ensure that the desired neighbourhood character and housing diversity are achievable.

Table 11 shows the Precinct population figures used in the *Urban Design Strategy* to distribute the FAR, and compares them to the demographic projections for each Precinct set out in the *Fishermans Bend Population and Demographics* report (September 2016) prepared by DELWP.

Table 11: Population used to derive FAR

	Wirraway	Sandridge	Montague	Lorimer	Total
Demographic projections	14,400	34,000	19,200	12,000	80,000
No. of residents per Precinct used in FAR calculations in the <i>Urban Design Strategy</i>	17,600	29,600	20,800	12,000	80,000

Sources: Prepared by Review Panel based on Population and Demographics report Table 3: Population by Precinct, 2017 to 2051, and the *Urban Design Strategy*

It is not clear to the Review Panel why the figures in the Population and Demographics report were altered.

A number of assumptions were used to derive the FARs. Table 12, prepared by the Review Panel, lists some of these. A number of these assumptions were criticised in submissions and evidence.

Table 12: Assumptions in setting the FAR

Step	Critical decisions and assumptions
1 Estimating total GFA	Adoption of the population target Adoption of the jobs target Number of 1, 2 or 3 bedroom dwellings Area of dwellings for 1, 2 or 3 bedroom dwellings Area of circulation space Number of car spaces per dwelling Floor area per job
2 Adjusting the GFA to account for existing buildings and permits	Assumption of full build out of existing development and permits
3 Distributing the GFA to each Precinct	Setting Precinct boundaries Distribution of GFA
4 Splitting GFA into core and non-core areas for each Precinct	Distribution of GFA between core and non-core areas
5 Converting the GFA into a FAR	Identification of gross developable area
6 Increasing the FAR to acknowledge that not every site is expected to develop by 2050	Assumption of 75 per cent build out by 2050

Source: Prepared by Review Panel

The assumption that there would be 75 per cent build out by 2050 was the subject of particular criticism in submissions. Ms Hodyl explained she adopted the assumption after conversations with a range of people, who made estimates between 50 per cent and 100 per

cent. (Valid) criticisms were made that this was an arbitrary approach, not documented, and not backed by research or analysis.

Ms Hodyl applied the 75 per cent build out assumption uniformly across all Precincts. This is contrary to the population projections in the Population and Demographics report, which predicts that the Precincts closer to the CBD will develop earlier. For example, Lorimer is predicted to reach full build out by 2037, whereas Wirraway is not expected to reach full build out until after 2050.

Submissions also questioned the floor area assumptions for the different sized dwellings.

(iii) Discussion

The Review Panel accepts that the population target was not the sole criterion used to derive the FARs. However, the population target has clearly limited the FARs. Ms Hodyl confirmed that it was not open to her within her brief to plan for more than 80,000 persons when deriving the proposed FARs. This was illustrated by the FAR proposed for Sandridge being reduced to compensate for the increased population resulting from the Montague core being extended.

The *Urban Design Strategy* indicated⁴⁷, and Mr Sheppard agreed, that all building typologies and preferred characters nominated for various subprecincts can deliver residential densities with a FAR of at least 4:1, which is higher than the maximum FAR in some Precincts, particularly in non-core Wirraway. It therefore seems that the nominated FARs were not derived from densities required to deliver the preferred building typologies and characters.

Using the population target as a limit (and as a starting point) has meant that the FARs are lower than those which could have been derived from an iterative process that took into account built form, amenity and infrastructure without a predetermined population target. Indeed, modelling undertaken by Ms Hodyl demonstrated that if the FAU scheme is taken up to deliver six per cent social housing, the population that could result will be significantly higher than 80,000 – without exceeding the built form controls.

(iv) Findings

The Review Panel finds:

- the population target of 80,000 was a limiting factor in developing the FARs.

7.3 Using the FAR as a density control

(i) Context

One of the purposes of the FAR is to limit the density of development to achieve a population of 80,000 people. Leaving aside the issue that the FAU potentially undermines this purpose (by allowing significantly more floorspace and therefore significantly more population), this section discusses whether the FAR is the most appropriate tool to control population and dwelling density.

⁴⁷ *Urban Design Strategy*, pages 68-69.

(ii) Submissions and evidence

The FAR seeks to limit dwellings (and therefore population) by limiting the GFA devoted to dwellings. The calculations that are used to derive the FARs were also used to derive dwelling density (dwellings per hectare). Table 13 shows the equivalent dwelling densities related to the FARs as set out in the *Urban Design Strategy*.

Table 13: Relationship between recommended FARs and population and dwelling densities

	Wirraway		Sandridge		Montague		Lorimer
	Core	Non-core	Core	Non-core	Core	Non-core	Core
Maximum residential FAR	2.1	2.1	4.4	3.3	4.5	3.0	3.6
Dwelling per hectare densities by Precinct (based on future gross developable area)	139	131	311	154	301	198	255

Source: *Urban Design Strategy*, Table 13

It is important to note that while the FARs have been adjusted upwards to allow for the assumption that only 75 per cent of development will be built out by 2050, the dwelling densities have not. These dwelling densities were initially included in the exhibited version of Clause 22.XX. One of the outcomes sought to be achieved by including dwelling densities was:

Ensuring the available yield possible through a Floor Area Ratio is not delivered as large numbers of small dwellings that compromise the preferred dwelling diversity.

The dwelling densities were removed from the Part C version of Clause 22.XX, on the basis that dwelling densities and FARs were aimed at achieving the same thing, and the dwelling densities were therefore not required.

A number of submitters, notably Mr Armsby (S58), pointed out that the approach of limiting density through floor area rather than dwelling numbers per hectare was likely to lead to smaller dwellings with minimum floor area devoted to circulation spaces, as developers sought to maximise the number of dwellings possible for a given floor area. Ms Wagenhoff (S168) submitted that the use of a FAR may lead to a lack of housing diversity, particularly in Lorimer and Montague, as developers seek to maximum the yield of their sites.

In his closing, Mr Tweedie submitted:

If the Review Panel considers that [a] form of density related planning control should be developed for use as part of some alternative, future amendment, it is submitted that such a control would need to be (as a minimum):

- *realistic, and determined on the basis that development opportunities within Fishermans Bend should be optimised, and not unduly constrained*
- *not determined from an arbitrary, 2050 population target of 80,000 people, or by reference to arbitrary assumptions about the rate of future development or the number of existing permits that will be acted on*
- *discretionary, so that it can be used to guide decision making and not dictate fixed, inflexible development outcomes*

- *determined after an acceptable built form/urban design control has been developed, rather than as a key determinant of those controls.*⁴⁸

He noted that a density control which has these features has some potential to be a useful planning tool but said " *the current FAR Control is not*".

(iii) Discussion

The Review Panel accepts that there is rationale for seeking to control density in Fishermans Bend (which is explained in more detail in subsequent Chapters). However, it is not convinced that using FAR as a residential density control is wise. Limiting the amount of floor space that a developer can devote to dwellings may lead to a decrease in:

- the number of dwellings, which is the intended effect
- the size of dwellings, which is an unintended effect
- the amount of common and circulation space provided in association with dwellings (for example lobbies, corridors, and the like), which is an unintended effect.

It runs the risk of forcing a developer to choose between, providing, say, one three-bedroom apartment or two single-bedroom apartments in the same floor space. Directly limiting the number of dwellings avoids this choice.

A dwelling density control will only result in more floor space being delivered than intended if dwellings are larger than the *Urban Design Strategy* assumed, or common spaces are more generous. Neither of these outcomes would seem to be a bad thing.

For this reason the Review Panel does not believe that the FAR is the best tool to control density. It prefers a dwelling density tool (based on a number of dwellings per hectare).

(iv) Findings

The Review Panel concludes:

- the limit on density should be based on dwelling numbers per hectare, rather than FARs.

7.4 Using FAR to influence the mix of uses on a site

(i) Context

The Vision and draft Framework acknowledge the need to encourage commercial uses in Fishermans Bend, to ensure that the jobs targets are met and to ensure a truly vibrant mixed use precinct. The draft Framework refers to the role that FAR can play in providing a land use mix including employment opportunities, and includes strategies of introducing a minimum FAR for employment floor area in activity cores, and allowing additional commercial floor area above the FARs to maximise employment opportunities. There is recognition in the background documents and the MAC reports of the challenge presented by strong market demand for residential floorspace potentially crowding out commercial floorspace.

⁴⁸ D359 [144].

Commercial floorspace is included in the total maximum FARs in the Part C controls. While core areas nominally provide a specific allowance for commercial floorspace (by leaving a gap between the amount of dwelling FAR and the amount of Total FAR), there is no separate allowance for commercial floorspace in non-core areas.

As mentioned, while the Part A controls effectively allowed uncapped commercial floorspace in core areas, this was removed in the Part C version. The Part C version took what was effectively a minimum commercial floorspace requirement in Clause 22.XX, and made it part of a maximum FAR in the CCZ.

The issue is whether the FAR will be effective in encouraging an appropriate land use mix, in particular the provision of commercial floorspace, in Fishermans Bend.

(ii) Submissions and evidence

The *Urban Design Strategy* stated:

The average floor area per employee in the capital city zoned areas of the City of Melbourne (the Hoddle Grid, Southbank and the Docklands) is 31 square metres. Taking into account car parking rates of one space per 100 employees, the total amount of floor area needed to deliver the 40,000 jobs is 1,612,000 square metres.

The *Urban Design Strategy* allocated the 1.612 million square metres of floor space required to accommodate the 40,000 jobs between the Precincts as follows:

- Wirraway 161,200 square metres
- Sandridge 1,047,800 square metres
- Montague 161,200 square metres
- Lorimer 241,800 square metres.

As the Review Panel understands it, this was the process used to derive the floor area required to set the minimum commercial floorspace requirements in Clause 22.XX, and the non-dwelling FARs in the Part C version of the controls.

As noted in Chapter 6, Mr Szafraniec supported the contention that on average 31 square metres of floor space is required to support each job.⁴⁹ This amount was not challenged.

Ms Hodyl's evidence was that while the minimum commercial FARs should remain in the local policy in Clause 22.XX, they should be expressed as mandatory minimums, and the policy strengthened to better ensure they are delivered. Port Phillip submitted that the minimum commercial FAR should be specified in the CCZ Schedule, and subject to a requirement for a permit if it were not to be delivered.

Melbourne supported a cap on non-dwelling floor space, but for reasons associated with the use of the FAR mechanism to acquire land needed for public infrastructure, not because it considered that the amount of commercial floorspace in Fishermans Bend should be limited.

⁴⁹ Evidence of Mr Szafraniec [63].

(iii) Discussion

The Review Panel accepts that there is a need to encourage commercial development in Fishermans Bend for the reasons set out in the context to this section of the report. The Review Panel has a number of concerns with the way in which commercial floorspace is dealt with in the FARs (Part C version):

- there is no policy justification in the Vision or draft Framework for limiting commercial floorspace (separate to limits on overall development to achieve character outcomes) – the draft Framework seeks to encourage employment uses, not limit them
- it makes no sense to take a preferred minimum commercial floorspace requirement in local policy (Clause 22.XX), and effectively convert the same amount of floorspace into a maximum in the CCZ
- the floor area estimate used to derive the non-dwelling FARs was based on employment uses, but will be applied to all non-dwelling uses, including community or other uses, further reducing the amount of floorspace potentially available for employment generating uses (or potentially discouraging non-commercial community based uses)
- the limit may work against employment uses that have a larger footprint than the 31 square metres per job allocated
- the limit will apply on a site-by-site basis, potentially limiting the delivery of a stand-alone commercial building sufficiently large to be commercially viable
- because the limit will apply on a site-by-site basis, any under-delivery on a particular site will not be able to be made up by delivery on an alternative site.

The Review Panel considers that in the Part C version of the controls, FAR is effectively used to limit commercial floorspace, rather than to encourage it and it does not support this approach. It recommends that the approach reflected in the Part A version be taken forward, with some modification.

(iv) Finding

The Review Panel finds:

- a maximum commercial FAR is inconsistent with the Vision and draft Framework and should be removed
- the proposal for unlimited commercial floorspace in core areas reflected in the exhibited and Part A versions of the controls should be taken forward
- the minimum commercial FAR in Clause 22.XX should be retained, but referred to as a plot ratio control in keeping with existing VPP definitions.

7.5 Using FAR to moderate built form

(i) Context

The *Urban Design Strategy* identified seven character typologies and presented illustrations and indicative FARs for each type, as shown in Table 14.

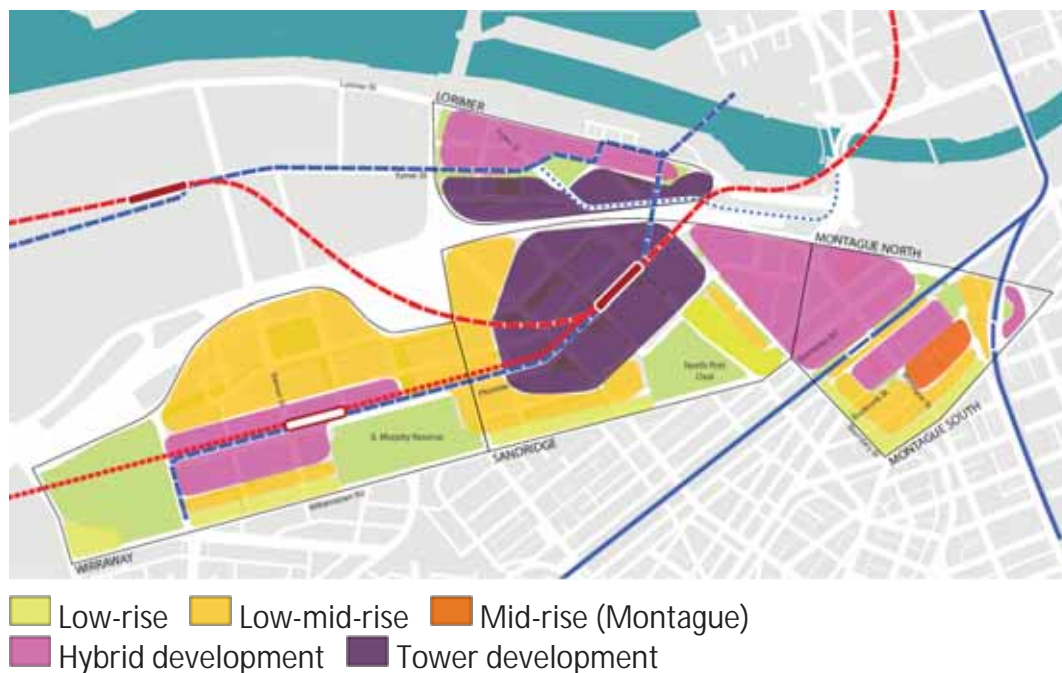
Table 14: Character types from *Urban Design Strategy*

Character type	FAR indicative Range	Suitability	
		Core	Non-core
Narrow infill	2:1 to 4:1	all precincts except Sandridge	all precincts
Row	2:1 to 4:1	all precincts except Sandridge	all precincts
Shop-top	3:1 to 5:1	all precincts	all precincts
Courtyard	2:1 to 5:1	all precincts	all precincts
Perimeter block	2:1 to 5:1	all precincts	all precincts
Tower	3:1 to 18+:1 (depending on site size)	all precincts (preferred heights vary)	not supported in Montague and Wirraway
Hybrid	2:1 to 10:1 (if including tower)	all precincts	all precincts

Source: *Urban Design Strategy*, pages 68–69

Figure 4 shows application of the typologies from the *Urban Design Strategy*. The character types in the table and figures in the *Urban Design Strategy* use different terminology.

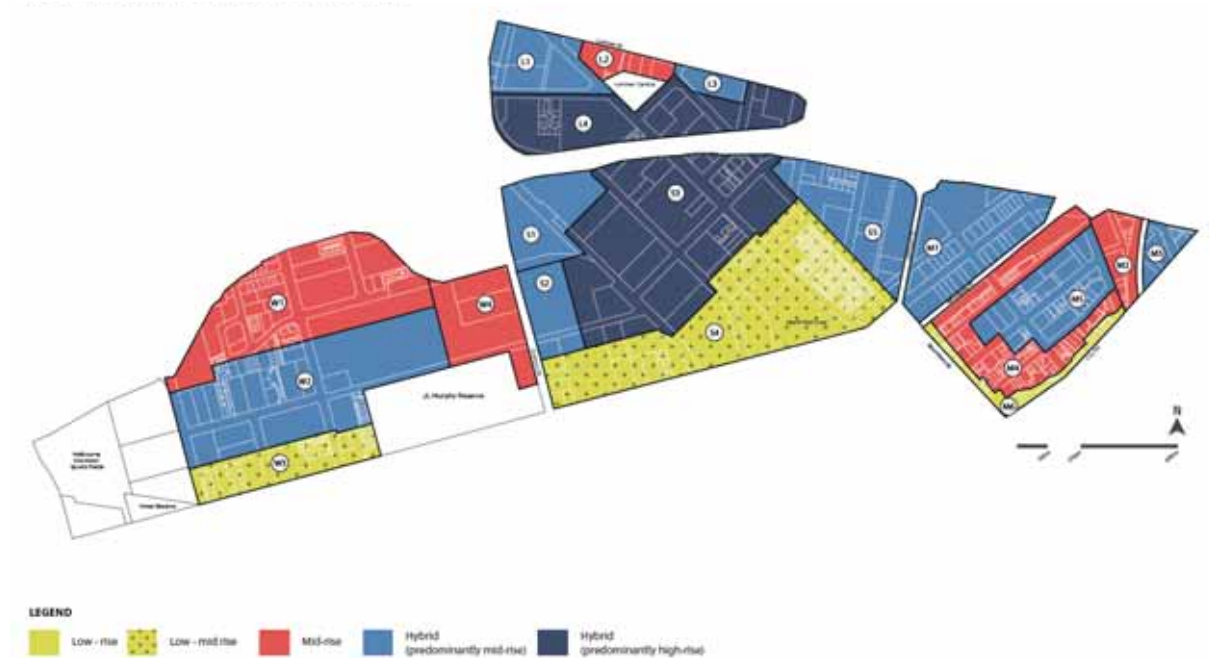
Figure 4: *Urban Design Strategy* character types



Source: *Urban Design Strategy*, Figure 42

The Part A version of Clause 22.XX and the Part C DDOs set out a preferred character for each subprecinct, which is reflected in Figure 5 (below). These are intended to work in conjunction with the height controls set out in the DDOs.

Figure 5: Part C Character typology



Source: Minister revised maps (D306)

The *Urban Design Strategy* states that FARs are intended to work together with the built form controls to deliver the desired typologies and characters in each Precinct.

(ii) Submissions and evidence

It was common ground among the various experts that it is appropriate for the building form available pursuant to the FAR to sit within the building form available pursuant to the building envelope controls. This variation allows for building diversity, avoids building to the maximum permissible envelope, and facilitates the provision of public benefits through the FAU. What was contested was whether the degree of 'fit' between the FAR and the building envelope was appropriate. The Review Panel posed the rhetorical question, when does a loose fit become too loose?

The Minister's Part A submission noted:

A function of the DDO is the built form envelope which works with the FAR controls within the CCZ, ensuring the scale, height and setbacks protect internal amenity and deliver a high quality public realm. This is enhanced by encouraging developments to create publicly accessible, private and communal open spaces.⁵⁰

The Minister submitted in Part C that the modelling undertaken by Ms Hodyl and Mr Sheppard demonstrated that of the tested sites, which totalled more than 100, all but a

⁵⁰ Minister's Part A submission [69].

handful achieved the FAR for their site, including with the provision of open space, streets and lanes.⁵¹ The Minister submitted that many of the sites could accommodate FAU.⁵²

Mr Sheppard did not consider that substantially reducing the FARs was a responsible way to respond to Melbourne’s strategic planning imperatives:

*This is particularly pertinent in Wirraway, where a relatively low density of 2.1:1 is proposed outside the core area, and the primary reason appears to be a character choice and/or the notion of family-friendly housing The southern edge of Wirraway is also affected by the desire to transition to the established neighbourhood beyond. However, this only affects a small proportion of the non-core land in Wirraway.*⁵³

Mr Sheppard sought to demonstrate that other development models could deliver greater yield within the proposed character typology, although he acknowledged that for some of these models “there would need to be a mechanism for consolidating [sites] or equitably sharing the development benefits” between the lots where taller and lower forms are to be built.⁵⁴

Mr Sheppard and Ms Heggen criticised the fit between the FARs and the built form controls, particularly the building heights, as being too loose. They, along with Mr McGurn, pointed to the fact that on many sites, the FAR effectively limited heights to well below the preferred building heights in the DDOs. Mr Sheppard produced modelling to demonstrate this. Their evidence was that the degree of discrepancy between the building form available pursuant to the FAR and the building form available pursuant to the height controls was too great, and that the FAR operated as an unnecessary limit on built form.

Mr Sheppard gave evidence that there is no ‘rule of thumb’ for the degree of fit between FAR and height. However, absent some other explanation for the extent of the variation, he contended it might be thought that a large variation suggested either the heights were too high, or the FAR was too low.

The Review Panel produced a chart (D325) that presented the relationship between the FARs and the heights for each subprecinct, based on data supplied by the Minister. In SIN 21 (D351) the Minister corrected the earlier information supplied, noting 11 changes or corrections, and submitted:

*At first blush, Document 325 prepared by the Review Panel might appear to support the conclusion reached by Mr Sheppard and Ms Heggen about the discrepancy between the FAR and the building envelope controls. It should be appreciated that a diagram of this kind illustrates only the relationship between FAR and subprecincts on the one hand and height and subprecincts on the other ...*⁵⁵

⁵¹ Minister’s Part C submission [71]. Ms Hodyl identified only one site at 118 Bertie Street which could not achieve the FAR. Mr Sheppard nominated 2 or 3 others where FAR may be hard to reach in a viable form.

⁵² Minister’s Part C submission [72].

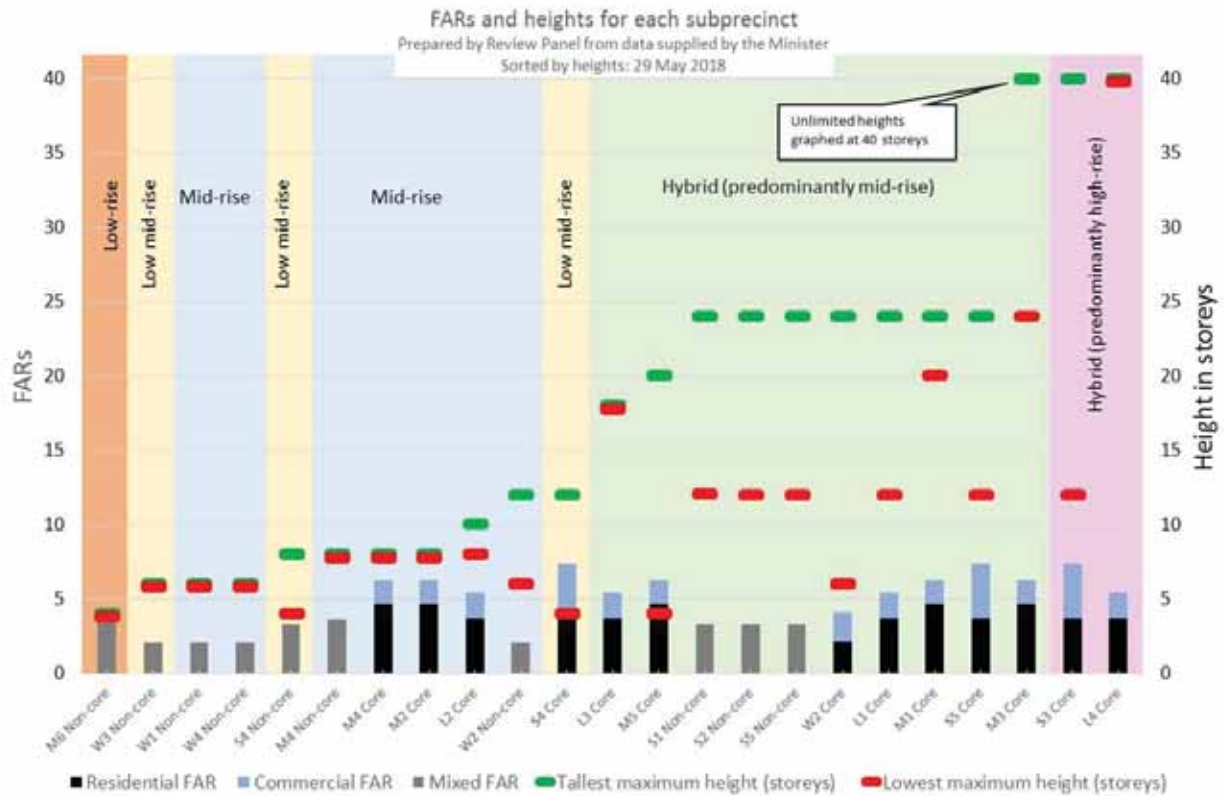
⁵³ Evidence of Mr Sheppard [182].

⁵⁴ Mr Sheppard’s response to D294 (D323).

⁵⁵ Minister’s Part C submission [76].

Figure 6 is the Review Panel’s chart produced in D325, adjusted to take into account the additional information provided in SIN 21 (D351).

Figure 6: FARs and heights for each subprecinct



Source: Prepared by the Review Panel from information provided by the Minister in D351

The Minister submitted that the virtue of the FAR, height and typology combination embodied in the draft Amendment is that diverse built form outcomes can be delivered on individual sites rather than relying on site consolidation or some other tool. He submitted:

- nothing should be read into the variation between the tallest maximum heights (plotted in green) and the lowest minimum heights (plotted in red) as the lower heights are explained by shadow or low-rise interface conditions dictating lower heights⁵⁶
- the general pattern which emerges from a study of Document 325 is that the areas with the greatest ‘looseness’ of fit are subprecincts where hybrid development is sought. If hybrid development is to be delivered on a site-by-site basis, rather than the block by block basis as described by Mr Sheppard, this extent of ‘non-alignment’ between FAR and height will be necessary.⁵⁷

Mr Sheppard’s view was that amenity impacts could be managed through building envelope, rather than density controls, and that it was not necessary to limit population and density for amenity reasons.⁵⁸ He said that this was confirmed by *Lessons from Higher Density Development (2016)*, a study for the Greater London Authority, which noted that there were

⁵⁶ Minister’s Part C submission, footnote 58.

⁵⁷ Minister’s Part C submission, [78].

⁵⁸ Evidence of Mr Sheppard [174].

no intrinsic issues with higher density developments, but internal and external amenity issues required more thought to deal with as density increases.⁵⁹

The Minister rejected criticisms of the overly loose fit between the FARs and the heights and other built form controls on the basis that:⁶⁰

- the evidence of Ms Hodyl explained that the process for crafting the combination of typology, height and density was an investigative and iterative process which sought to achieve the character outcomes sought
- various witnesses for the landowners, including Mr Sheppard in particular, conceded that density was not the exclusive consideration in the development of the built form controls
- it is not consistent with a proper understanding of the way in which statements of preferred character, typology, FAR and height work together to achieve the distinctive character sought for each subprecinct.

In closing, Mr Tweedie submitted:

*The FAR Control is not needed. ... It is an unnecessary complication, impediment and distraction to the development of a series of built form controls and policies that can be implemented through one or more DDOs and/or local policy provisions that can ensure that Fishermans Bend delivers a high quality, liveable built environment.*⁶¹

(iii) Discussion

The preferred character statements were revised during the Hearing, and the revised character typologies presented by the Minister in the Part C DDOs towards the end of the Hearing are different to those exhibited in the MSSs. In a number of subprecincts the proposed character typology is expressed in fundamentally different language. This appears to be a function of earlier poor drafting rather than a substantial change in what was intended.

It is important to note that while the character typologies vary between subprecincts, the FAR varies only between core and non-core areas. Until the Review Panel asked for the subprecincts to be mapped against the core and non-core areas (D294), there was no documentation of how these areas differed.

It is one thing to accept the general proposition (which was uncontested) that different Precincts should have different characters. However, it is another proposition entirely to conclude that the FARs are appropriately calibrated with the built form controls, building typologies and preferred character statements, and that this will ensure the delivery of the different characters sought.

The Review Panel does not take issue with the broad submissions that higher hybrid forms will need to have a looser fit between the FAR and the maximum heights. The issue is whether this fit makes sense across all of the subprecincts.

⁵⁹ Available at https://www.london.gov.uk/sites/default/files/project_2_3_lessons_from_higher_density_development.pdf.

⁶⁰ Minister's Part C submission [80].

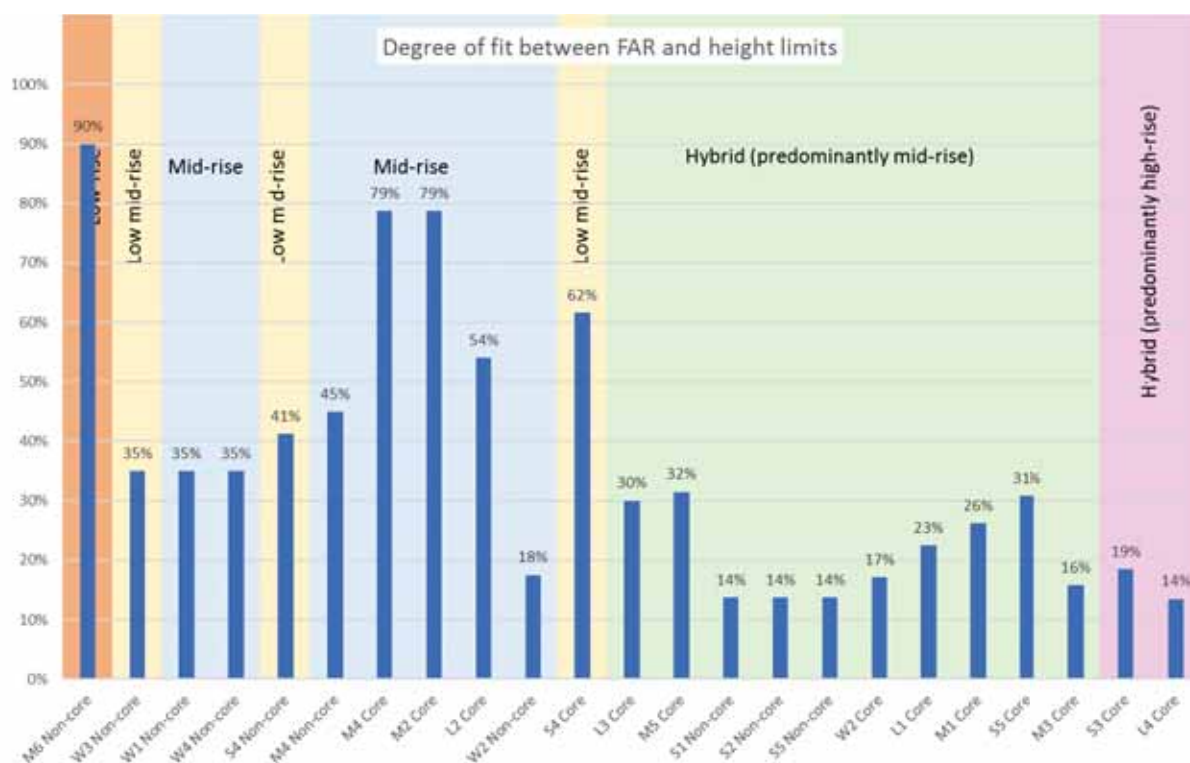
⁶¹ [116].

While it is broadly the case that the maximum heights are aligned with the revised character typologies (as can be seen in Figure 6 above), there is no clear relationship between the FARs and the typologies, or the typologies and the ‘fit’. For example, Subprecinct 4 in Sandridge core is ‘Low-mid-rise’ but has a higher FAR and taller maximum height than some ‘Mid-rise’ subprecincts.

Figure 7 is the Review Panel version of Figure 9 from SIN 21. It shows the height permitted under the FAR for a building that covers 100 per cent of a site, as a percentage of the tallest maximum height in the subprecinct.

While it is true that the subprecincts with the tallest maximum heights have the loosest fit, there is a great deal of variation between subprecincts with the same typology. Within the mid-rise typology, the looseness of fit ranges from 18 per cent for Subprecinct W2 in Wirraway, to 79 per cent for Montague M2 and M4.

Figure 7: Degree of fit between FAR and height limits



Source: Prepared by the Review Panel from information provided by the Minister in D351

Having reviewed the relationship between the FARs, the typologies and the heights, it is clear to the Review Panel that the FARs are not particularly well calibrated with the preferred character or built form outcomes. FARs may follow a pattern of distribution across the subprecincts that is broadly consistent with the preferred character, but the actual values specified are not consistent.

The Review Panel considers that there are a number of reasons for this:

- The 80,000 population target limited the total amount of floorspace (FAR) to be allocated, so that even if an area was capable of more development within the character type identified, it would not be allocated that FAR (or if it were allocated the FAR, it was at the expense of some other area).

- The subprecincts did not feature in the allocation of the FARs. FARs were split between core and non-core areas and not between different subprecincts. This suggests that the FARs are not being used to deliver the varied typologies sought between the different subprecincts.

The Review Panel accepts the evidence of Mr Sheppard and Ms Hodyl that a properly calibrated density control, working in conjunction with built form envelopes, creates built form diversity and avoids the building envelopes on each site being ‘filled up’. It accepts their evidence that a density control can work with built form controls to assist in delivering the varied building typologies sought for each subprecinct, and contribute to delivering the preferred character outcomes sought for Fishermans Bend.

The Review Panel considers that a preferable tool for achieving these outcomes is a dwelling density control, in conjunction with clearly expressed preferred character statements, building typologies and built form outcomes in the DDOs.

As noted in Chapter 7.2, the *Urban Design Strategy* indicated that many of the typologies sought to be delivered in Fishermans Bend can achieve higher densities than those allowed under some of the FARs. This was supported by Mr Sheppard’s evidence that all of the preferred typologies can deliver residential densities with a FAR of at least 4:1, which is higher than the maximum FAR in all Precincts other than Lorimer, Montague core and Sandridge core (refer to Table 9). There is therefore scope to increase the densities without compromising building typologies and preferred characters sought for various subprecincts.

(iv) Findings

The Review Panel finds:

- the FARs do not seem to have been set to achieve a particular character (and if this were the case then FAU would need to be restricted)
- a better way to manage character would be to set out clear and explicit typologies and character statements in the DDOs
- with the possible exception of Lorimer, Montague core and Sandridge core, there is scope to increase the densities in all Precincts without compromising the building typologies and preferred characters sought for the various subprecincts.

7.6 Using FAR to avoid compensation

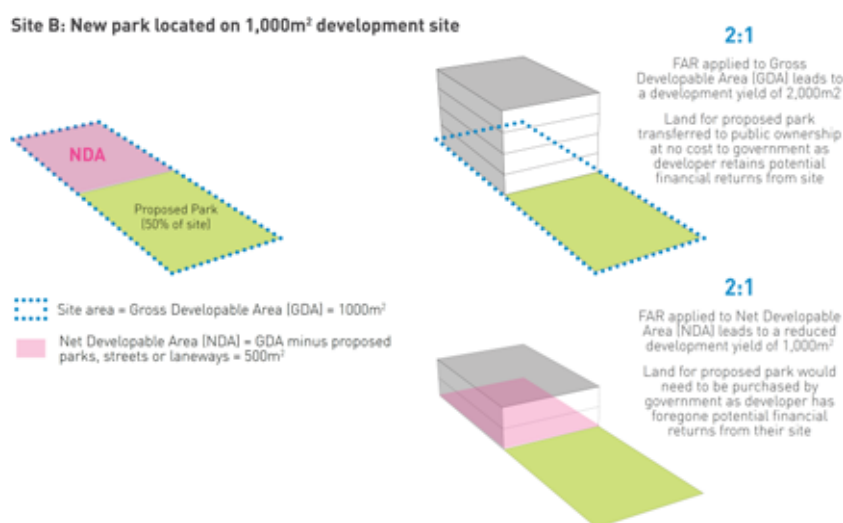
(i) Context

A further use of the FAR was to support the delivery of open space and roads without needing to compensate the impacted landowner (see Chapter 13.4 for more detail). This has now been abandoned (see Chapter 1.6(vi) for more detail).

(ii) Submissions and evidence

The *Urban Design Strategy* is explicit about its expectations of why no compensation would be needed with regard to land required for public purposes such as open space, as explained in Figure 8.

Figure 8: Urban Design Strategy explanation of why no compensation is needed



Source: *Urban Design Strategy*, page 80

The basis of this approach was that by setting aside land for the stated purposes, the landowner suffered no loss in the overall development potential of their land. This approach was roundly criticised as being an unfair and unlawful mechanism for the acquisition of private land and was abandoned by the Minister in the Part C controls.

(iii) Discussion

While a FAR mechanism (or other forms of density control) based on gross developable area may not eliminate the need for compensation, it may well result in the remaining part of the site being more valuable than it would be if part of the land was not set aside. The density applies to the gross developable area of the site, including the area required for public purposes. If the density can still be achieved on the remaining part of the site, after the land needed for public purposes had been set aside, then the value of the remaining part of the site will be higher (as it has the same development potential as the gross site area).

(iv) Findings

The Review Panel finds:

- the FAR may reduce compensation where part of a site is required for public purposes, even if it does not eliminate compensation, but a dwelling density control could perform the same function equally as effectively.

7.7 Using FAR to underpin FAU

(i) Context

The Part C FAU scheme allowed additional dwellings over and above those that than could be delivered within the base dwelling FAR, in return for a public benefit in the form of social housing.⁶² The FAU scheme in the Part A version contemplated additional open space and community facilities as a public benefit that would entitle the developer to an uplift. Any

⁶² The term social housing is used here but the confusion between this term and affordable housing is addressed in Chapter 8.

uplift scheme of this type requires a base limit on the development of a site, above which extra development is permitted in return for the delivery of a public benefit.

The document titled *How to calculate floor area uplifts and public benefits in Fishermans Bend* exhibited with the draft Amendment (the FAU note) sets out the principles for delivering a public benefit in the form of social housing:⁶³

- for each affordable housing unit delivered, eight additional dwellings can be built
- the affordable housing unit mix should replicate (in terms of size etc) the private dwelling mix.

Access to the FAU scheme is not automatic. For a development to exceed the FAR:

- the development must provide a public benefit, secured by a s173 agreement.⁶⁴
- the development must be within the height limits set out in the DDO
- the development must meet mandatory overshadowing controls
- the development should be in keeping with the character proposed for the relevant subprecinct.

This section addresses the interpretation and implications of the FAU for development and population in Fishermans Bend, including whether FAU should be capped. The effectiveness of the FAU as a tool to deliver affordable housing outcomes is addressed in Chapter 8.5.

FAU is available for social housing, not for affordable housing more broadly. The draft Amendment proposed a target of six per cent affordable housing across Fishermans Bend. It did not set a separate target for social housing. Ms Hodyl modelled the impact of FAU by assuming that the entire six per cent affordable housing target would be social housing. In the absence of a specific social housing target the Review Panel has adopted the same assumption. In reality, some of the affordable housing is likely to be forms other than social housing that does not generate an FAU.

(ii) Submissions and evidence

The *Urban Design Strategy* (Page 71) noted that:

The FAU scheme should be targeted to achieve the delivery of 2,500 affordable housing units across the Fishermans Bend area.

This target was presented in the Hearing as 2,214 affordable dwellings. Ms Hodyl modelled whether there was sufficient room in the proposed built form envelopes to accommodate the target 2,214 dwellings, plus the additional 17,712 private 'uplift' dwellings to which a developer was entitled as a result of providing the social housing (2,214 x 8). Her modelling demonstrated that there was generally enough room in the built form envelopes on enough sites to accommodate the social housing dwellings, plus the private 'uplift' dwellings.

Melbourne submitted that if the FAU scheme delivered six per cent social housing across Fishermans Bend, the social housing dwellings plus the private 'uplift' dwellings would effectively double the 2050 population estimate in Lorimer. It submitted that FAU should be capped to ensure the population does not significantly exceed the 2050 estimate and

⁶³ FAU note, page 33.

⁶⁴ s173 of the Act, referring to an agreement that runs with the title of the land, that binds a future owner of the land.

compromise the preferred character and built form outcomes sought under the Vision and the draft Framework.

In response to Melbourne's concerns, Ms Hodyl undertook an analysis of the population implications for Lorimer if FAU were to deliver six per cent social housing. She concluded that in a 100 per cent build out scenario, this could lead to a population of 28,300 – more than double the projected population of 12,000 people by 2050. Her evidence was:

This scale of residential density is not supported in Lorimer and it is not the intention of the use of the FAU control ... This also highlights the need to explore, in addition to utilising the FAU, other mechanisms for the delivery of affordable housing (for example inclusionary housing) to minimise the potential impacts on amenity in Lorimer.⁶⁵

Ms Hodyl conceded in cross examination by both Mr Montebello and Ms Forsyth that the FAU scheme could lead to outcomes that were vastly different from the Vision. She did not, however, go so far as to agree with Ms Forsyth that FAU should be capped to avoid these types of outcomes.

Landowners challenged the restriction of the FAU to (now) only social housing as expressed in the Part C controls by the Minister, with Mr Tweedie submitting:⁶⁶

There appears to be no good reason to exclude the ability to allow for increased development yield on land in exchange for the delivery of other forms of public benefit, including:

- *public open space*
- *roads and laneways*
- *commercial floor space, and/or*
- *other community infrastructure (such as schools, community hubs etc).*

The Review Panel will note that, originally, the Minister opposed using the FAU to secure the delivery of public open space and/or roads or laneways on the basis that the FAR mechanism would achieve this without inequity to any landowner. Now that the Minister has finally accepted that this was a false proposition, and abandoned his original FAR based mechanism to acquire open space and roads/laneways, why should this not be an option under the FAU or any alternative form of "uplift" scheme?

The Minister submitted that the decision to accept a public benefit in the form of social housing only in exchange for an uplift should be entirely at the discretion of the responsible authority (in consultation with the proposed receiving agency for the social housing). He submitted that a decision to accept or refuse a proposal to provide social housing in return for an uplift should not be subject to review in VCAT, as it would be inappropriate to 'force' the responsible authority to accept social housing if it was not needed, or if a suitable receiving agency to own and manage the social housing could not be identified.

Mr Tweedie's closing submission challenged the claim that FAU should not be subject to VCAT review⁶⁷:

⁶⁵ Addendum 5 to Ms Hodyl's evidence (D154), [43–48].

⁶⁶ Closing submission [158–159].

The public benefit to be delivered must, by definition, be one which is “to the satisfaction of the responsible authority”. Consequently (and despite assertions to the contrary by the Minister)⁶⁸ under the proposed controls, there can be no real doubt that any decision by a responsible authority as to whether the proposed provision of social housing justifies a proposed FAU will be able to be reviewed by VCAT under s 149 of the Act.⁶⁹

This, in and of itself, is a good thing. However, the continued assertions of the Minister that this is not the case simply illustrate the current deficiencies of the controls as drafted. It should be obvious to everyone what exactly is being proposed here.

(iii) Discussion

An uplift scheme requires a base limit on the development of a site, above which extra development is permitted in return for the delivery of a public benefit. The issue is whether the uplift allowed under the FAU scheme is appropriate.

The potential built form and population outcomes of the FAU scheme

The FAU scheme has significant implications for population and built form in Fishermans Bend.

The ratio of eight private ‘uplift’ dwellings to each social housing dwelling means that for every six social housing dwellings, 48 private uplift dwellings can be provided. In other words, 54 additional dwellings would be provided for every 100 dwellings if the six per cent was taken to be six per cent of the base dwellings. This means that FAU potentially delivers an additional 54 per cent the floor area over and above the base FAR. This is not to be confused with the six per cent policy for affordable housing.

If the target of six per cent refers to six per cent of all new dwellings, and FAU was the only delivery mechanism, then for every 100 dwellings there would be:

- six social housing dwellings
- 48 uplift dwellings
- 46 base dwellings.

This means that FAU potentially delivers over double the floor area of the base FAR.⁷⁰

Figure 9 shows graphically the potential impact of FAU on dwelling numbers, based on FAU delivering six per cent social housing in scenarios involving a 75 per cent build out and a 100 per cent build, and based on an uplift ratio of 8:1.

⁶⁷ Closing submission for NRF landowners [149-150].

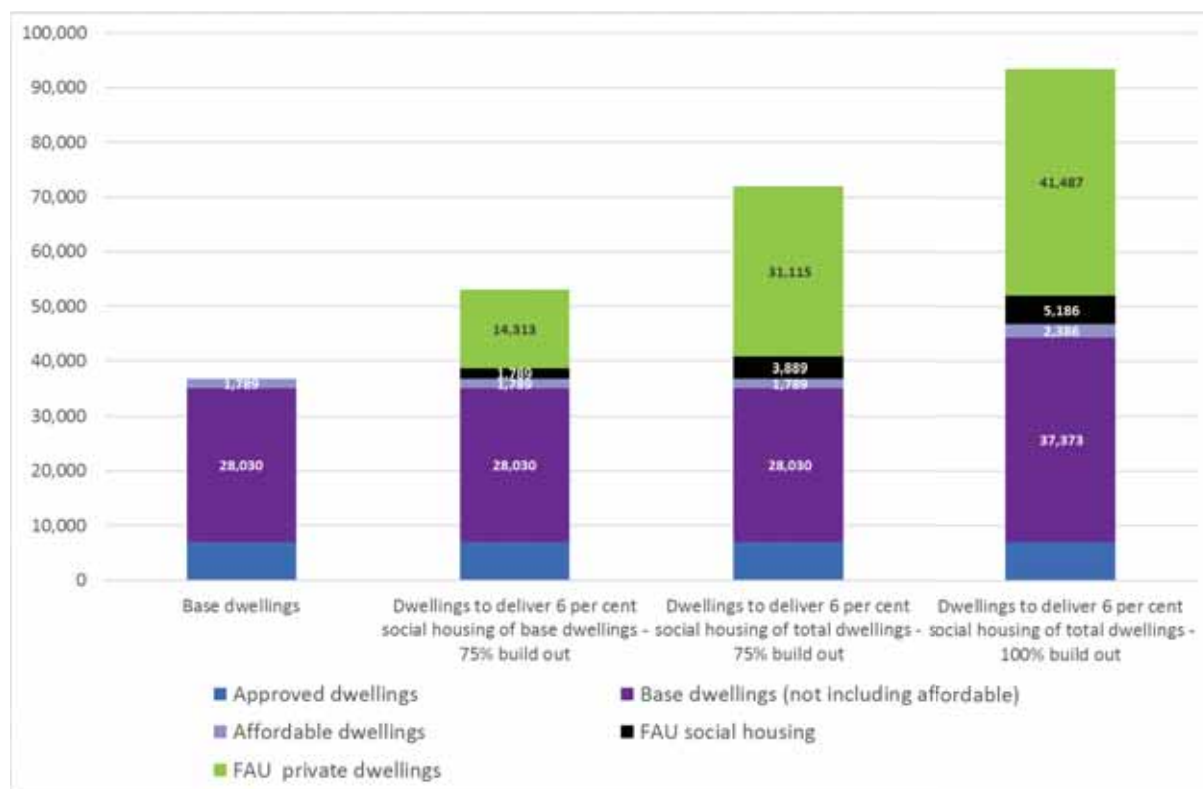
⁶⁸ Closing submission for Minister for Planning Part C (D350), [136].

⁶⁹ para 41, See for example – *Deakin University v Whitehorse CC (includes Summary) (Red Dot) [2009] VCAT134; Naroghid Wind Farm P/Ltd v Minister for Planning [2013] VCAT at [94]–[109]*.

⁷⁰ Social housing six per cent of total dwellings:

FAR increase = (Social housing dwellings + uplift dwellings) / (private dwellings) = (6 + 48)/46 = 117%.

Figure 9: FAU required to deliver social housing target on estimated 29,819 additional dwellings



Note: 'Affordable dwellings' does not include Social housing dwellings

Source: Prepared by Review Panel

Table 15 presents this in population terms.

Table 15: Population increase associated with the FAU scheme

	Total	Percentage increase on base
Base population	80,000	
Population to deliver six per cent social housing of 80,000 population – 75% build out	123,200	54%
Population to deliver six per cent social housing of total population – 75% build out	173,913	117%
Population to deliver six per cent social housing of total population – 100% build out	231,884	190%

Source: Prepared by Review Panel

There is little doubt that if there is enthusiastic uptake of the FAU scheme to deliver social housing, there will be significantly more dwellings (and significantly greater population) in Fishermans Bend than the 2050 estimates reflected in the Vision and the draft Framework.

At this stage, the Review Panel does not support capping the FAU, because of the implications this would have for the delivery of social housing discussed in Chapter 8.5. However, the Lorimer example provided by Ms Hodyl highlights the need to closely monitor the uptake of FAU in Fishermans Bend. If uptake is high, and some of the potential consequences of additional built form and population as outlined by Melbourne and Ms Hodyl start to eventuate, there may be a need to revisit a cap on FAU.

Should FAU be restricted to social housing?

The Review Panel is concerned that too broad an FAU scheme could undermine the planning for Fishermans Bend, including by further increasing the dwelling numbers and population beyond the increases contemplated in Figure 9 and Table 15 (which are based on FAU only delivering social housing) (although it notes that decisions about whether to approve FAU are within the discretion of the responsible authority). The deficiencies with a broad-based FAU scheme were articulated by the Melbourne C270 Panel when it recommended against a similar mechanism being implemented as part of that Amendment.⁷¹

Further, as noted in Chapter 8.5, restricting the FAU scheme to social housing makes it more likely that critically needed social housing will be delivered in Fishermans Bend.

The Review Panel therefore recommends against broadening the FAU scheme to cover other forms of public benefit as Mr Tweedie suggested.

Should FAU decisions be reviewable?

The Review Panel agrees with Mr Tweedie's submissions that if decisions about FAU are to be to the satisfaction of the responsible authority, it is likely that they will be reviewable by VCAT under section 149 of the Act. While the Review Panel notes the submissions of the Minister in this regard, it does not necessarily consider this to be a bad thing. The Review Panel considers that, practically speaking, VCAT is unlikely to seek to force the responsible authority or potential receiving agencies to enter into agreements to accept social housing which they do not support.

In practical terms, the question for VCAT will more likely be whether the built form consequences of the FAU that accompanies social housing results in acceptable outcomes. In this sense, it is difficult to isolate the social housing aspects of a FAU proposal from the built form aspects of the proposal. The Review Panel considers that it is entirely appropriate that VCAT be able to review the built form consequences of the additional uplift that accompanies social housing, and that it be able to balance these consequences against the community benefit delivered by the social housing.

The Review Panel does not consider that any changes are required to the Part C controls to address this issue.

(iv) Findings

The Review Panel finds:

- Some form of limit on development is required to underpin an uplift scheme. The Review Panel considers that a dwelling density limit is a preferable tool to FAR.
- The FAU scheme as proposed in the Part C controls has the potential to result in a significantly higher population than the 80,000 envisaged in the Vision, and the range of 80,000 to 120,000 recommended by the Review Panel.
- While this raises concerns for the Review Panel, it does not consider it appropriate to cap the FAU at this stage, because of the consequences this could have for the delivery of much needed social housing in Fishermans Bend (see Chapter 8.5).

⁷¹ Panel Report Amendment C270 to the Melbourne Planning Scheme (26 October 2016), pages 68–69.

- Monitoring will be required to ensure that the FAU scheme is not resulting in densities or built forms that are inconsistent with the preferred character for each Precinct. If these outcomes start to eventuate, consideration should be given to capping the FAU, or adjusting the 8:1 ratio.
- It does not support broadening the FAU scheme to encompass other public benefits beyond social housing.
- It considers that the Part C controls are drafted in such a way that FAU decisions are likely to be reviewable by VCAT (which it considers appropriate).

7.8 The way forward

(i) Delivering an appropriate suite of controls

At the start of this Chapter, the Review Panel set out five purposes proposed for the FAR in the Fishermans Bend planning scheme controls. For the reasons set out in the previous sections of this Chapter, the Review Panel finds that the FAR does not satisfactorily fulfil a number of these purposes, and that other tools will fulfil these purposes more effectively:

- **As a residential density control** – the FAR is not a suitable tool to control residential density. Limiting the amount of floor space that a developer can devote to dwellings is likely to encourage smaller dwellings and smaller circulation spaces.
- **Influencing the mix of uses on a site** – a maximum FAR that includes commercial floorspace is not a suitable tool for encouraging employment generating floor space in Fishermans Bend. The Review Panel considers that a minimum commercial plot ratio that is uncapped in core areas is a more effective way of encouraging employment generating floor space.
- **Moderating built form outcomes** – while a FAR (as a density control) can operate with built form controls to deliver diverse built form typologies, the Review Panel finds that the FARs have not been properly calibrated with the built form controls, building typologies and preferred character statements.
- **Eliminating compensation** – the use of FAR as a way to eliminate the need to compensate landowners who are required to set aside part of their land for public purposes has been abandoned in favour of more conventional mechanisms such as a DCP or ICP.
- **A base to underpin the FAU scheme** – while the FAR can operate as a limit on development that underpins the delivery of public benefit via an FAU scheme, another form of dwelling density control is equally suited to this purpose.

This leads to the inevitable conclusion that the FAR as a single measure is being required to perform too many functions in the Fishermans Bend context.

The Review Panel has found that while the FARs may not be effective in serving the purposes which they were intended to serve, some other form of density control could serve these purposes, and provide a number of benefits, including:

- achieving a diversity of built form and building typologies that are consistent with the preferred typologies and character outcomes sought for Fishermans Bend (see Chapter 7.5)
- potentially assisting to reduce (albeit not completely avoid) compensation where land is required to be set aside for public purposes (see Chapter 7.6).

In light of the Review Panel's findings, it recommends that the FARs be replaced with a dwelling density control, based on a number of dwellings per hectare of gross developable area (applied on a site-by-site basis).

The use of dwelling densities will be much simpler to administer than a residential FAR. Under a FAR, detailed calculations are needed to determine how much residential floor space is being provided. These calculations depend on allocating space used for shared services, such as lifts, lobbies and carparks, between dwelling and non-dwelling uses. A dwelling density control requires a simple calculation of how many dwellings can be built on the site, based on the gross developable area.

Finally, given the Review Panel's recommendations that the FARs be replaced with a dwelling density control, and its recommendations that the FAU scheme remain limited to social housing, the 'floor area uplift' has little meaning. The Review Panel proposes that the term 'social housing uplift' be used instead. This is reflected in the Review Panel's preferred version of the controls.

(ii) Setting appropriate densities

Given the Review Panel's recommendations that a dwelling density control replace the FARs, the question arises, what should the dwelling densities be?

As described in Chapter 7.3, the calculations used to derive the FARs were also used to derive dwelling densities, which were presented in the Part A version of Clause 22.XX (see Table 13 above). Like the FARs, these dwelling densities were based on a population target of 80,000 people by about 2050. Unlike the FARs, they have not been adjusted based on an assumption of a 75 per cent build out by 2050.

The Review Panel has found that:

- restrictions on residential development have been set too low, given the status of Fishermans Bend as a State significant urban renewal area in *Plan Melbourne* and other policies, and its potential to provide a greater contribution to help cater for Melbourne's growth (Chapter 6)
- a set population target of 80,000 is too simplistic and restrictive (Chapter 6)
- the proposed controls and precinct and infrastructure planning in the immediate future should proceed on the basis of a target population in the range 80,000 to 120,000 by 2050 (Chapter 6)
- with the possible exception of Lorimer, Montague core and Sandridge core, there is scope to increase the densities in all Precincts without compromising the building typologies and preferred characters sought for various subprecincts (Chapter 7.5).

The Review Panel therefore concludes that the dwelling densities presented in the Part A version of Clause 22.XX can be increased. The question is, by how much?

Firstly, the Review Panel considers that it is appropriate to adjust the dwelling densities in the Part A version of Clause 22.XX to account for an assumed 75 per cent build out by 2050 (as the FARs were adjusted). This takes the dwelling densities to those set out in Table 16.

Table 16: Part A dwelling densities adjusted for 75 per cent build out

	Wirraway		Sandridge		Montague		Lorimer
	Core	Non-core	Core	Non-core	Core	Non-core	Core
Part A Clause 22.XX dwelling densities	139	131	311	154	301	198	255
FAR equivalent dwellings per hectare	185	174	414	205	400	263	339

The appropriate densities in each Precinct are addressed in more detail in Chapter 2.4 in each of the Precinct Reports, but in summary, the Review Panel has found:

- **Lorimer** – the quantum of development contemplated in Lorimer is appropriate, and increases in density are not warranted in that Precinct
- **Montague** – the quantum of development contemplated in Montague is largely appropriate, although there is scope for a modest 10 per cent increase in both the core and non-core areas
- **Sandridge** – the Sandridge core has been identified for significant development potential, commensurate with its future role as an employment centre, and it would not be appropriate to increase the proposed quantum of residential development in this area at this stage. However, there is the potential for a modest increase in the densities in the Sandridge non-core area.
- **Wirraway** – it is clear that the restrictions on residential development for Wirraway bear no relation to the densities possible within the preferred character identified for the Precinct. The dwelling density in Wirraway should double in both the core and the non-core areas.

Based on these findings, the Review Panel recommends increases in the dwelling densities (as adjusted for an assumed 75 per cent build out) by:

- **Lorimer** – no change
- **Montague** – a modest increase of 10 per cent in both the core and non-core areas
- **Sandridge** – no change in the core area, and a modest increase of 10 per cent in the non-core area
- **Wirraway** – 100 per cent increase in both the core and the non-core areas.

This takes the recommended dwelling densities to those set out in Table 17:

Table 17: Review Panel recommended changes dwelling densities

	Wirraway		Sandridge		Montague		Lorimer
	Core	Non-core	Core	Non-core	Core	Non-core	Core
FAR equivalent dwellings per hectare adjusted for 75 per cent build out	185	174	414	205	400	263	339
Review Panel proposed density	370	348	414	225	440	290	339

The Review Panel's recommended increased in dwelling density are somewhat influenced by the Minister's SIN 15⁷², which outlines the implications for the dwelling targets in the *Urban Design Strategy* and the Part A version of Clause 22.XX if all of the live (current) permit

⁷² D305, with corrections contained in D322.

applications were approved and built, noting existing permits have been factored in. The dwelling targets would be exceeded in Lorimer (at 101 per cent – hence the Review Panel does not consider any further increase to be appropriate), and taken up by 83 per cent in Montague (hence the Review Panel considers a modest 10 per cent increase in Montague).

The Review Panel calculates that these changes are likely to increase the lower end of the population range from 80,000 to about 98,000. This is calculated by increasing the *Urban Design Strategy* core and non-core populations by the same percentage that the Review Panel recommends increasing the dwelling densities by.

This range, whether at 80,000 or 98,000 at the lower end leaves considerable scope within the recommended population range for social housing uplift, and for build out above the assumed 75 per cent level. The reasons why the Review Panel recommends a population range of up to 120,000 are addressed in Chapter 6.

It is important to note that the dwelling densities recommended by the Review Panel are not comparable to general urban density. General urban density includes roads and open space. The Review Panel's dwelling densities only relate to gross developable site area. Further, they do not include non-residential development, which will add additional floorspace and built form, particularly in core areas.

The Review Panel considers that it would be appropriate to review further these dwelling densities when infrastructure planning is progressed. If planned infrastructure has the capacity to accommodate more than 98,000 people, the dwelling densities should be increased accordingly.

Increasing densities may have a number of effects:

- It may increase the growth rate in Fishermans Bend as individual developments will be able to deliver additional dwellings. This means that the 2050 population target may be reached sooner. In the context of Melbourne's rapidly increasing population, this would appear desirable.
- It will reduce the risk of underdevelopment. There is already some examples of the potential for underdevelopment. The very large two and three storey existing town house development in Sandridge does not sit well with the quality or form of development expected in a world class urban renewal area.
- It may mean that some properties can no longer achieve the dwelling limit within the built form envelope. Where this is because of the need to provide open space or roads that have a wider benefit than the land itself, this can be addressed through a properly crafted compensation scheme. There is no imperative that every site (or even most sites) achieve the dwelling target.
- It will increase the overall number of affordable housing dwellings, as the total number of dwellings increases.
- It may reduce the number of social housing units delivered as part of an uplift scheme, as the scope for uplift may be reduced on some sites.

In regard to social housing, the Review Panel supports the delivery of social housing as a component of the development of Fishermans Bend, but any uplift scheme needs to be in proportion to the base number of dwellings permitted. Increases in density proposed by the Review Panel, together with the Review Panel's recommendation to only allow uplift for social housing delivered above the minimum six per cent referred to in local policy (see

Chapter 8.5) will, in its view, strike a better balance between the 'base' density permitted and the amount of development potential that can be accessed via a social housing uplift.

It is important to recognise that the increases in density should not adversely affect the built form outcomes. The Review Panel has found that the proposed typologies can accommodate higher densities than those proposed in the Part A controls. Further, the Review Panel has recommended changes to the DDOs to better control built form, typologies and preferred character in each Precinct.

(iii) Should the dwelling density controls be mandatory or discretionary?

The Review Panel has considered whether it is appropriate for the dwelling density control to be mandatory. The Review Panel thinks that a mandatory provision is justified for the following reasons:⁷³

- the requirement has a clear strategic basis in the work to date, particularly its role in underpinning social housing uplift
- the requirement is applicable to the majority, if not all, future proposals – its applicability to current called in applications can be considered as part of determining appropriate transitional arrangements as discussed in Chapter 15
- the requirement will avoid the risk of adverse outcomes in circumstances where there is likely to be constant pressure for development inconsistent with planning policy
- there is clear evidence of development seeking to exceeding the proposed requirements
- if the majority of development did not accord with the requirement there could be unacceptable planning outcomes in terms of the total population in Fishermans Bend and the lack of social housing
- the requirement will reduce costs imposed on the Councils, applicants and the community (compared to if the requirement were discretionary and able to be reviewed in VCAT)
- the benefits of a mandatory provision significantly outweigh the benefit of a performance based provision.

While the requirement should be mandatory, care needs to be taken that it does not inadvertently capture accommodation uses that are not traditional dwellings, but might be dwellings under the VPP.

The issue of what constitutes a 'dwelling' in terms of land use definition in the VPP is not always clear. The Review Panel thinks that the dwelling densities should not automatically apply to 'shared' housing type uses, where there is use of common areas, but where individual units might be construed as dwellings – such uses could include student accommodation, crisis accommodation, and boarding houses. The Review Panel considers that the requirement should not automatically apply to build to rent projects that remain in the one ownership. The Review Panel's version of the controls addresses these issues.

⁷³ Based on PPN Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes, June 2015.

7.9 Findings and recommendations

The Review Panel finds:

- The FAR is trying to do too many things at once and as such is likely to fail at doing any of them well.
- The FAR is not effective in limiting population or dwellings to the targets set out in the draft Framework. When the FAR is considered with the FAU and the potential for unlimited non-dwelling floorspace (at least in the exhibited version of the controls), it is obvious that the FAR, of itself:
 - does not limit development to the target population of 80,000 persons, or the target 29,819 dwellings
 - does not limit the total amount of floor space.
- Limiting population by dwelling floor area, rather than the number of dwellings, is likely to have unintended adverse consequences.
- If the FAU scheme is to deliver six per cent social housing then significant uplift will be required on sites where this is possible – up to 117 per cent additional floor space.
- There is no justification for setting a maximum commercial FAR and this is likely to work against aspirations for employment. Capping non-dwelling floor space to a level based on employment is likely to discourage non-commercial community uses, or uses that require more floor area per job.
- The FAR does not perform the function of delivering the preferred typologies or characters. While maximum heights relate to the proposed character typologies, the FARs are only weakly related to the character typologies, primarily because they have been constrained by the population target.
- The FAR should be replaced by a density control based on dwellings per hectare of gross developable site area. A dwelling density control can perform all of the purposes intended to be performed by the FAR, without the adverse unintended consequence of encouraging smaller dwellings and smaller circulation spaces.
- The dwelling densities should be based on the Clause 22.XX densities (adjusted for an assumed 75 per cent build out), but increased in some areas.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Capital City Zone and Design and Development Overlays:

1. *In the Capital City Zone, replace the dwelling FARs with a specific density limit based on the dwelling numbers used to calculate the FAR, but increased to recognise that development potential was constrained below that appropriate for the typology and character of some subprecincts by the reliance on a 2050 population target when setting the FARs. Review this limit as part of the Precinct plan process.*
2. *Remove the cap on non-dwelling floor space.*
3. *In the Design and Development Overlay introduce requirements to ensure delivery of the identified building typologies.*

8 Affordable and social housing

8.1 Context and key issues

Affordable housing is a key social and economic issue, with an emerging policy basis including the recent introduction of Amendment VC139 and the Housing Affordability Act. The Vision includes providing affordable housing as part of the residential mix in Fishermans Bend.⁷⁴

The *Urban Design Strategy* refers to a target of 2,500 affordable housing units in Fishermans Bend. This appears to have been translated into the six per cent target set out at page 50 of the draft Framework:

The aim is for at least six per cent of housing across Fishermans Bend to be affordable. This includes a range of affordable housing models, typologies, and occupancies, from short-term crisis accommodation through to long-term secure housing for people with special needs, the aged and key workers employed in essential services.

The draft Framework includes an objective of delivering affordable housing “*through well-established partnership models between government and industry*”, supported by strategies such as incentivising developers to incorporate social and affordable housing as a proportion of new development through FAU, identifying government sites suitable for affordable housing, and exploring cash-in-lieu contributions for affordable housing.⁷⁵

The policy and statutory framework supporting the provision of affordable housing, including the Housing Affordability Act and related measures, is summarised in Chapters 3.2, 3.7 and 3.8. Importantly, the Housing Affordability Act provides support for the voluntary provision of affordable housing using s173 agreements.

Chapter 7.9 explores the various interpretations of the FAU scheme to incentivise the provision of social housing (not repeated here). In this Chapter, the emphasis is on the effectiveness of the proposed targets and delivery mechanisms in achieving the desired affordable housing outcomes.

The key issues to be addressed are:

- what is meant by affordable housing
- whether the target should apply to affordable housing or social housing
- whether affordable housing contributions should be voluntary or mandatory
- whether the proposed delivery mechanisms will be effective
- whether flexibility is needed in how affordable housing contributions are made.

8.2 What is meant by ‘affordable housing’?

References to ‘affordable housing’ and ‘social housing’ were used somewhat interchangeably in the draft Framework and the draft Amendment as exhibited. This caused confusion during the Hearing. The Review Panel adopts the definitions in section 3AA of the Act, noting that social housing is a subset of affordable housing:

⁷⁴ Fishermans Bend Draft Vision 2013, page 13.

⁷⁵ Draft Fishermans Bend Framework, objective 3.5.

3AA Meaning of affordable housing

(1) For the purposes of this Act, **affordable housing** is housing, including social housing, that is appropriate for the housing needs of any of the following:

- (a) very low income households
- (b) low income households
- (c) moderate income households.

Section 3AA(4) defined social housing as having the same meaning as in section 4(1) of the Housing Act 1983:

social housing means:

- (a) public housing; and
- (b) housing owned, controlled or managed by a participating registered agency.

8.3 Target, and what it applies to**(i) Submissions and evidence**

Views varied on the appropriate affordable housing target, as summarised in Table 18.

Table 18: Affordable housing targets

Party	Target	Target applies to
Minister	six per cent	draft Framework and Clause 22.XX refer to a target of six per cent <i>affordable</i> housing. Minister's closing submission (D350) and SIN 20 (D351) refer to six per cent <i>social</i> housing being delivered through FAU
Melbourne	15 per cent overall, six per cent per Precinct	<i>Affordable</i> housing, including an unspecified proportion of <i>social</i> housing
Port Phillip	20 per cent	20 per cent <i>affordable</i> housing, including six per cent <i>social</i> housing
Dr Spiller	20 per cent	10 per cent <i>social</i> housing, 10 per cent <i>affordable</i> housing for key workers
Fishermans Bend MAC	10 per cent	<i>Affordable</i> housing
Fishermans Bend Network (S125)	15 per cent	15 per cent <i>affordable</i> housing, including six per cent <i>social</i> housing
South Port Community Housing Group (S142)	20 per cent	20 per cent <i>affordable</i> housing, including 10 per cent <i>social</i> housing
Star Health (S247)	20 per cent	<i>Social</i> and <i>public</i> housing
UnChain Port Phillip Inc. (S64)	20 per cent	14 per cent <i>affordable</i> housing for key workers and six per cent <i>social</i> housing
Australian Institute of Architects (S176)	20 per cent	<i>Affordable</i> housing
Community Alliance Port Phillip (S139)	30 per cent	20 per cent <i>affordable</i> housing and 10 per cent <i>social</i> and <i>community</i> housing

The Minister submitted that a six per cent target is realistic and achievable, and is consistent with recent VCAT decisions and PPV recommendations which range between five and 10 per cent.⁷⁶ The Minister submitted that at this stage a higher figure may be unduly onerous, but that the figure could be amended in future depending on uptake.

Melbourne submitted that 2011 census data indicates that 10 per cent of Victorians are homeless, in serious rental stress, or living in social housing.⁷⁷ It submitted that a six per cent target is not high enough, and would simply result in the status quo being maintained, with no increase in the overall proportion of social housing. Melbourne suggested a 15 per cent target was needed to achieve the Vision.

Port Phillip's housing policy *In Our Backyard* endorses a strategic direction that at least 20 per cent of housing in Fishermans Bend be affordable, and that no less than 30 per cent of these dwellings are provided as community housing owned and managed by registered housing associations or providers.⁷⁸ Port Phillip submitted that a 20 per cent target was consistent with *In Our Backyard*, and "not inconsistent" with the Vision. It would provide a necessary and appropriate policy 'nudge' in circumstances where the market is already starting to pursue affordable housing options.

Dr Spiller gave evidence that, based on historic census data, an average of 10 per cent of the total housing stock in Fishermans Bend will be required for social housing for the homeless, marginal households and low income households in rental stress, which was consistent with Melbourne's figures. He said that a further 10 per cent of housing should be made affordable to "key workers, students and other moderate income or transitional groups that are essential to a diverse, prosperous and healthy community ...".

Several other submitters called for the target to be increased. For example, the Australian Institute of Architects submitted that the target should be increased in line with other jurisdictions such as Ireland (10 per cent), the United Kingdom (10 to 40 per cent) or South Australia (15 per cent). Others, for example Goodman (\$149) submitted that there should be no specific target.

(ii) Discussion

Social and affordable housing are key priorities in Victoria. *Victoria's 30 Year Infrastructure Strategy* (December 2016) nominates investment in social and affordable housing as a 'top 3' priority, and increasing the supply of social and affordable housing is a key direction in *Plan Melbourne* (Direction 2.3).

Yet, the policy in the Port Phillip and Melbourne Planning Schemes is silent on the quantum of affordable housing to be provided. Both Councils have adopted affordable housing strategies which set affordable housing targets (Melbourne's *Homes for People: Housing Strategy* and Port Phillip's *In Our Backyard*), but these strategies sit outside the planning schemes.

⁷⁶ Supplementary Information Note 8 (D151).

⁷⁷ West Melbourne Structure Plan (D130), page 57.

⁷⁸ *In Our Backyard: Growing Affordable Housing in Port Phillip* (D116), page 28 (Note: not in Port Phillip Planning Scheme).

The target outlined in the *Urban Design Strategy* only applies to dwellings developed under the FAR, not to the additional dwellings delivered under the FAU scheme. Ms Hodyl confirmed in evidence that this is how she understands the target contained in the draft Framework and Clause 22.XX is to operate. In raw numbers, this translates to 2,214 affordable housing units (six per cent of the 36,900 dwellings required to accommodate the target population of 80,000 residents).⁷⁹ If the target applies in this way, the total provision of affordable housing across Fishermans Bend is likely to be less than six per cent of all the housing in Fishermans Bend, possibly significantly so.

The Minister clarified in his final closing submissions that it is not the intention to limit the target in this way. The target is intended to apply to all dwellings across Fishermans Bend, whether they are delivered under FAR or FAU. This is consistent with the way the target is expressed in the draft Framework.

In 2013, Places Victoria retained Judith Stubbs and Associates to prepare a paper looking at options for the delivery of 20 per cent affordable housing across Fishermans Bend (one of the background reports).⁸⁰ The paper noted that a 20 per cent target would result in groups in rental stress being “*well under-represented*” compared to the general population, but that “*20 per cent is a commonly adopted target for affordable housing in other jurisdictions*”.⁸¹

The recently gazetted income levels published by the Minister that define affordable housing, refer to annual household incomes of up to approximately \$127,000. It is likely that the six per cent target could be met in Fishermans Bend, without any undue impost on developers. The definition of affordable housing in the Act effectively means affordable to the lower three income quintiles, which is effectively 60 per cent of the general population. In light of this, and in light of the submissions and evidence, the Review Panel has doubts about whether a target of six per cent is adequate. However, the applicable policy framework in the planning schemes does not provide an alternative target. Nor do the Councils’ respective adopted strategies provide a clear and consistent alternative target.

No examples were brought to the Review Panel’s attention where a 10, 15 or 20 per cent target has been applied in a context similar to Fishermans Bend – a metropolitan Melbourne urban renewal area consisting largely of privately owned land.

Accordingly, the Review Panel is in not a position to recommend a different target.

While targets are important, a target alone has limited potential to deliver affordable housing. To be effective, targets must operate in conjunction with other mechanisms, such as incentives and direct government investment.

(iii) Findings

The Review Panel finds:

- The six per cent target should apply to all dwellings within Fishermans Bend, not just the 36,900 dwellings required to accommodate the target population of 80,000.

⁷⁹ Evidence of Ms Hodyl (D53), page 32.

⁸⁰ *Fishermans Bend Urban Renewal Area: Options for Delivery of Affordable Housing* June 2013, Judith Stubbs and Associates.

⁸¹ *Ibid*, page 137.

- Although the Review Panel has doubts about whether the six per cent target is adequate, it is not in a position to recommend a different target.

8.4 Mandatory versus voluntary contributions

(i) Submissions and evidence

The Minister did not support mandatory affordable housing contributions for Fishermans Bend. He submitted that the existing statutory framework does not support mandatory requirements. The issue of affordable housing is not confined to Fishermans Bend, and the development of Fishermans Bend would be prejudiced if mandatory obligations were introduced in the absence of state-wide mandatory obligations that apply in other urban renewal locations.

Melbourne did not directly support mandatory affordable housing requirements in Fishermans Bend, but it tabled an extract from the West Melbourne Structure Plan which states that a permit applicant should provide a minimum of six per cent affordable housing, unless it can demonstrate why it is unable to deliver the affordable housing through an open book assessment or detailed viability report.⁸² The Review Panel notes that the West Melbourne Structure Plan is in its early stages. The Amendment to introduce the Structure Plan has been exhibited, but has not yet gone through a panel process. Accordingly, the Review Panel notes the approach adopted in the Structure Plan, but has not placed any weight on it given its current status.

Port Phillip submitted that there should be a mandatory requirement for developers to deliver three per cent social housing within the FAR, to ensure a base level of social housing is provided. The remainder of the affordable housing provision could be voluntary. Dr Spiller supported a mix of mandatory and voluntary requirements. He said that the FAU scheme is as yet untested and unproven in its capacity to deliver social housing, and cannot be relied upon in isolation. He recommended a mandatory contribution at a rate of 0.016 square metres of social housing floorspace (or \$142 cash-in-lieu) for every square metre of commercially marketed floorspace.

Mr Canavan submitted that social housing was the responsibility of the entire community, and should be provided by the State. He submitted that in the absence of consistent state-wide requirements in all planning schemes, affordable housing requirements should not be included for Fishermans Bend. Mr Wren endorsed this position.

Mr Canavan called planning evidence from Mr Biacsi who said that affordable housing is a shared responsibility, and that the private sector has a key role to play in delivering affordable housing. He emphasised that the Housing Affordability Act encourages voluntary affordable housing contributions via section 173 agreements, but conceded in cross examination that he has no difficulty with mandatory (inclusionary) requirements, provided they are equitable and are applied consistently across Melbourne. His evidence was that mandatory requirements would put Fishermans Bend at a disadvantage if they are not consistently applied across all urban renewal areas.

⁸² West Melbourne Structure Plan (D130), pages 57-58.

The Minister called Mr Mackintosh to give general development viability evidence. In cross examination, Mr Canavan asked him the impact mandatory affordable housing contributions would have on development viability. His evidence was that while he was not instructed to take that into account, a mandatory contribution of six per cent would in his view “*pretty near wipe out*” residual land values in Fishermans Bend.

Several other submitters called for mandatory contributions, including the Australian Institute of Architects, Community Alliance of Port Phillip and the Fishermans Bend Network. The MAC did not support mandatory requirements but recommended that providing affordable housing be reviewed in five years, and that mandatory requirements be applied if progress towards the target was insufficient.

(ii) Discussion

Social housing, and affordable housing more generally, are state-wide issues requiring a coordinated state-wide response. It is not the role of Fishermans Bend to solve these issues, although it (like every other urban renewal area in Victoria) has a part to play.

The Review Panel does not support mandatory affordable housing contributions in Fishermans Bend. The current statutory and policy framework in Victoria is geared towards voluntary, rather than mandatory, contributions. This is reinforced by the recently passed Housing Affordability Act, which establishes a framework to support voluntary section 173 agreements to support the provision of affordable housing.

The Review Panel accepts the evidence of Mr Biacsi and Mr Mackintosh that imposing mandatory requirements would likely put Fishermans Bend at a competitive disadvantage compared to other urban renewal precincts that do not have mandatory requirements. The Review Panel is cognisant of Mr Mackintosh’s evidence that a mandatory requirement ‘to gift’ affordable housing could impact on development viability. These concerns may be lessened if the affordable housing is purchased at a market or discounted rate, or subsidised by government.

It may be that policy and voluntary mechanisms will not deliver the social and affordable housing needs in Fishermans Bend, and that some form of mandatory requirement is needed. But until there is a suitable statutory framework in place to support mandatory contributions, they should remain as a policy and voluntary uplift scheme.

(iii) Findings

The Review Panel finds:

- affordable housing requirements in Fishermans Bend should not be mandatory.

8.5 Effectiveness of the proposed delivery mechanisms

(i) Submissions and evidence

The draft Amendment proposes two voluntary mechanisms to encourage developers to provide affordable housing. These are encouragement through Clause 22.XX (which applies to affordable housing more broadly), and incentives through the FAU scheme (which applies to social housing only). The FAU scheme offers an uplift of eight private dwellings for every social housing dwelling provided.

The Minister clarified in oral submissions on the final day of the Hearings that:

- the six per cent target applies to affordable housing more broadly, including social housing
- no separate target is set for the social housing component of affordable housing
- the target is intended to apply across Fishermans Bend as a whole, and is not intended to apply on a site-by-site basis.

The Minister submitted that Clause 22.XX and the FAU scheme, working together, would be effective in delivering the target. He submitted that the 8:1 ratio under the FAU scheme would be cost neutral for developers, and sufficient to incentivise them to provide social housing. No evidence was called by the Minister to directly support the proposed 8:1 ratio, although the DELWP commissioned Charter Keck Cramer to test the efficacy of the FAU scheme. According to Dr Spiller's evidence, the Charter Keck Cramer report found that, based on several case studies, social housing provided through FAU would be cost neutral at a ratio of between 3:1 and 5:1.⁸³

Melbourne supported the FAU scheme as a mechanism for encouraging social housing, but submitted that the Part C controls do not provide policy guidance as to how much social housing is required for how much FAU, and do not require the social housing to be provided within Fishermans Bend. Melbourne provided a rewrite of the proposed FAU note⁸⁴, and submitted that it should be an Incorporated Document in the planning schemes. It further submitted that six per cent affordable housing should be a base requirement, and that FAU should only be available for social housing delivered above the base requirement. It submitted that other mechanisms such as government funded affordable housing would also likely be required to achieve the target.

Port Phillip supported FAU to incentivise the voluntary component of the affordable housing contributions, but questioned the logic of having a six per cent affordable housing target under Clause 22.XX, and a six per cent social housing target under the FAU scheme – in other words, making the subset (social housing) equal the sum of the parts (all types of affordable housing).

Dr Spiller noted that the FAU scheme was an appropriate (albeit untested) mechanism to deliver the voluntary component, and that a DCP or ICP could also potentially be used to fund affordable housing.

Dr Spiller questioned whether the proposed 8:1 ratio under the FAU scheme would be sufficient to incentivise developers to provide social housing. He noted that a 10:1 ratio applies in the Central City. Dr Spiller expressed reservations about the Charter Keck Cramer analysis, suggesting that on his analysis, providing social housing would only be cost neutral at a ratio of between 5:1 and 12:1. A key difference between the Charter Keck Cramer analysis and Dr Spiller's analysis was that Charter Keck Cramer based their costings on an assumed cost price of \$300,000 per social housing unit, whereas Dr Spiller based his costings on an assumed market price of \$585,000 per social housing unit, including a land component.

⁸³ The report was dated 2 August 2017. The report was not tabled, but was referred to in Dr Spiller's evidence statement (D77).

⁸⁴ City of Melbourne changes to FAU guidance note (D320).

Mr Tweedie submitted that a requirement for developers ‘to gift’ social housing under the FAU scheme faces significant issues with satisfying the principles of need and nexus, as the need for affordable housing arises from macroeconomic factors, not from the development of the land.⁸⁵ When he put this proposition to Ms Hodyl in cross examination, her response was that developers were not being asked to gift social housing, as they receive an uplift in return for providing the social housing.

The Affordable Housing Industry Advisory Group (S243) supported the FAU mechanism, including the 8:1 ratio, but (like Melbourne) submitted that some form of government investment is likely to be required to achieve the six per cent target.⁸⁶

(ii) Discussion

Clause 22.XX

The Review Panel is not persuaded that Clause 22.XX in its current form will be effective in delivering six per cent affordable housing across Fishermans Bend, even with the support of the FAU scheme to incentivise delivery of a social housing component. As observed by Melbourne, an effective local policy framework requires “*strong targets and high standards*”.⁸⁷ Without them, the implementation of the affordable housing goals in the Vision and the draft Framework are potentially compromised.

Clause 22.XX does not provide any detail as to how the six per cent affordable housing is to be supported or delivered, or by whom. There is no reference to a minimum requirement of affordable housing (only a target). There is no indication that the private sector is expected or encouraged to deliver affordable housing, or that developers are incentivised to deliver social housing through the FAU scheme. Nor is there any reference to other mechanisms that may be required to meet the six per cent target. To adopt Mr Milner’s words, in its current form Clause 22.XX could be seen as merely “*paying lip service*” to affordable housing.

This is in contrast to the approach taken in Clause 22.XX to encouraging employment generating floorspace. Clause 22.XX-3 contains preferred minimum floor areas for employment generating uses in each core area, and sets out a range of matters that will be considered to help guide decision makers where an application proposes less than the preferred minimum floor area.

The Review Panel considers that Clause 22.XX needs to be substantially rewritten to strengthen the policy basis for affordable housing in Fishermans Bend, and to include strategies for its implementation. It should specify a preferred minimum amount of affordable housing to be provided, much like the approach taken to employment generating floorspace. To support Clause 22.XX and make it more effective as a delivery mechanism, the CCZ Schedule should include application requirements and decision guidelines prompting decision makers to consider whether applications before them are consistent with Clause 22.XX.

⁸⁵ Outline of submission of landowners represented by NRF and RK (D253), [218].

⁸⁶ Affordable Housing Industry Group (D62) [15(iii)].

⁸⁷ Melbourne’s final closing submission (D372), [31].

Notwithstanding the Minister’s oral submissions on the final day of the Hearing, the Review Panel considers that the minimum affordable housing requirement should apply on a site-by-site basis. If it does not, there is little prospect that affordable housing will be delivered as part of development in Fishermans Bend. In the absence of any firm commitments, or even indications, as to how affordable housing is to be delivered other than through incentivising developers through FAU to deliver social housing, this is unacceptable.

The Review Panel acknowledges that it may be more difficult to provide six per cent affordable housing on some sites than others. Accordingly, the controls should set out circumstances in which it might be appropriate to relax this requirement, such as where the developer is able to establish that the affordable housing component would render the development unviable. The Review Panel notes that this approach is consistent with the approach to employment generating floor space in Clause 22.XX, and with the approach in the (yet to be tested) West Melbourne Structure Plan.⁸⁸

Finally, the Review Panel notes that it has taken the approach of strengthening the policy basis for a six per cent affordable housing contribution because there is currently no legislative basis for imposing mandatory affordable housing requirements in planning schemes. There can be little doubt that, if there was a legislative basis for mandatory contributions, they would be more effective in ensuring the affordable housing targets and objectives for Fishermans Bend will be achieved.

The FAU scheme

The FAU mechanism is relatively untested in its capacity to effectively deliver social housing, at least in the Victorian context. The only other location in which it is used is the Central City area, and as both Mr Milner and Dr Spiller pointed out, it is too early to properly assess its effectiveness.

Having said that, evidence from several witnesses was that FAU is effective in various other locations throughout the world to incentivise the delivery of affordable housing, and ensure affordability and diversity is maintained within communities. Examples included Sydney, New York, London and Vancouver.⁸⁹ Further, social housing is now the only form of public benefit which entitles a developer to FAU, making it more likely that the FAU scheme will be effective in delivering social housing.

The FAU note that was included in the exhibited Amendment is no longer needed, because the Review Panel’s changes to Clause 22.XX translate relevant content from the FAU note into Clause 22.XX. This addresses concerns of various submitters that the FAU note should be incorporated into the schemes if it is intended to guide discretion on whether to accept social housing in return for FAU.

Incentives (in the form of FAU) are only available for social housing, not for other types of affordable housing. While the Review Panel’s changes to Clause 22.XX seek to strengthen its effectiveness in delivering affordable housing, the Review Panel has some doubt as to whether the local policy alone will be effective in delivering other forms of affordable housing. Other incentives or government support may be required, for example State Government pre-commitment to contribute to the purchase of affordable housing dwellings.

⁸⁸ West Melbourne Structure Plan (D130), page 58.

⁸⁹ See, for example, Ms Hodyl’s Addendum 5 (D154), [7]–[13].

Additional incentives or support should be explored, although this can occur outside the Amendment.

The 8:1 ratio

The Review Panel does not consider it appropriate to endorse the proposed 8:1 ratio on the evidence before it. However, it represents a starting point. The uptake of FAU will need to be monitored. If uptake is too low and insufficient social housing is being delivered, it may be necessary to adjust the ratio upward to provide more incentive to developers to provide social housing. Similarly, if uptake is high, the 8:1 ratio may need to be adjusted downward.

The effect of a capped FAU

Melbourne submitted that FAU should be capped. The Review Panel does not support this submission. The analysis in the Minister's SIN 20 demonstrates that capping the FAU could potentially result in a significant under-delivery of social housing in Fishermans Bend as demonstrated in Table 19.

Table 19: Effect of FAU cap based on an assumed 75 per cent build out

FAU cap	Limit on additional dwellings	Additional social housing dwellings	Additional private dwellings
10 per cent	5,901	656	5,245
20 per cent	11,802	1,311	10,491
30 per cent	17,703	1,967	15,736

Source: SIN 20

Limiting FAU to social housing delivered above the six per cent affordable housing target

Melbourne recommended removing FAU for the base six per cent affordable housing in each Precinct, and only allowing FAU for social housing delivered above the six per cent minimum requirement. This approach would be at odds with the Minister's position that FAU should be available for all social housing delivered by developers.

Provision of social housing is a critical issue in Fishermans Bend. This weighs in favour of all social housing being eligible for an uplift, including social housing that is provided in satisfaction of the minimum six per cent affordable housing requirement under Clause 22.XX. On the other hand, if this were the case, there may be little prospect of developers providing other forms of affordable housing within the minimum six per cent requirement. This would be an equally poor outcome as an under-delivery of social housing.

Therefore, on balance, the Review Panel agrees that FAU should only be available for social housing that is provided over and above the minimum six per cent affordable housing contribution referred to in Clause 22.XX. This sends a clear message to the private sector that it is expected to play its part in delivering all forms of affordable housing in Fishermans Bend.

Need and nexus

For completeness, the Review Panel notes the submissions of Mr Tweedie regarding need and nexus. However, it does not regard this as a fundamental obstacle. The FAU scheme is purely voluntary. Providing social housing will be a negotiated outcome, and nothing in the draft Amendment, including the Review Panel's recommended version of Clause 22.XX,

compels developers to 'gift' social housing if they do not wish to do so. The draft Amendment, including the proposed FAU scheme, relies on voluntary section 173 agreements to procure social housing from developers. The draft Amendment is consistent with the emerging policy framework, including the Housing Affordability Act, in this regard.

(iii) Findings

The Review Panel finds:

- Clause 22.XX-3 should be rewritten to:
 - specify that it is policy that applications for residential development in Fishermans Bend include at least six per cent affordable housing
 - specify appropriate circumstances in which the policy can be relaxed.
- The CCZ Schedule should include application requirements and decision guidelines linking back to the local policy requirements for affordable housing.
- Subject to monitoring and review, the FAU scheme is an appropriate mechanism to support the delivery of social housing in Fishermans Bend, although other incentives or government support are likely to be required to deliver affordable housing that is not social housing (including a legislative basis for mandatory affordable housing requirements). These should be explored outside this draft Amendment.
- FAU should only be available for social housing delivered above the minimum six per cent affordable housing referred to in the local policy.
- The Review Panel does not consider it appropriate to endorse the proposed 8:1 ratio on the evidence before it, but considers that it represents a reasonable starting point. The ratio may need to be adjusted depending on the delivery of social housing and the uptake of FAU.
- The FAU note is no longer needed as a result of the Review Panel's changes to Clause 22.XX-3 and the CCZ Schedule.

8.6 Flexibility in the delivery mechanisms

(i) Submissions and evidence

The Councils and the MAC supported flexibility to allow developers to make cash-in-lieu contributions towards affordable housing, and to deliver 'in-kind' affordable housing contributions off-site. Dr Spiller and Mr Milner supported flexibility in how developers deliver their affordable housing contributions. According to Mr Milner, pooled contributions (whether cash or in-kind) are a more equitable and efficient way of delivering affordable housing. They provide a source of funding to support partnerships with entities such as community housing providers, off-site contributions and cash-in-lieu contributions.

Other delivery mechanisms suggested by submitters included:

- an application with an affordable housing component is referred to an independent development assessment panel, with a guaranteed assessment period (maximum three months) and exemption from third party appeals, with or without a FAU
- a mandatory requirement that a developer sells a percentage of units at below market value (eg at a 30 per cent discount) to a not-for-profit housing provider or a private investor who manages the dwellings as affordable (such as through a 'rent

to buy' arrangement) – a similar mechanism was recommended for Precinct 15 by the Panel considering Hobsons Bay Amendment C88

- cash contributions made direct to State Government or registered housing providers, with or without a FAU
- the Homes for Homes model (S88), which broadly involves voluntary tax-deductible donations of 0.1% of sale proceeds of all dwellings to independent social enterprise Homes for Homes, who would pool the contributions and invest them in increasing the supply of social and affordable housing across Melbourne
- other affordable home ownership models such as 'build to rent' schemes, shared equity housing and community land trusts.

(ii) Discussion

The Review Panel agrees that there are potential benefits in allowing a degree of flexibility in how affordable housing contributions are delivered. However, more work will be needed to facilitate this level of flexibility. Transparency and consistency are crucial. If cash contributions are to be accepted, the amount must be supported by clear and robust financial analysis, and must be applied consistently across Fishermans Bend. Consideration needs to be given to whether there is a suitable statutory basis for pooled contributions to affordable housing.

Affordable housing that is funded or supported by pooled contributions (whether they be cash or in-kind contributions) should be strategically planned and coordinated in the right locations, and remain integrated with (and not segregated from) the broader community. The Review Panel considers that any pooled contributions should be used to ensure that affordable housing is delivered within the Precinct from which the contribution was sourced. Once a precinct has achieved its six per cent target, then it might be appropriate to allow pooled contributions to be used to deliver affordable housing in another Precinct within Fishermans Bend. Governance arrangements will be required to ensure that this occurs.

Many practicalities will need to be worked through to ensure the successful delivery of affordable and social housing in Fishermans Bend. In particular, there are questions around the management arrangements, including:

- how the registered participating agency proposed to own/manage the social housing will be identified, and by whom
- what happens if a suitable and willing registered participating agency cannot be found
- arrangements to ensure the dwellings are operated as social housing in perpetuity
- arrangements to manage other forms of affordable housing, and to ensure that it remains affordable in perpetuity (for example, through section 173 agreements).

Some guidance is provided by recent panel reports in this regard, including the Precinct 15 report (Hobsons Bay C88).

The Review Panel considers that these are not matters that need to be addressed directly in the draft Amendment, as more work is needed and a suitable support framework will need to be put in place. This could be a responsibility of an overall governance body.

(iii) Findings

The Review Panel finds:

- It supports flexibility in how affordable housing contributions are to be delivered, including cash-in-lieu contributions and off-site, in-kind contributions. However, more work is needed to facilitate this flexibility.
- Cash or off-site, in-kind contributions should be used to deliver affordable housing within the Precinct from which the contribution was sourced. Once a Precinct has achieved its six per cent target, then it might be appropriate to allow alternative contributions to be used to deliver affordable housing in another Precinct within Fishermans Bend.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Clause 22.XX and the Capital City Zone:

- 4. In Clause 22.XX-3, include the Review Panel's recommended wording regarding affordable housing.*
- 5. In the Capital City Zone, include the Review Panel's recommended application requirements and decision guidelines regarding affordable housing.*

9 Open space

9.1 Context and key issues

The Vision emphasises the importance of providing high quality public open space to enhance liveability and provide a foundation for strong communities. It sets a benchmark of a network of open space within 200 metres walking distance for all residents and workers.⁹⁰

The Taskforce engaged Planisphere to prepare the *Fishermans Bend Public Space Strategy* April 2017 (the Planisphere Strategy), which informed the draft Framework and draft Amendment. The Planisphere Strategy aimed to ensure the provision of "*considered, resilient, robust and delightful spaces within a few minutes' walk of every resident*", in a hierarchy of open space consisting of:

- metropolitan
- municipal/regional
- district
- precinct
- neighbourhood
- pocket and linear open spaces.

These principles are carried through to the draft Framework, which contemplates a network of green spaces designed for a range of active and passive uses that encourage walking and cycling, and a distribution of diverse, well-designed and safe public open spaces with varying degrees of overshadowing protection depending on their position in the hierarchy.⁹¹

The key issues to be addressed are:

- quantum and distribution of public open space
- funding open space
- overshadowing requirements.

Mechanisms for acquiring land for public purposes (including open space) is addressed in Chapter 14. Further site and Precinct specific issues are discussed in the separate Precinct Reports.

9.2 Quantum and distribution of public open space

(i) Submissions and evidence

The draft Framework proposes just over 106 hectares of open space distributed across Fishermans Bend, with roughly 42 hectares in the CCZ zoned Precincts and 64 hectares in the Employment Precinct. This amounts to between 4 and 6.6 square metres per resident and worker. The provision within some Precincts is significantly lower (1.6 square metres per resident and worker in Montague, and 2.7 square metres per resident and worker in Lorimer and Sandridge).

The Minister called Ms Thompson to address the quantum and distribution of open space. Her evidence was that there is no accepted standard for the quantum of open space that

⁹⁰ Fishermans Bend Draft Vision 2013, page 37.

⁹¹ Draft Fishermans Bend Framework at page 56.

should be provided in high density residential areas like Fishermans Bend. She concluded that “with the changes I have recommended, I am satisfied that the quantum ... will be acceptable”. She highlighted the importance of ensuring a diverse offering of high quality open space catering for a range of uses, given the relatively low quantum proposed.

Ms Thompson’s calculations of the amount of open space per resident and worker are extracted in Table 20 (with corrections to the arithmetic). These include the open space in the Employment Precinct, and exclude the proposed linear parks and encumbered open space such as the transmission line easement.

Ms Thompson’s calculations of the amount of open space per resident and worker are extracted in 20 (with corrections to the arithmetic). These include the open space in the Employment Precinct, and exclude the proposed linear parks and encumbered open space such as the transmission line easement.

Table 20: Calculations of open space per resident/worker

Precinct	Area (Ha)	Total residential population	Open space per resident (sqm) 2050	Total worker population est 2050	Open space per resident and worker population (sqm) 2050	Review Panel’s corrected calculations
Montague	3.76	20,800	1.8	4,000	1.6	1.5
Sandridge	11.36	29,600	3.8	26,000	2.7	2.0
Wirraway	23.48	17,600	13.3	4,000	12.0	10.9
Lorimer	4.11	12,000	3.4	6,000	2.7	2.3
Employment	63.57	0	0.0	40,000	31.8	15.9
Totals	106.28	80,000	13.3	80,000	6.6	6.6

Source: Review Panel, based on Table B4 in Thompson Expert Witness Statement (D75)

Ms Thompson broadly supported the distribution of open space proposed in the draft Framework, but recommended some adjustments to ensure that all residents and workers were located within 200 metres ‘safe and easy’ walking distance of public open space:

Safe and easy walking distance refers to the ability to walk to open space without crossing any major/collector roads, public transport corridors or major underpasses or overpasses that present a physical and mental barrier to being able to easily cross them.⁹²

The Councils generally supported Ms Thompson’s recommendations, although they disagreed in relation to the placement of some parks in each Precinct. These are discussed in the Precinct Reports.

Mr Sheppard’s calculations of the amount of open space per resident or worker were slightly different to those of Ms Thompson. He calculated approximately four square metres per resident and worker (excluding the Employment Precinct open space, and including the linear parks). He concluded that:

⁹² Evidence of Ms Thompson (D75), page 9.

These figures fall within the range of measures cited in the [Planisphere] Strategy. This suggests that the planning framework provides sufficient public open space.

Mr Sheppard supported the distribution of open space based on the objective of providing open space within 200 metres of residents and workers. His opinion was that the proposed open space network "*provides for a diverse range of spaces that are linked to each other and which provide good accessibility to open space from all parts of the renewal area*".⁹³

Several submitters questioned the strategic justification for the 200 metre 'safe and easy walking distance' criterion, submitting that it is overly restrictive. Ms Collingwood submitted that there is general consensus that preferred distances to open space range from 200 to 400 metres, with 200 to 300 metres noted as more appropriate for children and people with limited mobility. She submitted that "*Ms Thompson's evidence ... falls well short of providing a reasonable basis on which to conclude that her more stringent test is a preferable outcome*".⁹⁴ Mr Song did not support the 200 metre 'safe and easy' walking distance criterion:

In my view, being able to walk for 5 minutes and a distance of approximately 400 metres, to find a park would be an entirely acceptable outcome having regard to the living standards of residents in [Fishermans Bend].

Mr Pitt QC questioned the wisdom of identifying sites in multiple ownership for parks. The Industry Business Hub is located in Montague and identified for a park. It is occupied by around 70 separate businesses which are predominantly digital start-ups – the types of industry that the draft Framework seeks to encourage in Fishermans Bend. Mr Pitt submitted that the burden on the public purse of acquiring land in multiple ownership is significantly more than single owner sites, particularly if compensation for business disturbance had to be paid. Mr Wren made similar submissions in relation to the proposed Lorimer Central open space.

(ii) Discussion

Open space is a fundamentally important issue in Fishermans Bend, because of the proposed population density and the fact that the bulk of the population will be living in apartments with limited access to private open space, aside from balconies. Fishermans Bend needs a quality open space network that caters for a range of active and passive recreation needs as well as other community uses. As Melbourne and Port Phillip pointed out, open space has a fundamental role in setting the preferred character in each Precinct, and the potential to play a key role in 'place making' within each Precinct.

The Planisphere Strategy sets a target of nine square metres per resident and worker, based on recommendations of the World Health Organization.⁹⁵ The Planisphere Strategy provides some statistics from comparable areas (350 hectares) in other cities:

- Amsterdam – 14 square metres per resident
- Barcelona – 10 square metres per resident

⁹³ Mr Sheppard's overarching evidence (D165b), [124].

⁹⁴ General submissions (D276), [75].

⁹⁵ Planisphere Strategy, pages 31–52.

- New York – 15 square metres per resident and 0.6 square metres per worker
- other parts of Melbourne – 28 square metres per resident.

The proposed provision of open space in Fishermans Bend falls well short of these benchmarks. The Review Panel is mindful that the open space calculations are based on a target population of 80,000, whereas the Review Panel recommends planning for a range of between 80,000 and 120,000.

Nevertheless, the Review Panel does not consider that the amount of open space is fundamentally too low, in part as Fishermans Bend is surrounded by major open space areas and the Port Phillip foreshore.

Ms Thompson's calculations excluded the proposed linear parks and encumbered open space such as the transmission line easement. The Review Panel considers that linear parks form a valuable part of the open space network, and should be included. They provide opportunities for a range of passive and active recreational uses, as well as providing additional habitat corridors and other functions as outlined in the Minister's SIN 4, demonstrated in Figure 11.⁹⁶

Figure 10: Proposed linear park along Southbank Boulevard



Source: SIN 4 (D151)

Ultimately, the quantum of open space to be provided in Fishermans Bend must be assessed in a broader context. The open space provision must be balanced against factors such as the role Fishermans Bend has to play in accommodating growth in the inner metropolitan area, the likely costs associated with increasing the amount of open space, and the essential need for development in Fishermans Bend to be financially viable.

Another important factor is the accessibility of the open space. Fishermans Bend will be a pedestrian friendly location, and the open space network will operate together with a highly permeable and accessible walking and cycling network. If Ms Thompson's recommendations

⁹⁶ Supplementary submission to Minister's Part B submission (D151).

are adopted, most residents and workers in Fishermans Bend will be within 200 metres of public open space (roughly a two to three minute walk).

This will ensure that open space in Fishermans Bend will be significantly more accessible than the World Health Organization recommendation that all residents live within a 15 minute walk to green space.⁹⁷ This is particularly important given the limited quantity of open space proposed.

Having said that, the Review Panel does not consider that the 200 metre safe and easy walking distance should be applied too restrictively. As noted in some of the Precinct Reports, strict application of the criterion can result in some anomalous outcomes, which should be avoided.

Fishermans Bend is reasonably proximate to significant open space resources outside the area, such as the Yarra River, the Bay and Albert Park. The Montague Precinct in particular already has good public transport links to these areas.

Balancing these various considerations, along with the requirements for each residential development to provide private and communal open space, the Review Panel is satisfied that the quantity and distribution of open space to be provided in Fishermans Bend is appropriate.

(iii) Findings

The Review Panel finds:

- The proposed quantity and distribution of open space in Fishermans Bend is broadly acceptable, subject to the Review Panel's recommendations in the Precinct Reports.
- It supports in principle the objective of ensuring that every resident and worker is within 200 metre safe and easy walking distance of open space. However, the principle should not be applied too restrictively.

9.3 Funding open space

(i) Context

In the exhibited version of the controls, open space was required to be transferred to the relevant authority at no cost pursuant to provisions in the CCZ Schedule. The Minister proposed that landowners would fund the cost of remediating and improving the open space before it was transferred.⁹⁸

Under the Part C controls, land required for open space is proposed to be acquired and funded through public land contributions made under a future ICP. Funding will still be needed for remediation and improvement costs. Possible funding sources include:

- contributions under Clause 52.01
- interim developer contributions
- monetary and/or land contributions under the future ICP

⁹⁷ Planisphere Strategy, page 31.

⁹⁸ Options for open space (D99), [22].

- other sources, such as general State or local government revenue, State or Commonwealth grants, or special charges or betterment levies.⁹⁹

This section addresses whether the contribution rates under Clause 52.01 and the interim developer contributions should be raised, and how Clause 52.01 contributions interrelate with contributions under a possible future ICP. Broader issues about funding public infrastructure are addressed in Chapter 13.

(ii) Submissions and evidence

Melbourne and Port Phillip submitted that it is unclear whether land proposed to be acquired under the CCZ controls was part of, or in addition to, the eight per cent contribution required under the schedule to Clause 52.01. They submitted that it should be in addition to Clause 52.01 contributions. The Review Panel presumes that the same principle applies now that land is proposed to be acquired under an ICP, rather than under the CCZ controls.

Melbourne submitted that unless an ICP is applied at the same time as the Amendment is gazetted, the interim developer contributions levy must be immediately raised to reflect the extent of open space required in the Lorimer Precinct.¹⁰⁰ Port Phillip raised "*significant doubts*" about the sufficiency of the eight per cent contribution rate under Clause 52.01, submitting that it should be raised to at least 10 per cent.¹⁰¹

Port Phillip submitted that Clause 52.01 contributions should be put towards construction costs rather than acquisition costs (a matter that was subsequently confirmed by the Minister), but that some improvement costs – namely all costs associated with remediating and improving the active sports reserves – should be funded under the future DCP (now presumably the ICP).¹⁰² It submitted that open space costs should not be supplemented with funding from local government (including from rates revenue).

(iii) Discussion

Remediation and improvement of open space in Fishermans Bend is likely to be expensive. Planisphere prepared indicative estimates of the cost of improving open spaces, using the *City of Melbourne Open Space Strategy (2012)* as a guide:

- \$800 per square metre for pocket parks
- \$600 per square metre for neighbourhood and linear open space
- \$400 per square metre for precinct open space
- \$300 per square metre for district open space.

These costs are indicative only, and do not include remediation costs. Costings based on Melbourne's 2012 Strategy are outdated.

Funding will be needed for major capital improvements such as sports facilities. The Planisphere Strategy recommended that indoor and outdoor sports courts, a public sports and aquatic centre, relocation of the Port Phillip depot and its conversion to open space, and

⁹⁹ Planisphere Strategy, page 100.

¹⁰⁰ Melbourne's closing submission (D348), [21]-[22].

¹⁰¹ Port Phillip's Stage 1 submission (D109a), [207]-[211].

¹⁰² Prohasky North/South, Wirraway North, JL Murphy Reserve and North Port Oval.

open space improvements should all be funded through a future DCP.¹⁰³ Water Polo Victoria (S6) proposed a water polo friendly, multipurpose aquatic facility in Fishermans Bend, submitting that the facility could benefit school groups and water polo groups.

Clearly, more work is required to properly cost the acquisition, remediation and improvements required for open space in Fishermans Bend. The Review Panel understands that this work will form part of the Funding and Finance Plan being prepared by the Taskforce, and possibly a future ICP.

While the Review Panel notes the submissions calling for an immediate raising of the rates for Clause 52.01 contributions, it is difficult to advise on what the revised rates should be until the detailed costing work is undertaken, or a study that would demonstrate that the eight per cent contribution rate is insufficient.

The Minister clarified during the Hearing that contributions under Clause 52.01 are intended to be in addition to any contributions required under the CCZ controls. He indicated that Clause 52.01 contributions are preferred as cash rather than land. Melbourne noted that its local policy in Clause 22.26 states that land contributions are preferred to cash, and that amendments will be required to ensure there are no inconsistencies in the local policy framework. The Review Panel supports this approach.

(iv) Findings

The Review Panel finds:

- Clause 52.01 contributions are a funding source for open space, as is an ICP. The question of whether Clause 52.01 contributions should be in addition to contributions required under a possible ICP is best dealt with when the ICP is being prepared.
- There is insufficient information available at this stage to understand whether Clause 52.01 contributions should be raised.

9.4 Overshadowing requirements

(i) Submissions and evidence

Mandatory overshadowing controls are proposed in the DDOs, to ensure that open space receives at least three hours of sunlight at different times of year based on their position in the open space hierarchy:

- winter solstice protection is proposed for regional and district open space
- equinox protection is proposed for precinct and neighbourhood open space
- with some exceptions, linear green spines and pocket parks do not have overshadowing protection.

The Minister submitted that mandatory overshadowing controls are justified in Fishermans Bend. One of the considerations in providing a lower quantum of open space is ensuring open spaces have strong solar protection to ensure year round usability and enjoyment. The open space will be highly used, "*with many users vying for a patch of sunshine*", and there is a real risk of incremental decisions that allow minor increases in overshadowing without

¹⁰³ Planisphere Strategy, page 104.

appreciating the cumulative impact of these decisions. The Minister noted that the Panels for Amendments C245 and C270 to the Melbourne Planning Scheme both accepted that adverse amenity impacts (including overshadowing) from sustained development pressure constitute exceptional circumstances justifying mandatory controls.¹⁰⁴

Melbourne and Port Phillip supported mandatory overshadowing controls, as did the MAC. Melbourne submitted that mandatory winter solstice protection is consistent with Amendment C278 to the Melbourne Planning Scheme, which recently received authorisation. Amendment C278 proposes to implement the findings of *Sunlight Access to Open Space Modelling Analysis Report (February 2018)* by:

- amending Melbourne's local policy in Clause 22.02 (Sunlight to Public Spaces) to shift towards maximising winter sunlight to all public parks across the municipality
- introducing a new DDO Schedule 8 which includes mandatory controls providing winter sun protection for all parks except those in the Hoddle Grid and Southbank (which are dealt with separately in local policy and in DDO10).

Port Phillip submitted that open space in Fishermans Bend should be afforded the strongest possible protection from overshadowing, given how hard it will need to work based on the proposed population densities. Port Phillip noted that none of the expert witnesses calling for discretionary controls had undertaken an analysis of the principles in *Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes* to determine whether or not mandatory controls are justified.

The Councils supported a hierarchy of overshadowing protection. Melbourne noted that this approach is similar that taken in DDO10, which applies to the CBD. Port Phillip submitted that each Precinct should have at least one park with winter solstice protection, so that residents in apartment buildings will have access to afternoon winter sun. Building heights near public open space should be aligned with the overshadowing controls, and building heights in Montague should not overshadow open space in Sandridge.

Mr Wren submitted that mandatory overshadowing controls are not justified in Fishermans Bend. He argued that, taken to their logical conclusion, mandatory controls would require the removal of all trees and structures within parks. He submitted that the Minister and Councils should be able to rely on the professional skills of their staff to make proper judgements about what constitutes an acceptable level of overshadowing.

Mr Sheppard supported most aspects of the overshadowing controls, including a hierarchy of overshadowing protection, but did not support mandatory controls:

There is no reason why a performance based approach cannot be taken, allowing a judgement to be made as to whether any additional shadow will unreasonably detract from the amenity of the space. I note that this approach was adopted in the Central City (see Melbourne DDO10) except for a handful of spaces of metropolitan importance (the Yarra River corridor, Federation Square, City Square, State Library Forecourt, Shrine of Remembrance, Bourke Street Mall and Boyd Park). I do not consider that any of the proposed parks [in Fishermans Bend] warrant the same level of mandatory protection as these spaces.

¹⁰⁴ The Minister's Part B submission (D94), [77] and Part C Closing submission (D350), [84]-[94].

He pointed to the fact that mandatory controls have the effect of limiting building heights on adjoining land by virtue of overshadowing areas within parks that are functionally unaffected by shadow, such as toilet blocks, cycle paths and the like. Ms Heggen, Mr McGurn and Mr Song supported discretionary controls on similar grounds.

Mr Tweedie's mark-up of the Minister's Part C DDOs (D370) indicated that all the overshadowing controls should be discretionary equinox controls, with no winter sun protection for any open space areas.

(ii) Discussion

Given how little open space is being provided on a per capita basis, it is essential that the open space is high quality and remains usable all year round. Sunlight access to open space will be key to ensuring that it remains high quality and highly functional.

The Review Panel supports a hierarchy of overshadowing protection for the open space in Fishermans Bend. It supports winter solstice protection for at least one park in each Precinct, with parks lower down in the hierarchy receiving equinox protection.

The Review Panel supports equinox protection proposed for the Plummer Street civic spine that links the Sandridge and Wirraway Precincts, a key part of the open space network in Fishermans Bend. The Review Panel agrees that other linear open spaces should not receive overshadowing protection. While they are an important part of the open space network, they are relatively low in the hierarchy, and perform a different function to the precinct and neighbourhood parks. Many of these linear spaces run east–west for a significant distance, with long interfaces with private property to the immediate north. Applying shadow protection to the linear spines would limit heights in large parts of the Precincts.

All of the experts supported discretionary overshadowing controls, primarily on the basis that mandatory controls could lead to the development potential on nearby sites being limited just to avoid minor and fleeting shadows on areas that are not particularly dependent on sunlight for their functionality – an outcome that Mr Tweedie described as "*absurd*".¹⁰⁵ On the other hand, the Review Panel accepts the Minister's submission that discretionary controls involve a risk of sunlight protection being eroded over time due to incremental decision making – the problem of 'death by a thousand cuts'.

Like many of the issues to be resolved in Fishermans Bend, overshadowing controls require a balanced approach.

Mr Sheppard suggested that the 'death by a thousand cuts' problem could be overcome by introducing decision guidelines requiring cumulative shadow impacts to be considered. The Review Panel is not entirely satisfied with this solution. It creates the potential for a 'first in best dressed' scenario that would not, in the Review Panel's view, represent fair and orderly planning. However, restricting development potential to avoid overshadowing the roof of a toilet block, for example, would also not constitute fair and orderly planning.

On balance, and having considered the principles outlined in Practice Note 59, the Review Panel considers that mandatory winter solstice controls are justified for the key open spaces

¹⁰⁵ Closing submission NRF Landowners (D359), [191].

in each Precinct, given their importance in the open space hierarchy. Mandatory controls should be applied to:

- Lorimer Central
- Montague Park
- North Port Oval
- Prohasky Park and JL Murphy Reserve.

For the other parks, and for the Plummer Street Boulevard, the Review Panel considers that discretionary controls should apply at this stage, at least until the final location of the open space is fully resolved through the Precinct planning process. The form of discretionary control should:

- be performance based, requiring shadow to not unreasonably detract from the amenity and functionality of the open space
- require decision makers to consider the cumulative impacts of shadow on the open space when assessing a permit application.

All overshadowing controls, whether discretionary or mandatory, should exclude shadow caused by buildings and works within the park itself (so as to not effectively prohibit structures within parks that cast shadows on the park).

Once the final locations, functions and layouts of the parks are resolved through the Precinct planning process, consideration should be given to whether there is justification for converting the discretionary controls for some of the parks (or parts of the parks) into mandatory controls, or for further relaxing the overshadowing controls depending on the layout of the park.

(iii) Findings

The Review Panel finds:

- It supports mandatory winter solstice overshadowing controls for Lorimer Central, Montague Park, North Port Oval, Prohasky Park and JL Murphy Reserve.
- At this stage, other parks and the Plummer Street civic spine should have discretionary equinox protection. Other linear spines should not receive overshadowing protection.
- Once the final locations, functions and layouts of the parks are resolved through the Precinct planning process, consideration should be given to whether there is justification for converting the discretionary controls for some of the parks (or parts of the parks) into mandatory controls, or for relaxing the overshadowing controls.
- All overshadowing controls, whether discretionary or mandatory, should exclude shadow caused by buildings and works within the park itself, so as to not effectively prohibit structures within parks that cast shadows on the park.

9.5 Other matters

The Review Panel supports Port Phillip's recommendation of co-locating other civic infrastructure such as community hubs with open space in prominent locations. This represents an efficient use of land, and helps contribute to 'place making'. This should be considered during the Precinct plan process. Matters for consideration in the future planning of the Employment Precinct include:

- Ms Thompson’s recommendation that new Capital City (major event space) and District (sporting fields) open space be provided in the Employment Precinct
- the submission of the Friends of West Gate Park (S10), which raises issues including:
 - preserving West Gate Park as an informal recreation space with important biodiversity values
 - resolving the location of the future Southbank Tram Depot, and ensuring that this does not take up space currently occupied by West Gate Park
 - resolving the future use of the land currently occupied by the GoKart track east of Todd Road (including integrating it with West Gate Park)
 - ensuring that future planning for the Employment Precinct takes into account the West Gate Master Plan (which is currently being finalised)
- the potential for enhanced punt links between Williamstown and West Gate Park for pedestrians and cyclists
- the submission of St Kilda Cycling Club (S61), which raises the potential for a future off-road criterium circuit to be established within West Gate Park.

9.6 Recommendations

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Capital City Zone and Design and Development Overlays:

6. *In the Design and Development Overlay, amend the overshadowing controls Schedules, in accordance with the Review Panel’s preferred version of the Design and Development Overlays to:*
 - *convert the controls for all parks other than Lorimer Central, Montague Park, North Port Oval, Prohasky Park and JL Murphy Reserve into discretionary equinox controls*
 - *exclude shadow caused by buildings and works within the park itself*
 - *require decision makers to consider cumulative shadow impacts.*

The Review Panel considers that Melbourne could:

7. *Update the local policy to confirm that contributions under Clause 52.01 are preferred as cash rather than land in Clause 22.26 of the Melbourne Planning Scheme, as it applies to Lorimer.*

10 Transport framework

10.1 Context and key issues

The Fishermans Bend Precincts are approximately one to four kilometres from the edge of Melbourne CBD, with the Yarra River and Westgate Freeway as major barriers to connectivity, and there is currently little public transport to the Precincts other than Montague. The provision of public transport connections are critical for the successful renewal of Fishermans Bend.

In Fishermans Bend, it is proposed that people will be connected through integrated walking, cycling and public transport links. The draft Framework's key targets are:

- 80 per cent of trips be made via sustainable transport
- 90 per cent of school related trips be made via sustainable transport
- a walkability score of 90 per cent is achieved from homes and workplaces.

The key planning principles are:

- prioritise walking, cycling and public transport
- provide a quality transport network integrated with land use
- enable freight and private vehicle movements.

To achieve this, the draft Framework proposes a fine grained road and laneway network to provide exceptional walkability. A series of bicycle links are proposed, including two new links across the Yarra River and improved connections across the West Gate Freeway.

Liveability will be enhanced with activity cores and public spaces located near public transport to ensure that people meet their transport needs without resorting to private vehicles.

Two new tram routes are proposed through the Lorimer, Sandridge and Wirraway Precincts, connecting to Collins Street via a new bridge across the Yarra River. Long-term planning for a Metro Rail link identifies two feasible routes and associated indicative station locations. Further work is required to identify the preferred route. To complement heavy and light rail, new bus routes and improved bus services are proposed in the short term.

Port of Melbourne will continue to require 24/7 access. The street hierarchy will require appropriate traffic routes connecting to key destinations. Network planning and street design will need to minimise the impact of freight traffic and general traffic on abutting land uses. Ultimately, a dedicated elevated freight route (road and rail) from Webb Dock to Appleton Dock is proposed.

The transport aspects of the Vision and draft Framework were well supported and there was agreement that the early delivery of public transport is essential.

The key issues to be addressed are:

- transport modelling
- public transport
- roads and laneways
- parking
- Port of Melbourne.

10.2 Transport modelling

(i) Context

The transport modelling undertaken to date provides the basis of the proposed transport network. It identifies and considers, among other issues, the appropriate road hierarchy and layout, and public transport infrastructure needs. The projected population is a key input into the transport modelling.

The capacity of the road network and public transport may be limiting factors which constrain future development. Further, there will be consequences for the transport network if the goal for 80 per cent of all trips to be taken by sustainable transport is not achieved.

(ii) Submissions and evidence

The Minister relied on the evidence of Mr Kiriakidis and Mr Fooks, who carried out peer reviews of the *Integrated Transport Plan* and draft Framework respectively.

Mr Kiriakidis' evidence was that the road network modelling underpinning the *Integrated Transport Plan* was coarse and lacked consistency with sustainable transport objectives. The modelling assessed the existing road cross-sections, which provide more traffic lanes than are likely to be provided in future, when many of the roads are proposed to be narrowed to create green spines. As such, the existing modelling is more favourable to car-based trips. Mr Kiriakidis recommended further research, including refinement that reflects aspiring road space allocations, a road hierarchy assessment and proposed speed limits (to maximise walking, 30 km/h speed limits would apply on local roads). He recommended that this work be carried out prior to the Precinct planning.

Mr Kiriakidis recommended that the modelling be updated to take account of:

- the additional (from earlier projections) 20,000 jobs in the Employment Precinct
- major transport infrastructure items such as the West Gate Tunnel
- planned road cross-sections and operational controls
- opportunities to strengthen public transport connections
- impact of additional bus frequency and associated bus priority measures.

The heavy rail alignment requires resolution, and the additional 20,000 jobs assumed in the Employment Precinct may result in the northern route being adopted.

In response to submissions that the 80,000 population target was too low, Mr Kiriakidis thought the proposed transport network would probably be capable of accommodating additional population, possibly exceeding 100,000, but he was not prepared to say by how much without further modelling. He observed that:

- engineering solutions could generally be found to maximise transport, noting that cost is a consideration
- increasing population would generally result in lower service levels (that is, more crowding and queues).

Ms Dunstan was instructed by various landowners to assess whether the proposed transport network would be capable of accommodating in the order of 160,000 residents and employees. She concurred with Mr Kiriakidis that further modelling work is required, but did not have the resources to undertake independent modelling. Ms Dunstan noted:

I am satisfied that if an appropriate public transport response is committed and delivered within a reasonable timeframe, that the transport networks would be able to serve significantly more than the targets of 80,000 residents and 80,000 jobs by 2050.

Ms Dunstan gave evidence that once the infrastructure was in place, in particular rail and tram lines, additional public transport capacity could be provided by increasing service frequency, albeit that additional rolling stock may be required.

The Minister submitted that the policy framework and jobs targets provide the basis for major upfront investments in infrastructure such as public transport in the most effective way. He submitted that the population target is based on several factors, including the need for roads and public transport to be able to cater for anticipated growth.

Melbourne generally acknowledged the modelling work undertaken to date, but submitted that it should be based on capacity analysis, particularly if setting aside land for public transport or roads.¹⁰⁶ The Councils submitted that more detail was required in relation to road cross-sections and the like, which ultimately need to be fed back into the modelling process.

A number of submissions raised concerns regarding existing traffic conditions and safety concerns, particularly around Lorimer Street and from the Montague precinct. Other issues included:

- suggested improvements to Lorimer Street including issues around freight movement and restricting their hours of operation, additional traffic controls and road widening
- the ability of the road network to accommodate additional traffic associated new development.

(iii) Discussion

Transport modelling is critical to providing robust and realistic outputs for the development of an appropriate transport network. Inaccurate modelling would result in adverse downstream effects that are difficult to correct (such as roads not having enough lanes, or insufficient public transport encouraging increased car usage).

The Review Panel supports Mr Kiriakidis' recommendations to update and refresh the transport modelling. Revised traffic modelling should be undertaken iteratively, to consider the ability of the surrounding road network to absorb the additional traffic and transport demand created as the urban renewal of Fishermans Bend progresses. Modelling of the impacts of a population in the range of the Review Panel's recommended 80,000 to 120,000 should be undertaken prior to the Precinct planning, to confirm that a population in this range will not have unanticipated impacts on the transport system. Updated transport modelling will be a key input in the five year review recommended by the Review Panel, and any subsequent reviews of population and infrastructure in Fishermans Bend.

Further detail on road geometry, management and safety measures (including cyclists) should be developed as part of the Precinct planning phase, and fed into the iterative transport modelling.

¹⁰⁶ Melbourne written submission (D120), [103].

(iv) Findings and recommendation

The Review Panel finds:

- transport modelling should be iteratively updated and refined as the urban renewal of Fishermans Bend progresses
- further detail on road geometry, traffic management and safety measures should be developed as part of the Precinct planning phase.

10.3 Public transport

(i) Context

Significant public transport infrastructure and services are required as a fundamental tenet for 80 per cent of trips within, to and from Fishermans Bend to be made by sustainable transport. The principle of providing public transport and providing it early was supported.

However, some submitters were concerned about the timing and location of public transport facilities, and the mechanism for protecting public transport corridors.

Introducing tram infrastructure through Fishermans Bend was universally supported and acknowledged as a key plank in achieving sustainability goals.

A general theme in submissions related to the 'certainty' of the trams being implemented and a delivery timeframe, with 'the earlier the better'.

The notable exception was the proposed Collins Street tram extension/Yarra River crossing which generated significant community submissions.

(ii) Submissions and evidence

General

Mr Kiriakidis' evidence principally focused on reviewing a number of previous public transport studies which fed into the draft Framework.

The *Integrated Transport Plan 2017* identified two Metro Rail alignments through Fisherman Bend which should be preserved, however, only one route would be developed.

Significant modelling work was carried out for a number of tram network options and Mr Kiriakidis noted that much of this modelling should be refreshed.

Ms Dunstan identified the most critical issue as being the Metro Rail alignment and station locations. Her evidence was that heavy rail is necessary to support the employment and residential mode share aspirations set out in the draft Framework. She stated it would not be possible to cater for 160,000 residents and jobs in Fishermans Bend without the Metro Rail service, as tram services would not be an effective substitute.

Ms Dunstan's evidence (which was consistent with that of Mr Kiriakidis) was that of the two alternative rail routes shown in the draft Framework, it is likely that the alignment serving the Employment Precinct would be selected. This has implications for station locations, and additional public transport services that may be required (possibly additional bus services linking Wirraway and the Employment Precincts).

Mr Walsh highlighted that the Vision for Fishermans Bend providing a sustainable transport network is fundamentally dependant on the Metro Rail and tram routes. He gave evidence

that without public transport improvements, the area will remain car dependent. Considering the importance of the public transport network, he said that the planning schemes should identify and reference the rail and tram networks and that land to be set aside for these uses should be reserved with a PAO.

The Review Panel was advised by TfV that it had undertaken the initial stages of the planning work to determine the possible public transport connections into Fishermans Bend but were not in a position to commit to any particular route. It confirmed that the Government has provided \$1million in the recent budget to further progress this work by developing a preliminary business case including comprehensive transport and economic assessments. A key focus will include further consultation with the Councils, local residents business owners and other stakeholders.

While parties were looking for certainty or clarification on particular tram route elements as part of this process, TfV advised it was not in a position to provide any further information other than what is shown in the draft Framework and suggested that 'feasible' should be used instead of 'proposed' for the public transport routes to avoid misunderstanding.

The Minister confirmed (D94) that the tram extensions and future stages of Melbourne Metro were considered as part of *Infrastructure Victoria's 30 Year Strategy* which recommended that:

- Fishermans Bend tram extensions should be delivered in the next five to ten years
- planning for future stages of Melbourne Metro should begin in next five years with delivery occurring in the next 15 – 30 years.

The Minister accepted that it is desirable for public transport to be provided as early as possible. He suggested that it is appropriate to proceed with the draft Amendment on the basis that the Government intends to deliver the public transport infrastructure that is shown in the draft Framework, however, the delivery timeframes are beyond the budget window (of five years).

The Minister explained that further planning by TfV for the proposed tram routes will continue over the next 12 months. Once the proposed route is identified, only then will TfV be in a position to confirm the amount of land to be acquired and how. Traditionally TfV uses a PAO to ensure the land required can be secured and provided in a timely manner. However, the ultimate method of reservation and funding will be determined by the Government.

To enhance clarity and certainty, the Minister agreed that the proposed tram route should be shown on the Lorimer Urban Structure Map consistent with the draft Framework Figure 5: Public transport.

Both Councils supported the public transport initiatives, emphasising that early delivery is critical. Melbourne noted that large scale development within the Employment Precinct without a Metro station would not be viable. It was of the view that the tram routes must be shown on the CCZ maps and protected from development as a matter of urgency and it is common, if not standard practice to protect the preferred transport route while detailed work is undertaken.

However, in relation to the timing of and commitment to public transport infrastructure and TfV's concern with using the term 'proposed' and suggested 'feasible' tram route would be more appropriate, Mr Tweedie (D359) submitted that:

Essential public transport has not been decided or committed to. Without settling the proposed transport infrastructure, strategic planning decisions with regard to urban design outcomes, land uses and intensity of development are unable to be properly decided upon.

Several submitters suggested that applying a PAO over private land for future public transport use would ensure clarity and certainty for land owners as well as ensuring public transport could be provided in a timely fashion. Others submitted that until further clarity is available regarding the public transport alignments, it would be premature to apply a PAO.

Yarra River tram bridge

Mr Kiriakidis confirmed that the Jacobs Report Stage 1 study only assessed above ground river crossing options. His evidence was that previous studies have identified that tunnels are too expensive and deemed not to provide preferred active transport solutions. He noted that based on previous work:

- *Modelling tests both the Charles Grimes and Collins Street light rail bridge options. The Victorian Integrated Transport Model report indicates that “the river crossing alignment does not have a great impact on public transport trips to any of the Fishermans Bend Precincts”(p39), with the Charles Grimes option having slightly less usage of trams, which is not unexpected given the slightly longer journey time.*
- *The proposed tram crossing (via Collins St) represents the quickest and most direct tram connection between Fishermans Bend and the CBD and nearby rail stations.¹⁰⁷*

The Minister’s Part A submission (D49b) noted that TfV had evaluated a number of possible alignments and Yarra River crossings. The bridge option was preferred over a tunnel option based on cost, urban realm impacts in Docklands and Fishermans Bend, need for additional walking and cycling connections across the river, and the inability to provide safe access for emergency service vehicle via the tunnel option.

The Charles Grimes Bridge option was discounted due to the existing traffic conditions on roads in the vicinity which are some of the busiest networks in Melbourne and would not enhance active transport.

Detailed planning and full business case development will be required prior to any government decision.

Melbourne acknowledged that the two proposed bridges over the Yarra (a walking and cycling bridge east of Bolte Bridge, and a tram, walking and cycling bridge west of Charles Grimes Bridge) are fundamental to successfully connecting Fishermans Bend to the Central City and Docklands. Design and detailed assessment remains to be undertaken, however, the ongoing use of the waterways for river traffic and marine operations should remain.

Ms Collingwood opposed the river crossing being located at the Collins Street extension adjacent to ANZ Centre at 833 Collins Street, Docklands. She noted that the proposed tram lines were extremely close to its buildings and would result in loss of valuable public open

¹⁰⁷ Mr Kiriakidis PowerPoint presentation slide 29 (D147).

space and street artwork. She noted that there had been a lack of direct consultation and the provision of relevant information.

The UDIA (S215) submitted that the lack of a commitment to funding or a proposed timeframe for the delivery of public transport is a significant issue.

Ms Dawson, on behalf of Yarra's Edge Class Action Committee (L23) advised she was representing over 3,000 adversely affected parties including businesses, apartment owners, and marina owners and operators, stating that the proposed fixed bridge affects far more parties than 40 to 50 yacht owners.

The proposed bridge will cut off water access to the entrance of Yarra Edge Marina for all vessels which rise more than three metres (the Review Panel notes the clearance is six metres) above the water level, essentially the smallest boats which are not the type presently moored at the marina.

Ms Dawson presented arguments in support of her position why the bridge in its current configuration should not proceed. She noted that other options such as submersible tube (tunnel) or an opening bridge would alleviate many issues of her group.

Mr Sutherland submitted that an alternative plan of an immersed tube to accommodate freight and trams, and a shared path in the vicinity of the Bolte Bridge, should be considered. He believed this option may be more economical and improve tram network capacity.

Mr and Ms Hirst (S46 and S47) raised concerns about the impacts that a new bridge crossing may have on amenity and noise within Yarra's Edge and the access for sail boats to the Yarra's Edge Marina. Other issues raised by submitters included that charter boat operators could no longer operate from the Yarra Edge Marina, adverse amenity impacts with the tram line running close to their property, visual blight and a decline in property value.

(iii) Discussion

General

The Review Panel notes that to date, there has been significant work undertaken on identifying a suitable suite of public transport infrastructure for Fishermans Bend. The draft Framework at Figure 5 shows an extensive public transport network of train, tram and bus routes with indicative delivery timeframes of short (2018–2020), medium (2020–2025) and long term (2025+). The work appears reasonable, and consistent with achieving the sustainable transport goals.

The Review Panel does not accept that because funding has not been requested or allocated at this stage, it infers that public transport works will not proceed. State funding for these works is required, and without a detailed design and clear scope of works for the various public transport elements, determining the appropriate level of funding is not possible.

The reluctance of TfV to share information with the Review Panel and the community was unhelpful, particularly for the proposed tram routes. The Jacobs report(s) provided to the Review Panel showed some plans, but with details on the northern tram route alignment(s) heavily redacted.

Nevertheless, the Review Panel acknowledges that TfV is not ready to confirm the amount of private property that will need to be acquired. The Review Panel does not consider that it is appropriate to apply a PAO to the proposed alignments until more certainty is available as to

the final route. This work should be progressed expeditiously. Only then will TfV be in a position to confirm the extent of private property acquisition. It was noted that traditionally TfV uses a PAO to ensure the land required can be secured, however, the ultimate method of reservation and funding will be determined by government.

It appears that background modelling and investigations of several tram route options has led to the preferred or 'feasible' routes being identified and shown in Figure 5 of the draft Framework. To maintain consistency with the draft Framework, and to protect these possible future alignments, they should be mapped in the CCZ and DDO maps, and indicated as 'proposed tram [train] alignment subject to final planning by TfV' or similar wording.

Yarra River tram bridge

The Review Panel accepts, like several other infrastructure elements, more time is required to finalise the river crossing and in particular its impact on private property. The Review Panel acknowledges that this provides little comfort to property owners or the broader community.

The draft Framework clearly shows the preferred location of the tram river crossing extending from Collins Street. The Review Panel accepts that providing public transport infrastructure requires detailed planning and assessment, design and business case development. No doubt, this task would most likely be an iterative process, taking some time to complete.

The Review Panel accepts that some in the community, particularly those in and around Yarra's Edge and the marina, will be unhappy with a new bridge across the Yarra River in this location. This should be balanced against the broader community benefits that will be realised, including the benefits for the overall redevelopment of Fishermans Bend and the need to provide tram and additional walking and cycling facilities across the Yarra River. A net community benefit analysis will need to be undertaken prior to the final crossing being determined, and further consultation with all stakeholders will be essential.

The Review Panel appreciates Mr Sutherland's submissions about the immersed tube option, but notes that alternative options for the tram routes to cross the river are outside the Review Panel's Terms of Reference. Moving forward, further consultation with all stakeholders will be essential.

(iv) Findings

The Review Panel finds:

- the proposed public transport facilities are generally satisfactory and appropriate subject to further transport modelling
- the proposed public transport alignments should be mapped in the CCZ and DDO maps, and indicated as proposed
- it is premature to apply PAOs to the future public transport alignments, until there is more certainty to final routes
- while it is not able to endorse the location of any Yarra River tram crossing, the finalisation of the location and a commitment to build as soon as is practically possible is urged to 'kick start' the intensive urban renewal process.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Capital City Zone:

8. *Include a Map that clearly shows the proposed routes of the Metro Rail, the tram and the elevated freight alignments.*
9. *Update Clause 66.06 so that notice of an application for permits within 50 metres of the proposed Metro alignment, possible tram routes, proposed bus routes and possible elevated freight routes must be given to Transport for Victoria.*

(Note: the elevated freight alignment is discussed in Chapter 10.6)

10.4 Roads and laneways

(i) Context

The draft Framework proposes a fine grained network of roads and laneways (existing and proposed) to break up larger allotments, providing greater permeability, particularly for walking. The proposed network also included a series of road closures, principally to increase open space. While there was general support for a fine grained network, many submitters opposed particular locations of roads and laneways, and argued that flexibility was required, particularly in the position and alignment of laneways.

Further discussion on site specific road and laneway issues is undertaken in each Precinct Report.

(ii) Submissions and evidence

The Minister submitted that to achieve a fine grain and permeable network, new streets, laneways and pedestrian connections should be no more than:

- 100 metres apart in non-core areas
- 50 metres apart in core areas
- 50 metres within 200 metres of public transport routes.¹⁰⁸

He submitted that the Precinct Plans should finalise the hierarchy of streets to be protected from vehicle access, with public transport as the highest priority, then walking and cycling followed by active frontages as the lowest priority.

Melbourne acknowledged the network of streets and laneways is critical to achieving a highly permeable urban structure, and agreed that there should be some flexibility in the location of laneways. It endorsed the proposed road and laneway network shown in the draft Framework, and suggested it be included in the planning scheme.

Port Phillip (D109a) generally supported the street network but submitted that certain changes should be made, as shown in Figure 11.

¹⁰⁸ Ministers Part B submission (D94), [124(f)].

Figure 11: Proposed road network changes (Port Phillip)



Port Phillip submitted that laneways should be included in the relevant maps and identified as indicative. Further work on the exact location, width (including widening of some existing narrow laneways), function and character was required, but could be explored through the Precinct Plans. Port Phillip further submitted that laneway orientation should be north-south where possible. It noted that Mr Sheppard agreed that it was sensible to show the indicative laneway locations in the controls, subject to their refinement as part of the Precinct Plans.

Mr Kiriakidis undertook a high level review of the road network including the road hierarchy, walking and cycling facilities, freight movement and tram routes. He was satisfied that sufficient planning had been undertaken, noting that more detailed planning around street function and road space allocation would be undertaken as part of the Precinct planning phase. Mr Kiriakidis' view was that cross intersections should be signalised, and road segments should be aligned (that is, no staggered intersections), particularly if on a cycling route.

Ms Dunstan also undertook a high level review and was generally satisfied with the underlying principles behind the road network and the proposed road layout. She suggested that some flexibility in road alignments and locations would be appropriate, in particular, if a road was not on a continuous route or where existing uses may continue for some time, thereby compromising the timing of future development.

Mr Walsh was generally supportive of the proposed grid network and believed that it would encourage a permeable and walkable network. He noted a 100 metre spacing would provide a walkable network, as evidenced in the Hoddle Grid network. However, he believed that the controls were overly prescriptive regarding spacing between streets and lanes, and believed that laneways should not be shown on the CCZ and DDO maps, but rather should be considered during the Precinct planning stage.

Several other drafting and map presentation issues such as showing tram routes, bicycle lanes, new bridge structures, station locations and preferred access points were proposed.

Landowners were concerned with the requirement in the exhibited controls that any works requiring a planning permit associated with an existing use (such as providing a lunchroom in a factory) would trigger a condition for the proposed roads and laneways on that site to be provided. The draft controls were amended to address this anomaly during the Hearing.

Site specific submissions are discussed in each Precinct Report.

(iii) Discussion

The principle of providing a fine grained and permeable network of roads, laneways and pedestrian links has widespread support. Relevant maps have been updated throughout the Hearing, showing the location of title boundaries and proposed roads and laneways. Many issues related to particular classification of various roads, or minor changes to alignments or locations. These can be adequately addressed as part of the Precinct planning phase.

The Review Panel takes a contrary view to the Minister, Councils and some experts in that laneways should only be shown at this stage if they are essential to ensure a site is not land locked (or access is curtailed via roads designated as 'no crossovers' roads). The most obvious example is Mr Wren's clients at 870, 874 – 876, and 880 – 884 Lorimer Street, Port Melbourne. At this location, Lorimer Street is proposed to be a 'no crossover' street and the proposed tramline at the rear essentially land locks these properties. In this circumstance, rear access is vital and a laneway would need to be provided.

Laneways provide other functions besides vehicle access. This includes permeability, urban realm, built form and street activation. These attributes are not explicitly tied to a particular location or alignment. In the majority of cases, flexibility should be provided to allow for innovation. Showing indicative locations of all laneways on the maps at this stage may limit and stifle optimal outcomes.

Laneway attributes and locations should be resolved during the Precinct planning phase, however, it is appropriate to include policy requirements and design outcomes for laneways in the controls, such as spacing, enabling views, openness to the sky and active frontages in core areas, to guide the ultimate location and function of laneways.

All roads should be shown on the relevant CCZ and DDO maps, to ensure a greater level of understanding and certainty about where these important road infrastructure assets are to be located.

(iv) Findings and recommendation

The Review Panel finds:

- the proposed fine grained road and laneway network is appropriate to create permeable and walkable precincts
- Precinct Plans can be used to finalise road classification, cross sectional elements, laneway locations and functions and other minor alignment issues
- at this stage, only laneways essential for traffic access should be shown on the CCZ and DDO maps.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Capital City Zone and Design and Development Overlays:

- 10. Show only laneways that are essential for traffic access as 'indicative only' on the Maps, with all other laneways to be resolved as part of the Precinct planning phase.***

10.5 Parking

(i) Context

A number of major parking themes emerged from submissions and expert evidence:

- the Parking Overlay was generally confusing and complex
- maximum parking rate of 0.5 spaces per dwelling was too low
- insufficient provision for parking for car share arrangements
- the practicality of implementing Precinct parking stations and adapting carparks or carparking areas within other buildings to other uses in future.

(ii) Submissions and evidence

In the Minister's Part B submission, he noted that many submitters believed the parking rate was too low without public transport, and would not meet purchaser expectations. He submitted that the Parking Overlay rate is a vitally important component in a suite of provisions designed to achieve the 80 per cent sustainable transport goal. He submitted that in the short term, there is discretion to exceed the parking rate if, say, public transport or other sustainable transport initiatives are still some way off. In these cases, providing adaptable car park design, in single ownership, to allow future conversion would be appropriate.

The Minister noted that the draft Amendment does not specifically require or facilitate Precinct parking stations, but neither does it preclude them.¹⁰⁹

Mr Kiriakidis was generally comfortable with the intent of the parking controls but acknowledged that they needed reworking to improve clarity. He regarded the proposed maximum parking rate of 0.5 space per dwelling as acceptable, as it is consistent with the sustainability vision and part of a suite of treatments to achieve those objectives. However, he noted that the parking rates can be reviewed at any time.

Melbourne supported the proposed maximum rate of 0.5 spaces per dwelling. It submitted that all parking in Lorimer should be unbundled and publicly accessible and have floor to floor heights and level floors to enable future adaptation. However, both Melbourne and Port Phillip suggested a number of significant modifications to the Parking Overlay to improve clarity and reduce potential adverse outcomes such as no bicycle storage being provided.

Port Phillip submitted that enhancing the uptake and utilisation of car share arrangements was important. Based on advice from Phillip Boyle and Associates, Port Phillip contended that an appropriate car share rate would be two car share bays within any development providing 50 plus car parking bays and one car share for every 25 spaces thereafter. It preferred that car share spaces be located within developments, and not on-street.

The *Integrated Transport Plan* recommended further investigations into parking precinct stations, which was supported by Mr Kiriakidis.

Several submitters acknowledged the need to encourage alternative travel modes to reduce private motor vehicle trips, however, many requested more car parking be made available,

¹⁰⁹ Ministers Part B submission (D49), [264].

as there is no direct correlation between car ownership, parking supply and traffic volumes. Several submitters suggested that the carparking rates need to be reconsidered.

Various landowners called Ms Dunstan to provide evidence regarding parking issues. Her opinions were generally consistent with Mr Walsh's assessment. Generally, they supported reduced parking rates in inner areas and activity centres, but felt the proposed maximum parking rate of 0.5 spaces per dwelling was too low in Fishermans Bend at this time, because:

- it would not be consistent with other parking overlays that apply in and around Melbourne CBD
- Fishermans Bend is not yet well served with public transport and there is uncertainty as to where and when services will be delivered
- even with full public transport delivery, Fishermans Bend will still not match the CBD in terms of public transport accessibility
- while 2016 ABS Census car ownership statistics for apartments for nearby areas show car ownership is generally significantly lower than 1.0 space per dwelling, this is not the case for larger three bedroom households (see Table 21)
- the 80/20 mode split is possible with 1 space per dwelling (as inner areas of Melbourne already achieve)
- the controls encourage 20 to 30 per cent of housing stock for families, who generally require at least one car.

Table 21: Review of Car Ownership Data (Average number of cars per dwelling)

Housing type	Melbourne suburb	Docklands	Southbank	Carlton	West Melbourne
Stat. rate	1/dwelling	1.5 – 2.0/dwelling	1/dwelling	1/dwelling	1/dwelling
1 Bedroom	0.3*	0.4*	0.5*	0.2*	0.5*
2 Bedroom	0.5*	0.8	0.8	0.4*	0.7
3 Bedroom	0.9	1.3	1.1	0.9	0.9

Source: Ms Dunstan's evidence prepared for various parties on instruction by Norton Rose Fulbright

*The Review Panel has highlighted where 0.5 spaces/dwelling or less is achieved

Ms Dunstan did not provide written evidence relating to car share facilities, but responded to questions in relation to a Phillip Boyle and Associates memo regarding car share arrangements tabled by Port Phillip (D145). Ms Dunstan believed that to enhance uptake, these facilities should be located in highly visible and publicly accessible areas. Car share is a commercial arrangement and must be viable. If it was to be installed in suboptimal locations, it may need to be subsidised. Further, it unclear what transport options may be available in the future, when services such as Uber Share and autonomous vehicles may become prevalent.

In principle, Ms Dunstan supported adaptable parking areas but noted several issues:

- they are generally more expensive and less efficient delivery of car parking
- car parks with sloping floors would be difficult to retrofit
- loss of efficiency – the additional vertical space required for adaptable car parking (3.8 metres) compared with traditional parking facilities (2.8 metres) would only yield three car parking levels for every four of traditional parking

- ramps between parking levels need to be four metres longer (due to the additional floor to floor height difference) which creates difficulties, particularly on smaller sites.

Ms Dunstan had reservations regarding parking precinct stations, particularly for residential use. She queried the market acceptability of Precinct parking stations, and the practicality of expecting residents to walk 200 – 250 metres, particularly for families with young children, transporting groceries. She noted that substantial public sector investment could be required to realise this model, and queried whether Fishermans Bend is an appropriate place to test what appears to be an untried theory.

Ms Dunstan considered that the controls as exhibited were unclear, poorly worded and structured, and highly confusing. The controls required substantial reworking to allow for consistent and unambiguous interpretation.

(iii) Discussion

To achieve sustainable transport goals, a number of strategies will need to work collaboratively. In isolation, improving public transport, walkability or reducing parking rates are unlikely to be as effective. The Review Panel accepts that the broader policy to achieve enhanced sustainability involves a more restrictive car parking ratio and a fundamental shift away from private car ownership and privately owned car parking spaces attached to individual dwellings.

Adaptable car parking areas appear to have broad support and may be suitable in Fishermans Bend, although the Review Panel notes the practical issues raised by Ms Dunstan. Support for Precinct parking stations was more tentative. Further work is required to provide additional detail and likely funding arrangements.

A maximum car parking rate of 0.5 spaces dwelling is a significant reduction compared to current standards. The Review Panel notes that the Minister and Councils support the proposed rate as an appropriate tool to achieve sustainability goals in Fishermans Bend. However, it is unclear why a maximum rate of 0.5 space per dwelling was chosen, and not say 0.4 or 0.6 or some other figure. The Review Panel notes that the *Integrated Transport Plan* identifies that “*in Fishermans Bend, developers are providing parking at a rate of 0.6 spaces per apartment*”.¹¹⁰

The Review Panel agrees with Ms Dunstan that for the three bedroom dwellings (proposed to be 20 to 30 per cent of housing stock), a maximum parking rate of one space per dwelling should be allowed. On review of the ABS data (see Table 21), and assuming a similar distribution of car ownership, it does not appear equitable to expect larger dwellings (that are more likely to be occupied by families) to reduce their car ownership by 50 per cent, while expecting no change for those in one bedroom dwellings (which are already at or below 0.5 spaces per dwelling).

The Review Panel notes that the net parking rate would be between 0.60 and 0.65 spaces per dwelling assuming 20 to 30 per cent of housing stock are three bedroom dwellings (that is, 0.5 car space/dwelling x (80 per cent of one and two bedroom dwellings) + one car space/dwelling x (20 per cent of three bedroom dwellings)). The Review Panel does not

¹¹⁰ Integrated Transport Plan, page 46.

consider that an overall parking rate of 0.65 spaces per dwelling will compromise the achievement of sustainability goals, including an 80/20 mode share split for transport trips.

As noted by Mr Kiriakidis, it is appropriate that a review of future parking rates occur to ensure sustainability goals are being realised.

In relation to car share arrangements, the Review Panel supports Port Phillip's submission for a greater supply of car share spaces, however, to achieve greater uptake, these spaces should be publicly accessible, and where practical, not be located in private dwelling complexes.

Throughout the Hearing, the parking controls have evolved and been significantly reworked to enhance clarity and consistency.

(iv) Findings and recommendations

The Review Panel finds:

- maximum parking rates of 0.5 spaces per dwelling for one and two bedroom dwellings, and one space per dwelling for three or more bedroom dwellings, is appropriate
- parking rates should be reviewed in the future to ensure policy objectives are being realised
- adaptable car parking areas have some practical issues, but on balance the Review Panel considers that the controls should include requirements for adaptable car parking areas
- Precinct parking stations are supported, but require further investigation
- parking for car share arrangements should generally be in accordance with Port Phillip's submission but be publicly accessible where practical.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Parking Overlay:

- 11. Adopt the maximum parking rate of 0.5 spaces per dwelling for one and two bedroom dwellings and one space per dwelling for three or more bedroom dwellings.*

10.6 Port of Melbourne

(i) Context

The Port of Melbourne is the largest and busiest container port in Australia, operating 24 hours a day, seven days a week. It currently handles approximately 2.7 million Twenty foot Equivalent Units (TEU) (that is, steel shipping containers) per annum, which is expected to grow to around 8 million TEU per annum by 2050. The Port is of strategic and economic importance to Victoria and Australia.

Port operations by their very nature are industrial, with potential for a number of off-site impacts including traffic, noise, light and odour emissions. There is the potential for land use conflicts to increasingly arise as Fishermans Bend transitions to a high density residential and mixed use precinct. A balance needs to be struck between facilitating the urban renewal of Fishermans Bend, and protecting the ongoing operation of the Port.

(ii) Submissions and evidence

Port of Melbourne Corporation raised a number of concerns about urban renewal in Fishermans Bend impacting on, and potentially limiting, future operation and expansion of the port. It submitted that to avoid future land use conflicts, sensitive uses should be limited within the port environs and the extent of the Environmental Significance Overlay (Schedule 4 Port Environs) should be extended at the western edge of the Wirraway Precinct)

Port of Melbourne Corporation submitted that key freight road corridors along Lorimer, Prohasky, Plummer and Graham Streets must be protected. It submitted that the potential Metro Rail alignment should avoid Webb Dock, as the foundations of its large infrastructure can reach up to 40 metres below ground. It also sought recognition and protection of the existing rail reserve along the north side of Lorimer Street, west of the Bolte Bridge) which it is currently investigating as a future freight link as part of its lease agreement with the State Government.

The Minister acknowledged the importance of the Port as a significant State and national asset, but noted that the urban renewal of Fishermans Bend is also of State significance. He acknowledged the importance of finding ways to address port access and freight transport issues which do not compromise the delivery of the Fishermans Bend urban renewal project. He submitted that Plummer Street should remain as a civic boulevard, noting it formed part of the *Integrated Transport Plan* which was prepared by TfV having regard to port needs. He recognised the need to separate bicycle and truck traffic, particularly along Lorimer Street, and submitted that this could be resolved in the Precinct planning phase.

The Minister's Part C controls included various changes to address land use conflict issues, including making the 'as of right' use of land for sensitive uses conditional on compliance with any relevant threshold distance contained in Clause 52.10, and requiring sensitive uses to be accompanied by an Amenity Impact Plan addressing impacts of (and on) the Port.

Melbourne expressed concerns about access and amenity impacts of increased heavy vehicle movements along Lorimer Street associated with the Port, as well as safety issues associated with the proposed bicycle path along Lorimer Street.

Neither Council supported the proposed elevated freight route. Rather, they adopted the Infrastructure Victoria 2016 report *Advice on Securing Victoria's Ports Capacity* which recommended that a better long-term solution was to build a second container port at Bay West (south of Werribee) and in the shorter term, the existing Port of Melbourne expand to its capacity based on existing transport infrastructure (that is, no future freight link).

Jacobs undertook a high level assessment of three potential freight corridors through Fishermans Bend in September 2017 (D153), to identify the preferred long-term corridor for road and rail access to Webb Dock. This study concluded that the existing Lorimer Street/Wurundjeri Way freight route provides an adequate connection at current levels, however, in the longer term it is a real possibility that additional road and rail connections will be needed that are properly separated from urban areas. This could include a rail and road freight link within the Lorimer Street corridor and a low bridge across the Yarra River adjacent to the Bolte Bridge. This potential future freight route is identified in the draft Framework.

The MAC supported the preferred long-term option as shown in the draft Framework as it would:

- generally have less impact on urban realm and development potential
- have no impact on Westgate Park
- not require network changes to Todd Road
- pass through land which is not expected to be fully developed for some years.

The Victorian Transport Association, representing employers and businesses that supply transport, logistics and freight related services, expressed similar sentiments to Port of Melbourne, submitting that in particular:

- buffers should be provided between freight routes and residential dwellings
- it is concerned with road safety and that cyclists should be separated from truck traffic.

(iii) Discussion

The Review Panel acknowledges the strategic and economic importance of the Port, and its plans to continue and expand its current operations. It agrees that the operations of the Port should not be adversely affected by the introduction of future sensitive uses, and that potential land use conflicts need to be carefully managed. The changes in the Part C controls will go a long way towards addressing these issues.

The Review Panel acknowledges that tensions that are likely to occur between freight movements associated with the Port, and other new road users and abutting land uses. It is somewhat ironic that a new truck route was developed along Graham Street, Plummer Street and Prohasky Street to improve amenity for Williamstown Road residents, and now these same roads are ultimately intended to be redeveloped with greater intensity of abutting land uses, the proposed tram route and associated pedestrian and vehicle movement.

The Review Panel is particularly concerned about the potential for conflict between Plummer Street's designation as a civic spine (supporting a retail core area, public transport network, and associated high pedestrian activity), and its designation as a truck route for heavy vehicle port related traffic. This potential conflict is incompatible with a world class urban renewal project, and needs to be resolved. No evidence was presented to the Review Panel that a satisfactory alternative for Plummer Street freight traffic can be identified. This must be further investigated. Practically, the recently introduced freight route along Graham Street, Plummer Street and Prohasky Street may need to be reconsidered, especially as truck survey data suggests this route is less well used compared to Williamstown Road.

A concerted effort will need to be made both in the design and operation of the roads used for port related freight movements, to provide a safe environment for all road users. Providing separated off-road bicycle lanes is an appropriate step which should be further explored and refined as part of the Precinct planning process.

The other key issue that needs to be resolved is the alignment of the future port freight route. The Review Panel notes Port of Melbourne Corporation's submissions that the existing rail reservation remains under active consideration as a viable freight route option. The Review Panel has doubts as to whether this is in fact a viable option. The existing rail reserve is extremely narrow, and there does not appear to be sufficient room to separate road and rail freight along the Lorimer Street corridor, let alone other road users including

pedestrians and cyclists. The draft Framework's long-term option of an elevated freight route appears reasonable based on having less impact on urban and open space realms and future redevelopment opportunities. It appears to traverse across land that is unlikely to be developed for some time.

However, until Port of Melbourne Corporation completes its investigations, there is unlikely to be any certainty as to the final alignment of the future freight route. In the circumstances, it is prudent to proceed with the Precinct planning phase recognising the possibility that the existing rail reservation may be used.

Port of Melbourne Corporation suggested amendments to the draft Framework (D238 Appendix B) to highlight the strategic and State significance of the port facilities, and to provide additional detail and clarification, relating to Port activities. This could be considered as part of any updates that might be made to the Framework, but detailed recommendations regarding changes to the Framework are beyond the scope of this report.

(iv) Findings

The Review Panel finds:

- the Part C version of the controls adequately deal with future land use conflict and amenity issues associated with Port of Melbourne operations, subject to minor modifications
- careful and thoughtful road design and operation along freight routes will be required, including but not limited to separated bicycle lanes, to ensure competing demands between freight traffic and other road users and abutting land uses are minimised as far as reasonably practicable
- the Plummer Street freight route should be reconsidered as a priority
- although the Review Panel has significant reservations about the viability of locating the future road and rail freight route along the existing rail reserve on the north side of Lorimer Street, is prudent to proceed on the basis that this is a possibility until the ultimate alignment is resolved.

11 Environmental and other issues

Environmental and other issues were raised through submissions and evidence, including:

- integrated water management
- environmentally sustainable design
- protection of high pressure gas transmission pipelines
- other environmental issues
- heritage

11.1 Integrated water management

(i) Context and key issues

Much of Fishermans Bend is low lying and flood prone from either or a combination of sea level rise/storm surge or major rainfall events. Melbourne Water as the floodplain management authority requires a further 18 months to finalise its assessment and preferred flood management strategy for the area.

Due to climate change effects, the sea level is expected to rise 0.8 metres by 2100, at which time the 1 in 100 year flood depth is expected to be 2.4 metres Australian Height Datum (AHD) (refer to Figure 12). Melbourne Water requires the minimum ground floor level to be 3.0 metres AHD which includes a factor of safety for tidal inundation and wave action. The majority of Fishermans Bend ground levels range from 0.9 to 3.8 metres AHD, with the eastern parts of Sandridge and Montague, and Lorimer Precincts being the lowest lying areas that are most exposed. Councils advocated for innovative means to tackle flood management where possible, to avoid the need to raise floor levels and to improve the urban realm.

Figure 12: Land above (green) and below (blue) 2.4 metres AHD¹¹¹



Source: GHD: Melbourne Water Baseline Drainage Plan Options 2017, Fig. A1

¹¹¹ Expected in the 1 in 100 year flood depth.

The key issues to be addressed are:

- requirement to raise floor levels to avoid flooding resulting in potentially poor urban design outcomes
- weakening of existing mandatory controls relating to third pipe (recycled water) plumbing and water tanks
- Melbourne Water status as a referral authority.

(ii) Submissions and evidence

The Minister advised that Clause 22.XX includes a clear expectation that there will be a combination of physical and management measures to address sea level rise and flooding without compromising urban form at ground level. Potential measures included:

- construction of a levee
- providing design elements and materials that are resilient to flood events
- facilitating uses at ground level that can quickly recover from flood events
- raising ground floors above street level, but only as a last resort.

As the flood plain manager, Melbourne Water has a statutory function to set floor levels. It takes a risk based approach to setting floor levels, with residential and office levels (which are not particularly flood resilient) requiring the most protection. It submitted that some flexibility could be allowed for commercial lobbies and retail tenancies. Melbourne Water advised that rainwater tanks fulfil an important flood mitigation function, and supported precinct based solutions including levees, pumps and pipe upgrades.

Both Councils were concerned that Melbourne Water's requirement to raise ground floor levels would result in poor urban design outcomes, and a poor interface between public and private realms. They pointed to the Gravity Building on Montague Street as an example. Port Phillip submitted that rainwater tanks and third pipe supply are vital components in flood mitigation and should be given appropriate weight by relocating the relevant provisions from Clause 22.XX into the CCZ Schedule, and converting them to mandatory permit conditions. Both Councils submitted that raising floor levels should be an option of last resort.

The Councils advocated for precinct based flood management strategies, to reduce or eliminate the need to raise ground floor levels. They called Mr Patterson of Ramboll who presented a flood management strategy known as a 'Cloudburst Masterplan'. Essentially this strategy principally uses the streets, laneways and parks to store and transfer stormwater above ground in a safe manner. This reduces flood heights and flow rates to safe levels and keeps water from inundating buildings. The strategy also incorporates the use of rainwater tanks (to capture and reduce peak rainfall flood events), and a flood levee (to protect against storm surge and climate change sea level rises) around Fishermans Bend and extending to Port Melbourne and Station Pier.

While individual elements of this strategy are regularly used throughout Victoria (for example, detention ponds/wetlands in growth areas) the combination of all elements has only occurred in some European and North American cities to date. Mr Patterson acknowledged that the Cloudburst Masterplan is currently at a conceptual level only, and that further modelling and investigation would be required before it was implemented. In particular he was unsure what impact the flood levee would have on other nearby low lying areas along the Yarra River and Maribyrnong River catchments, and noted that the levee

could result in stormwater being retained within the levee, increasing requirements for stormwater detention facilities within Fishermans Bend.

Port Phillip acknowledged that the Cloudburst Masterplan requires further design and modelling, but believed that it should be integrated into the Framework Plan at this stage. Melbourne Water submitted that further modelling, including a more detailed assessment of Mr Patterson's strategy as well as other innovative solutions, is still required. The Minister agreed, and submitted that Melbourne Water should remain a referral authority at the planning stage (and not just at the building stage) to ensure better quality outcomes are realised.

(iii) Discussion

The Review Panel accepts that flood management is a significant infrastructure issue that still needs to be resolved. The Cloudburst Masterplan presented by Mr Patterson on behalf of the Councils appears to have merit. As noted by Mr Patterson and Melbourne Water, further modelling and design work is required, as part of a more overarching assessment of the suite of flood management options and infrastructure assets. The Review Panel considers that further investigation into the Cloudburst Masterplan should be undertaken as part of Melbourne Water's finalisation of an appropriate flood management strategy for Fishermans Bend.

A levee is already in place around some sections of Fishermans Bend. The Yarra's Edge development has a levee incorporated into its design, as do sections of Southbank. Investigations should consider whether additional or higher levees should be constructed to complement the existing levees. The Review Panel recognises that while a levee may reduce flood risk, it does not eliminate it. It also notes that Port of Melbourne Corporation does not support a levee being introduced as it may adversely affect port operations.

The Review Panel endorses Port Phillip's submission (which is reflected in the Part C version of the controls) that the requirements for installation of a third pipe for recycled water use and rainwater tanks should be shifted to the CCZ controls and made mandatory. This is appropriate and would strengthen integrated water management for Fishermans Bend.

Melbourne Water should continue to provide input to applications at the planning permit stage to ensure optimal outcomes are realised, and that safe and functional designs are realised which incorporate appropriate stormwater management and flood mitigation measures.

(iv) Findings

The Review Panel finds:

- it supports mandatory permit conditions requiring the installation of third pipe systems for recycled water use and rainwater tanks
- Melbourne Water should continue as a referral authority.

11.2 Environmentally sustainable design

(i) Context and key issues

The Vision is for Fishermans Bend to be a “*thriving place that is a leading example for environmental sustainability, liveability, connectivity, diversity and innovation*”. It envisages that the Fishermans Bend of 2050 will be “*celebrated as an exemplar of sustainable and resilient urban transformation*”.

This Vision is reflected in the Framework, and in the eight sustainability goals contained in the Framework. The sustainability goals in the Framework extend beyond ESD, but goal 7 (a low carbon community) specifically addresses ESD with the following key objectives:¹¹²

- Fishermans Bend will be the largest urban renewal Green Star – Community in Australia
- Fishermans Bend will be a net zero carbon emissions precinct by 2050
- new buildings will be designed to best practice ESD standards, and will be required to meet a minimum 4 Star Green Star rating
- renewable energy generation, storage and distribution will be maximised.

The draft Framework and Vision are supported by the *Fishermans Bend Sustainability Strategy*, the *Fishermans Bend Net Zero Emissions Strategy* (D198) and the *Fishermans Bend Climate Readiness Accommodation Strategy* (D199).

(ii) Submissions and evidence

The Minister submitted that the proposed planning controls (in particular the 4 Star Green Star requirement for buildings) strike an appropriate balance between implementing sustainability requirements, and providing feasible and achievable objectives and strategies. He submitted that “*it is unrealistic to consider that all of the goals expressed in the Framework will be achieved in the short term or that the highest possible standards should be mandated immediately*”.¹¹³ He submitted that targets will be reviewed during the life of the Framework, and there is an expectation of future increases in performance requirements.

Melbourne submitted that the 4 Star Green Star requirement for buildings is a “*retrograde step*”, and should be increased to 5 Stars. It noted that a 5 Star requirement is already in place under Melbourne’s Energy, Water and Waste local policy (Clause 22.19 of the Melbourne Planning Scheme), and that the 5 Star standard is generally accepted in the development community.

Port Phillip supported Melbourne’s position, and further submitted that:

- Fishermans Bend should aim to achieve a 6 Star Green Star – Communities accreditation
- the 7 Star NatHERS (Nationwide House Energy Rating Scheme) requirement currently contained in Clause 22.XX should be increased to 8 Stars
- non-residential development should be required to achieve a NABERS (National Australian Built Environment Rating System) rating of 5.5 Stars.

¹¹² See Fishermans Bend Framework, page 64.

¹¹³ Minister’s Part C submission (D350), [198].

Mr Williamson gave sustainability evidence for Melbourne and Port Phillip. He provided a detailed analysis of the draft Framework and draft Amendment, as well as the related background documents, and concluded that:¹¹⁴

The existing and proposed planning controls for Fishermans Bend are highly unlikely to achieve the standard of sustainability set out in the Fishermans Bend draft Framework and Vision document, the Sustainability Strategy or Fact Sheets.

When considering the planning control provisions as a whole, they do not represent a significant improvement on the standard of sustainability in current planning applications ...

The Framework and controls refer to a Green Star – Communities rating, but do not specify what rating is aimed for. Mr Williamson's evidence was that without a 6 Star Green Star Communities rating, several of the targets and goals outlined in the Framework are unlikely to be achieved.

He noted that the proposed 4 Star Green Star requirement for buildings is lower than current standards encouraged under local policy in both planning schemes, and would add little to no value. His evidence was that a 5 Star standard is relatively widely accepted in the market, although he conceded in cross examination by Ms Foley that there is not widespread uptake of the Green Star system in residential developments. He nevertheless noted that VCAT typically upholds permit conditions requiring a 5 Star standard, and maintained that a 4 Star standard would represent a backward step.

The MAC supported the proposed 4 Star Green Star standard for buildings "*reluctantly*", as it considered that a 4 Star standard would encourage adaptive re-use of heritage buildings whereas a 5 Star standard may not. In response to questions from the Review Panel, the MAC maintained that a 4 Star standard was appropriate, although developers should be "*strongly encouraged*" to achieve a 5 Star standard. It noted that the current planning schemes do not mandate any Green Star ratings, and that standards expressed in local policy are aspirational only.

The Property Council of Australia supported a 5 Star Green Star standard for buildings over 5,000 square metres¹¹⁵, but raised concerns with the proposal to allow 'or equivalent' rating tools to be used. It submitted that the Green Star system is recognised as the pre-eminent tool for improving building performance, and allowing alternative 'equivalent' standards could increase the risk of non-compliance. The Green Building Council of Australia raised similar concerns.¹¹⁶

The MWRRG submitted that Green Star standards would not guarantee good waste and resource recovery outcomes, because Green Star is a credit and point system and it is open to developers to select different ways of achieving the required Star rating. It submitted that the Waste and Resource Recovery Strategy and the Sustainability Strategy should be incorporated into the planning schemes, to better secure waste and resource recovery outcomes.

¹¹⁴ ESD evidence – Mr Williamson (D74), page 6.

¹¹⁵ Further submission from Property Council of Australia (D248).

¹¹⁶ Further submission (D170).

The Green Building Council of Australia submitted that the Framework "*has clearly identified how sustainability [can] act as a multiplier for better economic and social outcomes across the community in the short and long term*".¹¹⁷ It submitted that priorities for ensuring that the Vision can be realised include establishing suitable independent governance and leadership, and requiring independent third party certification of Green Star outcomes to give the community confidence that the Vision is being delivered.

(iii) Discussion

Sustainability is a key consideration in planning decisions. Planning must provide for the fair, orderly, economic and sustainable use and development of land, and balance the present and future interests of all Victorians. Sections 4 and 12 of the Act require environmental impacts to be considered in all planning scheme amendments. The Climate Change Act requires the State Government to ensure that all its decisions appropriately take climate change into account.

The draft Amendment contains a series of ESD requirements. Clause 22.XX-3 builds on existing local policy in each scheme, and encourages all development to achieve a 20 per cent improvement on National Construction Code energy efficiency standards. Applicants must submit a Sustainability Management Plan with a permit application, and the responsible authority must consider the proposed Star rating and (where appropriate) sustainable water, waste and energy management proposed when assessing a permit application.

Under the Green Star system, 4 Stars represents best practice, 5 Stars represents Australian excellence and 6 Stars represents world leadership. The Review Panel considers that if the Vision of a world leading urban renewal project that sets new benchmarks for sustainability is to be achieved, the planning controls must start with a standard for buildings that represents at least Australian excellence – that is, 5 Stars, and a standard for communities that represents world leadership – that is, 6 Stars. Other urban renewal projects in Australia have committed to a 6 Star community certification, including Barangaroo.

The Amendment introduces mandatory Star rating requirements in Fishermans Bend for the first time. Notwithstanding this, the Review Panel considers that a 4 Star buildings rating is too low a starting point. It is lower than the current policy settings in both schemes, and represents a 'minimal' standard according to the evidence of both Professor Bates (for the Minister) and Mr Williamson. The Review Panel accepts Mr Williamson's evidence (and the submissions of the Property Council and the Green building Council) that there is growing market acceptance of 5 Stars. It also notes that the *Net Zero Carbon Strategy* recognises that 4 Star standards for buildings "*will need to be rapidly ramped up to avoid locking in poor building performance ...*".¹¹⁸

Constant ESD improvements will be required to ensure that Fishermans Bend remains a world leading example of sustainable urban renewal, and the government's decision making obligations under the Planning and Environment Act and the Climate Change Act are met. ESD standards will need to be monitored, reviewed and improved as the urban renewal of Fishermans Bend progresses.

¹¹⁷ Submission 245.

¹¹⁸ Fishermans Bend Net Zero Emissions strategy (D198), page 30.

Port Phillip submitted that a number of other ESD changes should be made to the Amendment, including:

- mandating on site waste storage and collection for all development of ten or more dwellings or more and 1,000 or more square metres of non-residential development
- strongly encouraging single waste and recycling solutions for each building
- application requirements in the CCZ Schedule for a waste management plan and construction waste management plan
- minimum building design standards to ensure high quality green roofs and green walls are provided which reduce urban heat (including a requirement for at least 20 per cent of a building's roof area top include a green roof).

Although these changes appear sensible, they were not supported by evidence. The Review Panel does not consider it appropriate to introduce mandatory requirements of this nature without evidence as to their likely effectiveness, or any indication of the additional costs that they may impose on developers. Developers could, however, be encouraged to include these types of measures in Sustainability Management Plans required to be submitted with a permit application.

Finally, the Review Panel notes that the Net Zero Carbon Strategy suggests incentivising increased ESD by providing FAU for development that achieves higher standards than those required under Clause 22.XX and the CCZ Schedule. The Review Panel regards this as worthy of further consideration. The Review Panel also notes that the Minister has accepted Mr Williamson's recommendations for further work outside the Amendment.¹¹⁹ It encourages the Minister to progress this work as part of the ongoing planning for Fishermans Bend.

(iv) Findings and recommendations

The Review Panel finds:

- Clause 22.XX should be amended to refer to a 6 Star – Communities rating for Fishermans Bend.
- The CCZ Schedule should be amended to require buildings over 5,000 square metres to achieve a 5 Star Green Star rating, rather than a 4 Star rating.
- ESD standards will need to be periodically reviewed to ensure that Fishermans Bend remains a world leading example of sustainable urban renewal.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Clause 22.XX and the Capital City Zone:

- 12. In Clause 22.XX-3, include the Review Panel's recommended wording regarding a 6 Star Green Star – Communities rating for Fishermans Bend.*
- 13. In the Capital City Zone, require buildings to meet the Green Star requirements set out in the Review Panel's preferred version.*

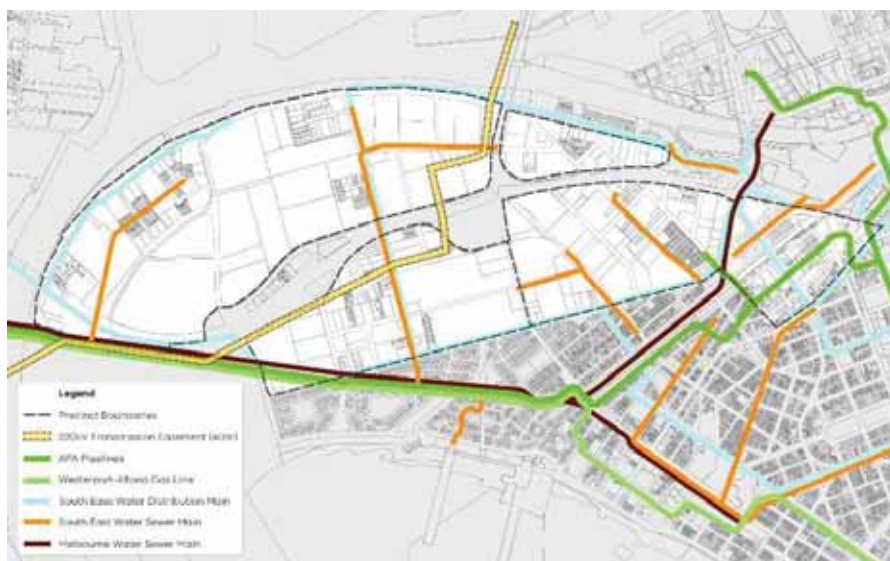
¹¹⁹ Minister's Part C submission (D350), [212]–[213].

11.3 Protection of pipelines

(i) Context

APA Group owns and operates¹²⁰ three high pressure gas transmission pipelines which traverse parts of Fishermans Bend (Figure 13). If one of these pipes ruptured and ignited, damage could include loss of life, destruction of property and significant adverse environmental effects. The measurement length¹²¹ of the South Melbourne to Brooklyn pipeline is 450 metres, and the measurement length of the Port Melbourne to Symex Holdings pipeline is 100 metres.

Figure 13: High pressure gas transmission pipeline locations (in green)



Source: Fishermans Bend draft Framework Figure 2 – existing utilities infrastructure

(ii) Submissions and evidence

APA submitted that the high pressure gas transmission pipelines play a vital role in providing a steady stream of gas to consumers in metropolitan Melbourne. Due to the potential consequences of a pipeline failure APA recommended:

- a Safety Management Study which considers the range and nature of land uses which can safely be developed in areas surrounding the pipelines
- amendments to the CCZ which control development of sensitive uses within the measurement length
- construction management plans for all proposals (regardless of whether a planning permit is required) within the measurement length
- APA be nominated as a recommending referral authority for applications to develop sensitive uses within the measurement length, and if not, that it be formally notified of applications.

The Minister acknowledged that infrastructure and development close to the pipelines would continue to be managed consistently with other high density inner city developments

¹²⁰ APA closing submission (D357), [1.2].

¹²¹ The 'measurement length' is the distance each side of the pipeline at which the thermal radiation from an ignited full-bore rupture would cause serious burns to an unprotected person.

such as Docklands and the CBD. In response to submissions by APA (D189), the Minister amended the draft CCZ (Part C version) to include the following requirements for applications within the measurement length:

- a permit trigger for various sensitive uses that would otherwise have been 'as of right'
- for applications for sensitive uses – a requirement to consider the views of the pipeline licensee (although no specific requirement to notify the pipeline licensee was included)
- for buildings and works applications – a requirement for a Construction Management Plan prepared with the input of the pipeline licensee.

(iii) Discussion

The pipelines have statutory protection under the *Pipelines Act 2005*. A person is prohibited from undertaking works within three metres of a pipeline. Pipelines are also often protected by an easement. However, the measurement length is not protected or controlled by statute and generally not reflected in planning schemes.

While the likelihood of a pipeline failure may be considered negligible, the consequences would be significant. Accordingly, the Review Panel considers that it is appropriate for the controls to include additional requirements for development within the vicinity of the pipelines, particularly for sensitive uses where vulnerable people or large groups of people may attend, or the facility poses a potential threat.

The Part C version of the controls effectively trigger a permit for a number of sensitive uses within the measurement length. The Review Panel considers this to be appropriate. The Review Panel accepts that Construction Management Plans are a suitable risk management tool, but considers that these should only be required for proposals within 50 metres of the pipelines (not within the measurement length).

APA have often sought to become a recommending referral authority where a planning scheme amendment allows redevelopment of land within pipeline measurement distances. Other panels have considered this issue on multiple occasions. Consistent with previous panel reports, the Review Panel considers that it is not appropriate for private operators of infrastructure (as opposed to public or government agencies) to be nominated as a referral authority. Nor does it consider that APA should be notified of applications within the measurement length. The default position under the CCZ is that permit applications are exempt from third party notice and review rights. This is considered appropriate.

The Review Panel does, however, consider that a decision guideline should be added to the CCZ requiring the responsible authority to consider whether the use would create an unreasonable increase in the risk of undesirable outcomes by being located within the pipeline buffer.

(iv) Findings and recommendations

The Review Panel finds:

- the pipeline protections included in the Part C version of the controls are broadly appropriate, subject to minor modifications and the mapping of the pipeline measurement lengths.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Capital City Zone:

14. *Delete the requirement to consider the views of the pipeline licensee with respect to applications for sensitive uses within the measurement length.*
15. *Include a decision guideline requiring consideration as to whether the use would create an unreasonable increase in the risk of undesirable outcomes by being located within the pipeline buffer.*

11.4 Other environmental issues

(i) Context

The existing industrial uses in Fishermans Bend, together with an industrial legacy and major roads and freeways present a range of environmental issues and attendant risks.

(ii) Submissions and evidence

The EPA was generally supportive of the draft Amendment and noted there are significant environmental considerations associated with:

- industrial history and contamination
- current industry and other commercial activities and off-site pollution impacts
- air quality near busy roads.

The EPA had several suggestions to generally enhance safety and wellbeing:

- strengthen references to land and groundwater contamination
- strengthen the need for future sensitive uses to respond appropriately to existing uses
- highlight existing industry uses may pose health (as well as amenity) impacts
- consider potential impacts of Major Hazards facilities and major pipelines
- consider traffic air emissions from Westgate Freeway and CityLink.

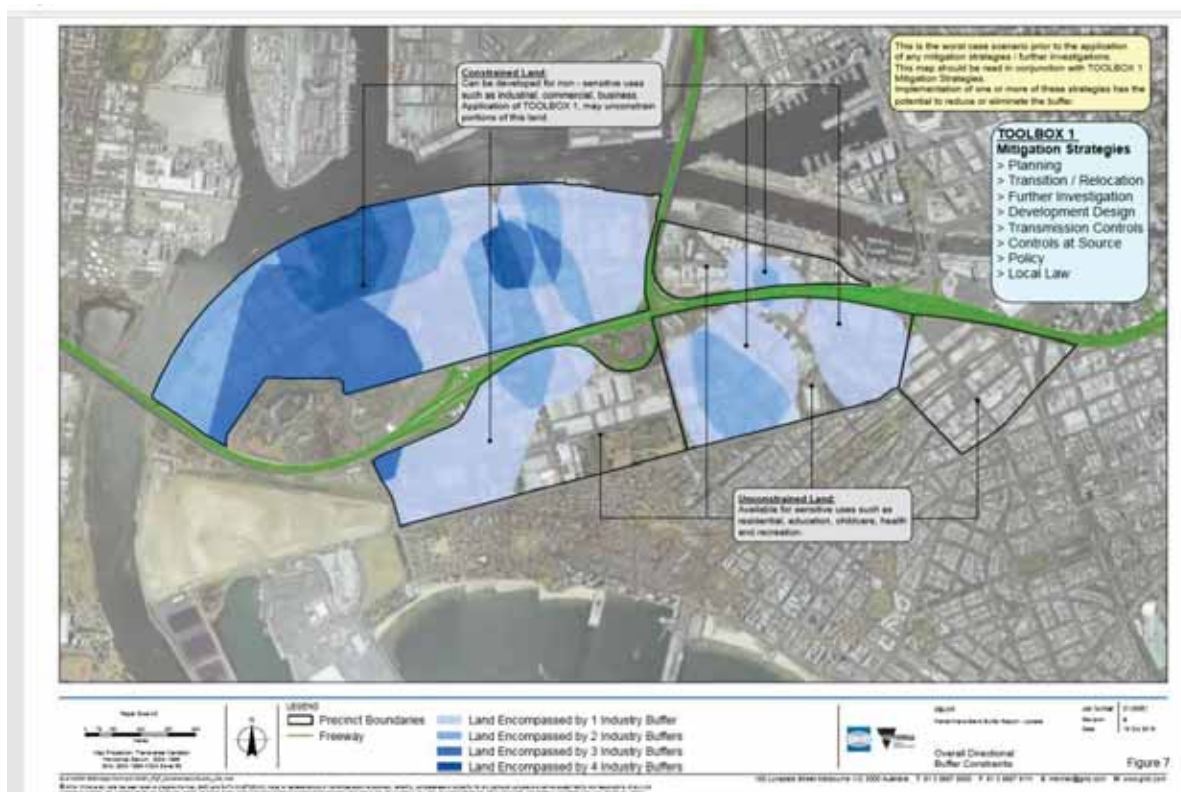
To further strengthen consideration of air quality around these freeways, in summary, the EPA suggested in its original submission (S198):

- a precautionary distance of 150 metres from busy roads as the distance where air quality must be considered
- qualified professional should be used to assess air quality around the M1 and Bolte Bridge and identify measures to mitigate against its impacts
- consideration of a mapped overlay (such as an Environmental Significance Overlay (ESO) to ensure risk is visible for future decision makers
- collaboration between EPA and other partners to help manage issue going forward.

There is ground water and land contamination throughout Fishermans Bend associated with over 150 years of historical industrial uses. An Environmental Audit Overlay (EAO) is the appropriate planning tool to address possible contamination which applies to the Precincts.

Providing and maintaining buffers (or separation) distances is the key tool for managing incompatible uses. Buffers address the potential for off-site pollution which poses risk for amenity and human health in the surrounding areas and minimises potential conflict.

Figure 14: Amenity buffers



Source: GHD Fishermans Bend Buffer Assessment Report October 2016 Figure 7.

The EPA advised that encroachment of sensitive uses on industrial and commercial activities results in a significant portion of EPA's enforcement work and managing encroachment is of critical importance to the EPA.

The Minister noted that the CCZ placed an emphasis on new developments implementing mitigation measures. The fundamental intent is for existing (non-residential) uses to be permitted to operate without the draft controls inhibiting their operations, provided these uses do not prejudice the urban renewal of Fishermans Bend.

The implementation of the agent of change principle will place the onus on an applicant of a new sensitive use development to take measures to mitigate potential amenity impacts associated with an existing industrial or warehouse use which among other things includes consideration of buffer distances.

The Minister acknowledged that it would be appropriate that a detailed Audit of Uses with Adverse Amenity Potential (Audit) be an Incorporated Document in the planning schemes to ensure greater certainty that potential conflict(s) with existing industrial uses are identified, as recommended by Mr Negri.

The Minister accepted the EPA's reluctance to be a referral authority.

(iii) Discussion

The Review Panel agrees that it is essential for health and amenity to ensure good air quality in Fishermans Bend, particularly around sensitive sites.

Buffer distances were incorporated into the text of the Part C CCZ controls and the Review Panel believes these would be easier to use if they were mapped. To further minimise the likelihood of conflict between new and existing uses, the Review Panel supports an Audit of Uses with Adverse Amenity Potential as an Incorporated Document in the planning schemes in the future, although it notes that every time the Incorporated Document needs to be updated, a planning scheme amendment will be required. The Incorporated Document is not critical to progressing the draft Amendment.

The agent of change principle is well-established in Victoria which places the onus on new developments to undertake remedial works to protect their own amenity.

The Review Panel acknowledges the work of the EPA in further developing research and monitoring air quality and encourages parties to undertake collaborative efforts to manage the issue in the future.

The Committee agrees that ensuring community safety from harm and adverse amenity impacts is essential. The key is to adequately manage the potential conflict as industrial sites transform to other uses. The Review Panel considers that the proposed requirements in the CCZ (Part C version) relating to Amenity Impact Plans adequately address these issues.

An EAO applies across the site so any potential land and ground water contamination can be identified and appropriate remedial measures can be implemented.

Buffer distances including those to major pipelines have been incorporated into the controls to further minimise the likelihood of conflict between new and existing uses.

(iv) Findings

The Review Panel finds:

- the proposed controls adequately deal with the issue of air quality around sensitive sites through the use of buffer zones and Amenity Impact Plans
- it supports an Audit of Uses with Adverse Amenity Potential as an Incorporated Document in the planning schemes in the future, although it notes that every time the Incorporated Document needs to be updated, a planning scheme amendment will be required, and the draft Amendment could be completed before this work is finalised.
- using maps in place of text will make the control easier to use.

11.5 Heritage

(i) Context

Fishermans Bend has important natural history as a wetland, links to indigenous culture as well as its role in the growth of the Port of Melbourne throughout the nineteenth and twentieth centuries. Sites of archaeological, social and historical significance have been identified throughout Fishermans Bend, and a number of buildings have been identified in a Heritage Study undertaken by Biosis (2016) as warranting consideration for inclusion within

the Heritage Overlay. It is understood that this report will be reviewed further by both Councils as part of a separate process.

(ii) Submissions and evidence

The Minister highlighted the general support among submitters and Councils for retaining and incorporating heritage buildings as important to the future character of the area. He welcomed support for the social and cultural history of the area and the inclusion of Australia heritage and Caring for Country concepts. The Minister expected that further development around heritage will occur as part of the Precinct plan stage.

Port Phillip supported the focus on heritage in the draft Framework – in particular, the importance of identifying and protecting indigenous heritage in the area, as well as those buildings which help to define the character of their Precincts and the area as a whole. It suggested that the consideration of heritage in the draft Framework could be strengthened through including further heritage references and requirements in the DDOs.

Various other submissions were made on the importance of maintaining the heritage of Fishermans Bend and generally approving the focus on heritage in the Vision and draft Framework (including the potential use of a Heritage Overlay). Other submitters considered that an overlay was not strong enough, and argued for more stringent protections.

Some submissions questioned the method through which specific sites – particularly those that were not identified in the Biosis Heritage Study – had been selected as potential sites worthy of further heritage protection.

(iii) Discussion

The Review Panel notes the general support from the Minister, Councils and submitters with respect to maintaining and protecting the heritage of Fishermans Bend. A properly researched Heritage Overlay will help achieve this objective. With respect to submissions raised about the inclusion or exclusion of particular sites, the Review Panel supports the further review by the Councils in relation to heritage issues and sites. This can be progressed through the Precinct planning process. Any proposed introduction of a Heritage Overlay will require a further planning scheme amendment.

(iv) Findings

The Review Panel finds:

- The proposed controls adequately respond to the heritage of the area.
- The Review Panel encourages the Councils to progress investigations into the possible use of a Heritage Overlay based on the Biosis Heritage Study (2016).

PART C – IMPLEMENTATION

12 Governance

12.1 Context and key issues

The Vision is silent on governance. The draft Framework does not specifically address governance, although it notes in 'Next Steps, Completing the planning' that implementation of the Framework *"will involve ongoing conversations and collaboration with the community, industry, land owners, businesses, all levels of government and the not-for-profit sector"*.¹²²

Currently, the Minister is responsible authority for applications over 25,000 square metres in Fishermans Bend, and the Councils are responsible authority for applications under this threshold. Applications made to the Minister are not required to be referred to the Councils (and vice versa). The draft Amendment does not propose any changes to roles of the Minister and the two Councils.

A number of submissions addressed governance, with most noting that good governance will be critical to the successful delivery of Fishermans Bend, urging that this be resolved as early on in the planning process as possible.

The key issues to be addressed are:

- whether there should be a single body responsible for governance for Fishermans Bend
- whether there should be a design review panel or similar to assess applications
- whether the Councils should be referral authorities for applications determined by the Minister (and vice versa).

12.2 Submissions and evidence

The Minister's Part B submission noted that the successful delivery of Fishermans Bend will require a whole of government response.¹²³ The submission acknowledged that future governance arrangements for Fishermans Bend extend beyond the scope of the Amendment, although Clause 35(f) of the Terms of Reference requires the report to provide *"A summary of all submitters heard that presented on matters outside the consideration of the Review Panel"*.

The Minister's Part B submission acknowledged the various submissions, including that from the MAC, which has *"recommended the creation of a statutory authority with specific responsibility for the delivery of Fishermans Bend"*. Paragraph 10 advised:

While the Minister does not necessarily oppose this course, it is clear that it would require careful consideration, particularly regarding the structure and funding of such a body and potentially primary legislation to establish any such authority. In this regard, the Minister looks forward to hearing the submissions of the parties and receiving the Panel's recommendations.

In its closing submission (D350), the Minister reiterated that the decision on governance will be a matter for the whole of government.

¹²² Fishermans Bend Framework, page 67.

¹²³ Minister Part B submission (D94), [6]–[10].

The MAC provided its response to the draft Framework in the MAC Report No. 2 (D18). It made a presentation at the Hearing (D57 and D58) and a further response in relation to issues raised (D303). One of the key themes it advocated was governance. In this regard, the MAC noted that:

Governance was identified as a major issue in the first report of the MAC and the establishment of the Taskforce was an important interim step ... over the last 18 months, it has become clear that the unique circumstances in the urban renewal of Fishermans Bend require the next step in the development of governance arrangements.

Further, it noted that currently, "*critical responsibilities for the delivery of Fishermans Bend are located in a number of different organisations with no one organisation accountable for its ultimate success*". The MAC Report No. 2 noted that Fishermans Bend needs governance arrangements to deliver the Vision, with:

- strong leadership
- master planning
- change management process
- integrated and timely advice
- support to existing and new industry and business
- single point of contact
- coordination of government agencies
- cost-effective and timely delivery of public infrastructure strategies, including affordable housing and community development
- strong stakeholder and community engagement.¹²⁴

The MAC urged that any governance arrangements be developed in close consultation with the two Councils in order to learn from the experience in the development of Docklands, and that any model have a finite life that is subject to review within 10 years. These submissions were reiterated at the Hearing (D57) where the MAC stated that establishment of governance arrangements will bring together:

... ongoing responsibility for land use planning and industry 'curation' reflecting the unique circumstances and ambitions for the Area and providing for strong leadership with a concentrated focus and a mandate to drive development, a hands on integrated approach to problem-solving and the powers and authority to act.

In its opening submission (D120), Melbourne noted that it agreed with "*... the vast majority of the MAC's recommendations ...*", including "*finalising a governance framework and funding and finance plan as a matter of priority*".¹²⁵

Melbourne sought that it be a recommending referral authority for applications made to the Minister as responsible authority, consistent with all other areas of its municipality within the Zone (including the CBD). The Minister accepted that the relevant Council should be given the status of recommending referral authority, but not a determining referral authority. The Minister's Part B submission advised:

¹²⁴ Fishermans Bend MAC Report (D18), pages 13–14.

¹²⁵ Melbourne City Council written submission (D120), [25]–[26].

*Formalising the participation of the Councils will also benefit applicants by adding a degree of rigour to their participation by requiring the Councils to comply with the obligations applicable to referral authorities under the Planning Act.*¹²⁶

Port Phillip did not express a clear position on the issue of governance.

Mr Shipp gave evidence for both Councils and noted the importance of establishing clear governance arrangements to guide public infrastructure funding and delivery. He noted that ongoing governance arrangements for Fishermans Bend are not clear and would require cooperation across multiple government agencies. At the moment, the Victorian Planning Authority collects interim development contributions, and both Councils collect public open space contributions. He considered this complex administration is likely to lead to inefficiencies, and that a coordinated approach to strategic land acquisition and infrastructure delivery is required.

The Australian Institute of Architects (S176 and D61) strongly advocated for a transparent governance structure (such as a dedicated Fishermans Bend Authority) to lead and manage the longer term ambitions for the redevelopment. It argued that *“To enable flexibility and agile responses to the future conditions, a governance structure should be established incorporating a steering authority that can assist in ensuring the objective and ambitions for Fishermans Bend are being activated”*.

The Institute (and others) further recommended that design excellence for all aspects of Fishermans Bend be assured by international design competitions or a design review panel. When questioned by the Review Panel whether this might be the role of the Office of the Victorian Government Architect, they saw its role as somewhat different in terms of its ongoing role and function, and how it might play out for Fishermans Bend.

The UDIA (S215) supported the establishment of a separate authority responsible for all aspects of the strategic planning and administration of the planning schemes. Through Ms Addison, it suggested that Melbourne and Port Phillip become recommending referral authorities and the Minister devolve his responsibilities to administer and enforce the two schemes in Fishermans Bend.

SPURR (South Port Urban Responsible Renewal) is a collective of 49 community groups with a combined membership of 9,500 people who live and work in and around Fishermans Bend. Its submission to the Hearing (D235) highlighted the critical importance of funding and governance to ensure the success of Fishermans Bend. It considered that a statutory authority should be put in place to *“unite all the planning functions under one roof including oversight of the funding arrangements”*, allowing for consistency of decision making.¹²⁷ In its Attachment 3, SPURR provided a suggested governance model, and noted the best option would be an independent statutory authority constituted by an Act of Parliament.

Ms Heggen discussed the challenge of governance in giving evidence for Goodman (S149). She noted *“The importance and strategic challenge of the renewal of Fishermans Bend is reflected in its status as a Project of State significance ...”*. She endorsed the establishment

¹²⁶ Minister Part B submission (D94), [242].

¹²⁷ SPURR presentation speaking notes (D235), pages 13–14.

of a statutory authority with specific responsibility for delivery of the renewal project, and said:

The overarching governance body would have the requisite statutory powers to prepare the Infrastructure Funding Plan, the coordination and management of the timely rollout of infrastructure projects and the monitoring and review of the plan implementation amongst other responsibilities. I consider the establishment of say a "Fishermans Bend Urban Renewal Authority" to be a fundamental plank of the successful delivery of the Fishermans Bend program.

Some submitters suggested Fishermans Bend be a separate municipality.

12.3 Discussion

The Review Panel considers that the appropriate inclusion of both Councils in the decision making process for Fishermans Bend is critical. The Minister recognised the positive relationship between the Councils and himself. The Review Panel considers that both Councils have the imprimatur to rightly be involved in the decision making process and to contribute to ensuring good development in all instances. It supports the Councils being recommending referral authorities for all applications over 25,000 square metres.

The Review Panel sees merit in the Minister being be a determining referral authority for those matters for which the Melbourne or Port Phillip is the responsible authority. This will guard against the council being responsible for compensation if a permit is refused on the basis that land is required for a public purpose.

The Review Panel can see the benefits of a Fishermans Bend Authority or similar to implement the Vision and to integrate planning for the renewal area. Such an authority could bring all key elements together and ensure strong leadership in a single point of contact. Examples provided that could be examined include the former Docklands Authority and Barangaroo Delivery Authority in Sydney.

Governance and infrastructure funding are inextricably linked and the various submissions and evidence spoke of the need for a single body to deliver the whole of the Fishermans Bend project. The Review Panel can see the merits in this approach. However, it is not able to make definitive recommendation in this regard since insufficient material was put before the Review Panel regarding the possible structure, role or function of such a body.

The Review Panel supports any process that assures excellent design outcomes in all aspects of development, and as part of an overarching authority for Fishermans Bend, there should be a unit that supports and ensures design excellence.

12.4 Findings and recommendations

The Review Panel finds:

- As the Councils have a significant stake in all aspects of the planning and delivery of Fishermans Bend, they should be listed as a recommending referral authority for matters over the 25,000 square metres threshold, as should the Minister for Planning for all matters below the threshold.
- The long-term benefits of an alternative governance arrangement for implementing the Vision of Fishermans Bend through a single agency or statutory authority should be considered going forward.

- Part of this arrangement could include a separate unit to assess and provide input in relation to design excellence.

The Review Panel recommends the following changes to other planning controls:

16. *In Clause 66.04, include Melbourne or Port Phillip as a recommending referral authority for all applications over 25,000 square metres (and the Minister for Planning as a determining referral authority for all matters below 25,000 square metres) in the relevant municipality.*

13 Infrastructure funding

13.1 Context and key issues

Significant infrastructure is needed to service the future population of Fishermans Bend, including key public transport infrastructure such as trains and trams, new roads or upgrades to existing roads, new local streets and laneways, open space and recreation, education and community facilities. Other critical infrastructure such as power, water, sewerage and drainage is provided through well-established planning and funding regimes which are not addressed here.

There are a number of well-established funding mechanisms and sources currently available which can be or are being used to provide funding for infrastructure in Fishermans Bend, including:

- budget allocations by the State Government or Melbourne and Port Phillip Councils
- interim development contributions from developers which are currently being secured through section 173 agreements
- contributions to open space secured under Clause 52.01 of the planning schemes
- works undertaken by developers as a condition on permit.

Interim development contributions are being collected at the rate of \$15,900 per dwelling and equivalent for non-residential uses. Total contributions forecast to be collected by June 2019 total \$7 million.¹²⁸

The key issues to be addressed are:

- infrastructure provision
- infrastructure funding
- the use of FAU to deliver infrastructure
- the use of an ICP to deliver infrastructure.

13.2 Infrastructure provision

(i) Context

Clause 19 of the Planning Scheme states in part:

Planning for development of social and physical infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely.

Growth and redevelopment of settlements should be planned in a manner that allows for the logical and efficient provision and maintenance of infrastructure, including the setting aside of land for the construction of future transport routes.

(ii) Submissions and evidence

The Minister's Part A submission quotes the Vision as stating that an integrated infrastructure plan is to be developed.¹²⁹ There is no reference to its timing. In his Part B

¹²⁸ Letter to Review Panel Chair (D100).

¹²⁹ Minister's Part A submission (D49), [21(h)].

submission, the Minister acknowledged "*evidence and submissions to the effect that early delivery of transport infrastructure will be a key driver of development in Fishermans Bend*".¹³⁰ He noted that key projects for infrastructure delivery, including major parks, community infrastructure and public transport (tram and potential rail) are identified in the draft Framework. He submitted that the State Government supports the recommendations in *Infrastructure Victoria's 30 Year Strategy* for tram and rail services in Fishermans Bend but noted that the delivery timeframes are beyond the budget window.¹³¹

The MAC Report No. 1 released in October 2015 recommended:

Infrastructure Plan – A two phase approach to preparing an infrastructure plan should be adopted:

- *a high level Infrastructure Plan prepared to accompany the recast Strategic Framework Plan, with indicative costings on key transport infrastructure*
- *detailed Infrastructure Plan/s with detailed costing and funding strategies identified for all infrastructure (community and physical), developed in conjunction with the detailed Precinct Plans.*¹³²

Melbourne relied on the evidence of including Mr Milner who stated:

*A principal concern with Amendment GC81 is that it could be about to repeat some of the same mistakes of the immediate past, by progressing principally built form planning provisions (with some potential to capture some public benefits), ahead of being sure how the whole package of necessary public and private works can be delivered in an integrated, effective and timely manner.*¹³³

Port Phillip submitted that the draft Framework should include an infrastructure plan.

A number of other submitters and experts raised concerns over the lack of an infrastructure plan accompanying the draft Framework, and the lack of a plan for funding that infrastructure. Mr Tweedie and the UDIA (S215), amongst others, were critical of there being no firm commitments by government to deliver essential infrastructure.

Other submissions spoke of the provision of infrastructure in a broader sense. The Father Bob Maguire Foundation submitted that it wished to develop a 'futures centre' which integrates a range of housing and community services "*with particular emphasis on helping socially excluded individual and families experiencing socioeconomic disadvantage and financial vulnerability*".¹³⁴

The St Kilda Cycling Club submitted that there was an opportunity for a dedicated cycling facility and outlined the community and health advantages which it would generate. Water Polo Victoria submitted the need for a water polo suited pool in the area and the Port Melbourne Soccer Club submitted that there was a need for extra soccer pitches to accommodate women's teams and stadium upgrades to accommodate related activities.

¹³⁰ Minister's Part B submission (D94), [11(b)].

¹³¹ Minister's Part B submission (D94), [11(c)].

¹³² Fishermans Bend Advisory Committee Report 1, page 40.

¹³³ Expert Evidence of Mr Milner (D73), [60].

¹³⁴ Submission by the father Bob Maguire Foundation (D243), page 1.

(iii) Discussion

The Review Panel notes the Minister's commitment to providing an infrastructure plan. It is unfortunate that an infrastructure plan is not yet available. Having said this, broad detail of at least some of the major infrastructure is identified in the draft Framework, which was no doubt informed by the various background documents. These documents could form the basis of the high level infrastructure plan referred to in the MAC Report No. 1.

The Review Panel accepts that the tram in particular will be a key driver of development in Fishermans Bend and assumes that commitments to it are likely to be made in the context of future State budgets in the time frames which are mentioned in the Minister's submission.

The submissions which focused on providing specific sporting and community infrastructure are somewhat premature, in the sense that this process is not designating spaces for specific uses. This will come at a later stage of the process, primarily the Precinct planning phase, which will involve more detailed planning for the various hubs. The Father Bob Maguire proposal may possibly integrate with planned community hubs, for example. It is not the role of the Review Panel to make specific recommendations on this.

(iv) Findings

The Review Panel finds:

- preparation of an infrastructure plan should not hold up the progress of the draft Amendment
- an infrastructure plan should, however, be prepared and released in a timely manner, preferably ahead of or in conjunction with the Precinct Plans.

13.3 Infrastructure funding

(i) Submissions and evidence

A DCPO applies over Fishermans Bend. A draft DCP was prepared but not implemented. An interim contribution currently applies.

Interim contributions have been used to fund (in part) the Montague Park land purchase. The Minister submitted that the State Government has provided funding through the budget for tram and bus capacity upgrades and tram stop improvements, Montague Park improvements, the South Melbourne Primary School and part purchase of the former GMH site in the Employment Precinct.

The MAC Report No. 1 (2015) identified the need for:

*... a short, medium and long-term financial plan for the development of Fishermans Bend which considers all potential sources of funding ... the Taskforce, in consultation with central government agencies and local government is well advanced in developing the funding plan Fishermans Bend's combination of scale, defined boundaries and investment requirements creates a unique opportunity for new and innovative approaches to funding the area's redevelopment.*¹³⁵

¹³⁵ Fishermans Bend Advisory Committee Report 1, page 19.

Melbourne relied on the evidence of Mr Shipp who undertook his assessment of funding mechanisms assuming that a DCP or an ICP would be implemented for Fishermans Bend. He noted that the draft Framework does not provide any clear indication of whether a DCP is proposed. Mr Milner proposed a DCP to fund the acquisition of land and related necessary infrastructure.

Port Phillip urged expedited work on the preparation of an infrastructure funding strategy and a DCP, and expressed concern that the existing interim contribution levy was inadequate. It submitted that both the interim development contributions and the open space contribution be raised immediately. It tabled detailed infrastructure planning and costing work prepared by Mesh Consultants for a couple of major infrastructure projects (D76b), to demonstrate the magnitude of the likely underfunding and the risk to Council in being potentially responsible for any funding shortfall.

Similarly, the UDIA expressed frustration that an Infrastructure funding model did not form a part of the draft Framework planning process and had yet to be developed, and Ms Addison noted

While there has been constant reassurance that a funding model will be released imminently, the lack of such a model makes it difficult for UDIA to assess the merit of this Framework as there is no indication of how the Framework will be financially supported.¹³⁶

An innovative approach raised during the Hearing was the use of value capture mechanisms to capture some of the uplift in property values to part fund the required infrastructure. The State Government's *Victoria's Value Capture and Creation Framework* released in September 2017 notes that the uplift in values usually results from rezoning, infrastructure development or other government policy. The MAC Report No. 2 stated that "*Fishermans Bend presents a unique opportunity to embrace value capture mechanisms*"¹³⁷ and both it and Mr Milner noted that the opportunity for value capture resulting from rezoning had already been lost.

In his evidence, Mr Biacsi agreed with the MAC that Fishermans Bend is a "*specific candidate*" for the mechanisms proposed under the State Government's value capture framework, but stated that the Fishermans Bend draft Framework "*could hardly be said to constitute a project specific [Value Capture Plan] Plan of the type contemplated by the [Value Capture and Creation Framework]*".

Mr Tweedie submitted that the rezoning which occurred in 2012 "*unlocked value*" which the draft Amendment would take away. Mr Wren made reference to the MacroPlan Dimasi report prepared in 2012 which addressed the issue of value capture and explored its potential applications.

The Minister made no specific reference to value capture except in his closing submission and then in response to Mr Morris's submissions about the ICP. Neither Council made direct reference.

¹³⁶ UDIA (S215).

¹³⁷ Report of the MAC October 2017, page 10.

(ii) Discussion

Infrastructure funding has been a significant issue for the Review Panel. It is clear that at least in the early stages the MAC had envisaged a high level infrastructure and funding plan being developed and released in tandem with the draft Framework. The exhibition of an infrastructure and funding plan with the draft Amendment would have been preferable, and it could have taken a lot of debate out of this Hearing if there had been certainty around funding issues. Based on the indications of the likely costs of infrastructure in Fishermans Bend, indicated in material such as the Mesh reports produced by Port Phillip¹³⁸, the current DCP rate is likely to result in a funding shortfall.

The Review Panel was assured that work on the infrastructure and funding plans is advancing. However, it is not entirely surprising that the two have not been advanced together. In growth area planning, while it is usual for a Precinct Structure Plan and a DCP to be exhibited together, it is not unknown for there to be a disconnect between the two.

The Review Panel understands Port Phillip's concerns about there being no certainty about either the cost of infrastructure or who would be responsible for various infrastructure categories. Councils have a responsibility to ensure that their ratepayers are not left with unacceptable burdens either as a result of directly funding infrastructure or debt servicing for its provision.

Provision of public transport infrastructure is a State responsibility, subject to normal budget processes. The lack of a specific budget commitment at this stage is not surprising given the five to ten year time frame proposed for provision of the trams (and the longer time frame proposed for the provision of the Metro extension).

While there is no infrastructure plan in place and no clear indication of who will be responsible for the costs of various infrastructure types, the Review Panel notes that there are well-established conventions for infrastructure funding. The debate is likely to be on a limited number of nevertheless significant issues.

The Review Panel is a little surprised at the lack of reference in the draft Framework to *Victoria's Value Creation and Capture Framework*. The Review Panel agrees with the MAC that Fishermans Bend would seem to be an ideal project for exploring the use of the new framework. In making this comment the Review Panel is aware that mechanisms such as using the FAU to provide social housing could fall under the value capture umbrella to a small degree.

The Review Panel is aware that value capture has been used in a number of overseas jurisdictions and sometimes accounts for significant parts of the infrastructure cost. Well known examples include Hong Kong's Metro, and CrossRail 1 in London, where all development within a set distance of the new stations is charged a levy on the redevelopment of the site in order to capture part of the uplift in value that has occurred because of proximity to the new station.

The Review Panel notes the Victorian Planning Authority is the collecting agency for interim developer contributions. This appears to be an historical anachronism and based on little current logic. This should be reconsidered and the collecting agency be one with some

¹³⁸ D76b.

responsibility for planning and development in Fishermans Bend. This is likely dependent on proposed governance arrangements which are implemented.

(iii) Findings

The Panel finds:

- There is a well acknowledged need for an Infrastructure Funding Plan to be developed and released, preferably together with the Precinct Plans. This should be progressed as a priority, particularly if it is the case that the interim developer contribution rates are likely to result in a funding shortfall.

13.4 The use of floor area ratio to deliver infrastructure

(i) Context

In the exhibited version of the controls, streets, roads and laneways and open space were required to be transferred to the relevant authority at no cost pursuant to provisions in the CCZ Schedule. The Minister initially submitted that this was a fair and equitable mechanism for delivering infrastructure in Fishermans Bend, because the affected landowners were still able to develop their full FAR entitlement on the balance of their land.

As described in Chapter 1.6(vi), this was one of the most controversial aspects of the draft Amendment, and was strongly opposed by landowners. Under the Part C controls, FAR was abandoned as a delivery mechanism for infrastructure. Instead, the Minister proposes that land required for public purposes will be acquired and funded through public land contributions made under a future ICP.

(ii) Submissions and evidence

The MAC Report No. 2 referred to the use of the FAR mechanism to set aside land for public purposes as an *“innovative approach”*. Melbourne submitted that it was not opposed to using the FAR mechanism, as long as it provided a high degree of certainty, was transparent for all stakeholders and was equitable. Port Phillip congratulated the Minister for *“thinking outside the square”* with respect to his innovative approach.

A number of landowners and their expert witnesses were critical of the use of the FAR mechanism to set aside land for public infrastructure. Their positions are set out in summary form in Chapter 1.6(vi).

Mr Tweedie pursued the issue of equity in cross examination of Ms Hodyl, seeking to demonstrate that a landowner forced to set aside land for public purposes would suffer disadvantage. If the land was retained by the developer it could be used for purposes such as communal space which would in turn increase the value of development on the total site.

Several experts questioned the equity and fairness of the FAR mechanism. Mr Milner stated that the proposal could impact on the size, shape and configuration of the remnant land remaining for development. Mr McGurn stated that it is inequitable that some landowners will be affected by the requirement to dedicate land for public purposes and others will not.

Landowners, led by Mr Tweedie, submitted that the setting aside of land for public purposes using the FAR mechanism would not be legal. Ms Collingwood and Mr Wren adopted the submissions of Mr Tweedie *“wholeheartedly”*. Mr Canavan and Mr Morris made

submissions to the effect that there was no legal basis for the proposed FAR mechanism, and that it was 'not fair'.

On 14 May 2018, the Minister advised the Review Panel that he no longer intended to use the proposed FAR mechanism to deliver public infrastructure in Fishermans Bend. Instead, he proposed that infrastructure would be funded under a future ICP, and that land needed for public purposes would be acquired through the mechanisms in the soon to be operational Public Land Contributions Act.

(iii) Discussion

The Review Panel has some sympathy for the submissions raising concerns over the legality and equity of the proposed use of the FAR mechanism to deliver public infrastructure in Fishermans Bend. However, given that the Minister has now abandoned this approach (albeit denying that the approach is either illegal or inequitable), the argument has become somewhat academic if the land will be acquired using the Public Land Contributions Act mechanisms as indicated by the Minister.

The Review Panel considers that the Minister's decision not to proceed with the FAR mechanism to deliver public infrastructure is an appropriate one. The development and use of an ICP is a more conventional approach, albeit one that needs to be further developed and considered, particularly in urban renewal contexts such as Fishermans Bend. The ICP and the Public Land Contributions Act are discussed in the following Chapter.

In drawing this conclusion, the Review Panel reiterates the comments made at the Hearing that there should have been some forewarning if an alternative approach was being actively considered. It is unfortunate that submitters had needlessly and perhaps at some cost, pursued arguments against this aspect of the FAR proposal.

Having said this, the Review Panel acknowledges that one of the purposes of an Advisory Committee process like this is to test proposals in an open forum.

The Review Panel offers no further comment in relation to the use of FAR to deliver public infrastructure, other than to say that given the apparent flaws in the proposed FAR mechanism, the decision to abandon this approach is supported.

13.5 The use of an ICP to deliver infrastructure

(i) Submissions and evidence

On 14 May 2018, the Minister advised the Review Panel that:

- an ICP system commenced operation in Victoria on 27 October 2016, initially restricted to growth corridors but anticipated to be used more widely
- the ICP system is used to fund community, recreation and transport infrastructure
- an ICP may contain a standard levy and makes provision for a supplementary levy where infrastructure requirements exceed the standard levy provision
- an ICP may specify different levies for different classes of development
- an ICP will specify the type, amount and location of land required for public purpose, and the existing maps which form part of the proposed controls could be suitable for identifying public purpose land in Fishermans Bend

- the Public Land Contributions Act will come into effect on 1 September 2018, (in fact it came into operation on 2 July 2018), allowing a land contribution for public purposes
- the Public Land Contributions Act includes a land equalisation mechanism that will address equity issues in respect of the use of the FAR mechanism for setting aside public purpose land
- Amendment VC146 was gazetted on 15 May 2018, introducing an Infrastructure Contributions Overlay (ICO) into the VPP
- the ICO is a mechanism for implementing an ICP and allowing the identification and transfer of land required for public purposes to the relevant agency.

The Minister submitted that this approach has the following benefits and would replace the previously proposed FAR mechanism for delivering infrastructure in Fishermans Bend:

- *secure the direct transfer of land identified as 'public purpose land' so that it may be used for the identified purpose*
- *address the concerns raised by Council as to the financial risks to the Councils posed by escalating land process over time and the potential for underfunding of infrastructure and public open space*
- *overcome the alleged unlawfulness (which is not accepted by the Minister)*
- *ensure that the land credits and land equalisation amounts will be specified in the ICP enabling landowners to have advance notice of these costs and potential credits before they develop their land.*¹³⁹

The Minister submitted that the ICP mechanism represented an approach that submitters and expert witnesses had suggested was appropriate.

Given that the ICP proposal was provided without forewarning in Week 10 of the Hearing, submitters had little time to assess it and provide the Review Panel with considered responses.

Mr Morris submitted a number of concerns about the proposed ICP mechanism:

- The extent of betterment in growth areas is much greater than in Fishermans Bend and this has an impact on the fairness of an ICP substantially developed for growth areas being used in an inner urban renewal area.
- Land values in outer areas are relatively even, compared with an inner urban context where improvements result in a much wider range of land values. This makes the practicality of using an ICP land equalisation approach of lesser value.
- Development in the growth area context usually occurs in a relatively limited time window of 10–15 years and that a much longer development window is likely in Fishermans Bend. This makes the use of the ICP for the timely delivery of infrastructure, problematic and likely to result in compulsory acquisition which will be grossly unfair and in breach of the *Charter of Human Rights*.
- The size of land required for public purposes in growth areas tends to be larger compared to overall land size and usually results in a fewer number of land owners losing all or most of their land for public purposes. This contrasts with the likely situation in Fishermans Bend.

¹³⁹ Ministers submission in relation to Infrastructure contributions (D309) [39].

At the reconvened Hearing on 20 June 2018, Mr Tweedie submitted that his clients had not had the opportunity to call relevant expert evidence or to test any expert evidence that the Minister might have called in respect of this proposal. He submitted that the Review Panel can do little other than:

- *note that the Minister has, at a very late stage in the Hearing, proposed an alternative mechanism which would include the use of an ICP*
- *observe that the parties and the Review Panel have not been given a sufficient or fair opportunity to consider properly the merits of the new approach in the context of Fishermans Bend*
- *recommend that, if an ICP is to form a part of any future amendment, that the future amendment be subject to exhibition, notification and independent review to allow this mechanism to be fully and fairly considered.*

Other landowner submitters endorsed the closing submission of Mr Tweedie.

(ii) Discussion

While the Review Panel is critical of the manner and timing of the ICP proposal being introduced, it considers it an appropriate tool to explore. Although there is no particular ICP before it as part of the draft Amendment, it is, however, appropriate for the Review Panel to make some general observations on the use of the ICP mechanism in principle and matters to be considered, based on comments and criticisms made by submitters.

The Review Panel does not accept Mr Morris's contention that the ICP was developed primarily for growth areas. That is where its main use is expected, but the Standard Development Contributions Advisory Committee which advised on its development and implementation clearly envisaged its broad use including in strategic development areas, and made recommendations accordingly.

There are issues, some of which were identified by Mr Morris, which need to be resolved in the implementation of an ICP in Fishermans Bend. These include:

- land valuation related equity and compensation issues which might arise from significantly different land values, between sites, between Precincts, and over a potentially significant period of time
- deciding what infrastructure should be included in the ICP, and what should be provided as developer works under permit conditions, given there will be multiple land owners and multiple beneficiaries likely to be affected by the new infrastructure (particularly new streets)
- the quantum of the levy which can be imposed, given the competitive context in which Fishermans Bend will be developed
- who will be responsible for any residual costs of infrastructure that is not fully funded by the ICP.

The Review Panel is aware of situations where limited DCPs have been used for local streets in growth areas which would normally be delivered as part of developer works, but where there are multiple land owners who benefit from the streets.

Finally, much of the administrative framework required to apply ICPs and the Public Land Contributions Act mechanisms to urban renewal areas is yet to be put in place. It may be some time until this occurs. The Review Panel is cognisant of the many submissions,

including those of both Councils, urging that the development of a DCP (now ICP) be expedited, and that the interim developer contributions and open space contributions be raised significantly to cover the period until a reworked DCP (or ICP) is in place.

It is clear that if the acquisition of land for public infrastructure such as parks and road widenings is to be included in an ICP, it is even more likely that the current interim developer contributions are inadequate. The Review Panel further observes that funding plans are likely to be set back as a result of the decision to proceed with an ICP, while issues with implementation of that mechanism are identified and addressed.

Consequently there is an even stronger argument for a significant increase in the interim contribution sooner rather than later. Consideration needs to be given to a mechanism to ensure that early developers do not get a 'free ride' at the cost of subsequent development, by virtue of an interim charge that appears likely to be too low.

(iii) Findings

The Review Panel finds:

- The development and implementation of an ICP or alternatively a DCP seems appropriate, if issues related to its use in an inner urban redevelopment setting can be satisfactorily resolved.
- The administrative framework to support the application of an ICP to a strategic renewal area like Fishermans Bend may be some way off.
- Given the interim developer contributions rate appears likely to be too low, consideration should be given to whether it should be raised in the meantime.

14 Acquiring land for public purposes

14.1 Context and key issues

Significant amounts of land in Fishermans Bend are required for public purposes. Roughly two-thirds of the land required for open space is privately owned. Seventeen properties need to be acquired in full (some of which are in multiple separate ownership). Thirty-eight properties need to be partially acquired.¹⁴⁰ Significant amounts of land are also required for new and widened streets, roads and laneways.

The Part A and Part B controls proposed three mechanisms for acquiring private land needed for public purposes:

- the FAR mechanism originally contained in the CCZ discussed in Chapter 13 (which has now been abandoned)
- a negotiated purchase or a compulsory acquisition process in accordance with the LACA (proposed where whole sites were to be acquired for public open space)
- the FAU scheme (a floor area uplift was proposed for the delivery of public benefit consisting additional public open space and community hubs).¹⁴¹

As noted in previous Chapters, significant changes to the controls were put forward throughout the course of the Hearing. All public purpose land is now proposed to be acquired through one of two mechanisms:

- transfers under the new Public Land Contributions Act, in conjunction with a future ICP
- developer works (mandatory permit conditions requiring developers to construct and transfer streets, roads or laneways are included in the Part C version of the CCZ Schedule).

FAU is no longer proposed for open space or community hubs.

The key issues to be addressed are:

- whether a PAO should be applied to land required for public purposes
- whether the proposed mandatory permit conditions in the controls are appropriate.

14.2 Should Public Acquisition Overlays be applied?

(i) Context

PAOs are not yet proposed in Fishermans Bend. The exhibited FAR and FAU mechanisms proposed that the developer would transfer the land (with improvements) to the relevant authority. PAOs were not proposed for whole sites to be compulsorily acquired or purchased for parks, because the Minister intended to rely on acquisition powers under Part 9A of the Act which do not require a PAO. The Minister indicated that PAOs are not proposed in conjunction with an ICP either. As outlined in Chapter 3.5, under the Public Land Contributions Act, land identified in an ICP as being needed for a public purpose is

¹⁴⁰ SIN 14 (D351).

¹⁴¹ Options for open space (D99).

directly vested in the relevant development agency when the land is subdivided or developed.

(ii) Submissions and evidence

The landowners submitted that PAOs should be applied to all public purpose land in Fishermans Bend, irrespective of the proposed method of acquisition. They submitted that the requirement in the CCZ Schedule for development to be generally in accordance with the CCZ maps amounts to a de facto reservation of the land for public purposes, causing planning blight. Consistent with the planning objective set out in section 4(2)(l) of the Act and the Charter of Human Rights, they should be entitled to compensation for the losses flowing from planning blight, including:

- an immediate devaluation of the land, impacting the ability to obtain finance
- the continuing obligation to pay outgoings on the land even though it cannot be used for anything other than the public purpose identified in the CCZ maps.

To not apply a PAO would, in the words of Mr Pitt, be an "*unconscionable*" attempt to avoid the usual consequences of setting aside land for public purposes.

Landowners submitted that land identified for public purposes would likely be sterilised. Landowners would not apply for permits to develop the land, including in association with a continuing existing use, because even a permit for minor works such as adding a canopy to a building would trigger the requirement to transfer the public purpose land (originally under the CCZ, now under the ICP).

Melbourne submitted that a PAO should be applied to Lorimer Central, nominating the State Government as the acquiring agency. It was concerned that if a PAO is not applied, Melbourne may be liable for Part 5 compensation under the Act if it refused a permit application on the basis that was not 'generally in accordance with' the CCZ maps. It submitted that the Minister should be made a determining referral authority for all applications considered by Melbourne, so that if a permit was to be refused on that basis, the Minister (rather than Council) would be liable for any Part 5 compensation that might arise.

Port Phillip urged caution in the application of PAOs in Fishermans Bend. It submitted that PAOs are not typically applied at this stage of a strategic planning process (including in conjunction with Precinct Plans), because there is no certainty as to the final boundaries of the public purpose land, and PAOs could prematurely trigger Part 5 compensation.

(iii) Discussion

The Review Panel accepts that a PAO is not required to facilitate the acquisition of public purpose land under an ICP.

However, concerns about Part 5 compensation remain.

Part 5 of the Act allows landowners access to compensation for planning blight which may be suffered before land is acquired for public purposes. Compensation is available in two situations:

- compensation for financial loss suffered as a consequence of the land being reserved for a public purpose (section 98(1))

- compensation for financial loss suffered as a consequence of the responsible authority refusing to grant a permit on the ground that the land is or will be needed for a public purpose (section 98(2)).

The Public Land Contributions Act introduces a new section 98(5) into the Act, which effectively states that public purpose land is not regarded as being reserved for a public purpose. This means that, if an ICP is applied, landowners will not be entitled to compensation under section 98(1) unless a PAO is also applied.

The Public Land Contributions Act does not expressly exclude compensation under section 98(2). There is some authority supporting the proposition that, where a permit to use or develop land identified for public purposes in a Precinct Plan is refused on the basis that the application is not 'generally in accordance with' the plan, the responsible authority is not liable for section 98(2) compensation (*Skerdero Pty Ltd v Cardinia SC* [2014] VCAT 1334), but the law on this question is not settled.

The submissions relating to PAOs raise some important issues. The Review Panel considers that, as a general proposition, landowners should be compensated for losses arising from their land being identified in the scheme as required for a future public use. Applying a PAO would allow landowners to access compensation before the land is ultimately acquired.

Further, planning schemes should provide as much certainty as possible, without creating unintended consequences. Applying a PAO would provide certainty as to what land is required for public purposes, allowing the balance of partially affected sites to be redeveloped with some certainty that the redevelopment would not prejudice the future public use. It would provide certainty as to which authority was liable for compensation.

The application of a PAO might reduce the presumably unintended consequence of discouraging upgrades to existing uses. Permits for upgrades could be granted, but with conditions that no additional compensation is available in respect of the upgrade works (section 98(3)(b) of the Act, and Clause 45.01-4 of the PAO controls). This at least provides landowners with a choice as to whether to pursue upgrades in advance of the land being acquired, albeit with the knowledge that they may not be compensated for expenditure associated with the upgrades.

At this stage of the strategic planning process, there is relatively little certainty about the final boundaries of much of the land required for public purposes. More certainty will be provided once the Precinct Plans are complete, when the final location and dimensions of parks and road alignments will be closer to being confirmed. The Review Panel notes Port Phillip's submissions urging caution in the application of PAOs, and for the reasons put forward by Port Phillip it agrees that PAOs should not be applied until the boundaries of the public purpose land are relatively certain.

The Review Panel considers that PAOs should be applied to parks in conjunction with (or immediately after) the Precinct plan process, when the final boundaries and dimensions of the parks are known. PAOs should be applied to the future tram alignments, the future Metro stations and any arterial road widening as soon as practicable once there is a degree of certainty as to the boundaries and dimensions of the land required.

It is not usual practice to apply PAOs to local or collector roads, particularly those that are to be funded under a DCP or ICP. The Review Panel sees no reason to depart from usual practice in this regard in Fishermans Bend.

Until PAOs are applied, some uncertainty will remain as to whether the CCZ controls could trigger compensation under section 98(2) on the basis that the land 'is or will be needed for public purposes'. Applying PAOs will resolve this uncertainty (making it clear that compensation under section 98(2) is available).

(iv) Findings

The Review Panel finds:

- PAOs should be applied to parks in conjunction with (or immediately after) the Precinct plan process, when the final boundaries of the land required are resolved.
- PAOs should be applied to the future tram alignments, the future Metro stations and any arterial road widening as soon as practicable once there is a degree of certainty as to the boundaries and dimensions of the land required.

14.3 Mandatory permit conditions relating to streets, roads and laneways

(i) Context

The Part C controls include mandatory permit conditions that require all streets, roads and laneways shown on the CCZ maps that are not included in an ICP to be constructed by the developer and transferred to the relevant road management authority at no cost. The Minister clarified in the Hearing that until such time as an ICP is in place, all streets, roads and laneways would be required to be delivered in this way. The issue is whether the proposed mandatory permit conditions are appropriate.

(ii) Submissions and evidence

The Minister submitted that consistent with ordinary practice, developers should be required to deliver streets, roads and laneways that serve a local function benefiting the developer's site. The mandatory permit conditions contained in the CCZ support this.

Mr Tweedie submitted that the mandatory conditions are inappropriate, and should be removed from the CCZ Schedule. He submitted that developers should be allowed the opportunity to challenge conditions requiring streets etc to be delivered as part of developer works in VCAT, for example on the basis that they provide a shared benefit and should therefore be delivered via an alternative mechanism such as an ICP or a DCP. He submitted that he is not aware of other cases where planning controls include mandatory conditions that are truly intended to relate to ordinary developer works that serve a local function only.

(iii) Discussion

There are well-established principles governing when it is appropriate to include permit conditions requiring developers to deliver public works such as new streets. The works must satisfy the principles of need, equity, accountability and nexus. The Review Panel agrees that developers should have the opportunity to test these conditions in VCAT. That opportunity is potentially limited if the permit conditions are expressed as mandatory conditions in the planning controls.

The issue is particularly relevant if there is a gap between the Amendment being approved and an ICP being applied. The mandatory permit conditions would effectively operate to require individual developers to deliver streets, roads and laneways (or parts thereof) that

provide a shared benefit across multiple sites. The Review Panel questions the equity of this, and considers that a right of review should be available in VCAT.

(iv) Findings

The Review Panel finds:

- The mandatory permit conditions requiring developers to construct and transfer streets, roads and laneways not funded under an ICP to the relevant road management authority should be removed from the CCZ Schedule.

14.4 Recommendations

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Capital City Zone:

- 17. In the Capital City Zone (Clause 4.0, buildings and works, conditions on permits) delete the mandatory permit condition requiring developers to construct and transfer streets, roads and laneways that are not funded under an Infrastructure Contributions Plan.*

The Review Panel recommends the following changes as part of ongoing work in Fishermans Bend:

- 18. Apply Public Acquisition Overlays to the proposed parks in Fishermans Bend in conjunction with the Precinct Plans, as soon as practicable once the final boundaries and dimensions of the required land are known.*
- 19. Apply Public Acquisition Overlays to other key public purpose land in Fishermans Bend, such as the future tram alignments, the future Metro stations and any arterial road widening that may be required, as soon as practicable once the final boundaries and dimensions of the required land are known.*

15 Transitional provisions

15.1 Context and key issues

The Vision and draft Framework are silent on transitional provisions, although both the Vision and the draft Framework allude to the need to reorient the trajectory of development represented by current permits and applications.

The Part A and Part B controls included no transitional provisions. In response to concerns raised by various submitters, the Part C version included provisions that exempt certain types of applications from certain parts of the controls, which are essentially aimed at protecting continuing lawful uses, and applications to amend a permit issued before the new controls come into force (see Table 22, compiled by the Review Panel). Transitional provisions have not been included in respect of live permit applications.

Table 22: Summary of Part C exemptions

Requirements	What is exempt	Notes
Maximum FAR	Applications to use land in accordance with a buildings and works permit issued before the Amendment came into force (Clause 2.0 CCZ)	If a permit trigger for use is introduced (eg use of a dwelling in a core area), a use permit still needs to be obtained
Maximum FAR	Applications to amend a buildings and works permit issued before the Amendment came into force (Clause 4.0 CCZ)	Provided the amendment does not increase the extent of non-compliance
Subdivision must be generally in accordance with the CCZ maps Subdivision must make provision for streets, roads and laneways shown on the CCZ maps Carparking areas must be retained in single ownership	Subdivisions in accordance with a buildings and works permit issued before the Amendment came into force (Clause 3.0 CCZ)	
Buildings and works must be generally in accordance with the CCZ maps	Application to amend a buildings and works permit issued before the Amendment came into force (Clause 4.0 CCZ)	
All requirements of Clause 3.0 of the CCZ	Subdivisions associated with a continuing lawful industry or warehouse use (Clause 3.0 CCZ)	
All requirements of Clause 4.0 of the CCZ	Buildings and works associated with a continuing lawful industry or warehouse use (Clause 4.0 CCZ)	
All requirements of the DDOs	Application to amend a permit issued before the Amendment came into force (Clause 2.0 DDO)	Provided the amendment does not increase the extent of non-compliance
All requirements of the DDOs	Buildings and works associated with an existing industrial use which facilitates the urban renewal of Fishermans Bend (Clause 2.0 DDO)	

One key issue is whether the exemptions for continuing lawful uses included in the Part C controls go far enough. The other key issues are whether the draft Amendment should include transitional provisions for:

- live applications lodged before the draft Amendment comes into force
- amendments to a permit issued before the draft Amendment comes into force
- extensions of a permit issued before the draft Amendment comes into force.

15.2 Submissions and evidence

The Minister submitted that the development represented in existing permits and live applications is by and large significantly at odds with the Vision, particularly in terms of population densities and built form outcomes. He submitted that the Amendment was required to "*reorient the current development trajectory to align it with the Vision*", and that transitional provisions would actively undermine the implementation of the Vision.¹⁴² Both Councils both supported the Minister's position.

The MAC expressed concern that some of the existing permits are not aligned with the Vision. It submitted that existing permits should only be extended where:

- construction had commenced
- the proposal is viable, demonstrated by anchor tenants having been secured or evidence of active development
- the development represents exemplary planning outcomes
- a permit would likely be granted if a fresh application were made.¹⁴³

The MAC suggested some flexibility when assessing live applications, submitting that broader aspirations (such as environmental sustainability and commercial floorspace) should not be mandated, but live applications should be assessed against the permanent controls relating to how the development impacts the site itself and the immediate surrounds.

Several landowners submitted that the current permits and live applications generally do not fundamentally detract from the Vision in a built form sense, and that transitional provisions were essential in the interests of fairness. For example, Mr Tweedie submitted that transitional provisions are common practice, and are necessary to provide for the fair, orderly, economic and sustainable use of land in any amendment making fundamental changes to development potential.¹⁴⁴ Mr Biacsi and Ms Heggen both supported transitional provisions on the grounds of fairness.

Mr Wren adopted those submissions, adding that landowners who have either obtained permits or made applications based on the planning scheme in place at the time are entitled to expect that their applications will be considered in accordance with the controls in place when the application was lodged.¹⁴⁵ Ms Collingwood submitted that a failure to include transitional provisions would have serious financial consequences for some landowners, and would be unfair and unjustified.¹⁴⁶ Mr Morris made similar submissions.¹⁴⁷

¹⁴² Minister's Part A submission (D49), [41] and [231]–[235].

¹⁴³ Fishermans Bend MAC report (D18), page 31.

¹⁴⁴ Outline of submission landowners group (D253), [239]–[243].

¹⁴⁵ Written submission (D263), [141].

¹⁴⁶ General submission (D276), [88].

¹⁴⁷ Written submission for Samma Group and Spec properties (DM44), [38]–[44].

Relying on the evidence of Mr Biacsi, Mr Canavan submitted that some protection must be afforded to applicants who have, in good faith, accepted the invitation of the Government and the Minister to prepare applications, and have them considered by the rules that applied at the time. He submitted that a failure to include transitional provisions would undermine confidence in the planning system, and reduce investment in Fishermans Bend.

Mr Finanzio SC submitted that transitional provisions were needed to ensure that landowners with existing permits were able to amend those permits without being caught by the new controls. He strongly supported the transitional provisions introduced into the Part C controls, and that a transitional provision should be included in Clause 22.XX.

The Minister responded by submitting that planning is required to balance the present and future interests of all Victorians, *“not just a small class of landowners”* in Fishermans Bend who made applications before the Amendment was notified or adopted. Other interests need to be considered, including the interests of future residents and developers in Fishermans Bend, and taxpayers and ratepayers who will have to pay for future infrastructure which is needed as a result of the existing permits and live applications (if approved). The Minister argued that transitional provisions would have a significant impact on development viability of remaining land in Fishermans Bend, by pushing down the yields available (through a reduced FAR), while increasing the cost per unit to meet the cost of infrastructure not provided by developers with existing permits or live applications.¹⁴⁸

15.3 Discussion

The live applications and their merits are not before the Review Panel and will be assessed by way of a separate process. The Review Panel’s views on transitional provisions for live applications are expressed in principle, rather than on any view on the merits of existing applications.

(i) Case studies

Several landowners provided case studies demonstrating how much time and money would be wasted if transitional provisions were not provided for live applications. Two of these case studies are set out below, although there were several others raising similar issues.

The first case study is that of the Samma Group and Spec Properties, who own 272 – 280 Normanby Road. They purchased the site in January 2018. There was (and is) a live permit application in relation to the site, lodged by the previous owner, that would have been assessed against the current interim controls had it been determined within the statutory timeframes. The application has now been called in by the Minister. The proposed development would be prohibited under the new controls, primarily because it significantly exceeded the proposed FAR for the site. Samma Group and Spec Properties purchased the land after receiving multiple assurances from Departmental and Ministerial staff that the application would be assessed against the current controls, and represents an acceptable planning outcome. This was supported by a confidential affidavit.¹⁴⁹

¹⁴⁸ The Minister’s Part C Submission (D350), [181]-[187], and SIN 15 (D305).

¹⁴⁹ D346.

The second case study is that of Wadhawan Holdings, owners of 400 – 430 City Road. Wadhawan Holdings have spent upwards of \$2.4 million in relation to two planning applications made in response to the multiple changes in controls since the land was initially rezoned in 2009. This figure included the non-refundable Metropolitan Planning Levy, which was \$742,493. Ms Collingwood submitted that the costs do not include those related to preparation of various plans that preceded the interim controls. She submitted that these costs would be lost if transitional provisions are not included, as the application would be prohibited under the proposed Amendment (it significantly exceeds the proposed FAR and discretionary height controls for the site).

While these case studies suggest that transitional provisions may be justified in the interests of fairness, other case studies suggest that transitional provisions could compromise the achievement of the preferred built form typologies and character outcomes sought by the Vision and the draft Framework. The majority of the existing permits and live applications:

- significantly exceed the proposed FARs
- significantly exceed the proposed discretionary height limits
- would have a significant impact on the dwelling targets for each Precinct.

In Montague, there are 16 existing permits and 18 live applications.¹⁵⁰ Together, these make up a substantial portion of the Precinct, particularly north of Buckhurst Street. The current permits and live applications (if granted) allow development would be in many cases, twice as high as the preferred height limits. The predominant building typology in the existing permits and live applications is tower/podium, whereas the preferred typology for in this part of Montague is a mix of mid-rise and hybrid (predominantly mid-rise).

Further, some of the existing permits and live applications appear to be inconsistent with the proposed location of open space and new road and laneway connections. For example:

- Wadhawan’s permit application for 400 – 430 City Road (in Montague) does not include any public open space, and includes one laneway through the site (whereas the Montague DDO maps show two laneway connections)
- 111 Lorimer Street (in Lorimer) was recently subdivided, requiring the new proposed laneway running south from Lorimer Street to be shifted to the east, to align with the new title boundary. As a result, the new laneway will not align with the existing connection north of Lorimer Street through Yarra’s Edge to the river.

The occasional development that exceeds the preferred heights – even significantly so – will not, in the Review Panel’s view, fundamentally undermine the Vision. However, if all of the live applications were approved and built, and all of the existing permits were built, the built form outcomes would be incongruous with the Vision and the preferred character in some Precincts (particularly in Montague and to a lesser extent Lorimer).

Another consideration is population and density. SIN 15 indicates that if the live applications were all approved, the dwelling targets for each Precinct would be significantly taken up:¹⁵¹

- Lorimer’s target would be exceeded at 101 per cent
- Montague’s target would be taken up by 83 per cent
- Wirraway’s target would be taken up by 54 per cent

¹⁵⁰ Montague building heights issued permits (DM16).

¹⁵¹ Response to Panel’s Request (D305), with corrections contained in D322.

- Sandridge’s target would be taken up by 20 per cent.

Having said that, the Review Panel has concluded that the population targets and preferred densities should be reconsidered for the reasons set out in Chapters 6 and 7.

Assessing whether transitional provisions should be included requires a balance. The interests of the current landowners must be balanced against those of the future developers and occupants of Fishermans Bend. The issue of fairness must be balanced against the need for good planning outcomes sought by the Vision. This balancing exercise is not easy.

(ii) Live applications

The Review Panel accepts that several landowners have expended significant time and money on their permit applications, in good faith. Some applications have had to be amended several times to respond to the changes introduced by the interim controls and through discussions with the relevant responsible authority. Significant amounts have been spent on the (non-refundable) Metropolitan Planning Levy.

On balance, the Review Panel considers that some form of protection should be provided for live applications. However, that protection needs to take account of the fact that if all of the live applications were approved and built, the built form outcomes would be incongruous with the preferred character and urban structure for Fishermans Bend, particularly in Montague.

The Review Panel therefore considers that the live applications should be assessed against those aspects of the controls that deal with built form, urban structure and preferred character outcomes. The Review Panel does not, however, consider that live applications should be subject to the proposed density restrictions. In some cases, it may lead to unfair results if the live applications are required to be ‘generally in accordance with’ the maps in the CCZ and DDOs.

Although the assessment of live permit applications are outside the Review Panel’s Terms of Reference, the Review Panel offers the following thoughts about a process for assessing those applications:

- Assessment of the called in applications should be a key priority once the new controls are in place. Some applicants have been waiting for years to have their applications assessed.
- The applications could be assessed together on a Precinct by Precinct basis, to allow for a holistic consideration of the cumulative impact of the applications on the Precinct’s preferred character. Assessing the applications together could also allow for a more efficient assessment process.
- Provision of affordable housing (including social housing) and other public benefits may be an appropriate basis to allow discretionary heights to be exceeded, as this would not be inconsistent with the principles underpinning the Amendment.

An alternative to including transitional provisions in the CCZ and the DDO could be to prepare an Incorporated Document under Clause 52.03 (Specific sites and exclusions) which generally exempts live applications from the new controls, but specifies appropriate aspects of the new controls against which the live applications could be assessed.

(iii) Amendments to and extensions of existing permits

The Review Panel considers that the exemptions for amendments to existing permits in the Minister's Part C controls are generally appropriate.

The Review Panel does not consider that transitional provisions are required for extensions to existing permits. Well-established principles govern the extension of existing permits, and a change in the planning controls is not necessarily an impediment to an extension – even if the use or development has since become prohibited.

(iv) Continuing lawful uses

The Review Panel supports the principle that continuing lawful uses should be protected, but queries why the exemptions in the Part C controls only extend to industry and warehouse uses. The Review Panel considers that any lawful continuing use should be protected. In this regard, it accepts the submissions of Inchcape (S245) regarding the ongoing operation of the Subaru dealership in Lorimer (L44).

15.4 Findings

The Review Panel finds:

- Live applications should be assessed against those aspects of the built form, urban structure and preferred character outcomes of the new controls that the Minister considers appropriate, but should otherwise be exempt from the new controls. Exemptions could be by transitional provisions, or a site specific control prepared in accordance with Clause 52.03.
- The exemptions included in the Part C controls to protect continuing lawful uses are supported, but should be extended to any continuing lawful use (not just industry or warehouse uses).
- Transitional provisions are not required in respect of the extension of existing permits.

15.5 Conclusions and recommendations

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Capital City Zone and Design and Development Overlays:

20. *In the Capital City Zone and the Design and Development Overlays, include provisions exempting applications to amend existing permits and applications associated with continuing lawful uses which are based on (but not identical to) the Minister's Part C controls.*

PART D – PLANNING CONTROLS

16 Structure and language

16.1 The approach of the Review Panel

The proposed controls are complex. Fishermans Bend is a large and diverse area, and setting height and setback controls will be more complex than in other areas of Melbourne.

The Review Panel's Terms of Reference require it to provide a track change version of the controls. The Review Panel has based these on the Ministers' Part C versions of the draft Amendment.

In preparing its version of the controls the Review Panel has been mindful of the Department's published guidance including:

- the Ministerial Direction on *The Form and Content of Planning Schemes*, which includes a requirement to draft in plain English
- *Using Victoria's planning system, Chapter 9 – Plain English*, which provides specific guidance on drafting for planning schemes as well as more general plain English advice
- relevant Planning Practice Notes.

The Review Panel has adopted a drafting approach that follows the published guidance. In the opinion of the Review Panel, this makes the draft Amendment easier to navigate and understand. It also has a broader planning systems benefit of reducing variation in the way planning controls are expressed between different planning schemes.

This Chapter sets out the drafting principles that the Review Panel has used in preparing its track changes version of the draft Amendment. These drafting principles address:

- what should go where
- the role of different elements
- issues with expression
- interpretation of requirements
- plans and diagrams.

16.2 What should go where

(i) Which schedule

Requirements in schedules can only address the matters specified in the head clause of that schedule. For example, bicycle parking cannot be addressed in the Parking Overlay, because there is no power in the head clauses, Clauses 52.06 and 45.09.

It became clear in the Hearing that a number of provisions in the Part A version of the controls did not relate to the relevant head clause. The Part C version of the controls addressed this issue.

In preparing its track change version of the controls, the Review Panel supports the principle:

- only include requirements that are supported by the head clause of the provision.

(ii) Use of external references

The draft Amendment refers to the *Fishermans Bend Vision, September 2016* and *Fishermans Bend Framework, draft for Consultation* in objectives. Land owner submissions pointed out that this was poor drafting practice.

The Practice Note on Reference and Incorporated Documents makes it clear that if a document is to be relied on in the exercise of discretion it should be incorporated into the planning scheme. The draft Framework has not been proposed to be incorporated and incorporating it would be inappropriate, as it is not intended to be relied on in the exercise of discretion. Rather, the relevant parts of the draft Framework have been translated directly into the controls.

The Victorian planning system provides the opportunity to include strategies in an MSS, and both the Melbourne and Port Philip planning schemes have a local areas section where strategies can be included.

Background reports that have informed the preparation of controls can be included as Reference Documents. The draft Framework is included as a Reference Document.

In preparing its track change version of the controls, the Review Panel has sought to:

- remove reference to the draft Framework in the body of the draft Amendment (but retain the draft Framework as a Reference Document).

(iii) Strategy or policy

There are established drafting practices that guide where the contents of the LPPF should be included:

- the MSS is the appropriate place for broad precinct wide strategies
- a local planning policy is a tool for day-to-day decision making in relation to a specific discretion in the planning scheme.¹⁵²

The Review Panel is concerned that a number of statements in Clause 22.XX are strategies, and should be included in the MSS, or the policy basis of Clause 22.XX rather than in Clause 22.XX itself. For example, the first policy statements under 'Providing for employment floor area' are clearly not something of direct relevance to assessing an individual application:

It is policy to facilitate the creation of at least 40,000 jobs in the Fishermans Bend Capital City Zone precincts by:

- *Locating the highest densities of employment opportunities close to existing and planned public transport.*

General statements like this need to be removed from the policy. The Review Panel received submission from landowners to this effect. The Review Panel has moved these broad statements to the policy basis of Clause 22.XX to minimise changes in the draft Amendment while recognising that the relevant Planning Practice Note would suggest that they be shifted to the MSS. The changes that the Review Panel recommends for Clause 22.XX focus the policy on the issues relevant to the exercise of discretion.

In summary, in preparing its track change version the Review Panel has sought to:

¹⁵² Planning Practice Note 46.

- move broad strategic statements from the body of Clause 22.XX to the policy basis of Clause 22.XX.

(iv) Where elements should be located in a schedule

Where requirements are located in a schedule is determined by the head clause, and the Ministerial Direction on *The Form and Content of Planning Schemes*. Beyond this, good drafting suggests that:

- the more significant controls should be earlier in the clause – Port Philip submitted, for example, that the overshadowing provisions should be earlier in the DDO clause given their importance
- a clause should first relate to the design process with issues dealing with massing and fundamental constraints, followed by issues dealing with detailed design, similar to the approach taken in ResCode
- a list of requirements that apply to all developments should precede requirements that apply to subsets of development¹⁵³
- in tables, where only one row of the table will apply, more specific locations should be earlier than generic conditions.¹⁵⁴

In preparing its track change version of the controls, the Review Panel has sought to:

- reorder requirements and lists to improve usability.

16.3 The role of different elements

(i) Are definitions needed?

The controls define a number of new terms.

In the VPP 'Plot ratio' is defined and has the same definition as FAR:

***Plot ratio:** The gross floor area of all buildings on a site, divided by the area of the site.*

***Gross floor area:** The total floor area of a building, measured from the outside of external walls or the centre of party walls, and includes all roofed areas.*

The CCZ defines Floor area ratio differently to plot ratio, and adopts a different definition of 'Gross floor area' to the VPP:

***Floor area ratio** means the gross floor area divided by the gross developable area.*

***Gross floor area** means the area above ground of all buildings on a site, including all enclosed areas, services, lifts, car stackers and covered balconies. Dedicated communal residential facilities and recreation spaces are excluded from the calculations of gross floor area. Voids associated with lifts, car stackers and similar service elements should be considered as multiple floors*

¹⁵³ This is to steer the reader away from concluding that this list does not apply to them.

¹⁵⁴ This is to steer the reader away from concluding they have found what applies to them when a later more specific requirement applies.

of the same height as adjacent floors or 3.0 metres if there is no adjacent floor.

Using Victoria's planning system, Chapter 9 – Plain English, says:

9.6.6 Take care with definitions

Use words that have been defined in the planning scheme in strict accordance with their definition. ...

Before you include a new definition ask yourself: 'why is a definition needed?' The VPPs provide a number of definitions and planning schemes should be consistent with these definitions.

Port Phillip submitted that for clarity the definitions should be reordered to put all wind related definitions together. This has the difficulty that the definitions are no longer in alphabetical order.

The DDO provides an exemption to the height control requirements for architectural features as part of the definition:

***Building height** means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building excluding:*

- *Non-habitable architectural features not more than 3.0 metres in height.*
- *Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.*

Using Victoria's planning system, Chapter 9 – Plain English, specifically cautions against this approach. These issues might have limited impact on the usability of these controls but they make the planning system as a whole more difficult to use, when potentially every DDO has its own definition of height.

In preparing its track change version of the controls, the Review Panel has sought to:

- use already defined VPP terms where they exist and are directly relevant
- reduce, and preferably eliminate definitions in schedules.

(ii) The role of the Built form outcome in the DDOs

It is not clear to the Review Panel the precise role of the Built form outcomes in the DDO. Typically, Built form outcomes in a DDO are used to guide discretion, and the decision guidelines in the schedule refer to the Built form requirements. In the draft Amendment, the outcomes presented do not always relate to the discretions in the requirements. Confusion about their role is compounded because:

- the introductory clause is not consistent across all requirements
- they do not have consistent expression
- they are repetitive in places
- the DDO says that they 'must' be achieved, implying they are mandatory requirements.

A number of elements that were presented as requirements in the consolidated Part C controls were presented as Built form outcomes in the relevant columns in tables in the four Part C DDOs. This has added to the confusion.

In preparing its track change version of the controls, the Review Panel has sought to:

- clarify the role of Built form outcomes in the DDOs
- use a different sentence construction for Built form outcomes to that used for requirements or objectives, to clearly distinguish the Built form outcomes from requirements and objectives.

(iii) Use of note text

Some setback controls measure setbacks from laneways from the centre line of the laneway. This is set out in notes to tables, for example:

Note: For the purpose of Table 4:

- *The setback of a building above a street wall from a laneway is the shortest horizontal distance from the building facade to the centreline of the laneway.*

It not clear to the Review Panel that using a 'note' to fundamentally change the application of a control is appropriate, or would have legal effect. It would be clearer if this were expressed as part of the requirements.

In preparing its track change version of the controls, the Review Panel has sought to:

- move critical information from note text to requirements.

(iv) Use of legend text

The overshadowing controls are presented in the legend to plans. The Review Panel considers the control would be clearer if this critical information was presented in the body of the controls.

In preparing its track change version of the controls, the Review Panel has sought to:

- present overshadowing requirements in the body of the controls instead of a legend to plans.

16.4 Issues with expression

(i) Following the Practice Notes

Planning Practice Note 8: Writing a Local Planning Policy, June 2015 (PPN8) explains that there are three ways in which a Local Planning Policy (LPP) can give guidance on how a responsible authority will exercise discretion or what its expectations are:

- by specifying how the responsible authority will exercise its discretion
- by providing criteria, performance measures and sometimes techniques for assessing applications
- by providing decision guidelines.

PPN8 advises that each way requires a particular form of words, and specifies the form of words to use:

- Guidance on the exercise of discretion: Statements explaining how a responsible authority will exercise its discretion should be expressed as follows:
 - *It is policy to: ...*

- Providing criteria or performance measures: When an LPP introduces criteria or performance measures for assessing applications, it should begin with an explicit statement such as:
 - *It is policy to assess proposals against the following criteria: ...*
- Decision guidelines: When an LPP sets out decision guidelines, it should be expressed as follows:
 - *The responsible authority will consider, as appropriate: ...*

The Part C Clause 22.XX has not followed the advice in PPN8. The Review Panel can see no reason why the advice given to planning authorities on drafting Local Planning Policies has not been followed in the draft Amendment. This is a broader issue than just this draft Amendment – consistent drafting practice across the planning system is a desirable outcome.

In preparing its track change version of the controls, the Review Panel has sought to:

- follow Planning Practice Note 8 advice in drafting Clause 22.XX.

(ii) Using similar language to other requirements in the VPP

A number of the concepts in the DDOs are addressed in existing VPP provisions such as ResCode (Clause 55). The DDOs do not always adopt the same form of words as those existing VPP provisions. It is desirable to use the same form of words that occurs elsewhere in the VPP where those words follow good drafting practice. This makes the overall planning system easier to use.

In preparing its track change version of the controls, the Review Panel has sought to:

- use forms of expression already used in the VPP where possible.

(iii) Using tables to help the reader

The Part C DDOs use a three column table format for controls. These tables serve only a page layout role. They are not used to reduce the amount of text presented, or to make the relationship between the discretionary and mandatory limits clear.

The Review Panel has identified a number of issues with this approach including:

- it makes the text narrower, thereby reducing readability
- it becomes difficult to follow when the rows break across pages
- it misleads the reader by suggesting a relationship between elements that are not related.

A critical impact on usability tables is that the heights or setbacks that apply are difficult to find in the text, as opposed to a conventional table where each cell contains a specific value.

In the Part C DDO tables, the relationship between the discretionary and mandatory values in controls is not obvious. If a proposal does not meet a specific discretionary requirement it is not immediately obvious what the relevant mandatory value is; a new block of text needs to be analysed. The control would be easier to understand and use if the relevant mandatory limit related to a discretionary control could be found by simply stepping across one column in the same row of the table.

The Review Panel believes the controls would be easier to use if a more conventional approach to layout were used where requirements are expressed in body text and tables are used to set out information (primarily numerical values) in a concise layout.

In preparing its track change version of the controls, the Review Panel has sought to:

- express Built form outcomes and Requirements in body text, and use tables to concisely communicate the numerical values that apply in a specific situation
- make the relationship between the discretionary value and the mandatory value clear.

(iv) Active voice

Using Victoria's planning system, Chapter 9 – Plain English, says:

Use the active voice.

Many of the controls are written in the passive voice. There are occasions when the passive voice is a better choice, but the passive voice does not appear to have been used in a deliberative fashion for an explicit purpose.

In preparing its track change version of the controls, the Review Panel has sought to:

- use the active voice.

(v) Parallel structures

Using Victoria's planning system, Chapter 9 – Plain English, says:

If two or more coordinated elements (words, phrases or clauses) occur together, they should have the same grammatical structure.

In a number of places, most notably in the Built form outcomes in the DDOs, parallel structures have not been used, that is, not all outcomes have the same sentence structure. This creates confusion as to whether different meanings are intended.

In preparing its track change version of the controls, the Review Panel has sought to:

- use parallel grammatical structures.

(vi) Must or should

Mr Glossop gave evidence for the Minister that it was appropriate to use 'must' for numerical controls, and 'should' for non-numerical controls, rather than the more conventional approach of using 'must' for mandatory controls, and 'should' for discretionary controls. The Minister did not adopt Mr Glossop's approach. The Part C DDOs explicitly state that a permit cannot be granted to vary a control expressed with the term 'must' (that is, a mandatory requirement). The Review Panel supports this approach.

In preparing its track change version of the controls, the Review Panel has applied the principle:

- use 'must' for mandatory controls and 'should' for discretionary controls, and make this explicit in the DDO.

(vii) 'If-then' or 'this-if'

'If you're happy and you know it clap your hands'. This is more direct than: 'Clap your hands if you know that you are happy'. The first instruction is an 'if-then' statement. Unfortunately the DDOs have adopted the practice of presenting information in a 'this-if' form; that is, presenting the height or setback that applies and then telling the reader where this applies. The control would be easier to use if the conditions that determined the height

or setback (location, overall building height and the like – that is, the ‘if’) were presented first, and the actual metric to be achieved last.

In preparing its track change version the Review Panel has sought to:

- present conditional requirements in an ‘if–then’ order.

(viii) Choosing between ‘which’ and ‘that’

The draft Amendment typically uses ‘which’ to introduce essential qualifications in the controls. *Using Victoria’s planning system, Chapter 9 – Plain English*, says:

When making an essential qualification use ‘that’; use ‘which’ when providing additional information about something being discussed.

In preparing its track change version of the controls, the Review Panel has sought to:

- use ‘that’ when making an essential qualification.

(ix) Consistent use of terms

The various iterations of the draft Amendment have not always used the same term for the same thing, or referred to a table that presents the information under heading using different wording than the wording in the requirement that refers to it. This is poor drafting practice, and creates confusion as to whether different meanings are intended. For example, in the Part C version of the controls a requirement states:

The height of new buildings in all areas must:

- *Respond to the preferred future precinct character and building typologies in Table 1 ...*

In Table 1, the column that contains the ‘preferred future precinct character and building typologies’ is labelled ‘Built form outcomes’.

In preparing its track change version of the controls, the Review Panel has sought to:

- use consistent terminology and cross-referencing.

(x) Using fewer, simpler words

The simplest English words have not always been used in the drafting.

Some elements of the draft Amendment use unnecessary words. Consider the following Built form outcome in the DDOs:

Buildings are not designed in a manner that creates blank facades.

First, this would be clearer if the confusing negative were changed:¹⁵⁵

Buildings are designed in a manner that does not create blank facades.

Second, there is no need to reference the manner of the design, just the outcome sought:

Buildings do not create blank facades.

Third, ‘do not create’ can be replaced with the single word ‘avoid’:

Buildings avoid blank facades.

¹⁵⁵ See *Using Victoria’s planning system, Chapter 9 – Plain English: 9.3.1 Write positively.*

In preparing its track change version of the controls, the Review Panel has sought to:

- use everyday words
- avoid unnecessary words.

(xi) Restructuring and editing to remove repetitive text

There are some examples of repetitive text, but these are clear examples of drafting error. More importantly the way requirements are expressed in the DDOs require repetition of the same phrase, such as ‘setback from the side or rear boundary’ multiple times. Some of this repetition can be removed.

In preparing its track change version of the controls, the Review Panel has sought to:

- restructure requirements to remove the need for repetition where possible.

(xii) Bulleted lists

Using Victoria's planning system, Chapter 9 – Plain English, says:

9.6.5 Using bulleted lists

... In bulleted lists neither ‘and’ nor ‘or’ should be used. The introduction to the list must make it clear whether all the requirements specified need to be met or just one of them.

The draft Amendment generally follows this advice, but it was not universally adopted in submissions to the Review Panel. In planning schemes bulleted lists start each point with a capital letter and end each point with a full stop.

In preparing its track change version of the controls, the Review Panel supports the principle:

- avoid ‘and’ or ‘or’ in bulleted lists, and use standard VPP punctuation.

16.5 Issues with the interpretation of requirements

(i) Existing industrial uses which facilitates the urban renewal of Fishermans Bend

The DDOs provide an exemption for uses which facilitate urban renewal in Fishermans Bend:

The following requirements do not apply to:

- *An application for buildings and works associated with an existing industrial use which facilitates the urban renewal of Fishermans Bend.*

The Review Panel understands that ‘facilitates the urban renewal of Fishermans Bend’ is meant to apply to a class of industrial activities, not the type of application, and this class includes Delta demolition yard and the concrete batching plants.

In preparing its track change version of the controls, the Review Panel has sought to:

- clarify the phrase ‘which facilitates the urban renewal of Fishermans Bend’.

(ii) Land use table

The land use table in the CCZ has a number of errors. Specifically, land use terms not in alphabetical order, uses listed when they should not be, and uses not listed that need to be listed.

In preparing its track change version of the controls, the Review Panel has sought to:

- correct the errors in the land use table in the CCZ.

(iii) The use of the term 'street wall'

A number of controls make reference to the setbacks above the street wall. 'Street wall' is defined in the controls:

Street wall means any part of the building constructed within 0.3 metres of a lot boundary fronting the street or laneway.

The effect of drafting a control in this fashion is that where a development does not have a wall constructed on or within 300mm of the frontage there is no street wall.¹⁵⁶ This means there will be no reference point for upper level setbacks or side and rear setbacks that reference the 'street wall'.

This issue was raised by the Review Panel during the Hearing, but has not been resolved in the Part C version of the controls.

The use of street wall and street wall height is not consistent, not even in the same set of requirements: Table 5 across the four DDOs uses 'street wall' three times and 'street wall height' once for the same control.

In preparing its track change version of the controls, the Review Panel has sought to:

- redraft DDO controls that make reference to 'street wall' and 'street wall height' so that the controls have meaning when the building is not constructed with a street wall.

(iv) Front setback controls

The DDOs include a discretionary requirement, under the Street wall height heading, that a street wall be constructed on the boundary, except:

- in Wirraway and Sandridge for dwellings in non-core areas not on a Secondary active frontage
- in Sandridge for the north east corner of Fennell and Bridge Streets.

In Wirraway, a separate control is presented several pages later under 'Table 6: Minimum setbacks for dwellings in non-core areas' to apply to dwellings in non-core areas not on a Secondary active frontage. This is potentially confusing. It also implies there is no discretionary street wall height for dwellings in the nominated areas.

In preparing its track change version of the controls, the Review Panel has sought to:

- consolidate street wall height and setback requirements into one set of requirements.

(v) Setbacks above the street wall for laneways

Melbourne submitted that the Part C controls have not satisfactorily addressed the issue that arises from measuring the minimum setback requirement from the centreline of a laneway.

¹⁵⁶ In Wirraway and Sandridge there is an express requirement not to build to the frontage for dwellings in non-core areas not on a Secondary active frontage.

Port Phillip submitted upper level setbacks on lanes should be measured from the facade or street wall and not the centreline of laneways.

Because setbacks above the street wall for laneways are measured from the centre line of the laneway a 'negative' setback can be required.

In preparing its track change version of the controls, the Review Panel has sought to:

- clarify the requirements for setbacks above the street wall for laneways.

(vi) Interface with the West Gate Freeway

Some Tables include a different setback that applies *"where the building has direct interface with the West Gate Freeway"*. As Port Phillip pointed out, this wording and the associated diagram implies that the upper level setback only applies where the building directly abuts the freeway, city link or tram corridor. Therefore, this requirement only applies to side and rear setbacks, not setbacks above the street wall. The Review Panel agrees that this needs to be clarified.

In preparing its track change version of the controls, the Review Panel has sought to:

- clarify the requirements for setbacks above the street wall for development fronting a street that runs beside the West Gate Freeway, and other nominated transport corridors.

(vii) What happens when half a new street is built?

A number of the controls specify street wall heights and setbacks in reference to street width. The terms 'Laneway' and 'Street' are defined in terms of road reserves:

'Laneway' means a road reserve of 9 metres or less in width.

'Street' means a road reserve of greater than 9 metres in width.

During the development of Fishermans Bend it is conceivable that:

- only half the width of new streets will be constructed as part of development in the first instance, raising the issue as to what street width applies
- some streets or laneways will be retained as private roads and therefore not have a 'road reserve' in any legal sense – the Review Panel notes that the VPP defines 'street reserve'.

The controls need to be clear that it is the proposed width of the final street that drives the street wall and setback requirements, and this applies independent of the precise legal status of the street.

In preparing its track change version of the controls, the Review Panel has sought to:

- make it clear that when half a street is delivered as part of a development, requirements for street walls and setbacks should be based on the proposed total width of the new street
- make it clear that setback requirements apply when the street or laneway is publicly accessible, whether or not it is a public road or private street.

(viii) Singular and plural references

A number of controls, for example Montague DDO Table 3, specify a street wall height but include the condition *"except where a lower height is necessary to respond to adjoining*

heritage places". Leaving aside the vagueness of what height might be required, the control introduces additional room for confusion by referring to heritage places in the plural. This raises the question of whether this requirement applies if there is just one heritage place 'adjoining'.

In preparing its track change version of the controls, the Review Panel has sought to:

- use the singular rather than the plural in controls.

(ix) Overshadowing and street wall height

The overshadowing controls state:

Buildings and works must not cast any additional shadow above the maximum street wall ...

The Review Panel understands that the intent is that shadows are permitted to the extent that they would be cast by the hypothetical street wall if built to the maximum allowable height, rather than the actual street wall (which may be lower than the maximum permitted).

Street walls are specified in storeys in the Part C version of the controls. The requirements in storeys need to be converted into metres in order to map the extent of shadow. The control needs to be clear on how to treat the architectural features that can extend above the specified height.

In preparing its track change version of the controls, the Review Panel has sought to:

- clarify that shadows are permitted to the extent that they would be cast by a hypothetical building with the maximum allowable height (rather than the actual street wall on the building)
- provide explicit guidance on how to convert street wall height expressed in storeys into metres for the overshadowing controls.

16.6 Plans and diagrams

(i) Is a structure plan needed?

The Part C controls propose the following plans:

- Municipal Strategic Statement
 - Fishermans Bend Urban Renewal Area showing the area in context
 - Subprecincts plan
 - Community Investigation Areas showing locations for Sport and recreation, Health and wellbeing, Arts and cultural, and Education hubs.
- Capital City Zone
 - Urban structure plans
- Design and Development Overlay
 - Building typologies
 - Building heights also showing Core area and existing and new public open space
 - Active street frontages also showing new streets and indicative new laneways
 - Overshadowing

Port Phillip submitted that structure plans were needed, and provided its interpretation of what these would entail.

The Review Panel agrees that the controls would be improved by the preparation of structure plans. The key issue is whether these plans should be in the local area section of the MSS or in the CCZ. The Review Panel accepts the inclusion of the structure plans in the CCZ, but their inclusion in the MSS should be contemplated once Precinct Plans are completed.

(ii) Details on the plans

During the course of the Hearing it was clear that:

- there were a number of inconsistencies between the CCZ plans and DDO plans
- the resolution of the printed plans made interpretation difficult at times.

In planning schemes the image must have a maximum file size of 3,000 kilobytes and 300 pixels per inch. This, coupled with the way Microsoft word treats pdf files, can make detailed maps hard to interpret.

Some councils adopt an approach whereby a geographic information system (GIS) or CAD 'model' is developed that includes all the relevant information in one file. In such an approach different plans map different 'views' or layers of this one model or database. This ensures consistency between plans. It also has the advantage that plans can be integrated at a large scale to determine boundaries.

Given the detail on the various plans the Review Panel thinks there would be merit in formally incorporating a 'map book' for Fishermans Bend to present the various plans at a better resolution.

(iii) Use of diagrams

The Part C DDOs include diagrams to illustrate setback requirements. Submitters and the Review Panel have identified a number of issues with these diagrams:

- the diagrams are given statutory weight
- the diagrams do not present the complete picture for any specific condition
- the diagrams do not present discretionary and mandatory requirements
- a number of diagrams present different metrics to the text controls – it is not clear to the Review Panel that the diagrams should automatically be considered 'wrong' and the text 'right' in these circumstances
- in many cases it is not clear what the diagrams add to interpretation.

Melbourne submitted:

If a mandatory built form requirement makes specific reference to a diagram for the purpose of interpreting the control, the more specific unit of measurement will always be preferred for the purpose of applying the requirement.

Port Phillip submitted that the diagrams should indicate the number of storeys.

The Review Panel considers revising the text of the DDOs rather than adding diagrams will make them easier to use. The diagrams could do more work than simply repeating the text if they combined the controls from the street wall height and setback above the street wall into one set of diagrams which included the discretionary and mandatory requirements.

16.7 Findings and recommendations

The Review Panel finds that the redrafted Amendment should apply the following drafting principles:¹⁵⁷

- only include requirements that are supported by the head clause of the provision
- remove reference to the draft Framework in the body of the draft Amendment (but retain the draft Framework as a Reference Document)
- move broad strategic statements from the body of Clause 22.XX to the policy basis of Clause 22.XX
- reorder requirements and lists to improve usability
- use already defined VPP terms where they exist
- reduce, and preferably eliminate definitions in schedules
- clarify the role of Built form outcomes in the DDOs
- use a different sentence construction for Built form outcomes to that used for related requirements or objectives, to clearly distinguish the Built form outcomes from requirements and objectives
- move critical information from note text to requirements
- follow Practice Note advice in drafting Clause 22.XX
- use forms of expression already used in the VPP where possible
- express Built form outcomes and Requirements in body text, and use tables to concisely communicate the numerical values that apply in a specific situation
- make the relationship between the discretionary value and the mandatory value clear
- use the active voice
- use parallel grammatical structures
- use 'must' for mandatory control and 'should' for discretionary controls and make this explicit in the DDO
- present conditional requirements in an 'if-then' order
- use 'that' when making an essential qualification
- use consistent terminology and cross-referencing
- use everyday words
- avoid unnecessary words
- restructure requirement to remove the need for repetition where possible
- avoid 'and' or 'or' in bulleted lists, and use standard VPP punctuation
- clarify the phrase 'which facilitates the urban renewal of Fishermans Bend'
- correct the errors in the land use table in the CCZ
- redraft DDO controls that make reference to 'street wall' and 'street wall height' so that the controls have meaning when the building is not constructed with a street wall
- consolidate street wall height and setback requirements into one set of requirements
- clarify the requirements for setbacks above the street wall for laneways

¹⁵⁷ The Review Panel notes that the Part C controls do apply a number of these principles.

- clarify the requirements for setbacks above the street wall for development fronting a street that runs beside the West Gate Freeway, and the other nominated transport corridors
- make it clear that when half a street is delivered as part of a development requirements for street walls and setbacks should be based on the proposed total width of the new street
- make it clear that setback requirements apply when the street or laneway is publicly accessible whether or not it is a public road or private street
- use the singular rather than the plural in controls
- clarify that shadows are permitted to the extent that they would be cast by a hypothetical building with the maximum allowable height (rather than the actual street wall on the building)
- provide explicit guidance on how to convert street wall in storeys into metres for the overshadowing controls.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended planning controls:

21. *Redraft the Amendment applying a consistent set of drafting principles based on Planning Practice Notes and plain English guidance.*
22. *Prepare GIS versions of the various plans and formally incorporate a 'map book' in the planning schemes to assist in interpreting the plans.*
23. *In the Design and Development Overlays, revise the diagrams to:*
 - *make it clear they do not have statutory weight*
 - *indicate storeys*
 - *combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition*
 - *present discretionary and mandatory requirements*
 - *use the same metrics to the text controls.*

17 Specific changes to the planning controls

A number of specific changes to the controls have been recommended in other sections of this Overview Report and in the Precinct Reports. This Chapter does not repeat those changes.

17.1 Local policy

(i) Smart cities

The Review Panel agrees with submissions that the provisions on 'Smart cities' provisions in Clause 22.XX while laudable, are not really planning scheme issues.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in Clause 22.XX:

24. *Delete the Smart cities provisions.*

(ii) Reference Documents

Reference Documents are the background reports that inform an Amendment. Clause 22.XX lists the following as Reference Documents:

- Fishermans Bend Vision, September 2016
- Fishermans Bend Framework, XX 2018
- Fishermans Bend Community Infrastructure Plan 2017
- Fishermans Bend Urban Design Strategy 2017
- Fishermans Bend Waste and Resource Recovery Strategy 2017
- How to calculate floor area uplift and public benefits in Fishermans Bend.

Given the scope of changes that have been made to the draft Amendment and the further changes recommended by the Review Panel, it would be potentially confusing to include out of date Reference Documents in Clause 22.XX.

If the Review Panel's recommendations in relation to the draft Amendment are accepted, there will be a significant disjunct between the draft Framework and the draft Amendment. Given the Review Panel recommends that the draft Framework be retained as a Reference Document, it may be appropriate to update the draft Framework to make it consistent with the Amendment. The Review Panel considered whether to make changes to the draft Framework and resolved that any changes should be made once the Precinct Plans are prepared and in place. The Review Panel's findings and recommendations should be taken into account as this matter progresses.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in Clause 22XX:

25. *Delete the following Reference Documents:*

- *Fishermans Bend Community Infrastructure Plan 2017*
- *Fishermans Bend Urban Design Strategy 2017*
- *Fishermans Bend Waste and Resource Recovery Strategy 2017*
- *How to calculate floor area uplift and public benefits in Fishermans Bend.*

17.2 Capital City Zone

(i) Mapping the amenity buffers

The CCZ provides a text description of amenity buffers in the table of uses, and elsewhere in the CCZ. For example, the Section 1 conditions for ‘Dwelling’ in the Table of uses are:

Must meet the threshold distance from industrial and/or warehouse uses referred to in the table to Clause 52.10.

Must be more than 300 metres from 223 – 235 Boundary St, 310 – 324 Ingles St and 209 – 221 Boundary St, Port Melbourne.

Must not be within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map #.

Must not be within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.

The Review Panel believes this information should be mapped so the conditions could be expressed as:

Must not be within an Amenity buffer shown on Map ##.

Must not be within the Pipelines buffer shown on Map##.

Mapping these distances will make the control easier to use and interpret. It will also avoid any confusion about precisely what land is covered by these conditions.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the Capital City Zone:

26. *Include maps showing amenity and pipeline buffers and revise the text accordingly.*

17.3 Parking Overlay

A number of provisions regarding site access and crossovers in the Parking Overlay are dealt with in a more sophisticated fashion in the CCZ. They can be removed from the Parking Overlay.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the Parking Overlay:

27. *Remove controls relating to crossovers where they overlap with the CCZ.*

17.4 Design and Development Overlay

(i) Should there be separate DDOs

There will, of course, be a separate DDO for Lorimer because it is only in the Melbourne Planning Scheme.

Whether or not there is one or several DDOs is not a critical factor. What important is that there are no meaningless variations between the DDOs.

(ii) Development viability exemption

Claric Ninety Nine Pty Ltd submitted that the CCZ should contain a provision that allowed the FAR to be exceeded if it can be demonstrated to the satisfaction of the responsible authority

that the quantum of land required for the provision of streets, laneways or open space renders the development of the site unviable.

The Review Panel believes that the solution to this issue is to properly compensate for the acquisition of open space, or roads that serve more than the specific needs of the development site. Severance matters (which would include the question of whether development of the remaining part of the site is viable) would be dealt with as part of that process.

(iii) Building typologies

The building typologies assigned to a number of subprecincts changed during the course of the Hearing. This appears to have been more a matter of drafting than a fundamental policy shift.

Melbourne and Port Phillip both sought changes to the Part C preferred character statements, and the Review Panel has adopted a number of these changes.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the Design and Development Overlay:

28. *Update the preferred character statements.*

(iv) Building height

Melbourne submitted:

By expressing the height requirement in storeys and metres in Map 2, compliance with this built form requirement is made ambiguous.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Design and Development Overlays:

29. *Express all height requirements in storeys.*

(v) Street wall height and setback

The Sandridge DDO proposed:

In non-core areas, except on Secondary active frontages, along Williamstown Road, residential uses at ground floor should be setback 3 metres from the street boundary to facilitate landscaped transition from the street to ground floor apartments.

Port Phillip submitted that this was:

Unnecessary given most these streets have linear parks along one side. Further, this may create staggered buildings to the street with varying setbacks which is undesirable in a high density environment.

The Review Panel supports the use of landscaped front setbacks for dwellings in non-core areas. The landscaped setback will add more greenery to streets, and it is not clear to the Review Panel why a staggered setback would be undesirable.

Melbourne submitted the DDO maps needed to present the specific urban features referred to in the controls. Melbourne proposed that street walls in Lorimer be specified by using a map. This would provide direction on:

- street walls facing public open space other than Lorimer Parkway
- the role played by street wall orientation, with respect to the impact posed by street wall height to sunlight penetration to the public realm
- street walls facing the West Gate Freeway interface.

The Minister had proposed adding laneways along the edges of parks that did not have a direct street interface, in order to engage the street wall height controls and provide clarity as to the applicable street wall heights. The Review Panel does not support this approach, and prefers the Melbourne approach of mapping street wall heights facing public open space.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Design and Development Overlay for Lorimer:

30. Use a plan to identify what street wall height applies.

(vi) Street walls and corner sites

The requirements in the DDOs state:

Where a new building is on a corner, the taller maximum street wall height applies to both frontages ...

Melbourne submitted:

The simple manner in which this exemption has been drafted (without imposing any kind of limitation on the proportion of the frontage 'gifted' the taller maximum street wall height requirement), in conjunction with the prescriptive manner in which this control has been drafted, could facilitate unplanned outcomes.

The Review Panel considers that the maximum street wall height should essentially 'wrap around' the corner, providing a consistent street wall on both frontages, but the higher street wall height should not extend the entire length of the site's frontage on the narrower street or lane. If it were allowed to do so, the character of laneways in particular could be dramatically impacted. Accordingly, the higher street wall height should only be permitted along the narrower street frontage for a distance of 25 metres.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Design and Development Overlays:

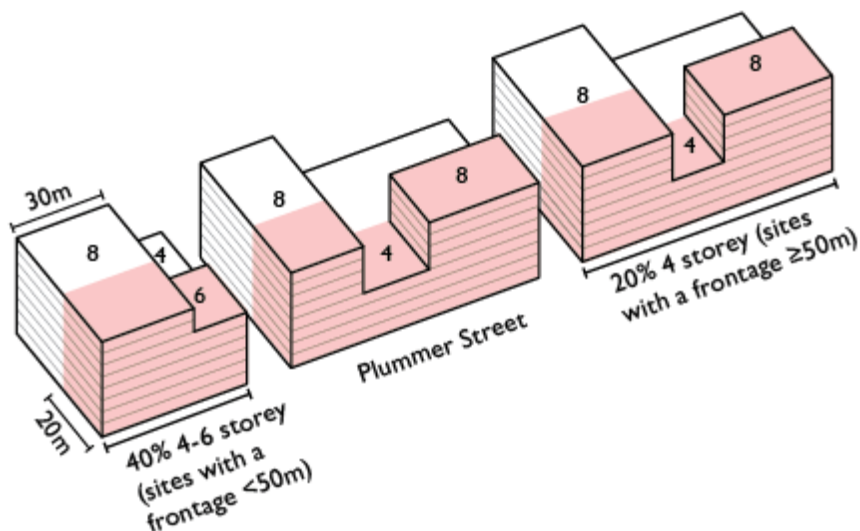
31. Refine the application of street wall heights on corners.

(vii) Tooth and gap

Port Phillip sought to apply a 'tooth and gap' approach to Buckhurst Street and Plummer Street. This approach allows for taller structures with lower height development between, to allow better sunlight penetration and diverse architecture. Images of recent development in Paris were presented to illustrate this.

The Review Panel agrees that there is merit in this approach in some locations, which is illustrated in Figure 15.

Figure 15: The tooth and gap approach



Source: Port Phillip

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Design and Development Overlays for Montague and Wirraway:

32. Implement a 'tooth and gap approach' for Buckhurst Street (Montague) and Plummer Street (Wirraway).

(viii) Side and rear setbacks – habitable and non-habitable windows

The Part C controls removed the concept of habitable and non-habitable windows. Port Phillip supported the previous approach and submitted:

6 metres will not result in an acceptable separation distance. The effect of this control as drafted would allow buildings to be closer within a site than what is intended to occur between sites which is not supported.

The Review Panel broadly accepts the side and rear setback presented, but recognises that they have changed during the course of the Hearing, and that they were not subject to detailed submissions.

The Review Panel echoes the views of the Panel for Amendment C20 to the Melbourne Planning Scheme:¹⁵⁸

No planning scheme, no matter how excellent its provisions or administration, can in itself produce design excellence in the built form it governs. The planning scheme is only a tool to implement the strategic objectives for an area. It requires the exercise of discretion and judgements to produce good decisions. The most those decisions can do though, is to recognise whether

the design responses for development which requires approval support the planning scheme objectives and produce a quality built form outcome.

The Review Panel believes the proposed setbacks are reasonable in the context.

(ix) Site and rear setbacks – towers built to the boundary

Mr Sheppard gave evidence that for narrow sites, rather than requiring setbacks from all side boundaries, a tall building could be built to the boundary in anticipation that a ‘mirror’ building would be built on the neighbouring site in the future. The Review Panel agrees that this would give flexibility in the controls to deliver better outcomes for some sites, particularly narrow sites.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Design and Development Overlays:

33. *Provide the opportunity for taller buildings to be built to a side boundary where a ‘mirror’ building can be constructed.*

(x) Building width and retention of heritage and character buildings

Port Phillip proposed controls over building widths and the retention of heritage and character buildings. It is not clear to the Review Panel what the impacts on development of such controls would be. The Review Panel does not support these provisions at this stage but they may appropriate following Precinct planning.

(xi) Site coverage and communal open space

Port Phillip submitted the site coverage requirement is critical in non-core areas to reinforce typologies and preferred character, and that the controls should include:

Site coverage should not exceed 70 per cent of the net developable site area.

It is not entirely clear how this relates to its Recommendation 14 in Council’s Overarching Urban Design Report to allow

Communal open space should be provided on at ground level or at the first floor of a development.

The Review Panel does not see the need for communal open space to be at ground level provided deep soil is provided in communal open space above ground level.

(xii) Active frontages

The requirements for active frontages specify the spacing of pedestrian entries. The Review Panel thinks that this is arbitrary and may work against good design.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Design and Development Overlays:

34. *Remove the pedestrian entry requirements from the active frontage controls.*

(xiii) Building finishes

The requirements for building finishes address issues of design response that would be better addressed a part of an assessment of the overall design response of a proposal, rather than trying to impose what seem like arbitrary requirements.

In accordance with the primary recommendation of the Review Panel to progress Amendment GC81, the following key changes have been included in the amended Design and Development Overlays:

35. Simplify the controls on building finishes.

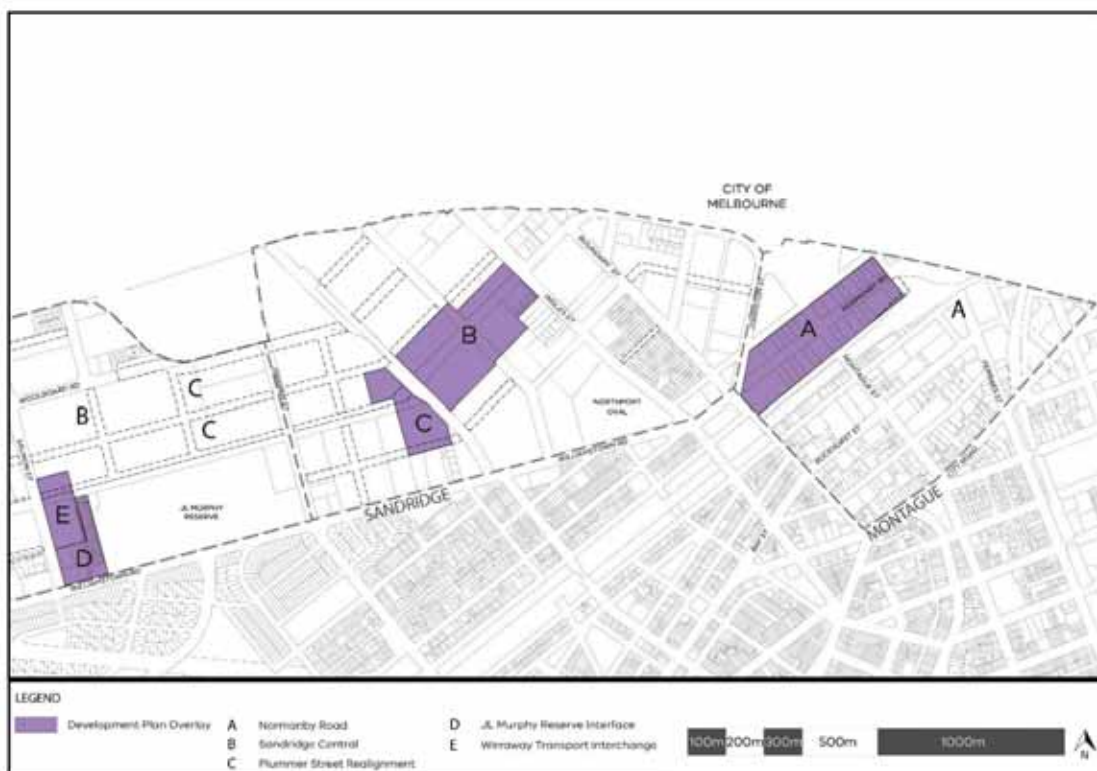
17.5 Use of the Development Plan Overlay to master plan

(i) Context

The Part A version of the draft Amendment proposed to apply the DPO Schedule 2 to five strategic areas within Fishermans Bend:

- A (Montague) – the Normanby Road civic spine
- B (Sandridge) – the Sandridge central activity area, including the potential Metro station
- C (Sandridge) – the realignment of Plummer Street to connect with Fennel Street, including a potential civic plaza
- D (Wirraway) – the JL Murphy Reserve interface, which includes part of the investigation areas for a sport and recreation hub and an arts and culture hub
- E (Wirraway) – the Wirraway transport interchange, including a potential Metro station, tram route, civic plaza and arts and culture hub

Figure 16: Proposed application of the DPO2



Source: Document 66g

The DPO was removed from the Part C version of the planning controls.

(ii) Evidence and submissions

None of the expert witnesses supported the proposed DPO2, with Mr Glossop stating:

- the drafting is vague and unlikely to deliver a coordinated approach to development
- land ownership patterns in some of the nominated areas are fragmented, making the preparation of the development plan difficult
- the "*most tangible benefit of the Development Plan Overlay to private landowners*", namely the exemption from third party notice and appeal rights, already exists in the CCZ
- the need for more fine grained master planning of these areas (if that is in fact needed) could be done by the planning or responsible authority as part of the precinct planning process.

Mr Biacsi expressed similar concerns to those of Mr Glossop, although he acknowledged that the intention of providing some form of master planning in super-lots and around strategic areas has some merit. He agreed that the DPO2 would require "*a significant overhaul to remove the uncertainty of the various requirements*", and stated that a landowner or developer led 'opt-in' or 'opt-out' provision would be necessary. He expressed concern about retaining the DPO2 in circumstances where a DCP has not yet been developed.

Ace Body Corporate Management pointed to the practical difficulties that would arise for the lot owners in the Base, if the DPO2 was applied, and they were not able to obtain permits until a development plan was approved.

(iii) Discussion

It is essential to ensure that land required for important future public facilities, such as the potential Metro stations, is protected, and that development of the surrounding land does not prejudice the future development of these important public assets.

The Review Panel considers that there is a need for some form of master planning to be applied to these key strategic public realm areas within Fishermans Bend. Master planning the public realm is not the primary responsibility of the private landowners in the affected areas. It must be undertaken by a public authority, be it the planning or responsible authority, or a separate governance body established to take the future planning and development of Fishermans Bend forward, and should be done in close consultation with the affected landowners.

(iv) Findings and recommendation

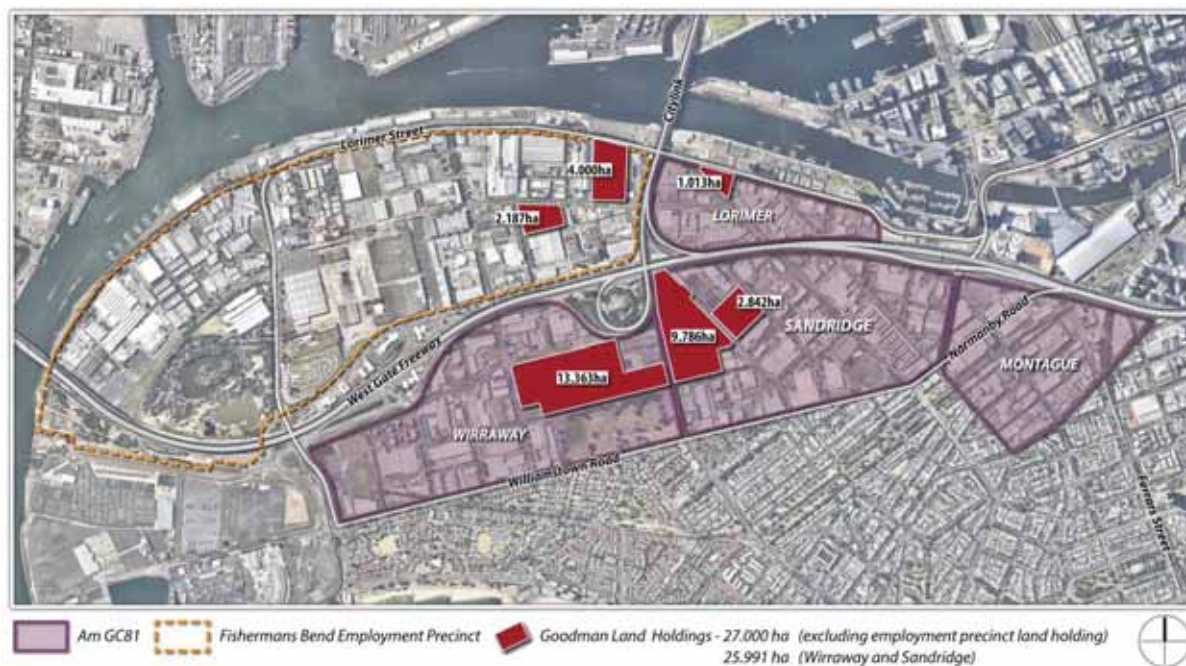
Given a critical aim of the DPOs was to plan for public infrastructure their application should be delayed until the Precinct Plans and infrastructure plans are completed, and there is more certainty around what will be delivered in these areas and when. They should not, however, be abandoned as a concept.

17.6 Use of the Development Plan Overlay on large sites

(i) Context

Goodman (S149) has very significant landholdings within Fishermans Bend. The continuous parcel in the Sandridge and Wirraway Precincts is approximately 26 hectares, as noted in Figure 17.

Figure 17: Goodman landholdings within Fishermans Bend



Source: Summary of evidence of Ms Heggen, D207

Much of Goodman's land to the north of JL Murphy Reserve is located within several community hub investigation areas. Heights in that area are limited to eight storeys. The Review Panel understands that this is primarily to protect JL Murphy Reserve from overshadowing.

(ii) Evidence and submissions

Goodman's primary submission, consistent with that of many other landowners within Fishermans Bend, was that the draft Amendment is fundamentally flawed, and should not proceed in its current form.

A secondary but key submission was that the unique nature of the Goodman landholding invites a different approach. Goodman submitted that the proposed controls:

... ignore the unique opportunity that the Goodman land presents. It's size, context and the fact that it is in single ownership provides an opportunity to create (through a control such as the Development Plan Overlay), a "precinct within a precinct", where flexibility and innovation can thrive, and better outcomes can be achieved.

Goodman submitted that such an approach would facilitate better outcomes, such as:

- providing single use buildings as wholly commercial and wholly residential
- consolidating open space into larger, more usable parcels

- creating areas for specialised uses and buildings (community hubs)
- creating shared parking hubs
- sharing infrastructure across many sites.

In response to questions from the Review Panel, Ms Heggen indicated that she saw no reason why a DPO could not be applied to the Goodman land now, provided that exemptions were included in the DPO Schedule allowing appropriate permits to be granted in advance of a development plan being approved, and exemptions were included in the CCZ Schedule for development that was generally in accordance with an approved development plan.

(iii) Discussion

The Review Panel agrees that there is merit using the DPO in the way proposed by Goodman. Large sites present a unique opportunity to master plan significant areas within Fishermans Bend in a more fine grained way than is provided for in the draft Framework and the future Precinct Plans. If development proceeds in accordance with an approved development plan, the Review Panel considers it appropriate for that development to be exempted from the requirements of the CCZ.

This concept of a more fine grained master planning approach is also supported by other submitters, notably Port Phillip and the MAC. The MAC advocated the use of a DPO to facilitate super-lot or street block planning on large sites, in core areas or along active transport corridors where "*the identity and quality of place making and successful stitching of developments will be crucial*". The MAC supported a developer led 'opt-in' approach to the use of DPOs.¹⁵⁹ Port Phillip supported the use of DPOs to master plan key areas like the proposed activity centres. If exemptions from the CCZ controls were provided for, developers would be more likely to opt-in.

While the Review Panel supports the use of the DPO as a master planning tool for large sites, it considers that this should only be on an 'opt-in' basis. There seems little point in imposing a DPO on large landholders unless they support the idea and are likely to maximise the opportunities presented by a master planning approach.

The Review Panel is not convinced that now is the right time to apply a DPO to the Goodman land. The Review Panel considers that the preferable approach would be to embed the urban structure reflected in the revised CCZ and DDO schedules first, and to consider the site specific application of DPOs (including to the Goodman land) later, preferably once other key elements of the planning framework have been prepared, such as the Precinct Plans and an infrastructure plan.

(iv) Findings

The Review Panel finds:

- it supports the use of DPOs to facilitate the master planning of privately owned large sites, or street blocks, on a developer led 'opt-in' basis (encouraged by exemptions from the CCZ controls for development that is in accordance with an approved development plan)

¹⁵⁹ MAC's submission (D18), page 28–29.

- the application of a DPO on the Goodman site is premature at this stage
- the preferable approach would be to consider the application of a DPO once the Precinct Plans and an infrastructure plan have been prepared
- developers should be encouraged to prepare draft development plans for exhibition with an amendment to introduce the DPO to a site.

18 Summary response to Terms of Reference

The Review Panel provides the summary of its response to its Terms of Reference in Table 23.

Table 23: Summary of response to Terms of Reference

Term of Reference	Comment	Chapters/Report
HEARING PROCESS		
<i>Clause 27a.</i> The State policy context of the Fishermans Bend area	The proposed planning provisions are generally in accordance with State policy and relevant planning and related legislation	Chapter 3
<i>Clause 27b.</i> The extent to which the proposed changes to the Capital City Zone Schedule 1 (Port Phillip Planning Scheme) and the Capital City Zone Schedule 4 (Melbourne Planning Scheme) allows for the <i>Fishermans Bend Vision, September 2016</i> to be achieved	In the main, the proposed planning provisions generally allow for the Fishermans Bend Vision to be realised, subject to a broadening of the scope of targeted population to 2050	Chapters 6 and 7
<i>Clause 27c.</i> The extent to which all other proposed changes sought by GC81 allows for the <i>Fishermans Bend Vision, 2016</i> to be achieved	In the main, the proposed planning provisions generally allow for the Fishermans Bend Vision to be realised, subject to a broadening of the scope of targeted population to 2050	Chapters 6, 7, 16 and 17, and Volume 2 of Report No 1
<i>Clause 27d.</i> All relevant submissions made in regard to the proposed changes to the Port Phillip and Melbourne Planning Schemes	All submissions were considered by the Review Panel and taken into account in formulating its advice and recommendations	All reports
<i>Clause 27e.</i> An assessment of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the <i>Ministerial Direction on The Form and Content of Planning Schemes</i>	The Review Panel has made significant changes to the Part C version of the planning controls to ensure that they make proper use of the VPP and are in accordance with the <i>Ministerial Direction on The Form and Content of Planning Schemes</i>	Chapters 16 and 17 and Volume 2 of Report No 1
OUTCOMES		
<i>Clause 34.</i> The Review Panel must produce a written report for the Minister for Planning	The matters dealt with by the Review Panel are complex and consequently, it has required detailed review and analysis, resulting in six reports	The five reports are: Report No 1 – Volume 1: Overview Report No 1 – Volume 2: Amended planning controls Report No 2 – Lorimer Report No 3 – Montague Report No 4 – Sandridge Report No 5 – Wirraway

Term of Reference	Comment	Chapters/Report
<i>Clause 35a.</i> A summary of the Review Panel's reasons for recommending (or otherwise) amendments to the proposed planning scheme amendment	While the Review Panel has raised significant concerns about the exhibited and revised versions of the draft Amendment, it considers there is enough for it to be progressed, subject to the Review Panel's recommended drafting changes.	Report No 1, Volume 1, Executive summary, Chapters 16 and 17, and Volume 2
<i>Clause 35b.</i> A track change version of the proposed planning scheme schedules and clauses	The track changes are based on the Ministers Version C	Report No 1, Volume 2
<i>Clause 35c.</i> Any additional recommendations for amendments to the proposed Capital City Zone Schedule	The track changes are based on the Ministers Version C	Report No 1, Volume 2
<i>Clause 35d.</i> Any additional recommendations for amendment to all other proposed planning scheme changes sought by the planning scheme amendment	The Review Panel has recommended several modifications to the draft Amendment, which are included in the track change versions	Report No 1, Volume 2
<i>Clause 35e.</i> Any changes required to the draft Fishermans Bend Framework as a result of recommendations made to the planning scheme amendment	The Review Panel considered whether to make changes to the draft Framework and resolved that any changes should be made once the Precinct Plans are prepared and in place. However, the findings and recommendations of the Review Panel in relation to its impact on the draft Framework Plan should be taken into account as this matter progresses	As the draft Framework is a Reference Document to the Melbourne and Port Phillip Planning Scheme, the Review Panel has not made specific changes. It considers that such changes can be made once the final decision is made on the draft Amendment and following the completion of the Precinct Plans
<i>Clause 35f.</i> A summary of all submitters heard that presented on matters outside the consideration of the Review Panel	A number of issues were raised that could be considered to be outside the specific remit of the Terms of Reference, these principally related to Governance	Report No 1, Volume 1, Chapter 12
<i>Clause 35g.</i> A list of persons who made submissions considered by the Review Panel	A total of 255 written submissions were received and considered by the Review Panel	The list of submitters and those who presented at the Hearing is provided in Appendix B and C of Report No 1, Volume 1

Term of Reference	Comment	Chapters/Report
<i>Clause 35h.</i> A list of persons consulted or heard	The Review Panel convened two Directions Hearings (20 December 2017 and 2 February 2018) and conducted its Hearing over 59 hearing days on 47 sitting days. It heard from the Minister for Planning, the Cities of Melbourne and Port Phillip, various State Government agencies and a high number of submitters out of the 254 submissions made	The parties heard are listed in Appendix B. In addition, it convened three public briefings (10 and 24 November 2017 and 13 February 2018), two meetings with Port Phillip and Melbourne respectively (28 November and 12 December 2017) and three site inspections (28 November 2017 and 14 February and 22 May 2018), as well as many unaccompanied inspections on its own or as the full Review Panel

The Review Panel appreciates that the Minister has acknowledged that there is significant further work to be undertaken to realise the Fishermans Bend Vision. Some of this is a matter of priority. The Review Panel notes some of the more immediate matters to be reconciled include resolving the existing planning permit applications, preparing plans for each Precinct and identifying areas required for public purposes and the appropriate funding mechanism to implement these.

The Review Panel considers that the strategic aspects of progressing Fishermans Bend, including consideration of the Precinct Plans and the funding mechanisms for public purpose infrastructure are amongst matters the Minister for Planning might consider retaining this Review Panel to assist with.

Appendix A: Terms of Reference



Terms of Reference

Fishermans Bend Planning Review Panel

Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to report on the proposed Planning Scheme Amendment GC81 for Fishermans Bend, to ensure the vision for Fishermans Bend is realised.

Name

The Advisory Committee is to be known as the ‘Fishermans Bend Planning Review Panel’.

1. The membership of the Review Panel is to include the following skills:
 - a. Statutory and strategic land use planning
 - b. Land development and property economics
 - c. Social and environmental planning
 - d. Planning law
 - e. Infrastructure and transport planning
2. The Review Panel will include an appointed Chair and Deputy Chair.

Purpose

3. The purpose of the Review Panel is to advise the Minister for Planning on the appropriateness of the proposed planning scheme amendment GC81.

Background

4. Fishermans Bend is Australia’s largest urban renewal project covering approximately 480 hectares of mainly industrial land (nearly three times the size of the Central Business District). The area spans two councils – the City of Melbourne and the City of Port Phillip. Fishermans Bend is one of several priority precincts identified in Plan Melbourne as playing a central role in accommodating significant growth.
5. 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 with exemption under section 20(4) of the Act.
6. The Fishermans Bend Urban Renewal Area Draft Vision was released in September 2013 by Places Victoria, in collaboration with the State Government, City of Port Phillip, City of Melbourne and the Office of the Victorian Government Architect. The draft vision underwent six weeks of consultation.
7. In 2014, Amendment GC7 was approved by the former Minister, which introduced the Fishermans Bend Strategic Framework Plan (July 2014) as an incorporated document to the Melbourne and Port Phillip Planning Schemes using his powers of exemption under section 20(4) of the Act.
8. In April 2015, The Minister for Planning, under section 20(4) of the Act, approved planning scheme Amendment GC29, which introduced interim planning controls and updated the Framework to the *Fishermans Bend Strategic Framework Plan (July 2014, amended April 2015)*. At the same time the Minister for Planning committed to “recast the development of Fishermans Bend into a series of distinct neighbourhoods, allowing Victorian planners to showcase best practice renewal”.
9. In June 2015, Government established an independent Ministerial Advisory Committee (MAC) to provide community and expert advice for Fishermans Bend.
10. The Fishermans Bend Taskforce (the Taskforce) was subsequently created in February 2016 as a dedicated unit within DELWP to carry out strategic planning work for Fishermans Bend in response to one of the MAC’s recommendations.

11. On 3 October 2016, following extensive community consultation, the Minister for Planning released the Fishermans Bend Vision – The next chapter in Melbourne’s growth story, September 2016.
12. In November 2016, while the Fishermans Bend Framework and permanent planning controls were being developed, Government introduced interim planning controls as part of Planning Scheme Amendment GC50 (updated by GC59).
13. Planning Scheme Amendment GC81 has been prepared to implement the Vision for Fishermans Bend through a suite of permanent controls including amendments to the Melbourne and Port Phillip Planning Scheme and a new Fishermans Bend Framework.
14. The Minister for Planning is the responsible authority for assessing planning permit applications above a certain threshold of development under Clause 61.01 of the Melbourne and Port Phillip Planning Scheme.

Method

15. The Review Panel may apply to vary these Terms of Reference in any way it sees fit before submitting its report(s).
16. The Review Panel is expected to carry out a public hearing on the planning scheme amendment.
17. The Review Panel 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.
18. The Review Panel may seek advice from experts where it considers this is necessary.
19. The Review Panel may retain legal counsel to assist it.
20. Planning Panels Victoria is to provide administrative support as required.
21. The Review Panel will be briefed on relevant background information by the Fishermans Bend Taskforce.

Exhibition

22. DELWP will be responsible for notifying relevant persons, including land owners and occupiers who may be affected by the proposed planning scheme amendment.
23. The Review Panel is not expected to carry out any additional public notification or referral, but may do so if it considers it to be appropriate.
24. Submitters will have six weeks from notification from DELWP to lodge written submissions, with all submissions referred to the Review Panel to be considered for the Planning Scheme Amendment Hearing process.
25. Submissions will be collected by the office of Planning Panels Victoria in accordance with the Guide to Privacy at PPV. Copies of submissions will be made available to the City of Melbourne and the City of Port Phillip, DELWP, and other submitters upon request. Copies of submissions and other material will be published online where consent has been given.
26. Petitions and pro-forma letters will be treated as single submissions and only the first name to appear on the first page of the submissions will receive correspondence in relation to the Review Panel.

Hearing Process

27. The Review Panel may inform itself in anyway it sees fit, but it must consider:
 - a. The State policy context of the Fishermans Bend area.
 - b. The extent to which the proposed changes to the Capital City Zone Schedule 1 (Port Phillip Planning Scheme) and Capital City Zone Schedule 4 (Melbourne Planning Scheme) allows for the Fishermans Bend Vision, September 2016 to be achieved.
 - c. The extent to which all other proposed changes sought by GC81 allows for the *Fishermans Bend Vision, September 2016* to be achieved.

- d. All relevant submissions made in regard to the proposed changes to the Port Phillip and Melbourne Planning Schemes.
 - e. An assessment of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on *The Form and Content of Planning Schemes*.
28. The Review Panel will provide an opportunity for any person who requests to be heard through the submission process to present to it. Submitters are not required to have formal representation at the hearing.
29. The Review Panel may limit the time of parties appearing before it using the following time frames as a guide:
- a. Local council – 3 hours
 - b. Land owner – 2-3 hours
 - c. Agency or statutory authority – 1 hour
 - d. Community Group – 1 hour
 - e. Individual – 30 minutes
30. The Review Panel may at its discretion:
- a. Limit the time for presentation of evidence by witnesses.
 - b. Control cross examination of witnesses, including by prohibition of cross examination in appropriate circumstances.
 - c. Conduct concurrent hearings on matters as determined by the Review Panel where, in its opinion, no submitter who wishes to participate in the hearing is likely to be unfairly prejudiced by concurrent hearings.

Submissions are public documents

31. The Review Panel must retain a library of any written submissions or other supporting documentation provided directly to it until a decision has been made on its report or five years has passed from the time of its appointment.
32. Any written submissions or other supporting documentation provided to the Review Panel must be available for public inspection until the submission of its report, unless the Review Panel specifically directs that the material is to remain 'in camera'.
33. All information will be made publicly available online where consent has been given.

Outcomes

34. The Review Panel must produce a written report for the Minister for Planning.
35. The report is to be produced following the conclusion of the public hearing on the planning scheme amendment and is to provide the following:
- a. A summary of the Review Panel's reasons for recommending (or otherwise) amendments to the proposed planning scheme amendment.
 - b. A track change version of the proposed planning scheme schedules and clauses.
 - c. Any additional recommendations for amendments to the proposed Capital City Zone Schedule.
 - d. Any additional recommendations for amendments to all other proposed planning scheme changes sought by the planning scheme amendment.
 - e. Any changes required to the draft Fishermans Bend Framework as a result of recommendations made to the planning scheme amendment.
 - f. A summary of all submitters heard that presented on matters outside the consideration of the Review Panel.

- g. A list of persons who made submissions considered by the Review Panel.
- h. A list of persons consulted or heard.

36. The report will be publicly released at the discretion on the Minister for Planning.

Timing

- 37. The Review Panel is required to attend public briefings by the Fishermans Bend Taskforce on date as agreed.
- 38. The Review Panel is required to commence the public hearing on the planning scheme amendment no later than week of 5 February 2018, or as agreed.
- 39. The Review Panel is required to submit its report in writing as soon as practicable but no later than 40 business days from the completion of the hearing.

Fee

- 40. The fee for the Review Panel will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
- 41. The costs of the Review Panel will be met by the Fishermans Bend Taskforce of the Department of Environment, Land, Water and Planning.



Richard Wynne MP
Minister for Planning

Date: 22/10/17

The following information does not form part the Terms of Reference.

Project Management

- 1 Administrative and operational support to the Review Panel will be provided by Fawn Goodall, Statutory Planner, the Department of Environment, Land, Water and Planning, 9948 2857 and fawn.goodall@delwp.vic.gov.au
- 2 Day to day liaison for the Review Panel will be through Andrea Harwood, Senior Project Manager, of Planning Panels Victoria on 8392 5123, andrea.harwood@delwp.vic.gov.au

Appendix B: Submitters to the Amendment

No.	Submitter	No	Submitter
1	Cameron Cook	129	Prof Edouard Collins Nice
2	Christine Griffiths	130	VCHQ2 Pty Ltd
3	Andrew Brown	131	The Jane Property Group
4	Gavin O'Meara	132	Dennis and Katrina O'Hara
5	David Landgren	133	Kevin and Cheryl Johnson
6	Water Polo Victoria	134	Port of Melbourne Operations Pty Ltd
7	Ross Mulcahy	135	BEG Developments Pty Ltd
8	Gloria Rosemary Fellows	136	Bellamia Nominees Pty Ltd & PCLC Investment Pty Ltd
9	Residents of 437 – 514 Bay Street, Montague Precinct	137	202N Pty Ltd
10	Friends of Westgate Park Inc.	138	Richard Oldfield
11	Owen Bentley	139	Community Alliance of Port Phillip
12	Willy Tanuwidjaja	140	Victorian Transport Association
13	Kimberley Rea	141	Kador Group Holdings Pty Ltd
14	Karen and Keith Sutherland	142	South Port Community Housing Group Inc.
15	Yarra River Business Association Inc.	143	Wadhawan Holdings Pty Ltd
16	Allen Gravier	144	Kim Helyer
17	Elmarn Pty Ltd	145	J&D Bowen (Port Melbourne) Pty Ltd and Bowen & Pomeroy Pty Ltd
18	Gayle Roberts	146	Alpha 14 Pty Ltd
19	Salta Properties	147	Hanson Construction Materials Pty Ltd
20	Michael Perrott	148	Planning Institute Australia – Victoria
21	Isabelle Bisinella	149	Goodman
22	Danielle McCaffrey, Glen Robertson, Bronwyn McNamara	150	Frank Walker and Sel Reklaw Pty Ltd
23	William Tolis	151	David McCausland
24	Luhson Tan	152	AECOM
25	Ella Crotty and Emma Tranchina	153	City of Port Phillip
26	Jason, Hannah, John, Robert and Megan	154	Victoria International Container Terminal Limited
27	Gemma Romijn	155	Gilly Davis
28	Rebecca Marcs	156	Jopsal Pty Ltd
29	Anita Maria Horvath	157	APN DF2 Project 1 Pty Ltd
30	Keith Sutherland	158	Essendon Airport Pty Ltd
31	Robert Horner	159	Cycling Victoria

No.	Submitter	No	Submitter
32	Rodney Reginald Watson	160	South East Water
33	Hisaaki Nagao	161	John Thatcher
34	Zoe Sorensen	162	Lorimer Place Owners Corporation C/o Human Habitats
35	Bernadene Voss	163	Barro Group Pty Ltd
36	Claric Ninety Nine Pty Ltd	164	Marlton Investments Pty Ltd
37	Claric 178 Pty Ltd	165	Barro Group Pty Ltd
38	Adrienne Walton	166	Docklands Chamber of Commerce
39	Rohan Bentley	167	One Smart Pty Ltd
40	CBRE	168	Meike Wagenhoff
41	Yarra Edge Class Action Committee	169	Teller Group
42	Geoff & Susan Spooner	170	Cement Concrete & Aggregates Australia
43	Shaun McCarthy	171	Sue Mason
44	Tom Warwick	172	One Smart Pty Ltd
45	Roger G Joyce	173	EPC Pacific Pty Ltd
46	Peter Robert Hirst	174	Stephen Grech
47	Irene Elizabeth Hirst	175	CitiPower Pty Ltd
48	Michael Williams	176	Australian Institute of Architects
49	Steve Kohler	177	Kerrin Wilson
50	Joshua Ciechanowski	178	Soundfirm
51	Linda Lellman	179	ID Williamstown Road Pty Ltd
52	Derek Cheung	180	Delta Group
53	Alex Njoo	181	J & D Bowen
54	NABERS	182	Lateral Estate Pty Ltd
55	Shirley Gauci	183	Beacon Cove Neighbourhood Association
56	Leighton John Collier Hipkins	184	Dexus Funds Management Limited
57	144 Ferrars St Pty Ltd	185	SM253 Pty Ltd
58	Armsby Architects	186	Capital Alliance Investment Group
59	Adventure Sails	187	South Wharf Towers Pty Ltd
60	Gary Williams	188	City of Melbourne
61	St Kilda Cycling Club	189	APA Group
62	Salta Properties	190	South Port Urban Responsible Renewal
63	Little Lane Child Care	191	Damien Joyce
64	UnChain Incorporated	192	Commonwealth Department of Infrastructure and Regional Development
65	Susan Morwood	193	Kerrigan Fellows
66	Curious Architects	194	Trevor White

No.	Submitter	No	Submitter
67	CBO Corp P/L	195	Port Melbourne Football Club
68	Aquaino Pty Ltd	196	Submission on behalf of Belsize Nominees
69	Philip Lack	197	Proactive Ageing Pty Ltd
70	Frans Wilhelm	198	EPA Victoria
71	CostaFox Developments Pty Ltd	199	Judy Bush
72	Richard Alexander Roberts	200	Normanby Group Holdings
73	Altis Property Partners	201	Osten Pty Ltd
74	Aurelien Prevot	202	Samma Group and Spec Property Development
75	Philip John Hopkins	203	Fishermans Bend Management Pty Ltd
76	Mile Tony Nincevic	204	Bryce Paterson
77	Susan Jean Spender	205	Herzog Group
78	Urban Ecology in Action	206	Property Council Of Australia
79	W.W Sidwell Investments Pty Ltd	207	Normanby Road Developments Pty Ltd
80	Kanahoe Nominees Pty Ltd	208	Mitmazal Pty Ltd
81	Rebecca Chapman	209	Osprey Developments Pty Ltd
82	Robert William Ditton	210	Port Phillip Housing Association
83	Georgios Kypriotis	211	Ramona Headifen
84	BWP Trust	212	Victorian Young Planners, PIA
85	Christine Gravier	213	Marcus Rogers
86	Sach Sackl	214	Yarra Riverkeeper Association
87	Lie Property Pty Ltd	215	UDIA (Victoria)
88	Homes for Homes	216	ANZ
89	Barro Group Pty Ltd	217	Third Street Pty Ltd
90	Gurner 2 – 28 Montague Street Pty Ltd	218	Linda Jennifer King
91	E133 Property Development Pty Ltd	219	National Trust of Australia (Victoria)
92	Metropolitan Waste and Resource Recovery Group	220	Toyota Motor Corporation Australia Limited
93	One Eight One Pty Ltd	221	Ross Headifen
94	Thousand Degree Pty Ltd	222	Moniton Pty Ltd
95	Lutkas Pty Ltd	223	Frances Fox
96	Gladyslake Pty Ltd, Ausun Property CBD Pty Ltd & D.W. Keir Pty Ltd	224	William Tolis
97	Gladyslake Pty Ltd, Ausun Property CBD Pty Ltd & D.W. Keir Pty Ltd	225	Mark Helyer
98	Victorian Yacht Charters	226	Jennifer Joyner
99	Claire Florence-Gray	227	Stephen Pennells

No.	Submitter	No	Submitter
100	Owners Corporation PS429255 situated at 339 – 343 Williamstown Road, Port Melbourne	228	YCAC – Yarra's Edge Class Action Committee
101	Mirvac Victoria	229	Port Melbourne Soccer Club
103	Cube Properties and Investments P/L	230	Manors Gate Group
104	The University of Melbourne	231	Dr Simon Lynch
105	Elisa Leyva McEnroe	232	Fishermans Bend Business Forum
106	The Father Bob Maguire Foundation	233	Graeme Bruce Rowe
107	Jesus Leyva Infante	234	Port Melbourne Historical and Preservation Society
108	Jacobs Group	235	Gail Loveridge
109	HACP Pty Ltd	236	Phil Ridgeway
110	Montague Community Alliance	237	Diger Nominees Pty Ltd
111	Jenny Leyva de Loryn	238	Kalijo Nominees Pty Ltd
112	Craig Bartle	239	CHIA Victoria
113	He family investment Pty Ltd	240	Stockland
114	Sail and Adventure Ltd	241	Chris Wark
115	Thistlethwaite St Pty Ltd	242	Core Complex Pty Ltd
116	Irwin Structures Pty Ltd	243	Affordable Housing Industry Advisory Group
117	Badi Aftasi	244	Kembla No. 16 P/L
118	Iain Stewart	245	Green Building Council of Australia
119	Reiko Nagao	246	Department of Health and Human Services
120	Perpetual Normanby	247	Star Health
121	National Storage Property Trust	248	Nick Pastalatzis
122	Ken and Zan Anderson	249	Surveyors Place
123	Carri Nominees Pty Ltd	250	Salvo Group
124	S Clifton	251	Confidential
125	Fishermans Bend Network	252	Industry Business Hub PS 607275B
126	Jennifer Frances Coutts	253	Lorimer Properties Pty Ltd
127	Bronwyn Margaret Williams	254	Inchcape Australia Pty Ltd
128	Specific Property Pty Ltd	255	Eldorado Group; Betieport Pty Ltd & Ingleport Pty Ltd

Appendix C: Parties to the Review Panel Hearing

Submitter	Represented by
Minister for Planning	<p>Susan Brennan SC, Rupert Watters and Marita Foley of Counsel, instructed by Harwood Andrews, who called evidence from:</p> <ul style="list-style-type: none"> - Leanne Hodyl of Hodyl + Co on urban design - John Glossop of Glossop Town Planning on planning - Luke Mackintosh of Ernst & Young on development viability - Julian Szafraniec of SGS Economics & Planning on economic context - Joanna Thompson of Thompson Berrill Landscape Design on open space planning - Will Fooks of GTA Consultants on strategic transport planning - Professor Donald Bates of Lab Architect Studio on urban design - John Kiriakidis of GTA Consultants on strategic transport
City of Port Phillip	<p>Terry Montebello and Briana Eastaugh of Maddocks, with Aiden O'Neill of Council, who called evidence from:</p> <ul style="list-style-type: none"> - Paul Shipp of Urban Enterprise on infrastructure - Tom Patterson of Ramboll on flood mitigation - Marcus Spiller of SGS on affordable housing - Simon McPherson of Global South on urban design
City of Melbourne	<p>Juliet Forsyth and Eliza Bergin of Counsel, who called evidence from:</p> <ul style="list-style-type: none"> - Rob Milner of 10 Consulting Group on planning - Koos de Keijzer of DKO Architecture Pty Ltd on urban design - Euon Williamson of Creative Enterprise Environment on ESD
202N Pty Ltd	Alex Gelber of HWL Ebsworth Lawyers
Ace Body Corporate Management	Julie McLean and Ben Mahon
Affordable Housing Industry Group	Nicola Foxworthy and Kate Breen
ANZ Diamond Salmon Pty Ltd and Prime Port Melbourne Pty Ltd One Smart Pty Ltd Mitmazal Pty Ltd Moniton Pty Ltd Thistlethwaite St Pty Ltd	<p>Nicola Collingwood of Counsel, instructed by Rigby Cooke, who called evidence from:</p> <ul style="list-style-type: none"> - David Barnes of Hansen Partnership on planning
APA Group	Natalie Bannister of Hall and Wilcox
Aquaino Pty Ltd	Chris Canavan QC, instructed by HWL Ebsworth Lawyers
Armsby Architects	John Armsby
Ausun Property CBD Pty Ltd; Gladyslake Pty Ltd; D W Keir Pty Ltd Core Complex Pty Ltd E133 Property Developments	<p>Chris Wren QC, instructed by Planning and Property Partners, who called evidence from:</p> <ul style="list-style-type: none"> - Mark Sheppard of DLA on urban design

EPC Pacific Pty Ltd Gurner 2 – 28 Montague Street Lateral Estate Pty Ltd Lorimer Place Owners Corporation Lutkas Pty Ltd The Jane Property Group Thousand Degree Pty Ltd VCHQ2 Pty Ltd W Sidwell Investments Pty Ltd	
Australian Institute of Architects	Ruth White
Barro Group Pty Ltd	Jeremy Gobbo QC, instructed by Ponte Lawyers who called evidence from: - Marco Negri of Contour on planning
Bellamia Nominees Pty Ltd	Andrea Pagliaro of Urbis
Belsize Nominees Pty Ltd Costa Fox Developments Springbank Properties Pty Ltd	Chris Canavan QC, Nick Tweedie SC and Jane Sharp of Counsel, instructed by Norton Rose Fulbright (Lorimer), who called evidence from: - Mark Sheppard of DLA on urban design - Stuart McGurn of Urbis on town planning (for Belsize Nominees) - Andrew Biacsi of Contour on planning - Charmaine Dunstan of Traffix Group on transport - Ian Shimmin of Urbis on demographics and economics
Carri Nominees Pty Ltd	Urbis
CBQ Corp Pty Ltd	Liam Riordan
Citipower Pty Ltd Goodman Limited	Nick Tweedie SC and Jane Sharp of Counsel, instructed by Norton Rose Fulbright, who called evidence from: - Catherine Heggen of Message Consultants on urban design and on town planning - Andrew Biacsi of Contour on planning - Charmaine Dunstan of Traffix Group on transport - Ian Shimmin of Urbis on demographics and economics
Claric 178 Pty Ltd	Anthony Msonda-Johnson of Roberts Day
Claric Ninety Nine Pty Ltd	Anthony Msonda-Johnson of Roberts Day
Community Alliance of Port Phillip	Rhonda Small
Delta Group	Stuart Morris QC and Nicola Collingwood of Counsel, instructed by Mills Oakley, who called evidence from: - David Song of SongBowden on planning - Jason Walsh of Traffix Group on transport
Dexus Property Group	Andrea Pagliaro of Urbis
Elmarn Pty Ltd	Tom Kalder
EPA Victoria	Ruth Davies and Paul Torre
Fishermans Bend Network	Jennifer Stone

Friends of Westgate Park	Lyn Allison
Hansen Construction Materials Pty Ltd	Jason Kane of Counsel, instructed by Cornwall Stodart, who called evidence from: <ul style="list-style-type: none"> - David Barnes of Hansen Partnership on strategic planning - Henry Turnbull of Traffix Group on traffic
Peter and Irene Hirst	
Inchcape Australia Ltd	Chris Canavan QC and Jane Sharp of Counsel, instructed by Norton Rose Fulbright
Industry Business Hub	Ian Pitt QC of Best Hooper Lawyers
J & D Bowen Pty Ltd and Bowen and Pomeroy Pty Ltd	Carly Robertson of Counsel, instructed by Rigby Cooke Lawyers
Jopsal Pty Ltd	Antonio Calabro of SAC Building Workshop
Kador Group Holdings Pty Ltd, Wadhawan Holdings Pty Ltd	Nicola Collingwood, instructed by Mills Oakley, who called evidence from: <ul style="list-style-type: none"> - David Song of SongBowden on planning - Jason Walsh of Traffix Group on transport
Kembla No 16 Pty Ltd	Craig Murphy
Lie Properties Pty Perpetual Normandy Pty Ltd Normanby Road Developments	Chris Canavan QC, Nick Tweedie SC and Jane Sharp of Counsel, instructed by Norton Rose Fulbright (Lorimer), who called evidence from: <ul style="list-style-type: none"> - Mark Sheppard of DLA on urban design - Andrew Biacsi of Contour on planning - Charmaine Dunstan of Traffix Group on transport - Ian Shimmin of Urbis on demographics and economics
Little Lane Child Care	Will Pearce of Human Habitats
Lorimer Properties Pty Ltd and Lorimer Properties Unit Trust	Michael Dunn of Metropol Planning Solutions
Marlton Investments Pty Ltd	Chris De Silva of Mesh
Melbourne Water	Robert Considine
Metropolitan Waste and Resource Recovery Group	Michelle Lee and Nick Harris
National Storage Property Trust	Pat Rodgers
PCLC Investment Pty Ltd	Andrea Pagliaro
Port of Melbourne Operations Pty Ltd	David Vorchheimer of HWL Ebsworth Lawyers
Proactive Ageing Pty Ltd	Steve Zanon
Sail and Adventure Ltd	Peter van Duyn
Salta Properties	Will Pearce of Human Habitats
Salvo Property Group Third Street Pty Ltd	Chris Canavan QC, Nick Tweedie SC and Jane Sharp of Counsel, instructed by Norton Rose Fulbright (Lorimer), who called evidence from: <ul style="list-style-type: none"> - Mark Sheppard of DLA on urban design - Stuart McGurn of Urbis on Planning

	<ul style="list-style-type: none"> - Andrew Biacsi of Contour on planning - Charmaine Dunstan of Traffix Group on transport - Ian Shimmin of Urbis on demographics and economics
Samma Group Pty Ltd and Spec Property Development	<p>Stuart Morris QC, instructed by Minter Ellison, who called evidence from:</p> <ul style="list-style-type: none"> - Craig Czarny of Hansen Partnership on urban design - Julia Bell of DLA on urban design - Charmaine Dunstan of Traffix Group on traffic
Sel Reklaw Pty Ltd	<p>Chris Canavan QC, Nicholas Tweedie SC and Jane Sharp of Counsel, instructed by Russel Kennedy Lawyers, who called evidence from:</p> <ul style="list-style-type: none"> - Stuart McGurn of Urbis on planning - Michael Eaddy of Mel Consultants on wind modelling
SM253 Pty Ltd	Adrian Finanzio SC and Andrew Walker of Counsel, instructed by Herbert Smith Freehills
Soundfirm	Carly Robertson of Counsel, instructed by Ryan Commercial Lawyers
Southport Urban Responsible Renewal (SPURR)	Rowan Groves
St Kilda Cycling Club	Melinda Jacobson and Paul Jane
Keith Sutherland	
Surveyors Place	Craig Murphy
Teller Group	Jamie Govenlock of Urbis
The Father Bob Maguire Foundation	Memuzin River
Toyota Motor Corporation Australia Ltd	<p>Paul Chiappi of Counsel, instructed by Clayton Utz, who called evidence from:</p> <ul style="list-style-type: none"> - Brendan Rogers of Urbis on town planning - Charmaine Dunstan of Traffix on traffic
Transport for Victoria	Gary Button and Dimitri Lolas
Urban Development Institute of Australia (Victoria)	Danni Addison
Victoria Transport Association	Peter Anderson
Meike Wagenhoff	
Trevor White	
Yarra's Edge Class Action Committee (YCAC)	Catherine Dawson

Appendix D: Document list

Fishermans Bend Planning Review Panel – Version 13, 28 May 2018

	Date	Description	Presented by
1	28/10/17	Example notice – Consultation and briefing sessions, The Age Newspaper	(from The Age)
2	10/11/17	Agenda – Public Briefing	Ms Mitchell, Chair, Planning Review Panel (Chair)
3	"	Chair Notes – Public Briefing	"
4	"	Presentation – Fishermans Bend draft Framework Plan	Mr Ward, Fishermans Bend Taskforce (Taskforce)
5	"	Presentation – Draft Planning Controls, Planning Scheme Amendment GC81	Ms Tapper, DELWP
6	"	Presentation – Fishermans Bend Urban Design Strategy, September 2017	Ms Hodyl, Fishermans Bend Taskforce
7	"	Presentation – Integrated Transport Plan	Mr Giles, Fishermans Bend Taskforce
8	24/10/17	Agenda – Public Briefing	Mr Townsend, Deputy Chair, Planning Review Panel
9	"	Chair Notes – Public Briefing	"
10	"	Presentation – Public Open Space Strategy	Mr Ward, Taskforce
11	"	Presentation – Draft Community Infrastructure Plan, November 2017	Ms Hajjari, Taskforce
12	"	Presentation – Background Reports, 13 November 2017	Ms Banks, Taskforce
13	28/11/17	Agenda – Site Visit	Ms Goodall, Taskforce
14	"	Site Visit Map	"
15	"	Planning Permits Activity and Planning Permit Application Map	"
16	14/11/17	Notification Letter – sent to submitters	Ms Mitchell, Chair
17	18/12/17	Letter – Letter to Chair referring Ministerial Advisory Committee (MAC) Report	Minister for Planning
18	"	Report – Fishermans Bend MAC report to the Minister for Planning on Draft Fishermans Bend Framework	"
19	19/12/17	Submission Tabling Letter, Ms Choi Directions sought, Mr Morris Affidavit of Ms Brezzi	Ms Choi, Norton Rose Fulbright
20	20/12/17	Preliminary key issues	Mr Townsend, Deputy Chair
21	"	GC50 – Reasons for Intervention	Mr Morris of Counsel
22	"	Administrative Law Act 1987	Mr Canavan of Counsel

	Date	Description	Presented by
23	"	Submission – Minister for Planning	Mr Tobin, Harwood Andrews
24	28/12/17	Directions Letter – Review Panel	Ms Mitchell, Chair
25	18/01/18	Directions (Version 2) – Review Panel	Ms Harwood, PPV
26	19/01/18	Correspondence – Adjournment request	Ms Morris, Harwood Andrews
27	22/01/18	Correspondence – Proposed second Directions Hearing date	Ms Morris, Harwood Andrews
28	23/01/18	Correspondence – Response to Adjournment request	Mr Townsend, Deputy Chair
29	25/01/18	Correspondence – Further Adjournment request and proposed Stage 1 Hearing outline	Ms Morris, Harwood Andrews
30	29/01/18	Correspondence – Response to further adjournment request	Ms Mitchell, Chair
31	31/01/18	Correspondence – Second Directions Hearing	Mr Moylan, Planning and Property Partners
32	31/01/18	Correspondence – Second Directions Hearing	Ms Robinson, Rigby Cooke Lawyers
33	02/02/18	Affidavit of Ms Morris	Ms Brennan of Counsel for Minister for Planning
34	"	Submission – Minister for Planning in support of adjournment request	"
35	5/02/18	Directions and summary timetable	Ms Mitchell, Chair
36	6/02/18	Correspondence – Late circulation of Direction 11	Ms Morris, Harwood Andrews
37	7/02/18	Correspondence – Response to Direction 11 and attached list of documents	"
38	9/02/18	Hearing Timetable, Reasons for Decision and revised Distribution List Additional direction (12/02/18)	Ms Mitchell, Chair
39	13/02/18	Presentation – draft Framework Plan	Mr Ward, Taskforce
40	"	Presentation – Background Reports	Ms Banks, Taskforce
41	"	Presentation – Urban Design Strategy	Ms Hodyl, Taskforce
42	"	Presentation – Draft Planning Controls	Mr Hensen, DELWP
43	"	Presentation – Integrated Transport Plan	Mr Lolas, DEDJTR
44	"	Presentation – Draft Community Infrastructure Plan	Ms Hajjari, Fishermans Bend Taskforce
45	"	Presentation – Public Open Space Strategy	"
46	"	Agenda – Public Briefing	Ms Mitchell, Chair

	Date	Description	Presented by
47	13/02/18	Correspondence – Site Tour Site Tour cover letter Site Tour Agenda Site Tour pick up and drop off location map Site Tour route map: Part 1 and Part 2 Site Tour list of sites nominated by submitters	Ms Morris, Harwood Andrews
48	14/02/18	Planning and Property Partners – Site visit booklet	Mr Wren of Counsel
49	19/02/18	Submission – Part A Harwood Andrews cover letter Part A response Permit activity map (Appendix E to submission) Submission spreadsheet (Appendix F to submission) Amended documentation (Appendix G to submission, ten files)	Ms Morris, Harwood Andrews
50	19/02/18	3D Modelling Conclave Statement Letter to Panel and parties Joint Conclave Statement	"
51	26/2/18	Economics evidence – Mr Szafraniec	"
52	26/2/18	Planning evidence – Mr Glossop	"
53	26/2/18	Urban design evidence – Mr Hodyl	"
54	27/02/18	Correspondence – Permit call-ins	"
55	28/02/18	Urban design evidence – Professor Bates	"
56	"	Revised Directions and Distribution List	Ms Mitchell, Chair
57	01/03/18	Presentation – MAC	Ms Sussex AM, Fishermans Bend Ministerial Advisory Committee
58	"	Submission – Ms Halliday	Ms Halliday, Fishermans Bend MAC
59	"	PowerPoint – St Kilda Cycling Club	Ms Jackson, St Kilda Cycling Club
60	"	Submission – MWRRG Submission Metro Plan extract Planning Scheme reference	Ms Lee, MWRRG
61	02/03/18	Presentation – Architects Institute of Australia	Ms White, Architects Institute of Australia
62	"	Submission – Oral presentation and summary report	Ms Foxworthy, Affordable Housing Industry Group
63	"	Submission	Mr and Ms Sutherland, YCAC
64	"	Submission	Mr Riordan, Tract Consultants

	Date	Description	Presented by
65	"	Correspondence – regarding population estimates	Mr Naughton, Planning and Property Partners
66	06/03/18	Review Panel Day 1 provisions cover letter and contents Melbourne MSS – Day 1 version Port Phillip MSS – Day 1 version Combined LPP – Day 1 version Combined CCZ – Day 1 version Combined DDO – Day 1 version Port Phillip DPO – Day 1 version Combined PO – Day 1 version How to calculate FAU – Day 1 version	Ms Mitchell, Chair
67	05/03/18	Correspondence – regarding late circulation of EWS	Ms Morris, Harwood Andrews
68	"	Development viability evidence – Mr Macintosh	"
69	"	Strategic transport, framework peer review evidence – Mr Fooks	"
70	"	Strategic Transport – Integrated Transport Plan review evidence – Mr Kiriakidis	"
71	06/03/18	Addenda 1 to urban design evidence of Ms Hodyl	"
72	07/03/18	Public Infrastructure evidence – Mr Shipp	Ms Ryan, City of Melbourne
73	"	Planning evidence – Mr Milner	"
74	"	ESD evidence – Mr Williamson (Joint evidence between Melbourne and Port Phillip)	
75	"	Open space evidence – Ms Thompson	Ms Morris, Harwood Andrews
76	08/03/18	Infrastructure funding and delivery evidence – Mr Shipp Mesh report on Funding and Financing infrastructure	Ms Bird, Maddocks
77	"	Social and affordable housing evidence – Dr Spiller Footnote 8	"
78	"	Flooding and Drainage evidence – Mr Patterson (joint evidence between Melbourne and Port Phillip) Annexure 4 – Integrated and Innovative Water Management Report (Ramboll) Annexure 7 – Melbourne Water Baseline Drainage Options Plan (GHD)	"
79	09/03/18	Correspondence – Confirmation of order of experts	Ms Morris, Harwood Andrews
80	"	Correspondence – Request for Direction to release ten transport background documents	Ms Choi, Norton Rose Fulbright

	Date	Description	Presented by
81	"	Direction 23 – release of documents	Ms Mitchell, Chair
82	"	Submission – Report of Ms Pearson on built form testing and capacity modelling	Ms Ryan, City of Melbourne
83	"	Addenda 2 to urban design evidence of Ms Hodyl	Ms Morris, Harwood Andrews
84	13/03/18	Correspondence – Confirmation of release of transport documents	"
85	"	Correspondence – Request for access to DELWP draft Amendment mapping files	Ms Choi, Norton Rose Fulbright
86	"	Submission – Fishermans Bend Economic and Transport Infrastructure Study, PWC	Mr Montebello, Maddocks
87	"	Correspondence – Request for access to Development Contributions documents	Mr Moylan, Planning and Property Partners
88	"	Background report – Fishermans Bend Public Space Strategy, 2017	Ms Goodall, Taskforce
89	"	Background report – Energy of Things, Governance and the Smart City	"
90	"	Addenda 3 to evidence statement of Ms Hodyl	Ms Morris, Harwood Andrews
91	"	Addenda 1 to evidence statement of Prof Bates	"
92	14/03/18	Addenda 4 to evidence statement of Ms Hodyl	"
93	"	Submission – call in of existing permit applications	Ms Brennan
94	"	Part B Submission – Minister for Planning	"
95	"	Evidence PowerPoint presentation – Urban Design	Ms Hodyl, Fishermans Bend Taskforce
96	15/03/18	Extract from Homes for Victorians	Counsel assisting, Counsel assisting
97	"	Extract from Homes Population & Demographic Report Sept 2016, Pages 4, 11 – 13	Ms Forsyth
98	16/03/18	Response to submissions – Minister for Planning	Ms Brennan
99	"	Options for Open Space Table describing private land affected Map locating open space sites Worked example of five land provision scenarios	"
100	"	Interim Development Contributions	"
101	"	Taskforce response to Expert Witness Recommendations	"
102	"	Correspondence from Mr Kiriakidis regarding documents relied upon	"
103	"	Marked up version of DDO	Mr Glossop, Glossop Town Planning
104	"	Marked up version of CCZ	"

	Date	Description	Presented by
105	19/03/18	PowerPoint presentation: Economic evidence statement	Mr Szafraniec, SGS Consultants
106	"	MacroPlan Dimasi Feasibility Analysis	Mr Wren
107	"	PowerPoint presentation Public Open Space Evidence	Ms Brennan
108	"	Open Space Adjusted Layout plans	"
109	20/03/18	Submission – City of Port Phillip and attachments Stage 1 Submission Consolidated list of requested changes Marked up CCZ Marked up LPP Preferred locations of Community Hubs	Mr Montebello, Maddocks
110	"	Summary of evidence – Mr Shipp	Mr Shipp, Urban Enterprise
111	"	Extract from Fishermans Bend Integrated Transport Plan	Ms Forsyth
112	"	School provision review for Docklands – Stage 1	Mr Montebello, Maddocks
113	"	School provision review for Docklands – Stage 2	"
114	21/03/18	Submission relating to email sent on 15 March 2018	Ms Brennan
115	"	PowerPoint presentation on Integrated Water Management Solutions	Mr Patterson of Ramboll Group
116	"	In Our Backyard: Growing Affordable Housing in Port Phillip 2015 – 2025	Ms Brennan
117	"	<i>Plan Melbourne</i> Directions 2.3	Mr Tweedie of Counsel for Norton Rose Fulbright
118	"	Extracts from Fishermans Bend Framework	"
119	"	AmGC81: Social and Affordable Housing Summary & Evidence	Dr Spiller, SGS Economics
120	"	Written submission, Melbourne City Council	"
121	22/03/18	Slide presentation – Planning	Mr Milner, 10 Consulting Group
122	"	Slide presentation, Professor Rob Adams	Professor Adams, City of Melbourne
123	"	Map Book	Ms Foley, Minister for Planning
124	"	Attachments and Melbourne submission Places for People	Ms Forsyth
125	"	Extracts from the Housing Affordability Act	"
126	26/03/18	Written submission OC 339 – 343 Plummer Street, Port Melbourne	Mr Moylan, Planning and Property Partners
127	"	PowerPoint OC 339 – 343 Plummer Street, Port Melbourne	"
128	"	Written Submission	Mr Ashkanasy

	Date	Description	Presented by
129	"	Plan of ownership in Lorimer Precinct	Ms Forsyth
130	"	Extracts of West Melbourne Structure Plan	"
131	"	Extract from Victoria's 30 Year Infrastructure Strategy (2016) Infrastructure Victoria	"
132	"	VCAT Caydon Cremorne No.1 Development Pty Ltd v Yarra CC P1969/2015	"
133	"	Homes for People, City of Melbourne	"
134	27/03/18	Written Submission Bellamia Nominees and DCLC Investment	Mr Pagliaro, Urbis
135	"	PowerPoint Presentation Bellamia Nominees	"
136	"	Submission relating to email sent on 15 March 2018	Mr Wren
137	"	Submission relating to email sent on 15 March 2018	Mr Canavan
138 & 138A	"	Update to Document 99 adjusted for Ms Thompson recommendations accompanying plan	Ms Brennan
139	"	PowerPoint presentation of Mr Fooks Evidence Statement	Mr Fooks, GTA Consultants
140	26/3/18	Urban Design evidence – Mr McPherson	Ms Eastaugh, Maddocks
141	"	Open space evidence – Mr de Keijzer	Ms Ryan, City of Melbourne
142	28/3/18	Submission relating to email of 15 March 2018	Counsel assisting, Counsel assisting
143	"	Letter from Norton Rose Fulbright requesting information on existing permits and applications	Ms Choi, Norton Rose Fulbright
144	"	Submission on extension of existing permits	Mr Wren
145	"	Report from Phillip Boyle & Associates – car share provision	Mr Montebello, Maddocks
146	"	PowerPoint presentation	Prof Bates, LAB Architecture Studio
147	"	PowerPoint presentation	Mr Kiriakidis, GTA Consultants
148	"	Extract from second container Port Advice Evidence Base Fig. 15	Ms Forsyth
149	"	Extract from Charter Keck Cramer/GTA Precinct Car Parks Opportunities	"
150	"	Plan of subdivision – 874 – 86 Lorimer and Aerial Photo	Mr Wren
151	29/03/18	Supplementary submissions to the Minister's Part B submissions, and Supplementary information notes (SIN folder)	Ms Brennan
152	"	Lorimer Street Principle Bicycle Network route plans	Ms Forsyth

	Date	Description	Presented by
153	"	Extract from Jacobs report Fishermans Bend Freight Corridor Advisory Services, Sept 2016	"
154	"	Addenda 5 to evidence statement of Ms Hodyl	Ms Brennan
155	"	Opinion of Mr Batt QC and Ms Foley re draft Amendment GC81	"
156	"	Minister for Planning Part B changes and CCZ Schedules Minister for Planning revised maps for CCZ, DDO and MSS – 290318	"
157	"	Letter from Mr Mackintosh – response to Panel request for further info	"
158	"	Letter from Mr Szafraniec – response to Panel request for further info	"
159	"	Modelling images of permits granted and permits applications in Montague, Sandridge and Wirraway	"
160	"	Request for ruling	Ms Choi, Norton Rose Fulbright
161	"	Evidence Statement of Mr Turnbull on traffic (s147)	Mr Katz, Cornwall Stodart
162	"	Tabling letter Evidence Statement of Mr Rogers on planning (s220) Evidence Statement of Ms Dunstan on traffic (s220)	Mr Wiseman, Clayton Utz
163	"	Correspondence regarding late circulation of evidence	Mr Ponte, Ponte Lawyers
164	"	Correspondence regarding late circulation of evidence	Mr Passarella, Mills Oakley
165	"	Tabling Letter Mr Sheppard evidence statement on urban design (relied upon by Planning and Property Partners and Russell Kennedy) Mr Shimmin evidence statement on economics Ms Dunstan evidence statement on traffic Mr Biacsi evidence statement on planning	Ms Choi, Norton Rose Fulbright
166	"	Correspondence tabling urban design evidence	Mr Moylan, Planning and Property Partners
167	"	Correspondence regarding late circulation of evidence	Ms Anderson, Rigby Cooke Lawyers
168	"	Tabling letter Dr Eaddy evidence statement	Ms Colsell, Russell Kennedy
169	"	Further Submission – response to matters taken on notice	Ms White, Architects Institute of Australia

	Date	Description	Presented by
170	"	Further Submission	Ms Qian, Green Building Council
171	04/04/18	Correspondence – re request for ruling	Ms Morris, Harwood Andrews
172	"	Letter and extracts of Port Phillip Planning Committee Minutes of 28 March 2018	Ms Eastaugh, Maddocks
173	05/04/18	Tabling letter Mr Negri evidence statement	Mr Memmolo, Ponte Lawyers
174	06/04/18	Revised Timetable (Version 3)	Ms Harwood, PPV
175	"	Evidence Statement Mr Barnes	Mr Upton, Cornwall Stodart
176	"	Correspondence regarding late circulation of evidence	Mr Passarella, Mills Oakley
177	"	Tabling letter Evidence of Mr Sheppard on Wirraway Evidence of Mr Sheppard on Lorimer Evidence of Mr Sheppard on Sandridge Evidence of Mr Sheppard on Montague Evidence of Mr McGurn Evidence of Ms Dunstan Evidence of Ms Heggen for Citipower Evidence of Ms Heggen for Goodman	Ms Choi, Norton Rose Fulbright
178	"	Tabling letter of Mr Sheppard's evidence	Mr Moylan, Planning and Property Partners
179	"	Tabling letter of Mr Sheppard and Mr McGurn's evidence	Ms Colsell, Russell Kennedy
180	9/04/18	DELWP Email sent on 15 March 2018	Ms Mitchell, Chair
181	"	-	-
182	"	Submission and attachments from Port Phillip	Mr Montebello, Maddocks
183	"	Urban Design Report April 2018, Port Phillip	"
184	"	PowerPoint presentation of Mr McPherson	"
185	"	Lorimer Plan – Recommended approach	Mr Wren
186	"	Diagrams demonstrating transfer of commercial development rights	Mr Montebello, Maddocks
187	"	Letters to landowners impacted by proposed changes to land impacted by open space	Ms Foley
188	"	Tabling letter for Spec Property Development (s202) Evidence of Ms Bell Evidence of Ms Dunstan Evidence of Mr Czarny	Ms Tarasenko, Minter Ellison
189	"	Addenda to Mr de Keijzer's evidence	Ms Ryan, City of Melbourne
190	10/04/18	PowerPoint of Mr de Keijzer evidence	Ms Forsyth
191	"	Attachment to Melbourne submission	Ms Forsyth

	Date	Description	Presented by
192	"	Written Submission, Melbourne	Ms Forsyth
193	"	Track change version of Parking Overlay (A & B)	Ms Forsyth
194	"	Mr Walsh Evidence	Mr Passarella, Mills Oakley
195	11/04/18	Mr Barnes Evidence	Mr Robinson, Rigby Cooke
196	"	Fishermans Bend Retail Assessment Attachments A & B, Essential Economics	Ms Foley
197	"	Fishermans Bend Review of Sustainability Strategy, Essential Economics (Detailed model results)	"
198	"	Fishermans Bend Net Zero Emissions strategy, Point Advisory	"
199	"	Fishermans Bend Climate Readiness Accommodation Strategy	"
200	"	Clarification of matters from Mr McPherson	Ms Eastaugh, Maddocks
201	"	Review Panel – Statement of Reasons	Ms Mitchell, Chair
202	"	PowerPoint Presentation	Ms Dunstan, Traffix Group
203	"	Infrastructure Victoria 30 year strategy extract	Ms Foley
204	"	Addendum to evidence of Mr Sheppard	Mr Canavan
205	"	PowerPoint Presentation	"
206	"	Norton Rose Fulbright letter of instructions to Mr Sheppard	Mr Canavan
207	"	Russell Kennedy letter of instructions to Mr Sheppard	"
208	"	The effect of zoning on house prices discussion paper, Reserve Bank of Australia	"
209	"	Evidence of Mr Song	Mr Passarella, Mills Oakley
210	12/04/18	Extract of Mr Sheppard's evidence to Melbourne C270	Ms Brennan
211	"	Extract of Montague Structure Plan	"
212	"	Extract from Future Cities Report	"
213	"	Extract from Infrastructure Australia website	"
214	"	Extract from Essentials of Urban Design by Mark Sheppard	"
215	"	Case Study comparative table prepared by Ms Hodyl	"
216	"	Examples of recent developments in Central City and suburbs	"
217	"	Extract of Planning Permits Data Review Report (2010 – 2015)	"
218	"	Planning Practice Note 59	Mr Montebello, Maddocks

	Date	Description	Presented by
219	"	Extract Better Apartments draft design standards	Ms Forsyth
220	"	Better Apartments Consultation Report extract	"
221	13/04/18	Addendum 2 to Mr Sheppard's Evidence Report	Ms Sharp
222	"	PowerPoint of Mr Shimmin Evidence	"
223	"	Corrections to Mr Shimmin's Evidence Statement	"
224	"	Extract from <i>Plan Melbourne</i>	Mr Watters
225	"	Extract from Global Liveability Report 2017	"
226	"	Extract from State Planning Policy Framework	Mr Montebello, Maddocks
227	"	Clause 4 Buildings and Walks draft proposed change	Ms Foley
228	"	Copy of Report by Mr Biacsi for 11 – 31 Montague Street in Supreme court proceedings 2017	"
229	"	Addendum to Mr Sheppard's Lorimer evidence	Ms Sharp
230	"	Lorimer 3D massing and shadow study	"
231	16/04/18	Submission by APA Group	Ms Bannister, Hall and Wilcox
232	"	Submission	Ms Wagenhoff
233	"	Submission by Community Alliance of Port Phillip – Ms Small, Ms Byrne & Ms Forbath	Ms Small
234	"	PowerPoint presentation by South Port Urban Responsible Renewal (SPURR)	Mr Groves
235	"	SPURR – Presentation speaking notes	"
236	"	Correspondence seeking Panel Direction	Mr Moylan
237	17/04/18	Fishermans Bend – Net Zero Carbon Strategy, Point Advisory	Ms Brennan
238	"	Submission by Port of Melbourne Operations	Mr Vorchheimer, HWL Ebsworth
239	"	Melbourne Airport Environs Overlay	"
240	"	PowerPoint of EPA submission	Ms Davies, EPA
241	"	EPA proposed amendments to planning controls A – D	"
242	"	Submission by Fishermans Bend Network	Ms Stone
243	"	Submission by Father Bob Maguire Foundation	Ms Rosen
244	"	Further Review Panel Directions 24 and 25 Revised Hearing Timetable (Version 4)	Ms Mitchell, Chair
245	18/04/18	Fishermans Bend Current Development Activity	Ms Brennan
246	"	Timelines for providing corrected / updated planning scheme maps and draft controls	"
247	"	Section 46 Evidence Act 1995	Counsel assisting, Counsel assisting

	Date	Description	Presented by
248	"	Further submission from Property Council of Australia	Mr Crawford, Property Council of Australia
249	"	Further submission from Bellamia Nominees and PCLC Investment	Mr Weinmann, Bellamia Nominees P/L and PCLC Investment
250	"	Norton Rose Fulbright letter of instruction to Mr Biacsi Russell Kennedy letter of instruction to Mr Biacsi List of documents referred to by Mr Biacsi List of properties in Fishermans Bend with which Mr Biacsi has had involvement	Ms Choi, Norton Rose Fulbright
251	19/04/18	Correspondence in response to the request to recall witnesses	Ms Morris, Harwood Andrews
252	"	Submission on matters for consideration by the Review Panel, Landowners Group	Mr Tweedie
253	"	Outline of submissions, Landowners Group	"
254	"	Memorandum of Advice, re amendment C270 to Melbourne Planning Scheme, Mr Morris QC	"
255	"	Equity Trustees Executors and Agency Co Ltd and ORS V Melbourne and Metropolitan Board of Works [1993] 81 LGERA 86	"
256	"	Meriton Apartments Pty Ltd v Minister for Urban Affairs and Planning [2000] NSWLEC20	"
257	"	Seventh Columbo Pty Ltd v Melbourne City Council [1998] VSC 7	"
258	"	Mainline Investments V City of Whittlesea [2005] VCAT 1917	"
259	20/04/18	Further submission – response to matters taken on notice (version 2)	Ms White, Architects Institute of Australia (Victorian Chapter)
260	"	List of property owners and occupants notified of proposed open space recommendations within the City of Melbourne	Ms Brennan
261	"	List of property owners and occupants notified of proposed open space recommendations within the City of Port Phillip	"
262		Revised DDO, Part C (clean version) Revised DDO, Part C (marked up)	"
263	23/03/14	Written submission	Mr Wren
264	20/04/18	Revised Hearing Timetable (Version 5)	Ms Harwood, PPV
265	23/04/18	Mr Shimmin Response to Review Panel questions on notice	Ms Choi, Norton Rose Fulbright

	Date	Description	Presented by
266	24/04/18	Resolution of Future Melbourne Committee 170418 Report of the Future Melbourne (planning) Committee dated 17 April 2018 re Amendment C309	Ms Ryan, City of Melbourne
267	"	Addenda 6 to Ms Hodyl evidence (TO BE RESUBMITTED ON 30/04)	Ms Morris, Harwood Andrews
268	"	Submission from Inchcape and attachments	Ms Choi, Norton Rose Fulbright
269	26/04/18	Correspondence in relation to Ms Hodyl Addenda 6	"
270	"	PowerPoint Presentation for Goodman Limited	Ms Heggen, Message Consultants
271	"	Submission on behalf of Goodman	Mr Tweedie
272	"	850 – 868 Lorimer Street, Port Melbourne Development Plans	"
273	"	Letter requesting Panel issue direction on CCZ controls for Lorimer Precinct	Mr Memmolo, Ponte Lawyers
274	"	Correspondence advising of APN DF2 Project 1 Pty Ltd's withdrawal from the Hearing	Mr Passarella, Mills Oakley Lawyers
275	"	Submission from Industry Business Hub Plan No. 607275B	Mr Pitt, Best Hooper Lawyers
276	30/04/18	General submission	Ms Collingwood of Counsel
277	"	Revised version of Hodyl Addenda 6 (Document 267)	Ms Morris, Harwood Andrews
278	"	Response from Harwood Andrews to Barro Group request for documents	"
279	"	Revised Hearing Timetable (version 6)	Ms Harwood, PPV
280	"	Addenda to EPA submission	Ms Davies, EPA
281	"	Note of budget measures of Fishermans Bend	Ms Brennan
282	"	Replacement page 17 for Hodyl Addenda 6 (Document 277)	"
283	"	Addendum to evidence statement of Mr Williamson	Ms Ryan, City of Melbourne
284	"	Correspondence regarding notification of 87 Gladstone Street	Ms Goodall, DELWP Taskforce
285	03/05/18	Land acquisition and compensation paper by Mr Morris	Mr Morris
286	"	Whelan Kartaway v Minister for Planning	"
287	"	Extracts from Planning & Environment Act	Mr Canavan
288	"	Clause 22.13 Environmentally Sustainable Development, Port Phillip Planning Scheme	Ms Forsyth
289	"	PowerPoint Mr Williamson, Sustainability	Ms Forsyth

	Date	Description	Presented by
290	04/05/18	Correspondence to Mr Morris and Mr Canavan requesting submissions in writing	Ms Mitchell, Chair
291	"	Correspondence to all parties advising the Review Panel will seek legal opinion from Counsel assisting	"
292	"	Correspondence requesting a copy of the Review Panel's request to Counsel assisting for advice	Ms Choi, Norton Rose Fulbright
293	07/05/18	Correspondence from Mr Morris QC on application of PAO to major projects	Ms Mitchell, Chair
294	"	Requests for clarifications and approaches from the Review Panel	"
295	"	Planning approval processes for recent major projects in Victoria – SIN 14	Ms Brennan
296	"	Correspondence to Mr Morris and Mr Canavan directing submissions in writing	Ms Mitchell, Chair
297	"	Accompanied Site Inspection of the Port of Melbourne, Expression of Interest	Ms Harwood, PPV
298	"	Revised Hearing Timetable version 7	Ms Harwood, PPV
299	9/05/18	Letter of instructions to Counsel assisting	Ms Mitchell, Chair
300	"	Addendum 3 of Mr Sheppard's Overarching evidence	Mr Sheppard
301	"	Aide-Mémoire to Oral Submission by Mr Canavan on 3 May 2018	Mr Canavan
302	10/05/18	Letter to PPV from Russell Kennedy enclosing Mr Eaddy's further evidence and letter from Harwood Andrews Addendum to Mr Eaddy's evidence Letter from Harwood Andrews to Russell Kennedy requesting proposed revision to evidence	
303	11/05/18	Fishermans Bend MAC – Further submission	Ms Sussex, Fishermans Bend MAC
304	"	Correspondence advising of late circulation of submission by Mr Morris	Mr Passarella, Mills Oakley
305	14/05/18	Response to the Panel's Request -SIN 15	Ms Brennan
306	"	Revised maps as requested through Document 294	"
307	"	Revised Draft Part C Amendment Documents with attachments	"
308	"	Submission in relation to Infrastructure Contributions Plan (Public Land Contributions) on behalf of the Minister for Planning	"
309	"	Further information regarding recent legislation on Infrastructure Contribution Plans in Victoria – SIN 16	"

	Date	Description	Presented by
310	"	Planning and Environment Act (Public Land Contributions) Act 2018, No. 7 2018	"
311	"	Record of Submissions made by Mr Morris QC	Mr Passarella, Mills Oakley
312	15/05/2018	Revised map D requested through Doc 294 (heights and overshadowing)	Ms Brennan
313	"	Correspondence from Norton Rose Fulbright in response to the tabling on the Minister for Planning's Part C submission	Ms Choi
314	"	Correspondence from Maddocks in response to Norton Rose Fulbright letter and the tabling of Part C submission documents	Mr Montebello, Maddocks
315	"	Correspondence from Harwood Andrews in response to Norton Rose Fulbright letter and the tabling of Part C submission documents	Mr Morris, Harwood Andrews
316	16/05/18	Melbourne Water Submission	Mr Considine, Melbourne Water
317	"	Replacement maps for Document 307	Ms Brennan
318	"	Explanatory report and controls for VC146 (new Infrastructure Contributions Overlay)	"
319	"	City of Melbourne proposed changes to referral authority provisions	Ms Forsyth
320	"	City of Melbourne changes to the FAU guidance note	"
321	17/05/18	Review Panel's Direction 26	Ms Mitchell, Chair
322	"	Correction to paragraphs 10 & 11 in SIN15, dwelling numbers in current permit applications	Ms Brennan
323	"	Mr Sheppard's response to Document 294	Mr Sheppard, David Lock and Associates
324	"	UDIA Presentation	Ms Addison, UDIA
325	18/05/18	Visual representation of FARs and height controls	Ms Mitchell, Chair
326	"	General submission on Minister's Part C submission	Mr Morris
327	"	Second reading speech, Public Land Contributions Act	"
328	"	Port of Melbourne Closing Submission	Mr Vorchheimer, HWL Ebsworth
329	19/05/18	Submission on the release of Jacobs reports	Ms Brown, DEDJTR
330	"	Melbourne Water Submission	Mr Considine, Melbourne Water
331	"	Barro Group closing submission including revised controls	Mr Memmolo, Ponte Lawyers
332	22/05/2018	Port of Melbourne site visit materials	Ms Harwood, PPV
333	"	Revised Hearing Timetable – Version 8	"
334	"	Correspondence tabling electronic copies of various documents and advising on drafting error	Ms Morris, Harwood Andrews

	Date	Description	Presented by
335	23/05/18	Table outlining corrections to planning documents from Document 307	Ms Brennan
336	"	Clean copy, CCZ	"
337	"	Clean copy, Port Phillip MSS	"
338	"	Clean copy, Melbourne MSS	"
339	"	Clean copy, Fishermans Bend local policy	"
340	"	Clean copy, Parking Overlay	"
341	"	City of Melbourne's closing version of the controls	Ms Forsyth
342	"	Revised maps showing adjustments and subprecinct boundaries	Ms Brennan
343	"	City of Port Phillip closing version of the controls	Mr Montebello, Maddocks
344	"	City of Melbourne's mapping of street wall heights	Ms Forsyth
345	"	PowerPoint presentation, Transport for Victoria	Mr Button, Transport for Victoria
346	24/05/18	Confidential	-
347	"	City of Port Phillip closing submissions	Mr Montebello
348	"	Closing submission for City of Melbourne	Ms Forsyth
349	"	Attachments to Document 348	"
350	"	Closing submission for Minister for Planning	Ms Brennan
351	"	SINs 17–22	"
352	"	Section 20, Planning and Environment Act 1987	"
353	"	Lorimer Urban Structure Plan for inclusion in CCZ	"
354	"	Further submission – ANZ response to matters taken on notice	Ms Anderson, Rigby Cooke Lawyers
355	25/05/18	Further submission from APN Property Group	Mr Passarella, Mills Oakley
356	31/05/18	Correspondence in response to further submission from APN Group	Mr Montebello
357	06/06/18	Closing Submission for the APA Group Revised CCZ APA	Ms Bannister, Hall & Willcox
358	13/06/18	Closing Submission for SM253	Ms Somerville, Herbert Smith Freehills
359	"	Closing Submission for NRF Landowners Track change version of controls	Ms Choi, Norton Rose Fulbright
360	"	Closing Submission for Delta Group, Kador Group Holdings & Wadhawan Holdings	Ms Wilson, Mills Oakley
361	"	Closing Submission for Claric Ninety Nine Pty Ltd	Mr Msonda-Johnson, Roberts Day
362	"	Closing submission for various owners represented by Planning & Property Partners	Mr Moylan, Planning & Property Partners

	Date	Description	Presented by
363	"	Letter from Russell Kennedy Lawyers advising Sel Reklaw Pty Ltd adopts and supports Document 359	Ms Colsell, Russel Kennedy Lawyers
364	"	Closing Submission for Hanson Construction Materials Pty Ltd	Mr Katz, Cornwall Stodart
365	"	Closing Submission for UDIA Attachments to submission	Ms O'Connor, UDIA
366	"	Closing Submission for EPA	Ms Davies, Environment Protection Authority
367	14/06/18	Revised Hearing Timetable version 9	Ms Harwood, PPV
368	20/06/18	Marked up CCZ Schedule (NRF Changes)	Mr Tweedie
369	"	Marked up Clause 22.XX (NRF Changes)	"
370	"	Marked up DDOs (NRF changes) Lorimer Montague Wirraway Sandridge	"
371	22/06/18	Addendum to EPA closing	Ms Davies, Environment Protection Authority
372	"	Melbourne final closing submission	Ms Forsyth
373	"	Port Phillip final closing submission	Mr Montebello
374	"	Minister for Planning final closing submission	Ms Brennan
375	"	Minister's response to the Councils proposed changes to the controls	"
376	"	SIN 23 Modelling of 13 – 33 Hartley St (Lorimer Precinct)	"

Planning and Environment Act 1987

Fishermans Bend Planning Review Panel
Overview Report – Volume 2
Amended planning controls

19 July 2018

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About Volume 2

Report No. 1 Volume 2 – Amended planning controls of the Review Panel explains the changes proposed to the draft Amendment. It presents ‘clean’ and ‘track changed’ versions of the draft Amendment.

The Review Panel is required to produce a written report for the Minister. Clause 35 outlines the matters the Review Panel must consider in making its recommendations to the Minister which include:

- b. A track change version of the proposed planning scheme schedules and clauses.*
- c. Any additional recommendations for amendments to the proposed Capital City Zone Schedule.*
- d. Any additional recommendations for amendment to all other proposed planning scheme changes sought by the planning scheme amendment.*

This Report should be read in conjunction with the Overview Report, which provides the overview of the context and process of the Review Panel, and the four Precinct Reports.

The draft Amendment

As set out in Chapter 4 of the Overview Report the exhibited version of the draft Amendment was updated and amended three times by the Minister during the course of the Hearings.

The Part C version of the proposed planning controls was provided on 14 May 2018, towards the conclusion of the Hearing (D349). This version made a number of substantial changes to the draft Amendment. It is important to understand that what was exhibited and then translated to the Part A version, and what has been provided in the Part C version are significantly different.

There were three main versions of the draft Amendment presented during the course of the Hearing, together with revised maps and information in separate documents. The lack of rigour in the initial drafting created issues that carried through to subsequent versions meaning that changes aimed at improving the draft Amendment often created what was termed ‘unintended consequences’ as opposed to errors. The poor quality of the drafting of the exhibited Amendment and then subsequent versions created unnecessary issues, adding to length of the Hearing.

Approach of the Review Panel to drafting

1. Clauses without a track change version

The Review Panel has not produced track change versions of a number of clauses, because the changes are relatively simple to understand (or were not part of the draft Amendment). These include:

- Any update to Clause 22.26 of the Melbourne Planning Scheme and the local policy to make it clear that in Fishermans Bend, contributions under Clause 52.01 are preferred as cash rather than land. This is a matter for Melbourne to progress.
- Clause 52.03 to address transition arrangements as discussed in the Overview Report, if this approach is to be taken.
- Clause 66 dealing with notice and referral provisions.
- Clause 81 on Incorporated Documents.

(i) Clause 66

In response to submissions about notice and referral, the Review Panel recommends:

- update Clause 66.04 to make Melbourne and Port Phillip recommending referral authorities for all applications over 25,000 square metres, and the Minister for Planning be a determining referral authority for all matters below 25,000 square metres.
- update Clause 66.06 so that notice of an application of the kind specified must be given to the body specified:
 - permits within 50 metres of the proposed Metro alignment, possible tram routes, proposed bus routes and possible elevated freight routes to Transport for Victoria.

(ii) Clause 81

In response to difficulties interpreting the various plans and maps, the Review Panel recommends the Minister:

- prepare GIS versions of the various plans, include these in a map book and formally incorporate that map book in the planning schemes to assist in interpreting the plans.

To provide better information on uses with adverse amenity impacts the Review Panel recommends:

- incorporate a 'Fishermans Bend Existing Industrial Uses with Adverse Amenity Potential Incorporated Document', but the draft Amendment could be progressed before this is completed.

(iii) MSSs

The Review Panel has not tracked changes to the MSSs. The Review Panel broadly supports the Minister's Part C versions of the MSSs, recognising that some refinements and consequential adjustments may be required as a result of its recommendations on other aspects of the draft Amendment.

In the Port Phillip MSS there are a number of strategies that reference building height that send a potentially confusing message, as to the number of storeys in a particular typology:

6.8.15 ... low to mid-rise built form of up to 8 storeys

6.8.28 ... low to mid-rise (8-12 storeys) and tower (20 storeys) buildings

6.8.29 ... low-rise ... 4 storey heights at Williamstown Road interface

6.8.33 ... mid-rise ... of 12-24 storeys ...

6.8.34 ... low to mid-rise (6 storeys) ...

6.8.35 ... mid-rise (6 storeys) ...

The Review Panel recommends:

- Amend the Melbourne MSS to remove the proposed Map 2D: Community Hub Investigation Areas, and make the necessary consequential changes to the text, for the reasons set out in the Lorimer Precinct Report
- Amend the Port Phillip MSS to:
 - remove the reference to heights in Strategies 6.8.15, 6.8.28, 6.8.29, 6.8.33, 6.8.34, 6.8.35
 - provide for the Sport and Recreation Hub in the proposed expanded Montague North Open Space area for the reasons set out in the Montague Precinct report.

2. Drafting changes

The Review Panel's approach the drafting is explained in Chapters 16 and 17 of the Overview Report.

3. Policy changes

The Overview Report and the Precinct Reports make a number of findings and recommendations in relation to the drafting of the controls.

(i) Clause 22.XX changes

Clause 22.XX include changes that:

- delete the following Reference Documents:
 - Fishermans Bend Community Infrastructure Plan 2017
 - Fishermans Bend Urban Design Strategy 2017
 - Fishermans Bend Waste and Resource Recovery Strategy 2017
 - How to calculate floor area uplift and public benefits in Fishermans Bend.
- delete the Smart cities provisions
- include additional policy guidance on affordable housing and social housing
- include additional policy guidance regarding a 6 Star Green Star – Communities rating for Fishermans Bend.

(ii) Capital City Zone changes

The Capital City Zone Schedule includes changes that:

- replace the dwelling FARs with a specific dwelling density limit with the values recommended by the Review Panel
- remove the cap on non-dwelling (commercial) FAR
- include maps showing amenity and pipeline buffers and revise the text accordingly
- provide a decision guideline for development that is within the pipeline buffer

- include a map that clearly identifies the proposed Metro alignment (when identified), tram and bus routes and elevated freight route
- include application requirements and decision guidelines regarding affordable housing
- remove the mandatory permit conditions requiring developers to construct and transfer streets, roads and laneways that are not funded under an ICP
- require buildings to meet increased Green Star requirements.
- modify the provisions relating to applications within the measurement length of the high pressure gas pipelines
- modify the provisions for exemptions for continuing lawful uses.

(iii) Changes in the Parking Overlay

The Parking Overlay Schedule includes changes that:

- adjust the parking rate for three bedroom dwellings
- remove controls relating to crossovers where they overlap with the CCZ.

(iv) Changes in all Design and Development Overlays

Changes in the Design and Development Overlay Schedules include changes that:

- introduce requirements to ensure delivery of the identified building typologies
- update character statements
- express all height requirements in storeys
- amend the overshadowing controls to:
 - convert the controls for all parks other than Lorimer Central, Montague Park, North Port Oval, Prohasky Park and JL Murphy Reserve into discretionary equinox controls
 - exclude shadow caused by buildings and works within the park itself
 - require decision makers to consider cumulative shadow impacts
- refine the application of street wall heights on corners
- provide the opportunity for buildings to be built to a side boundary where a 'mirror' building can be constructed on the neighbouring site
- simplify the controls on wind impacts
- remove the pedestrian entry requirements from the active frontage control
- simplify the controls on building finishes
- modify the provisions for exemptions for continuing lawful uses
- revise the diagrams to:
 - make it clear that if there is any difference between the diagram and the text that the text takes precedence
 - indicate storeys
 - combine the street wall and set back above street wall diagrams to present the complete picture for any specific condition
 - present discretionary and mandatory requirements
 - use the same metrics to the text controls.

(v) Changes to specific Design and Development Overlays

Changes to specific Design and Development Overlay Schedules are:

- In the Lorimer Design and Development Overlay:

- use a plan to identify what street wall height applies
- include a provision allowing maximum street wall heights to be exceeded where required to deliver typologies other than tower-podium
- In the Montague Design and Development Overlay Schedule:
 - implement a 'tooth and gap approach' for Buckhurst Street.
- In the Sandridge Design and Development Overlay Schedule:
 - remove the specific requirement for the Maximum street wall height for the northeast corner of Fennel and Bridge Street
- In the Wirraway Design and Development Overlay Schedule:
 - implement a 'tooth and gap approach' for Plummer Street
 - update the character description based on Port Phillip submissions.

4. Map changes

On maps in all Precincts delete all laneways from all maps except:

- In Montague:
 - the proposed laneway between Arthur Street and Alfred Street (the short northern most laneway circled in red in Figure 1 below)
 - Proposed laneway generally at the rear of 562 – 600 City Road (circle in red in Figure 1)
- In Lorimer:
 - the proposed laneway to provide access to the rear of 870, 874 – 876, and 880 – 884 Lorimer Street, Port Melbourne.

Figure 1: Montague laneways to be retained on maps



On maps in all Precincts:

- on maps showing Active frontages on laneways include a shaded area with an accompanying legend entry: 'Secondary Type 1 for laneways in this area'
- match the description in the map legend to the description in the table for Active street frontages
- express all height requirements in storeys.

In the CCZ Schedule adds maps for:

- Amenity buffers
- Pipeline buffers
- Transport infrastructure location.

In the DDO Schedule:

- update overshadowing maps to reflect text in the Review Panel preferred versions of the controls.

On maps in Lorimer:

- update subprecinct boundaries between L1 and L2 to accord with Document 342
- remove the proposed service road adjacent to the West Gate Freeway
- remove the 'no crossover' designation from the Ingles Street service road in those locations where the Ingles Street bridge will deliver the strategic cycling corridor.
- modify Map 4: Street wall heights in the DDO Schedule to:
 - refer to the Types in Table 3 in the DDO Schedule
 - show street walls along all open spaces (whether with a direct interface or where separated by a road or laneway) as Type A
 - show street walls along the entire length of the Turner Street linear park as Type A, with a preferred four storey street wall along the northern side, and a preferred six storey street wall along the southern side
 - remove the street wall heights along the interface with the West Gate Freeway and other elevated road structures
- modify Map 5: Overshadowing in the DDO Schedule to:
 - add the notation:
The open space shown on this Map is collectively referred to in this Schedule as the Lorimer Parkway

On maps in Montague:

- delete the area of land at 87 Gladstone Street as public open space
- show the whole of the Montague North site as public open space
- show the open space designation on the site at 400 City Road as 'indicative, subject to site design'.

On maps in Sandridge:

- correct the error in the map legend for four storey areas
- include three proposed road segments south of Fennell Street between Bridge Street and Boundary Street as an indicative link
- remove the 'no crossover' designation from the Ingles Street service road in those locations where the Ingles Street bridge will deliver the strategic cycling corridor
- show the proposed road through the Toyota site at 155 Bertie Street, Port Melbourne as 'indicative'.

On maps in Wirraway:

- correct the error in the map legend for four storey areas
- increase the building heights in the non-core are from six to eight storeys.

5. How to interpret the track changes

(i) What changes are tracked

In the track change versions, the Review Panel has endeavoured to track:

- the actual changes to individual words in the draft Amendment
- all of its recommended changes to the draft Amendment except for three types of changes:
 - formatting changes
 - minor changes to punctuation
 - restructuring the DDO tables.

Minor changes to punctuation

The Review Panel has adopted the following approach to marking up the track change:

- minor punctuation corrections have not always been tracked
- where the edited text now requires a capital letter at the start of a dot point the Review Panel has typically only marked the new capital as an insertion, without showing the deletion of the lower case letter – changes from a capital letter to a lower case letter have typically not been tracked.

Restructuring the DDO tables

The Part C DDOs use a three column table format for requirements in the DDOs.

In the Overview Report the Review Panel identified a number of issues with this approach including:

- it makes the text narrower, reducing readability
- it becomes difficult to follow when the rows break across pages.

The Review Panel believes the controls would be easier to use if a more conventional approach to layout were used, where requirements are expressed in body text and tables are used to set out information in a concise layout.

The Review Panel has undertaken this restructuring, but it is not possible to track all these changes:

- the relocation of the Built form outcomes out of the table and into body text is not tracked, but the subsequent changes to those objectives are tracked
- the construction of the new tables that present the numerical values that apply in a specific situation have not been tracked, but minimal new language has been included without tracking
- changes made to the controls after the construction of the new tables have been tracked.

(ii) Understanding the tracking

The Review Panel has prepared its track change version of the controls based on the Ministers' Part C versions of the draft Amendment. Given the substantial changes to the draft Amendment over the course of the Hearing it is simply not possible to track changes against the exhibited version of the draft Amendment.

The tracking identifies changes in terms of:

- policy changes
- drafting changes
- moved text.

These changes are applied using Word character styles.

Table 1: Mark up used in track change versions

Issue	Mark up	Notes
Policy issues	<u>Text added</u> Text deleted	These are issues that respond to submissions about the content of the controls or potentially raise issues of policy.
Drafting issues	<u>Text added</u> Text deleted	These are essentially policy neutral drafting improvement that flow from applying the drafting principles adopted by the Review Panel.
Moved text	Moved from Moved to	These simply track the movement of text from restructuring. The Review Panel has tracked changes to moved text in its new location where appropriate.

Appendix A: List of recommended planning scheme changes

	Clause in planning scheme	Melbourne planning scheme	Port Phillip planning scheme
21	Municipal Strategic Statement	Amend various clauses as proposed in the Part C controls, with any consequential changes also made Make the changes set out in Section 1(iii) of this Report	Amend various clauses as proposed in the Part C controls, but with any consequential changes also made Make the changes set out in Section 1(iii) of this Report
22	Local Policy	Replace the Policy at Clause 22.27 with a new policy 'Fishermans Bend Urban Renewal Area' as presented in Appendix B	Replace the Policy at Clause 22.15 with a new policy 'Fishermans Bend Urban Renewal Area' as presented in Appendix B
37.04	Capital City Zone	Replace Schedule 4 with a new Schedule 4 as presented in Appendix B	Replace Schedule 1 with a new Schedule 1 as presented in Appendix B
42.01	Environmental Significance Overlay		Amend Environmental Significance Overlay 1 as proposed in the draft Amendment
43.02	Design and Development Overlay	Replace Schedule 67 with a new schedule as presented in Appendix B	Replace Schedule 30 to Clause 43.02, Design and Development Overlay with three new precinct based schedules as presented in Appendix B
45.03	Environmental Audit Overlay	Apply the Environmental Audit Overlay as proposed in the draft Amendment	
45.09	Parking Overlay	Replace Schedule 13 with a new Schedule 13 as presented in Appendix B	Replace Schedule 1 with a new Schedule 1 as presented in Appendix B
52.03	Specific sites and exclusions	Refer to discussion in Chapter 15 of the Overview Report	
61	Administration of the scheme	Amend schedules to Clauses 61.03 as required	Amend schedules to Clauses 61.03 as required
66.04 66.06	Referral and notice of permit applications under local provisions	Amend Clauses 66.04 and 66.06 as set out in Section 1(i) of this Report	
81.01	Incorporated documents	Remove reference to the <i>Fishermans Bend Strategic Framework Plan (September 2016)</i> Include a 'Fishermans Bend' map book with high resolution plans	

Appendix B: Clean versions of the Review Panel preferred versions

Appendix B.1: Clause 22.XX – clean version

22. XX FISHERMANS BEND URBAN RENEWAL AREA

--/--/20-- This policy applies to use and development of all land within Fishermans Bend affected by the Capital City Zone Schedule [1 PPPS, 4 MPS] or Design and Development Overlay Schedule [30 PPPS, 67 MPS]

To the extent of any inconsistency with another local policy, this local policy prevails.

22.XX-1 Policy basis

--/--/20-- This policy implements the vision for Fishermans Bend, as set out in the draft Fishermans Bend Framework, 2017 as a ‘thriving place that is a leading example for environmental sustainability, liveability, connectivity, diversity and innovation’ that, by 2050, will accommodate between 80,000 and 120,000 residents, 40,000 jobs and be Australia’s largest Green Star – Community. Fishermans Bend is striving for a 6 Star Green Star – Communities rating.

This policy supports:

- Locating the highest densities of employment opportunities close to existing and planned public transport.
- Delivering housing opportunities for a diverse community.
- Providing at least six per cent of dwellings as Affordable housing, with additional Social housing dwellings provided as part of a Social housing uplift scheme.
- Creating a place of design excellence.
- 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 a climate adept community that is resilient to extreme weather events.
- 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 in the first instance with measures which maintain activity at ground level.
- Creating a low waste community that is designed to provide best practice waste and resource recovery management.
- Creating a connected, permeable and accessible community that prioritises walking, cycling, and public transport use.
- Encouraging developments to be designed to support 80 per cent of movements via active and public transport.
- Encouraging new uses and developments to implements measures to mitigate against adverse amenity impacts from existing industrial uses.

22.XX-2 Objectives

--/--/20-- To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.

To create a prosperous community that supports diverse employment opportunities across all precincts that build on proximity to the Central City and Port of Melbourne.

To promote employment generating floor space in all precincts that supports growth in the knowledge, creative, design, innovation, engineering, and service sectors.

To create mixed use neighbourhoods that have distinct identity and character consistent with the preferred character for each precinct.

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 encourage the transition over time from a primarily industrial area to a high-density mixed uses area and to support the continued operation of existing industrial uses.

Definitions

The following definitions apply for the purposes of interpreting this policy:

Affordable housing has the same meaning as in the *Planning and Environment Act 1987*.

Dwelling density (dw/ha) means the number of dwellings on the site divided by the total site area (hectares), including any proposed road, laneway and public open space.

Social housing has the same meaning as in the *Housing Act 1983*.

Social housing uplift means dwellings that exceed the number of dwellings allowable under the dwelling density requirements in the Schedule to the Capital City Zone.

22.XX-3 Policy

22.XX-3.1 Providing for employment floor area

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It is policy to assess proposals against the following criteria:

- Development in a Core area in the relevant Map in Schedule # to the CCZ should provide floor area for employment generating uses. Table 1 sets out the preferred minimum plot ratio that should be provided for a use other than Dwelling.

Table 1: Minimum plot ratio not used for Dwelling

Precinct	Minimum plot ratio not used for Dwelling
Lorimer	1.7:1
Wirraway	1.9:1
Sandridge	3.7:1
Montague	1.6:1

Where development in the Core areas provides less than the minimum plot ratio set out in Table 1, the responsible authority will consider as appropriate:

- Whether the built form envelope available on the site makes it impractical to provide the minimum plot ratios.
- Whether the application is associated with the continued operation or expansion of an existing employment or residential use on site.
- Whether the building floor to floor heights, layout and design will facilitate future conversion from residential to employment generating uses or from car parking areas to other uses.
- Whether the development can demonstrate that it is contributing to the employment objectives of this policy while providing less than the minimum plot ratio.

22.XX-3.2 Community and diversity

It is policy to:

- Encourage a diversity of dwelling typologies and sizes within each precinct and within individual development sites.
- Encourage Affordable housing to comprise a range of built form typologies.
- 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.

It is policy to assess proposals against the following criteria:

- Proposals of more than 100 dwellings should provide the following percentage of three-bedroom dwellings:
 - Lorimer: 20 per cent
 - Wirraway: 30 per cent
 - Sandridge: 20 per cent
 - Montague: 25 per cent.

22.XX-3.3 Providing for Affordable including Social housing

Affordable housing

It is policy to assess proposals against the following criteria:

- Development should provide at least six per cent of dwellings permitted under the dwelling density requirements in the Capital City Zone (excluding any Social housing uplift dwellings) as Affordable housing, unless, any of the following apply:
 - The built form envelope available on the site makes it impractical to do so.
 - It can be demonstrated that the development will contribute to the Affordable housing objectives of this policy while providing less than the minimum amount.
 - It can be demonstrated that meeting the Affordable housing objectives of this policy would render the proposed development economically unviable.
- Affordable housing should:
 - Be a mix of one, two and three bedrooms that reflects the overall dwelling composition of the building.
 - Have internal layouts identical to other comparable dwellings in the building.
 - Be externally indistinguishable from other dwellings.

Social housing

It is policy to:

- Encourage development to provide Social housing, in addition to the provision of six per cent Affordable housing, by allowing a Social housing uplift

equivalent to eight additional private dwellings of equivalent size for each Social housing unit provided.

Where a Social housing uplift is sought the responsible authority, in consultation with the housing provider receiving the proposed Social housing, will consider as appropriate:

- Whether the proposed Social housing is consistent with state and local policy, and strategic initiatives.
- Whether the proposed Social housing can be realistically delivered and secured by a suitable legal agreement.
- Whether the proposed Social housing is supported by the proposed housing provider receiving the housing and can be maintained as Social housing in perpetuity.
- Whether the Social housing uplift will have acceptable consequences, having regard to the preferred character of the area, and the level of public transport and other infrastructure available.

22.XX-3.4 Design excellence

It is policy to:

- Encourage varied built form typologies that align with the precinct character area as detailed in the Design and Development Overlay.
- Encourage a fine-grain, pedestrian scale environment.

It is policy to assess proposals against the following criteria:

- Buildings should contribute to a high quality public realm.
- Development should deliver spaces, including open spaces, for people to meet, gather, socialise, exercise and relax.
- Development should deliver variation in massing, building height, and roof forms and staggering or offsetting of tower footprints.

22.XX-3.5 Achieving a climate adept, water sensitive, low carbon, low waste community

Energy

It is policy to assess proposals against the following criteria:

- Developments should achieve a 20 per cent improvement on current National Construction Code energy efficiency standards. This includes energy efficiency standards for building envelopes and for lighting and building services.
- Residential developments should achieve an average 7 star NatHERS rating for each building.
- Development should incorporate renewable energy generation, on-site energy storage, and opportunities to connect to a future precinct-wide or locally distributed low carbon energy supply.

Urban heat island

It is policy to assess proposals against the following criteria:

- At least 70 per cent of the total site area should comprise building or landscape elements that reduce the impact of the urban heat island effect including:
 - Vegetation, green roofs and water bodies.
 - Roof materials, shade structures or hard scaping materials with high solar reflectivity index, including solar panels.
- Non-glazed facade materials exposed to direct summer sun should have a low solar absorptance.

Sea level rise, flooding and water recycling and management

It is policy to:

- Only consider raising internal ground floor level above street level as a last resort, 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 flood resilient, including waterproof doors and windows, elevated power outlets and the like.
- Land uses at ground floor 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.

Waste management

It is policy to assess proposals against the following criteria:

- Development should respond to any precinct waste management plan.
- Where practicable, developments should create opportunities to:
 - Optimise waste storage and efficient collection methods.
 - Combine commercial and residential waste storage.
 - Share storage or collections with adjacent developments.
 - Separate collection for recycling, hard waste, and food and green waste.

22.XX-3.6 Communal open spaces

It is policy to:

- 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, usability 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.

22.XX-3.7 Landscaping

It is policy to:

- Encourage developments to provide landscaping in all areas of open space including public open space, communal open space, and private open space.

It is policy to assess proposals against the following criteria:

- Landscape areas should:
 - Contribute to the creation of a sense of place and identity and the preferred character sought for the precinct.
 - Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice Water Sensitive Urban Design.
 - Incorporate opportunities for community gardens.
 - For public open space, interpret and celebrate heritage and culture, including Aboriginal cultural heritage.
- Plant selection should:
 - Support the creation of complex and biodiverse habitat that includes native and indigenous flora and fauna.
 - Balance the provision of native and indigenous plants with exotic climate resilient plants that provide resources for biodiversity.
 - Support the creation of vegetation links within Fishermans Bend to surrounding areas of biodiversity through planting selection and design.
 - Incorporate food plants.
- Buildings should:
 - Include deep soil zones of at least 1.5 metres or planter pits to accommodate canopy trees.
 - Incorporate green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to microclimate conditions.

22.XX-3.8 New streets, laneways and pedestrian connections

It is policy to assess proposals against the following criteria:

- New streets, laneways and pedestrian connections should be spaced:
 - In Core areas, not more than 50 to 70 metres apart in the preferred direction and 100 metres apart in the other direction in a block.
 - In Non-core areas, not more than 100 metres apart and be oriented in the preferred direction.

The preferred direction for new pedestrian connections and laneways is:

 - In Lorimer north of the Lorimer Parkway, north–south, to encourage better connections with the Yarra River.
 - In Montague, north–south.
 - In Sandridge, north–south.
 - In Wirraway, north–south.
- Sites of more than 3000 square metres should provide new streets, laneways or paths to create mid-block through links and define and separate buildings.
- New streets, laneways and pedestrian connections should be:
 - Be aligned with and connected to existing and proposed streets as shown in the relevant Maps in the Schedule to the Capital City Zone, laneways and pedestrian connections.
 - Provide direct access to existing or proposed public transport stations and routes, and existing or proposed public open space.
- New shared streets or shared laneways should prioritise pedestrian movement and safety.
- New streets and laneways should be designed to:
 - Enable views through the street block.

- Have active frontages in a Core areas.
- Be open to the sky.
- Allow for the canopy tree planting.

22.XX-3.9 Sustainable transport

It is policy to:

- Ensure development does not compromise the delivery of future public transport including new tram, train and bus routes.
- Reduce impacts of new vehicle access points on pedestrian, public transport and bicycle priority routes.
- 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.
- Encouraging development to provide less than the preferred maximum number of car spaces.
- Encourage development to provide for future conversion of car parking to alternative uses.

22.XX-4 Land use transition

It is policy to:

- Ensure new uses and the expansion of existing uses with potential adverse amenity impacts do not prejudice the urban renewal of Fishermans Bend.
- For applications that might be affected by adverse amenity impacts, require an Amenity Impact Plan that includes measures to mitigate adverse amenity impacts.

22.XX-5 Reference documents

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Fishermans Bend Vision, September 2016

Fishermans Bend draft Framework, 2017

Appendix B.2: Capital City Zone – clean version

SCHEDULE [1] [4] TO CLAUSE 37.04 CAPITAL CITY ZONE

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Shown on the planning scheme map as **[CCZ1] [CCZ4]**.

FISHERMANS BEND URBAN RENEWAL AREA

Purpose

To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.

To create a highly liveable mixed use area well serviced by public transport, and encourage a scale of growth that is aligned with the provision of public transport and other infrastructure.

To create a world leading sustainable urban renewal area that incorporates sustainable transport patterns and best practice sustainable design into all developments.

To provide public benefit in the form of Social housing where development exceeds the nominated Dwelling density.

To support the continued operation of strategically important existing uses and existing industrial uses that provide services to the construction industry, and to apply the agent of change principle to ensure that new development for sensitive uses incorporates measures to mitigate potential amenity impacts from those industrial uses.

1.0

Table of uses

Section 1 - Permit not required

Use	Condition
Accommodation (other than Dwelling, Corrective institution, Motel, Residential aged care facility, Residential hotel)	Must not be within an Amenity buffer shown on [Map 5] . Must not be within the Pipelines buffer shown on [Map 6] .
Art and craft centre	
Bank	Must be located in a Core area with frontage to a Primary or Secondary active frontage street shown on the relevant Urban Structure map.
Child care centre	Must not be within an Amenity buffer shown on [Map 5] . Must not be within the Pipelines buffer shown on [Map 6] .
Cinema based entertainment facility	Must be located in a Core area with frontage to a Primary or Secondary active frontage street shown on the relevant Urban Structure map. Must not be within the Pipelines buffer shown on [Map 6] .
Department store	Must be located in a Core area with frontage to a Primary or Secondary active frontage street shown on the relevant Urban Structure map.
Display home	

Use	Condition
Dwelling	Must be in a Non-core area. Must not be within an Amenity buffer shown on [Map 5]. Must not be within the Pipelines buffer shown on [Map 6].
Education centre	Must not be within an Amenity buffer shown on [Map 5].
Home occupation	Must meet requirements of Clause 52.11.
Informal outdoor recreation Minor sports and recreation facility	
Motel	Must not be within an Amenity buffer shown on [Map 5].
Office (other than Bank)	
Place of assembly (other than Function centre and Nightclub)	Must not be within the Pipelines buffer shown on [Map 6].
Railway station	
Retail premises (other than Hotel, Shop and Tavern) Restricted retail premises	Must not exceed 1000 square metres gross leasable floor area, and be located in a Core area.
Residential aged care facility Residential hotel	Must not be within an Amenity buffer shown on [Map 5].
Shop (other than Adult sex bookshop, Department store, Supermarket and Restricted retail premises)	
Supermarket	Must be located in a Core area with frontage to a Primary active frontage street shown on the relevant Urban Structure map.
Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Accommodation (other than Dwelling, Corrective institution, Motel, Residential aged care facility, Residential hotel)	
Adult sex bookshop	
Function centre Hotel Leisure and recreation (other than Informal outdoor recreation, Minor sport and recreation facility, Motor racing track and Racecourse) Nightclub Tavern Transport terminal (other than Airport and Railway station)	
Any other use not in Section 1 or 3	

Section 3 - Prohibited**Use**

Airport
Brothel
Cemetery
Corrective institution
Motor racing track
Racecourse
Pleasure boat facility

2.0 Use of land**2.1 Requirements**

The use of land must be generally in accordance with the Maps in this schedule.

Use of the land for a dwelling must not exceed the Dwelling density specified in Table 1.

The use of land for a dwelling may exceed the specified Dwelling density where an agreement under Section 173 of the Act has been entered into between the landowner, the responsible authority and the local council (if not the responsible authority) that requires the landowner to either:

- Provide at least one Social housing dwelling for every eight dwellings provided above the number of dwellings allowable under the specified dwelling density.
- Provide dwellings above the number of dwellings allowable under the specified dwelling density as part of shared accommodation use, such as student accommodation or a boarding house, and where those dwellings are not subdivided.
- Provide dwellings above the number of dwellings allowable under the specified dwelling density for a 'build-to-rent' project and where those dwellings are not subdivided.

These requirements do not apply to an application for the use of land in accordance with a planning permit for buildings and works granted before [\[insert the approval date of Amendment GC81\]](#).

Table 1: Dwelling density

Precinct	Core area	Non-core area
Lorimer	339 dw/ha	Not applicable
Montague	440 dw/ha	290 dw/ha
Sandridge	414 dw/ha	225 dw/ha
Wirraway	203 dw/ha	348 dw/ha

2.2 Application requirements

The following application requirements apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

Residential development

An application to use land for a Dwelling, Residential village or Retirement village must be accompanied by a report that addresses:

- How the proposal contributes to an activated frontage.

- How the proposal achieves the Community and diversity objectives of the Fishermans Bend Urban Renewal Local Policy, including an assessment of the composition and size of dwellings proposed.
- How the proposal contributes to the job growth targets and employment floor area set out in the Fishermans Bend Urban Renewal Area Local Policy.

Industry and warehouse uses

An application to use land for an industry or warehouse must be accompanied by the following information, as appropriate:

- The purpose of the use and the types of processes to be utilised.
- The type and quantity of goods to be stored, processed or produced.
- How land not required for immediate use is to be maintained.
- Whether a Works Approval or Waste Discharge Licence is required from the Environment Protection Authority.
- Whether a notification under the *Occupational Health and Safety Regulations 2017* is required, a licence under the *Dangerous Goods Act 1985* is required, or a fire protection quantity under the *Dangerous Goods (Storage and Handling) Regulations 2012* is exceeded.
- The likely effects, if any, on the neighbourhood and the urban renewal of Fishermans Bend, including:
 - Noise levels.
 - Airborne emissions.
 - Emissions to land or water.
 - Traffic, including the hours of delivery and dispatch.
 - Light spill or glare.

2.3 Exemption from notice and review

An application for the use of land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

This exemption does not apply to an application to use land for a nightclub, tavern, hotel or adult sex bookshop.

2.4 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- If a dwelling is proposed, whether the proposal:
 - Creates an activated ground floor, particularly in Core areas.
 - Provides home offices or communal facilities that support ‘work from home’ or ‘mobile’ employment.
 - If within a buffer area to the Port of Melbourne shown on [Map 5], has an appropriate intensity of use.
 - Provides Affordable housing consistent with the objectives and targets set out in the Fishermans Bend Urban Renewal Area Local Policy.
- Whether the use provides the non-Dwelling plot ratio set out in the Fishermans Bend Urban Renewal Area Local Policy.
- The impact the proposal has on the realisation of employment targets.
- The temporary uses of land not immediately required for the proposed use.

- Whether the proposal incorporates appropriate measures to mitigate against adverse amenity from existing industrial or warehouse uses identified in any Fishermans Bend Existing Industrial Uses with Adverse Amenity Potential Incorporated Document (where relevant).
- Whether the use would create an unreasonable increase in the risk of undesirable outcomes by being located within the pipeline buffer.

3.0 Subdivision

3.1 Requirements

The subdivision of land must be generally in accordance with Maps of this schedule. This does not include streets or laneways marked as indicative.

This requirement does not apply to an application for the subdivision of land in accordance with a planning permit for buildings and works granted before [insert the approval date of Amendment GC81].

Car parking areas must be retained in a single or a consolidated title as common property, unless the responsible authority agrees otherwise.

These requirements do not apply to a subdivision of land in accordance with a planning permit for buildings and works granted before [insert the approval date of Amendment GC81].

3.2 Application requirements

The following application requirements apply to an application for a permit to subdivide land under Clause 37.04-3, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A layout plan, drawn to scale and fully dimensioned showing:
 - The location, shape and size of the site.
 - The location of any existing buildings, car parking areas and private open space.
 - The location, shape and size of the proposed lots to be created.
 - The location of any easements on the subject land.
 - The location of abutting roads, services, infrastructure and street trees.
 - Any proposed common property to be owned by a body corporate and the lots participating in the body corporate.
- Information that demonstrates how the subdivision makes provision for roads, streets, laneways and open spaces, generally in accordance with the relevant Maps of this schedule.
- Information that demonstrates how the subdivision will allow for the transition of car parking spaces to alternate uses over time.

3.3 Exemption from notice and review

An application for the subdivision of land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.4 Decision guidelines

The following decision guidelines apply to an application for a permit to subdivide land under Clause 37.04-3, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The contribution the proposed subdivision makes to a fine-grain precinct, and pedestrian and bicycle permeability.
- Whether the subdivision will facilitate the future adaptation or repurposing of proposed car parking areas.
- Whether the subdivision provides for the necessary utilities infrastructure to service the development of the subdivided parcels, and allows for shared trenching.
- Whether any proposed staging of development is appropriate.
- The impacts the subdivision may have on landscape opportunities along street frontages, particularly for large canopy trees.
- Whether the subdivision can accommodate an appropriate building envelope.

3.5 Existing uses

The requirements of Clause 3.0 set out above do not apply to an application for subdivision associated with a continuing lawful use of land.

In considering whether a permit should be granted for the subdivision of land associated with an ongoing existing use of land, the responsible authority must consider, as appropriate:

- The impact of the proposed subdivision on the amenity of the future urban renewal area.
- Whether the grant of the permit will prejudice the achievement or orderly development of the future urban structure for the area.
- Whether the subdivision supports the continued operation of an existing use that is of strategic importance, or that will facilitate the urban renewal of Fishermans Bend.

4.0 Buildings and works

4.1 Permits required

No permit is required to construct a building or construct or carry out works for the following:

- An addition of or modification to a verandah, awning, sunblind or canopy of an existing building.

A permit is required to demolish or remove a building or works, except for:

- The demolition or removal of temporary structures.
- The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law.

4.2 Requirements

The construction of a building, and the carrying out of works, must be generally in accordance with the relevant Maps of this schedule. This does not include streets or laneways marked as indicative.

This requirement does not apply to an application to amend a permit issued before [insert the approval date of Amendment GC81].

Dwelling density

A permit must not be granted to construct a building or construct or carry out works with a Dwelling density in excess of the Dwelling density in Table 1 unless an agreement under Section 173 of the Act has been entered into between the landowner, the responsible authority and the local council (if not the responsible authority) that requires the landowner to either:

- Provide at least one Social housing dwelling for every eight dwellings provided above the number of dwellings allowable under the specified dwelling density.
- Provide dwellings above the number of dwellings allowable under the specified dwelling density as part of shared accommodation use, such as student accommodation or a boarding house, and where those dwellings are not subdivided.
- Provide dwellings above the number of dwellings allowable under the specified dwelling density for a ‘build-to-rent’ project and where those dwellings are not subdivided.

Bicycle, Motorcycle and Car share parking

Developments must provide bicycle, motorcycle and car share parking space in accordance with Table 2.

Table 2: Parking Provision

		Bicycle spaces	Motorcycle spaces	Spaces allocated to a car share scheme	
Developments of more than 50 dwellings	Provision of spaces	1 per dwelling	1 per 50 dwellings	2 spaces plus 1 per 25 car spaces.	
	Provision of visitor spaces	1 per 10 dwellings	None specified	None specified	
Developments with over 10,000 sqm non-residential floor space	Provision of spaces	1 per 50 sqm of net non-residential floor area	1 per 100 car parking spaces	For all developments with 120 or less car spaces: A minimum of 2 spaces	For developments with more than 120 car spaces: 1 per 60 car parking spaces
	Provision of visitor spaces	1 per 1000 sqm of net non-residential floor area	None specified	None specified	

Vehicle access points and crossovers

A permit must not be granted to construct a building or construct or carry out works where the vehicle access points and crossovers (not including openings for a road) are located along roads designated as ‘no cross overs permitted’ in the relevant Map of this schedule, unless no other access is possible.

4.3 Conditions on permits

Green Star rating

A permit granted to construct a building or to construct or carry out works:

- For a new buildings or additions that contain 10 or more dwellings or 5000 square metres or more of floor space must include the following conditions:
 - Prior to the commencement of buildings and works, evidence must be submitted 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.
 - Within 12 months of occupation of the building, certification must be submitted that demonstrates that the building has achieved a minimum 5 Star Green Star Design and As-Built rating (or equivalent).

- For other buildings and alterations and additions of more than 50 square metres must include the following conditions:
 - Prior to the commencement of buildings and works, evidence must be submitted that demonstrates the project has been registered to seek a minimum 4 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.
 - Within 12 months of occupation of the building, certification must be submitted that demonstrates that the building has achieved a minimum 4 Star Green Star Design and As-Built rating (or equivalent).

Third pipe and rain tank

A permit granted to construct a building or to construct or carry out works must include the following conditions.

- A third pipe must be installed for recycled water to supply non-potable uses within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.
- 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.
- A rainwater tank must be provided that:
 - has a minimum capacity of 0.5 cubic metres for every 10 square metres of catchment area to capture rainwater from 100% of suitable roof rainwater harvesting areas;
 - 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.

Footing and foundations within 50 metres of the Metro alignment

A permit granted to construct a building or to construct or carry out works within 50 metres of a potential future Metro alignment shown on the relevant Map of this schedule must include the following condition:

- Prior to the commencement of buildings and works, plans must be submitted to the satisfaction of the responsible authority in consultation with Transport for Victoria showing that the proposed building footings and foundations will not compromise delivery of the proposed future Metro alignment.

Development near gas transmission pipelines

A permit granted to construct a building or to construct or carry out works on land within 50 metres of the high pressure gas transmission pipelines shown on [Map 6] must include the following condition:

- Before development including demolition starts, a Construction Management Plan, addressing the protection of the pipeline must be prepared in consultation with the operator of the pipeline and submitted to and approved by the responsible authority.

This condition is not required on a permit to construct alterations and additions to an existing building.

4.4 Application requirements

The following application requirements apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A written urban context report documenting the key planning influences on the development and how it relates to its surroundings.

- A design response detailing how the design makes provision for streets, laneways and open space generally in accordance with the relevant Maps of this schedule.
- A 3D digital model suitable for insertion into the responsible authority’s interactive city model.
- An assessment and report detailing how the proposal responds to the Fishermans Bend Urban Renewal Area Local Policy.
- Any technical or supporting information necessary, prepared by suitably qualified professionals, including:
 - A Sustainability Management Plan addressing Environmentally Sustainable Design, Waste and Water management.
 - A Sustainable Transport Plan demonstrating how the development supports sustainable travel behaviour and promotes active transport modes.
 - A Landscape Plan for all areas of open space, except private open space for dwellings, providing for biodiversity, canopy tree planting, water sensitive urban design and microclimate management of buildings.

Affordable housing including Social housing

An application to construct a building or to construct or carry out works for a Dwelling must be accompanied by the following information, to the satisfaction of the responsible authority:

- A report that addresses how the proposal contributes to the Affordable housing objectives and targets of the Fishermans Bend Urban Renewal Local Policy, and identifies:
 - The number and location of Affordable housing dwellings proposed to be provided.
 - The proportion of total dwellings that are proposed to be Affordable housing dwellings.
 - The mix of one, two and three-bedroom Affordable housing dwellings that reflects the overall dwelling composition of the building.
- Plans that demonstrate that:
 - The proposed Affordable housing dwellings have internal layouts similar to other comparable dwellings in the building.
 - The proposed Affordable housing dwellings will be externally indistinguishable from other dwellings.

These plans are not required for Affordable housing that is proposed to be provided as Social housing.
- If Social housing is proposed, a report that:
 - Includes a dwelling schedule that shows the number, size and composition of private dwellings, Social housing dwellings, and private dwellings proposed to be provided to obtain a Social housing uplift.
 - Provides details of the participating registered agency proposed to own or manage the Social housing units.
 - Provides evidence of the agency’s agreement to own or manage the Social housing units.

Amenity impacts from existing industrial uses, freight routes and transport corridors

An application to use land within an Amenity buffer shown on [Map 5] for:

- Accommodation.
- Child care centre.
- Education centre.
- Hospital.

- Informal outdoor recreation.
must be accompanied by an Amenity Impact Plan that responds to any Fishermans Bend Existing Industrial Uses with Adverse Amenity Potential Incorporated Document and includes, as appropriate:
 - Measures to mitigate potential amenity impacts from uses and activities with potential adverse amenity impacts.

4.5 Exemption from notice and review

An application to demolish or remove a building or to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.6 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.04-4, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposal responds satisfactorily to the Fishermans Bend Urban Renewal Area Local Policy.
- Whether the layouts of streets, laneways and open space are generally in accordance with those shown in the relevant Maps of this schedule.
- How the proposal contributes to establishing sustainable transport as the primary mode of transport through integrated walking, cycling and pedestrian links.
- Whether the development supports the function, form and capacity of public spaces and public infrastructure.
- For proposals within an Amenity buffer shown on [\[Map 5\]](#), whether the proposal includes appropriate mitigation measures to protect against off-site amenity impacts.
- Whether the proposal is designed for all deliveries, servicing and waste management to occur on site.
- Whether the proposed vehicle access to and from the development impacts on the provision of public transport, pedestrian and cyclist safety, and whether there are any constraints to vehicle access to the site.
- The proposed sustainability rating of the building.
- Whether appropriate sustainable water, waste and energy management is proposed.
- Where only part of a site is developed, whether an agreement under section 173 of the Act has been entered into between the landowner, the responsible authority and the local council (if not the responsible authority) to ensure that the Dwelling density across the whole of the site will not be exceeded and whether the development is sited so that adequate setbacks are maintained in the event that the site is subdivided or otherwise altered to create a separate future development site.
- The management and maintenance of any Affordable housing, including Social housing.
- Any impacts to the future Metro train alignment, the possible tram alignments, bus routes and the potential future elevated freight alignment.
- Where the buildings and works are within 50 metres of the potential future elevated freight route shown in the relevant Map to this schedule:
 - Whether the proposed building location and access points will compromise construction of the future freight route.

- The views of Transport for Victoria.
- Whether residential development includes floor plate layouts and servicing strategies that demonstrate a future capacity to allow one and two-bedroom dwellings to be combined and adapted into three or more bedroom dwellings.

Demolition and removal of buildings

Before deciding on an application to demolish or remove a building or works, the responsible authority must consider any need for a condition requiring an agreement under section 173 of the Act to be entered into by the landowner and the responsible authority and the local council (if not the responsible authority) requiring:

- Temporary buildings or works on the vacant site should it remain vacant for six months after completion of the demolition.
- Temporary buildings or works on the vacant site where demolition or construction activity has ceased for an aggregate of six months after commencement of the construction.
- Temporary buildings or works may include:
 - The construction of temporary buildings for short-term retail or commercial use. Such structures must include the provision of an active street frontage.
 - Landscaping of the site for the purpose of public recreation and open space.
 - A demolition plan, detailing the staging of demolition and any temporary works proposed.

4.7 Existing uses

The requirements of Clause 4.0 set out above do not apply to an application for buildings and works associated with a continuing lawful use of land.

In considering whether a permit should be granted for buildings and works associated with an existing use of land for industry or warehouse, the responsible authority must consider, as appropriate:

- The impact of the proposed buildings and works on the amenity of the future urban renewal area.
- Whether the grant of the permit will prejudice the achievement or orderly development of the future urban structure for the area.
- Whether the buildings and works support the continued operation of an existing industrial use that is of strategic importance, or that will facilitate the urban renewal of Fishermans Bend.
- Whether the buildings and works may compromise the delivery of the potential future Metro alignment, the possible tram alignments or the future elevated freight route.

5.0 Advertising signs

A permit is required to construct and display a sign except for:

- Advertising signs exempted by Clause 52.05-4.
- Renewal or replacement of an existing internally illuminated business identification sign.
- A home occupation sign with an advertisement area not more than 0.2 square metres.
- A direction sign where there is only one to each premises.
- In Core areas as shown on the relevant Map of this schedule, a business identification sign, bed and breakfast sign, home occupation sign, or promotion sign, that have a combined total advertisement area to each premises not exceeding 8 square metres.

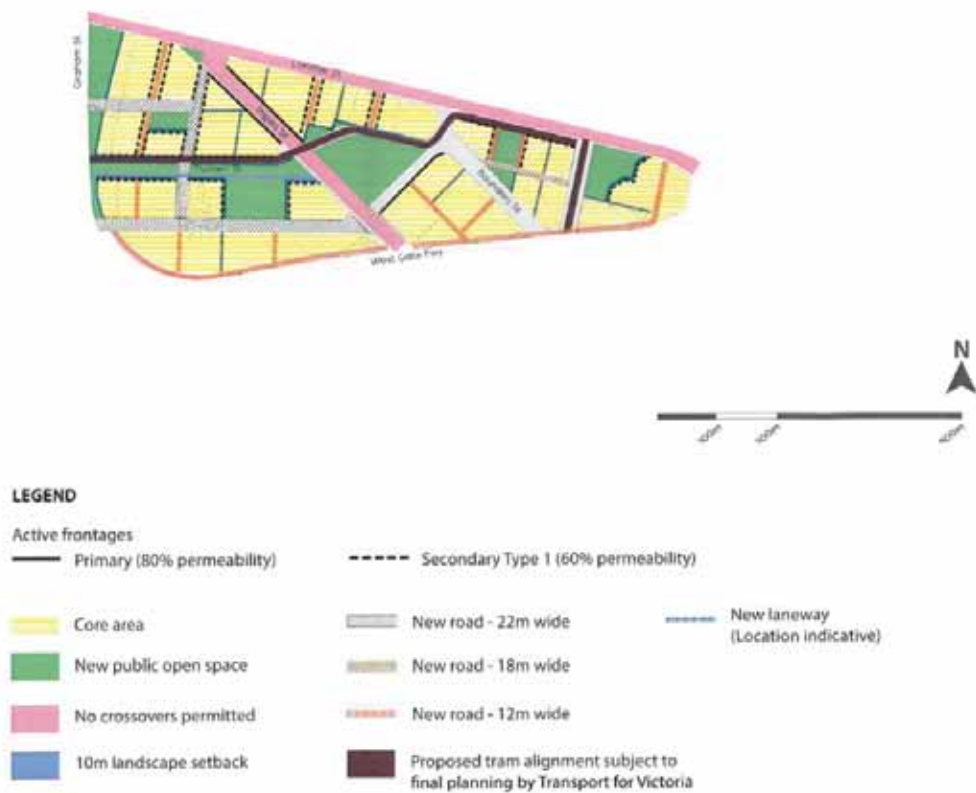
- In Core areas as shown on the relevant Map of this schedule, an internally illuminated sign of no greater than 1.5 square metres and the sign is not above a verandah or more than 3.7 metres above pavement level. The sign must be more than 30 metres from a residential zone or pedestrian or traffic lights.
- In Core areas as shown on the relevant Map of this schedule, a non-illuminated sign provided no part of the sign protrudes the fascia of the building.

Exemption from notice and review

An application to construct and display a sign is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

Map 1: Lorimer Urban Structure

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 2: Montague Urban Structure

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 3: Sandridge Urban Structure

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 4: Wirraway Urban Structure

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



MAP 5: Amenity buffers map

[Insert a new map that shows land within the threshold distance from industrial or warehouse uses referred to in the table to Clause 52.10, and land within 300 metres of 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne]

MAP 6: Pipelines buffers map

[Insert a new map that shows land within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline, and land within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.]

MAP 7: Transport infrastructure

[Insert a new map that shows the elevated freight route, metro route, possible tram routes and future bus routes.]

Definitions

The following definitions apply for the purposes of interpreting this schedule:

Affordable housing has the same meaning as in the *Planning and Environment Act 1987*.

Core area and **Non-core area** are those area identified on the relevant Map.

Dwelling density (dw/ha) means the number of dwellings on the site divided by the total site area (hectares), including any proposed road, laneway and public open space.

Social housing has the same meaning as in the *Housing Act 1983*.

Social housing uplift means dwellings that exceed the number of dwellings allowable under the dwelling density requirements in this Schedule.

Appendix B.3: Parking Overlay – clean version

SCHEDULE [1] [13] TO CLAUSE 45.09 PARKING OVERLAY

Shown on the planning scheme map as [PO1] [PO13].

FISHERMANS BEND URBAN RENEWAL AREA

1.0 Parking objectives to be achieved

To identify appropriate car parking rates for various uses in the Fishermans Bend Urban Renewal Area.

To provide for the future adaptation of car parking to other uses and innovations in transport technology.

To encourage alternative forms of parking to be provided including car share and precinct based parking.

2.0 Permit requirement

A permit is required to provide more than the maximum parking provision specified for a use in Table 1 to this schedule.

This does not apply to the provision of additional car parking that is allocated for car share or precinct based parking to the satisfaction of the responsible authority.

3.0 Number of car parking spaces required

If a use is specified in the table below, the maximum number of car parking spaces to be provided for the use is calculated by multiplying the *rate* specified for the use by the accompanying *measure*.

For all other uses listed in Table 1 of Clause 52.06-5, the maximum number of car parking spaces to be provided for the use is calculated by multiplying the *rate* in Column B of Table 1 in Clause 52.06-5 specified for the use by the accompanying *measure*.

Table 1: Maximum car parking spaces

Use	Rate	Measure
Dwelling	0.5	To each 1 or 2 bedroom dwelling
	1	To each 3 or more bedroom dwelling
Industry	1	To each 150 square metres of gross floor area
Office	1	To each 100 square metres of gross floor area
Place of assembly	1	To each 100 square metres of gross floor area
Residential Village, Retirement Village	0.5	To each dwelling
Restricted retail premises	1	To each 100 square metres of gross floor area
Retail premises	1	To each 100 square metres of gross floor area
Supermarket	2	To each 100 square metres of gross floor area

4.0 Application requirements and decision guidelines for permit applications

Application requirements

An application to provide more than the maximum parking provision specified in Table 1 of this schedule must be accompanied by a statement that demonstrates how any additional car parking will be transitioned to other uses over time.

Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 52.06-3, in addition to those specified in Clause 52.06-7 and elsewhere in the scheme. The responsible authority must consider, as appropriate:

- Whether the objectives of this schedule have been met.
- The availability of public transport in the locality and the timing of future improvements to the network.
- The number and type of dwellings proposed, including the proportion of dwellings that contain three or more bedrooms.
- Whether car parking is to be provided off-site in a stand-alone building to be used for precinct car parking.
- If any parking is proposed to be provided off-site, whether the recipient site is located within convenient walking distance (200 metres) of the subject site, and is as part of a precinct parking facility.
- The impact of the proposed car parking rates on local amenity, including pedestrian amenity and the creation of a high quality public realm.
- The future adaptability of the car parking areas and ability to transition to future uses over time.
- The proportion of car share, motorcycle and bicycle parking proposed.
- The impacts of the proposed car parking rates on creating sustainable transport patterns that preference walking, cycling and public transport use.

5.0 Financial contribution requirement

None specified.

6.0 Requirements for a car parking plan

The following requirements must be shown on a car parking plan, in addition to the matters that must be shown on plans prepared under Clause 52.06-8:

- Any spaces allocated to car share parking, motorcycle parking and bicycle parking.
- If a green travel plan is provided under another provision of the scheme, any relevant information specified in the green travel plan.

7.0 Design standards for car parking

The following design standards for car parking and other requirements for the design and management of car parking must be met, in addition to the matters that must be shown on plans prepared under Clause 52.06-9:

Vehicle access ways, crossovers and car park entries should be provided from service roads, side or rear laneways, or secondary streets (in order of preference) where available.

All crossovers (except on roads adjacent to the freeway) should:

- Be consolidated to provide shared access to multiple buildings.

- Include intermediate pedestrian refuges if the vehicle access or crossover is more than 6.1 metres wide.

The design and layout of car parking areas should:

- Ensure the layout and design of car parking areas encourages sharing of car parking spaces between different uses with different peak demand patterns.
- Include provision for future conversion of car parking areas to alternative employment generating uses.
- Allow natural ventilation, without compromising the provision of activated frontages.
- Ensure the use of car lifts, turntables and stackers do not result in cars queueing on the street.
- Include the provision for internal queueing and minimise the need for cars to queue on the street.
- Provide dedicated parking for car share and car charging stations.
- Where appropriate, make provision for easily accessible short-term temporary parking and drop-off/pick up zones.

8.0 Decision guidelines for car parking plans

The following decision guidelines apply to car parking plans prepared under Clause 52.06-8, and must be considered, as appropriate, by the responsible authority:

- Whether the car parking plan encourages sustainable transport patterns that preference walking, cycling and public transport use.
- The extent to which the car parking areas (not located within a basement) are designed for future adaptation and repurposing.
- The availability of car share vehicles and precinct parking facilities in the locality.
- The rates of care share, motorcycle and bicycle spaces provided.
- If a green travel plan is required under another provision, any recommendations of the green travel plan.
- Whether alternative access to the site is constrained and no other access is possible.

9.0 Reference document

Draft Fishermans Bend Framework 2017

Fishermans Bend Integrated Transport Plan 2017

Appendix B.4: Lorimer Design and Development Overlay – clean version

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SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Combined

Shown on the planning scheme map as **DDO[number]**.

FISHERMANS BEND – LORIMER PRECINCT

1.0 Design objectives

--/--/20--

To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.

To encourage a diversity of mid and high-rise scale developments, including hybrid developments on larger sites that incorporate communal open space, with taller buildings located along the interface to the West Gate Freeway.

To ensure built form protects sunlight penetration to the Lorimer Parkway and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

To ensure high levels of internal amenity for all development.

To encourage adaptable floorspace to facilitate a reduction in car dependence, an increase in commercial floor space over time.

2.0 Buildings and works

2.1 Buildings and works for which no permit is required

--/--/20--

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use that provides services to the construction industry.
- An application to amend an existing permit granted before **[insert the approval date of Amendment GC81]** which does not increase the extent of non-compliance with the requirements.

A permit cannot be granted to vary a Built form requirement expressed with the term 'must'.

A permit may be granted to vary a discretionary Built form requirement expressed with the term 'should'.

An application for a development that does not meet a requirement expressed with the term 'should' must achieve the relevant Built form outcomes.

Any reference to street width is a reference to the proposed ultimate width of the street reserve.

2.3 Definitions

For the purpose of this schedule:

Laneway means a street with a street reserve width of 9 metres or less.

Street wall means that part of a building constructed within 0.3 metres of a street or laneway including proposed streets and laneways.

Street wall height means a height measured from the footpath or natural surface level at the centre of the site frontage.

2.4 Building typologies

Built form outcomes

A precinct that is composed of subprecincts each with a distinctive character and built form typology.

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

Development should be generally in accordance with the built form typology in Table 1.

Development should help deliver the relevant preferred precinct character in Table 1.

Table 1: Building typologies and preferred precinct character

Precinct on Map 1	Building typology	Preferred precinct character
Area L1	Hybrid (predominantly mid-rise)	<p>Predominantly mid-rise buildings. On larger sites, a hybrid of mid-rise perimeter blocks (with central communal open space) and slender towers that create fast moving shadows to minimise overshadowing of the Lorimer Parkway (Turner Street).</p> <p>Lower street wall heights along Lorimer Parkway (Turner Street) to minimise overshadowing impacts.</p> <p>Developments that incorporate north–south laneways that provide activated pedestrian connections towards the Yarra River.</p>
Area L2	Mid-rise	<p>Mid-rise developments with opportunities for some additional upper levels that are visually recessive from the street and from within Lorimer Central and do not result in tower–podium building types.</p> <p>Developments that incorporate north–south laneways that provide activated pedestrian connections towards the Yarra River.</p> <p>Lower scale development to interface with Lorimer Central.</p>
Area L3	Hybrid (predominantly mid-rise)	<p>Predominantly mid-rise developments that incorporate slender towers to minimise overshadowing of the Lorimer Parkway (Turner Street).</p> <p>Upper levels of mid-rise buildings are visually recessive from the street and Lorimer Parkway (Turner Street).</p> <p>Developments that incorporate north–south laneways that provide activated pedestrian connections towards the Yarra River.</p>

Precinct on Map 1	Building typology	Preferred precinct character
Area L4	Hybrid (predominantly high-rise)	<p>Predominantly podium–tower developments interspersed with some mid-rise perimeter blocks and courtyard buildings.</p> <p>A variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street.</p> <p>Well-spaced, slender towers that avoid a wall-of-towers effect when viewed from the Yarra River, Lorimer Parkway (Turner Street), streets in Lorimer and the West Gate Freeway.</p> <p>Well-spaced slender towers that minimise overshadowing of the Sandridge Precinct.</p>

2.5 Building height

Built form outcomes

Building heights that:

- Respond to the preferred precinct character and building typologies in Table 1.
- Contribute to a varied and architecturally interesting skyline.
- Contribute to a diversity of building typologies and avoid repetitive built form.
- Limit impacts on the amenity of the public realm as a result of overshadowing and wind.
- Share outlook to the north towards the Yarra River and access to sunlight and views by locating lower buildings north of Lorimer Parkway and taller buildings south of the Lorimer Parkway along the West Gate Freeway.

Built form requirements

Development should not exceed the relevant height specified in Map 2 to this schedule.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.
- Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.

2.6 Overshadowing

Buildings must not (or should not where the overshadowing control is specified as discretionary) cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing or proposed public open spaces or streets shown in Map 5 of this schedule for the hours specified in Table 2.

These requirements do not apply to buildings and works constructed within the open space.

For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:

- Height in metres = (3.8 x number of storeys) + 3.2.

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September
B	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
C	Discretionary	Overshadowing control from 10:00am to 1:00pm, 22 September
D	Discretionary	Overshadowing control from 10:30am to 1:30pm, 22 September

2.7**Street wall height****Built form outcomes**

With the exception of street walls to the West Gate Freeway, the City Link overpass, and other elevated road structures street walls that:

- Deliver a distinct human scale street wall.
- Deliver appropriate street enclosure having regard to the width of the street, with lower street walls on narrower streets.
- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Provide an appropriate transition to adjoining heritage places when viewed from the street.
- Enable adequate daylight and sunlight in streets and laneways.
- Make an appropriate transition back to the preferred street wall height from taller street walls on corner sites.
- Enable a high degree of sunlight access to the Lorimer Parkway.

Street walls along the interface with the West Gate Freeway, the City Link overpass, and other elevated road structures, that:

- Assist with mitigating noise impacts and visual impacts from the freeway.

Built form requirements

Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in Map 4 and Table 3.

A new street wall must not exceed the Maximum street wall height specified in Table 3, unless required to deliver a building typology other than tower-podium.

Where a new building is on a corner, the taller Maximum street wall height applies to the frontage with the lower Maximum street wall:

- On streets wider than 9 metres a distance of 60 metres.
- On streets 9 metres wide or narrower for a distance of 25 metres.

The following elements may exceed the Maximum street wall height:

- Non-habitable architectural features not more than 3.0 metres in height.

Table 3: Street wall height

Location	Preferred street wall height	Maximum street wall height
Type A	4 storey	6 storeys
	6 storey	
Type B	at least 4 storeys	8 storeys
Type C and Laneways	at least 4 storeys	6 storeys
Type D	at least 4 storeys	8 storeys
	at least 4 storeys	6 storeys

2.8**Setbacks above the street wall****Built form outcomes**

Setbacks above street walls that:

- Help deliver comfortable wind conditions in the public realm.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Minimise visual bulk of upper floors when viewed from streets and laneways.

Built form requirements

Any part of the building above the Maximum street wall height:

- Should be set back from a frontage at least the Preferred setback specified in Table 4.
- Must be set back from a frontage at least the Minimum setback specified in Table 4, unless a lesser setback is required to deliver a building typology other than tower-podium.

The setback from a street reserve less than 9 metres wide must be measured from the centreline of the street. A negative value setback must be interpreted as a zero setback.

Table 4: Setbacks above the street wall

Location	Qualification	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside:	If the building height is ≤ 8 storeys	5 metres	3 metres
	<ul style="list-style-type: none"> ▪ The West Gate Freeway ▪ The City Link overpass ▪ An elevated road structures 	10 metres	5 metres
Other locations	If the building height is ≤ 8 storeys	5 metres	3 metres
	If the building height is > 8 storeys and ≤ 20 storeys	10 metres	5 metres
	If the overall building height is > 20 storeys	10 metres	10 metres

2.9 Side and rear setbacks

Built form outcomes

Side and rear setbacks that:

- Create a continuous street wall along streets and laneways.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow sunlight and daylight to, and outlook from habitable rooms in existing and potential developments on adjoining sites.
- Mitigate wind effects on the public realm.
- Ensure tall buildings do not appear as a continuous wall.
- Allow for views to the sky between buildings.
- Minimise visual bulk.
- Achieve privacy by setbacks rather than screening.
- Provide opportunities for buildings in the south of Lorimer to have views to the Yarra River through building separation.

Built form requirements

That part of a new building below the Maximum street wall height should be built on or within 300 mm of a side boundary.

That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:

- The building is built on or within 300 mm of the boundary.
- The built form outcomes are achieved.
- The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.
- The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.
- The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.

A new building not on or within 300 mm of a boundary:

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.
- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.

Table 5: Side and rear setbacks

Part of building	Building height	Qualification	Preferred setback	Minimum setback
Below the Maximum street wall height.		If not within 300 mm of a side or rear boundary.	9 metres	6 metres
Above the Maximum street wall height.	≤ 20 storeys	Where the building below the Maximum street wall height is built on the boundary.	10 metres	5 metres
		Other buildings.	10 metres	10 metres
	> 20 storeys	Where the building has direct interface with: <ul style="list-style-type: none"> ▪ West Gate Freeway. ▪ City Link overpass. 	10 metres	5 metres
		Other buildings	10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- Delivers high quality amenity within buildings having regard to outlook, daylight, and overlooking.
- Offsets direct views between buildings within the same site.
- Achieves privacy by building separation rather than screening.
- Ensures tall buildings do not appear as a continuous wall when viewed from street level or the northern side of the Yarra River.

Built form requirements

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Building height	Preferred building separation	Minimum building separation
Below the Maximum street wall height		12 metres	6 metres
Above the Maximum street wall height	≤ 20 storeys	20 metres	10 metres
	> 20 storeys	20 metres	20 metres

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

- Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.

Built form requirements

Buildings and works higher than 40 metres:

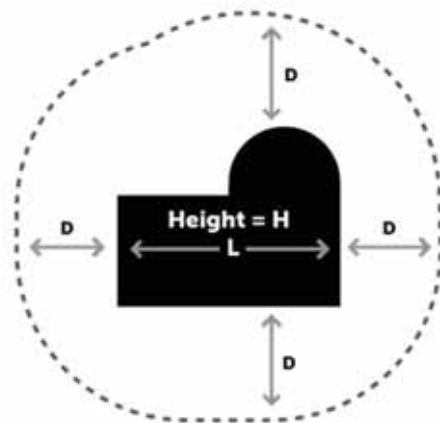
- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

The assessment distance is shown in the figure below and is the greater of:

- Half the longest width of the building.
- Half the total height of the building.

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	The Hourly mean wind speed from all wind directions combined with a probability of exceedance of 20 per cent, is less than or equal to: <ul style="list-style-type: none"> ▪ 3 metres/second for sitting areas. ▪ 4 metres/second for standing areas. ▪ 5 metres/second for walking areas. Hourly mean wind speed is the maximum of: <ul style="list-style-type: none"> ▪ The hourly mean wind speed. ▪ The gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	The hourly maximum 3 second gust from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.



Assessment distance D = greater of:
 L/2 (Half longest width of building)
 OR
 H/2 (Half overall height of building)

2.12 Active street frontages

Built form outcomes

Buildings that:

- Enhance connectivity to the Yarra River.
- 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 facades with windows and legible entries.
- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level that:

- Create a sense of address by providing direct individual street entries to dwellings or home offices, where practicable.

Car parking that does not detract from the public realm.

Built form requirements

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 and Secondary active streets on Map 3 to this schedule, 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.

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent clear glazing along the ground level frontage to a height of 2.5 metres, excluding any solid plinth or base.
Secondary active frontages (Type 1)	At least 60 per cent clear glazing along the ground level frontage to a height of 2.5 metres, 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 2.5 metres, excluding any solid plinth or base.

2.13 Adaptable buildings

Built form outcomes

Buildings that:

- Provide for the future conversion of those parts of the building accommodating non-employment uses to employment uses.

Car parking that:

- Can be adapted to other uses over time.

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
Lower levels up to the height of the street wall	At least 4.0 metres floor to floor height at ground level. At least 3.8 metres floor to floor height for other lower levels.
Car parking areas	<ul style="list-style-type: none"> ▪ In areas not in a basement: Level floors. ▪ A floor-to-floor height at least 3.8 metres. Mechanical parking systems to reduce the area required for car parking
Dwelling layout	The ability for one and two-bedroom dwellings to be combined or adapted into three or more bedroom dwellings.
Internal layout	Minimal load bearing walls to maximise flexibility for retail or commercial refits.

2.14 Building finishes

Built form outcomes

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

Built form requirements

Buildings should avoid blank facades.

Building walls facing a street or public place should be detailed to provide visual richness.

Buildings fronting main roads should use materials and finishes with a perpendicular reflectivity less than 15 per cent, measured at 90 degrees to the facade surface.

2.15 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

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None specified.

3.1 Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

None specified.

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Decision guidelines

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The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence.
- The cumulative impact of the proposed development and any existing adjoining development.
- Equitable access to privacy, sunlight, daylight and outlook having regard to the proposed internal uses and the height of existing or proposed adjoining built form.
- The effect of the proposed development on solar access to existing and proposed public spaces having regard to:
 - The area of additional shadow cast over the public space relative to the total area of public space and the area that will remain sunlit.
 - Any adverse impact on soft landscaping in public space.
 - Whether allowing additional shadows to be cast on public spaces, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.

Diagrams

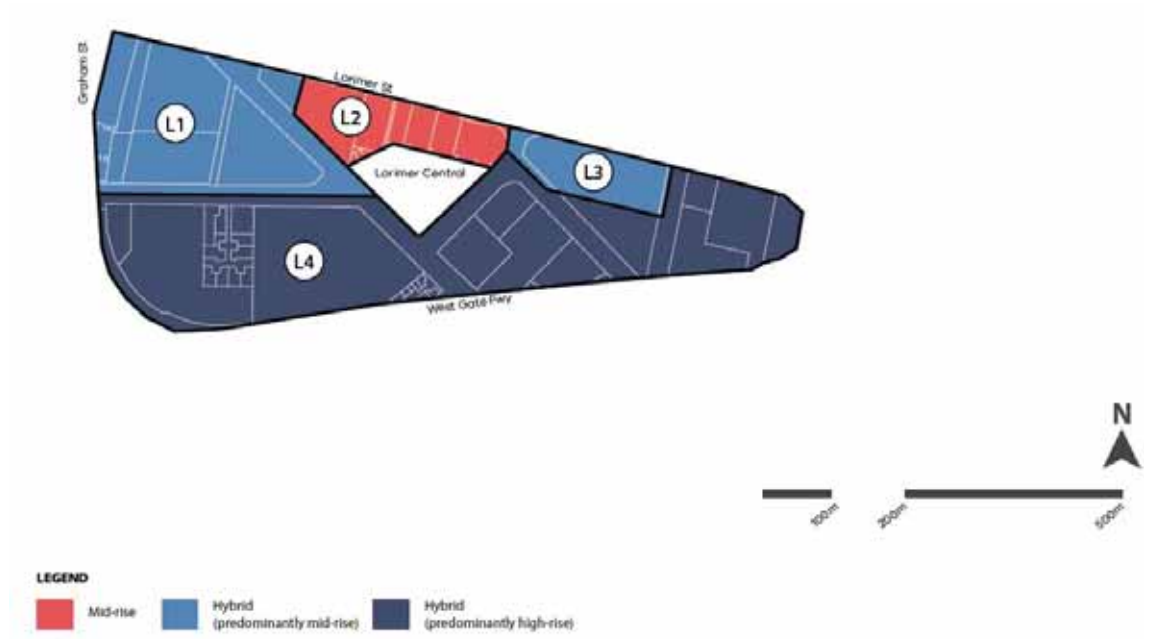
These diagrams are for illustrative purposes. If there is a discrepancy between these diagrams and the text of the controls the text should be used.

[Include diagrams to illustrate street wall heights and setbacks:

- indicate storeys
- combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition
- present discretionary and mandatory requirements.]

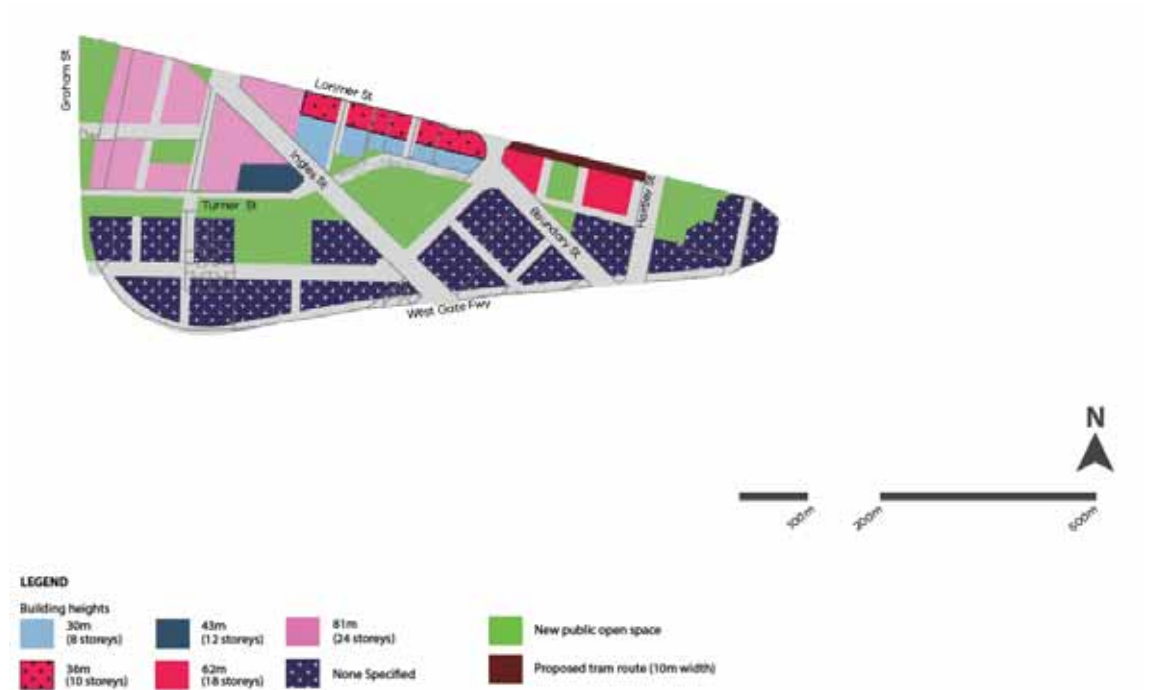
Map 1: Building typologies

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 2: Building heights

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



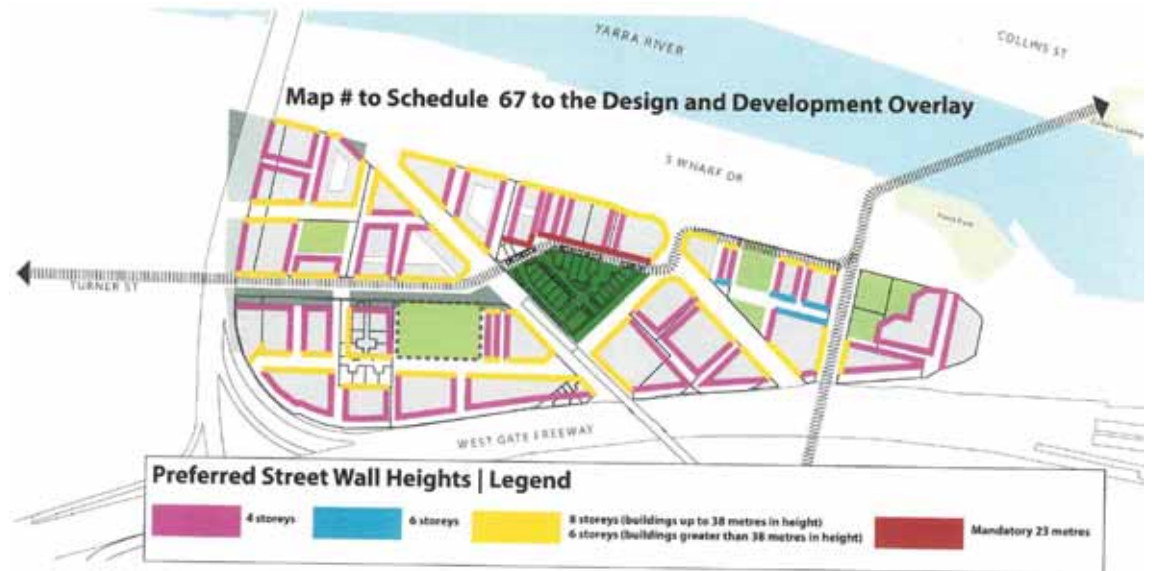
Map 3: Active street frontages

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



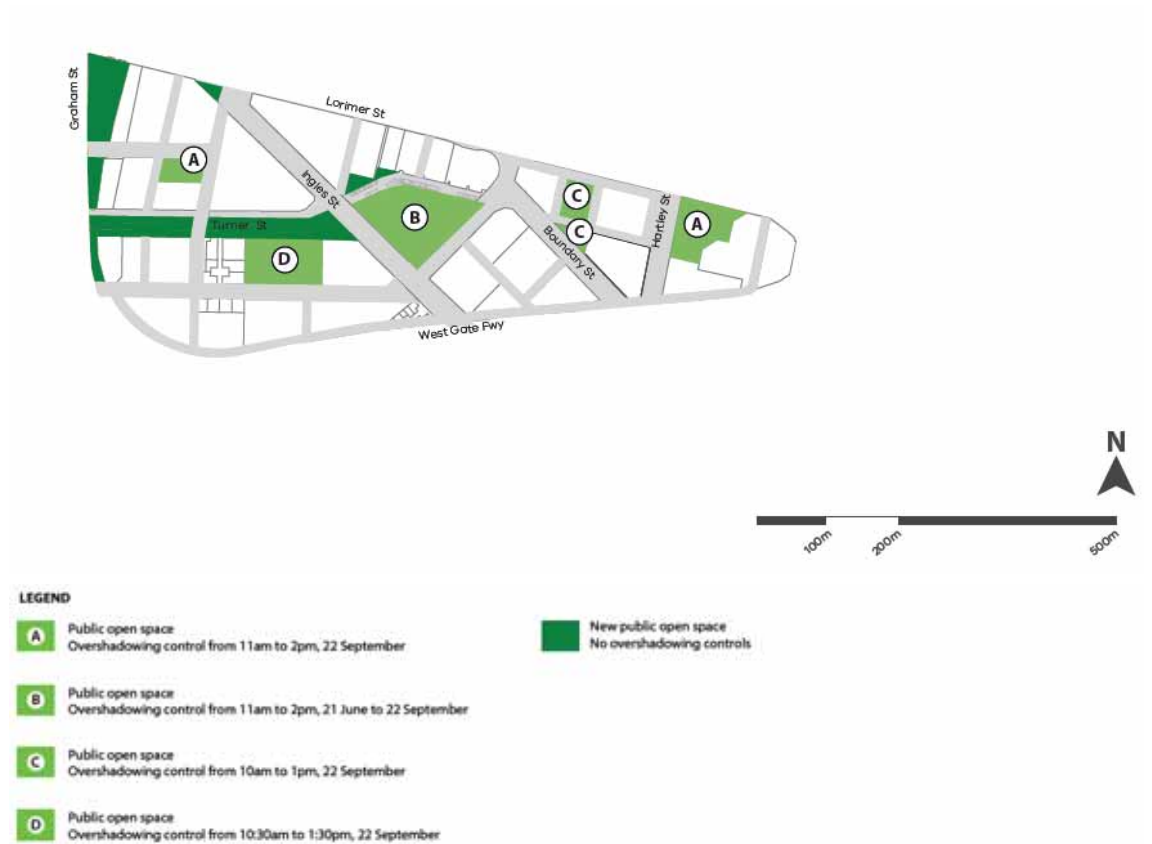
Map 4: Street wall height

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 5: Overshadowing

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Appendix B.5: Montague Design and Development Overlay – clean version

SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

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Shown on the planning scheme map as **DDO [Number]**.

FISHERMANS BEND – MONTAGUE PRECINCT

1.0 Design objectives

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To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.

To ensure, in Montague North, a mix of mid and high-rise scales with hybrid and podium–tower typologies.

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.

To ensure built form avoids where possible, sunlight penetration to key spines and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

To encourage adaptable floorspace to facilitate a reduction in car dependence, an increase in commercial floor space over time.

2.0 Buildings and works

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Buildings and works for which no permit is required

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use that provides services to the construction industry.
- An application to amend an existing permit granted before **[insert the approval date of Amendment GC81]** which does not increase the extent of non-compliance with the requirements.

A permit cannot be granted to vary a Built form requirement expressed with the term ‘must’.

A permit may be granted to vary a Built form requirement expressed with the term ‘should’.

An application for a development that does not meet a requirement expressed with the term ‘should’ must achieve the relevant built form outcomes.

Any reference to street width is a reference to the proposed ultimate width of the street reserve.

2.3 Definitions

For the purpose of this schedule:

Laneway means a street with a street reserve width of 9 metres or less.

Street wall means that part of a building constructed within 0.3 metres of a street or laneway including proposed streets and laneways.

Street wall height means a height measured from the footpath or natural surface level at the centre of the site frontage.

2.4 Building typologies

Built form outcomes

A precinct that is composed of subprecincts each with a distinctive character and built form typology.

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

Development should be generally in accordance with the built form typology in Table 1.

Development should help deliver the relevant preferred precinct character in Table 1.

Table 1: Building typologies and preferred precinct character

Precinct on Map 1	Building typology	Preferred precinct character
Area M1	Hybrid (predominantly mid-rise)	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.
Area M2	Mid-rise	Predominantly mid-rise developments with some opportunities for additional upper levels that are visually recessed from the street and protect solar access to the existing school forecourt.
Area M3	Hybrid (predominantly mid-rise)	Mid to high-rise developments. On larger sites, a hybrid of perimeter blocks with some slender towers that avoid overshadowing the proposed park and retain, and sensitively respond to heritage and character elements.
Area M4	Mid-rise	Mid-rise developments with opportunities for some additional upper levels that are visually recessive from the street and do not result in tower-podium building types and retain, and sensitively respond to heritage and character elements.
Area M5	Hybrid (predominantly mid-rise)	Predominantly mid-rise developments with some high-rise forms on larger sites where well-spaced, slender towers can be demonstrated to provide sunlight access to streets with a particular focus on Buckhurst Street, incorporating a tooth and gap typology where practicable.
Area M6	Low-rise	Low-rise development that responds to the context and character of the adjacent low-rise neighbourhoods.

2.5 Building height

Built form outcomes

Building heights that:

- Respond to the preferred precinct character and building typologies in Table 1.
- Contribute to a varied and architecturally interesting skyline.
- Limit impacts on the amenity of the public realm as a result of overshadowing and wind.
- Provide an appropriate transition and relationship to heritage buildings and existing lower scale neighbourhoods of South Melbourne and Port Melbourne to the west of the No. 96 tram corridor.
- Minimise overshadowing of the footpaths at the South Melbourne Market.

Built form requirements

Development should not exceed the relevant height specified in Map 2 to this schedule.

Development must not exceed a building height specified as “mandatory” in Map 2.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.
- Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.

2.6 Overshadowing

Buildings must not (or should not where the overshadowing control is specified as discretionary) cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing residential zoned land south of City Road and east of Montague Street between the hours of 11.00am and 2.00pm on 22 September. This is discretionary.
- The existing or proposed public open spaces shown in Map 4 of this schedule for the hours specified in Table 2.

These requirements do not apply to buildings and works constructed within the open space.

For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:

- $\text{Height in metres} = (3.8 \times \text{number of storeys}) + 3.2.$

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
B	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September

2.7 Street wall height

Built form outcomes

Street walls that:

- Deliver a distinct human scale street wall.
- Deliver appropriate street enclosure having regard to the width of the street with lower street walls on narrower streets.

- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Provide an appropriate transition to adjoining heritage places when viewed from the street.
- Enable adequate daylight and sunlight in streets and laneways.
- Make an appropriate transition back to the preferred street wall height from taller street walls on corner sites.
- On Normanby Road seek to maximise opportunities for sunlight penetration on the southern side of the street.
- On Buckhurst Street seek to maximise opportunities for sunlight penetration to the proposed green spine for Buckhurst Street.

Built form requirements

Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in Table 3.

A new street wall must not exceed the Maximum street wall height specified in Table 3.

Where a new building is on a corner, the taller Maximum street wall height applies to the frontage with the lower Maximum street wall:

- On streets wider than 9 metres a distance of 60 metres.
- On streets 9 metres wide or narrower for a distance of 25 metres.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.

Where Table 3 specifies a 'Tooth and gap approach' the following requirements apply:

- On sites with a frontage 50 metres or more:
 - A street wall of 4 storeys or less must be provided for at least 20 per cent of the frontage. The remaining street wall may be up to the maximum building height.
 - Any element taller than 4 storeys should not be wider than 30 metres at the frontage.
 - Any element taller than 4 storeys should be adjacent to a 4-storey element.
- On sites with a frontage of less than 50 metres:
 - At least 40 per cent of the frontage should have a street wall of 4 storeys or less and must have a street wall of 4 storeys or less. The remaining street wall may be up to the maximum building height.

Table 3: Street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
Buckhurst Street on the north side between Kerr and Montague Streets		Tooth and gap approach	
On City Road		at least 4 storeys, except where a lower height is necessary to respond to an adjoining heritage place	4 storeys
At 30-38 Thistlethwaite Street, Port Melbourne			6 storeys
Normanby Road or Buckhurst Street		4 storeys	General provisions apply
Laneways (street ≤ 9 m)		4 storeys	6 storeys
On a street >9 m and ≤ 22 m wide		at least 4 storeys in height, except where a lower height is necessary to respond to an adjoining heritage place	6 storeys
On a street >22 m wide	where the building height is ≤ 10 storeys		8 storeys
	where the building height is >10 storeys		6 storeys

2.8**Setbacks above the street wall****Built form outcomes**

Setbacks above street walls that:

- Help deliver comfortable wind conditions in the public realm.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Minimise the visual bulk of upper floors when viewed from streets and laneways.
- Minimise overshadowing of the footpaths at the South Melbourne Market.

Built form requirements

Any part of the building above the Maximum street wall height:

- Should be set back from a frontage at least the Preferred Setback specified in Table 4.
- Must be set back from a frontage at least the Minimum Setback specified in Table 4.

The setback from a street less than 9 metres wide must be measured from the centreline of the street. A negative value setback must be interpreted as a zero setback.

Table 4: Setbacks above the street wall

Location	Building height	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside the: <ul style="list-style-type: none"> ▪ West Gate Freeway. ▪ City Link overpass. ▪ Route 96 tram corridor. ▪ Route 109 tram corridor. 	≤ 8 storeys	5 metres	3 metres
	> 8 storeys	10 metres	5 metres
If the building fronts City Road and Williamstown Road		As specified for other locations	10 metres
Other locations	≤ 8 storeys	5 metres	3 metres
	> 8 storeys and ≤ 20 storeys	10 metres	5 metres
	> 20 storeys	10 metres	10 metres

2.9

Side and rear setbacks

Built form outcomes

Side and rear setbacks that:

- Create a continuous street wall along streets and laneways.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow sunlight and daylight to, and outlook from habitable rooms in existing and potential developments on adjoining sites.
- Mitigate wind effects on the public realm.
- Ensure tall buildings do not appear as a continuous wall when viewed from street level.
- Allow for views to the sky between buildings.
- Minimise visual bulk.
- Achieve privacy by setbacks rather than screening.

Built form requirements

That part of a new building below the Maximum street wall height should be built on or within 300 mm of a side boundary.

That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:

- The building is built on or within 300 mm of the boundary.
- The built form outcomes are achieved.
- The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.
- The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.
- The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.

A new building not on or within 300 mm of a boundary:

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.
- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.

Table 5: Side and rear setbacks

Part of building	Building height	Qualification	Preferred setback	Minimum setback
Below the Maximum street wall height		If not within 300 mm of a side or rear boundary	9 metres	6 metres
Above the Maximum street wall height	≤ 20 storeys	Where any part of the building below the Maximum street wall height is built on the boundary	10 metres	5 metres
		Other buildings	10 metres	10 metres
	> 20 storeys	Where the building has direct interface with: <ul style="list-style-type: none"> ▪ West Gate Freeway. ▪ City Link overpass. 	10 metres	5 metres
		Other buildings	10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- Delivers high quality amenity within buildings having regard to outlook, daylight, and overlooking.
- Offsets direct views between buildings within the same site.
- Achieves privacy by building separation rather than screening.
- Ensures tall buildings do not appear as a continuous wall when viewed from street level.

Built form requirements

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Building height	Preferred building separation	Minimum building separation
Below the Maximum street wall height		12 metres	6 metres
Above the Maximum street wall height	≤ 20 storeys	20 metres	10 metres
	> 20 storeys	20 metres	20 metres

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

- Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.

Built form requirements

Buildings and works higher than 40 metres:

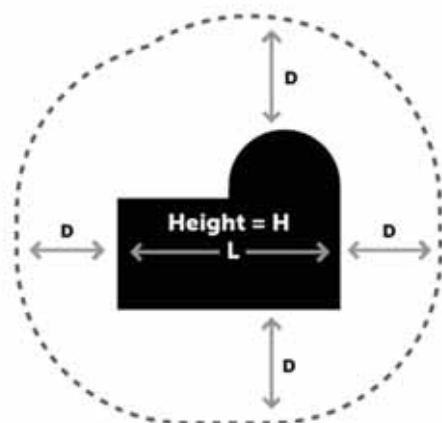
- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

The assessment distance is shown in the figure below and is the greater of:

- Half the longest width of the building.
- Half the total height of the building.

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	<p>The Hourly mean wind speed from all wind directions combined with a probability of exceedance of 20 per cent, is less than or equal to:</p> <ul style="list-style-type: none"> ▪ 3 metres/second for sitting areas. ▪ 4 metres/second for standing areas. ▪ 5 metres/second for walking areas. <p>Hourly mean wind speed is the maximum of:</p> <ul style="list-style-type: none"> ▪ The hourly mean wind speed. ▪ The gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	<p>The hourly maximum 3 second gust from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.</p>



Assessment distance D = greater of:
 $L/2$ (Half longest width of building)
 OR
 $H/2$ (Half overall height of building)

2.12 Active street frontages

Built form outcomes

Buildings that:

- 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 facades with windows and legible entries.
- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level that:

- Create a sense of address by providing direct individual street entries to dwellings or home offices, where practicable.

Car parking that does not detract from the public realm.

Built form requirements

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 and Secondary active streets on Map 3 to this schedule, 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.

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent clear glazing along the ground level frontage to a height of 2.5 metres, excluding any solid plinth or base.
Secondary active frontages (Type 1)	At least 60 per cent clear glazing along the ground level frontage to a height of 2.5 metres, 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 2.5 metres, excluding any solid plinth or base.

2.13**Adaptable buildings****Built form outcomes**

Buildings that:

- Provide for the future conversion of those parts of the building accommodating non-employment uses to employment uses.

Car parking that:

- Can be adapted to other uses over time.

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
Lower levels up to the height of the street wall	At least 4.0 metres floor to floor height at ground level. At least 3.8 metres floor to floor height for other lower levels.
Car parking areas	<ul style="list-style-type: none"> ▪ In areas not in a basement: Level floors. ▪ A floor-to-floor height at least 3.8 metres. Mechanical parking systems to reduce the area required for car parking
Dwelling layout	The ability for one and two-bedroom dwellings to be combined or adapted into three or more bedroom dwellings.
Internal layout	Minimal load bearing walls to maximise flexibility for retail or commercial refits.

2.14**Building finishes****Built form outcomes**

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

Built form requirements

Buildings should avoid blank facades.

Building walls facing a street or public place should be detailed to provide visual richness.

Buildings fronting main roads should use materials and finishes with a perpendicular reflectivity less than 15 per cent, measured at 90 degrees to the facade surface.

2.15 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

--/20-- None specified.

2.16 Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

--/20-- None specified.

5.0 Decision guidelines

--/20-- The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence.
- The cumulative impact of the proposed development and any existing adjoining development.
- Equitable access to privacy, sunlight, daylight and outlook having regard to the proposed internal uses and the height of existing or proposed adjoining built form.
- The effect of the proposed development on solar access to existing and proposed public spaces having regard to:
 - The area of additional shadow cast over the public space relative to the total area of public space and the area that will remain sunlit.
 - Any adverse impact on soft landscaping in public spaces.
 - Whether allowing additional shadows to be cast on public spaces, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.

Diagrams

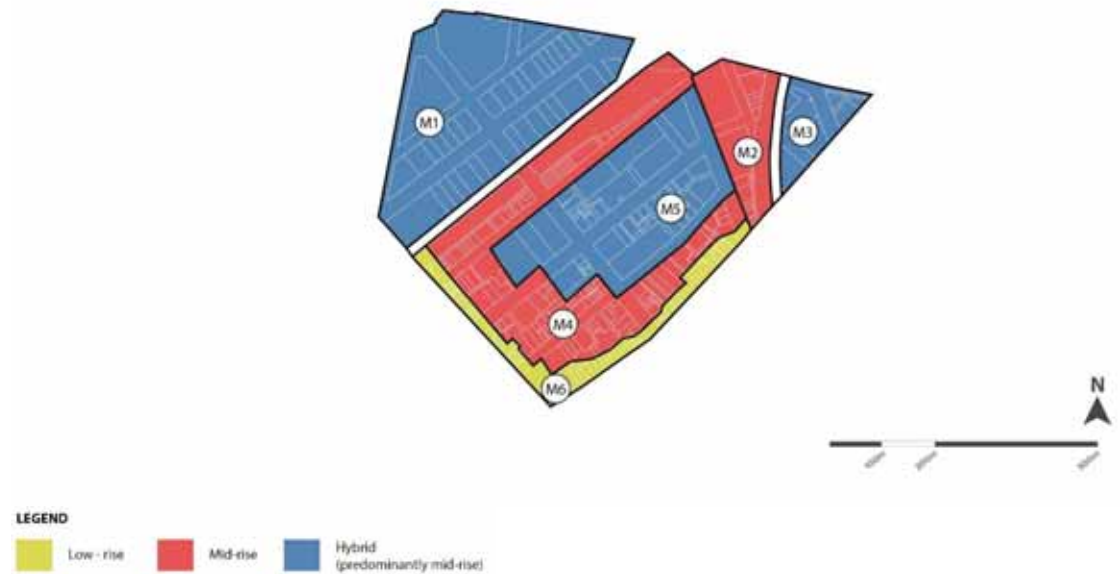
These diagrams are for illustrative purposes. If there is a discrepancy between these diagrams and the text of the controls the text should be used.

[Include diagrams to illustrate street wall heights and setbacks:

- indicate storeys
- combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition
- present discretionary and mandatory requirements.]

Map 1: Building typologies

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



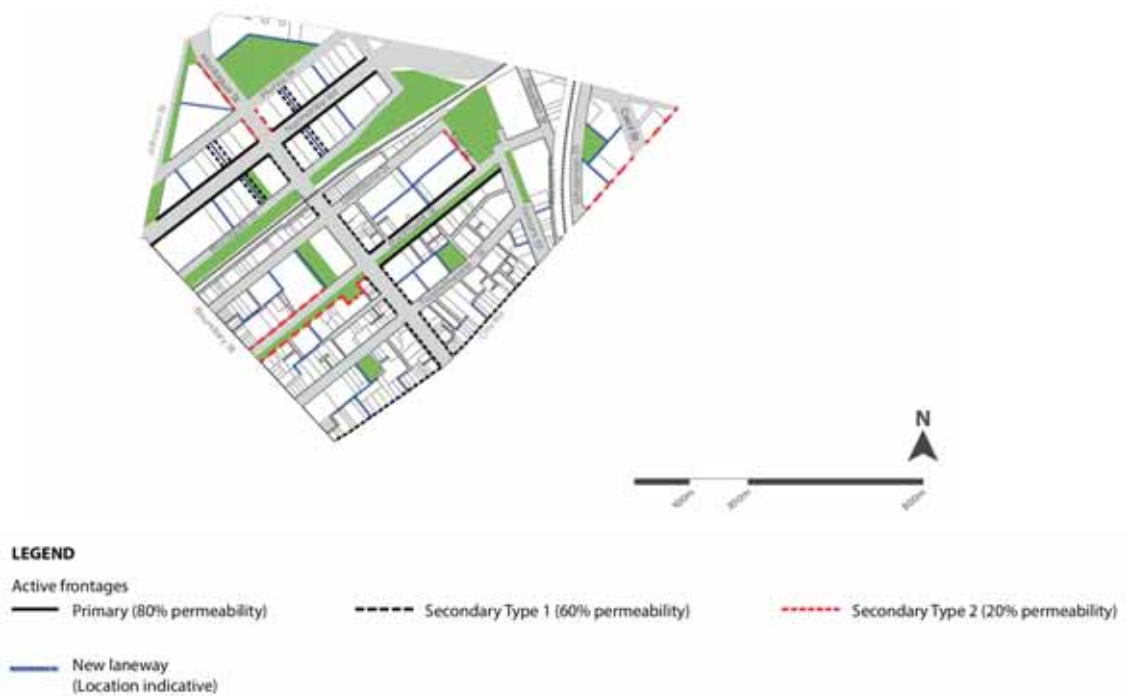
Map 2: Building heights

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 3: Active street frontages

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 4: Overshadowing

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Appendix B.6: Sandridge Design and Development Overlay – clean version

SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

--/20--

Shown on the planning scheme map as **DDO[number]**.

FISHERMANS BEND – SANDRIDGE PRECINCT

1.0 Design objectives

--/20--

To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.

To ensure in the Core area a mix of mid-rise and high-rise podium towers that support significant commercial buildings. In Non-core areas, a range of mid-rise and hybrid (perimeter block with towers) developments that create a diversity of architectural styles and housing choices and encourage the delivery of communal open space.

To ensure built form protects sunlight penetration to the Lorimer Parkway and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

To ensure high levels of internal amenity for all development.

To encourage adaptable floorspace to facilitate a reduction in car dependence, an increase in commercial floor space over time.

2.0 Buildings and works

--/20--

Buildings and works for which no permit is required

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use that provides services to the construction industry.
- An application to amend an existing permit granted before **[insert the approval date of Amendment GC81]** which does not increase the extent of non-compliance with the requirements.

A permit cannot be granted to vary a Built form requirement expressed with the term 'must'.

A permit may be granted to vary a Built form requirement expressed with the term 'should'.

An application for a development that does not meet a requirement expressed with the term 'should' must achieve the relevant built form outcomes.

Any reference to street width is a reference to the proposed ultimate width of the street reserve.

2.3 Definitions

For the purpose of this schedule:

Laneway means a street with a street reserve width of 9 metres or less.

Street wall means that part of a building constructed within 0.3 metres of a street or laneway including proposed streets and laneways.

Street wall height means a height measured from the footpath or natural surface level at the centre of the site frontage.

2.4 Building typologies

Built form outcomes

A precinct that is composed of subprecincts each with a distinctive character and built form typology.

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

Development should be generally in accordance with the built form typology in Table 1.

Development should help deliver the relevant preferred precinct character in Table 1.

Table 1: Building typologies and preferred precinct character

Precinct on Map 1	Building typology	Preferred precinct character
Area S1	Hybrid (predominantly mid-rise)	Mid to high-rise developments. A mix of a hybrid of perimeter blocks and towers with larger mid-rise floorplates that support campus style commercial developments.
Area S2	Hybrid (predominantly mid-rise)	Mid to high-rise developments including hybrid of mid-rise perimeter blocks and slender towers.
Area S3	Hybrid (predominantly high-rise)	Predominantly tower developments with some mid-rise buildings. Provision of towers with large floorplates with high quality outlook to support commercial development. Provision of publicly accessible private urban courtyard spaces within new developments to enhance the overall network of open spaces to support high densities of activity. Developments that incorporate north–south laneways that provide high levels of pedestrian permeability and activation.
Area S4	Low-mid-rise	Low-mid-rise scale of development that incorporates communal open space and responds to the context and character of adjacent low-rise neighbourhoods. Opportunities for additional upper levels that are visually recessive when viewed from within the street and North Port Oval. A variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street and provide opportunities for portions of the street to receive greater levels of sunlight access throughout the day.
Area S5	Hybrid	Mid to high-rise developments. On large sites, a hybrid

Precinct on Map 1	Building typology	Preferred precinct character
	(predominantly mid-rise)	of low-mid-rise perimeter blocks with slender towers that minimise overshadowing impacts on streets, linear parks and communal open spaces. Communal open spaces with good access to sunlight to provide high levels of amenity for residents.

2.5 Building height

Built form outcomes

- Building heights that:
- Respond to the preferred precinct character and building typologies in Table 1.
- Contribute to a varied and architecturally interesting skyline.
- Limit impacts on the amenity of the public realm as a result of overshadowing and wind.
- Provide an appropriate transition and relationship to heritage buildings and existing lower scale neighbourhoods of Port Melbourne.

Built form requirements

Development should not exceed the relevant height specified in Map 2 to this schedule.

Development must not exceed a building height specified as “mandatory” in Map 2.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.
- Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.

2.6 Overshadowing

Buildings must not (or should not where the overshadowing control is specified as discretionary) cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing residential zoned land south of Williamstown Road between the hours of 11.00am and 2.00pm on 22 September.
- The existing or proposed public open spaces or streets shown in Map 4 of this schedule for the hours specified in Table 2.

These requirements do not apply to buildings and works constructed within the open space.

For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:

- $\text{Height in metres} = (3.8 \times \text{number of storeys}) + 3.2.$

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
B	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September
B-Stripe	Discretionary	Plummer St Boulevard (first 6m north of property boundaries): Overshadowing control from 11:00am to 2:00pm, 22 September

2.7 Street wall height

Built form outcomes

Street walls that:

- Ensure privacy and sense of separation between ground floor residential spaces and the street.
- Deliver a distinct human scale street wall, including the creation of a civic boulevard along Plummer–Fennel Streets that is well-defined by its building edges.
- Define main street corners within the Core area.
- Deliver appropriate street enclosure having regard to the width of the street with lower street walls on narrower streets.
- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Provide an appropriate transition to adjoining heritage places when viewed from the street.
- Enable adequate daylight and sunlight in streets and laneways.
- Make an appropriate transition back to the preferred street wall height from taller street walls on corner sites.

Built form requirements

Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in Table 3 except:

- Where a lower height is necessary to respond to an adjoining heritage place.
- For ground floor residential uses in Non-core areas, not on Secondary active frontages.

Ground floor residential uses in Non-core areas, not on Secondary active frontages, should be setback 3 metres from the street to facilitate landscaped a transition from the street to ground floor apartments.

A new street wall must not exceed the Maximum street wall height specified in Table 3: Street wall height.

Where a site is on a corner:

- If both streets are wider than 22 metres a Maximum street wall height of 18 storeys applies for 25 metres along each street frontage.
- For other corner sites the taller Maximum street wall height applies to the frontage with the lower Maximum street wall:
 - On streets wider than 9 metres a distance of 60 metres.
 - On Laneways for a distance of 25 metres.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3 metres in height.

Table 3: Street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
Along City Road and Williamstown Road		at least 4 storeys (16 m)	4 storeys
On Fennell and Plummer Streets (between Ingles and Graham Streets)		at least 6 storeys (23 m)	8 storeys
On a street or laneway ≤ 22 m wide		at least 4 storeys (16 m)	6 storeys
On a street > 22 m wide	where the building height is ≤ 10 storeys	at least 4 storeys (16 m)	8 storeys
	where the building height is > 10 storeys	at least 4 storeys (16 m)	6 storeys

2.8**Setbacks above the street wall****Built form outcomes**

Setbacks above street walls that:

- Help deliver comfortable wind conditions in the public realm.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Maintain an appropriate setback to significant elements of any heritage place on, or adjoining the site.

Built form requirements

Any part of the building above the Maximum street wall height:

- Should be set back from a frontage at least the Preferred Setback specified in Table 4.
- Must be set back from a frontage at least the Minimum Setback specified in Table 4.

The setback from a street less than 9 metres wide must be measured from the centreline of the street. A negative value setback must be interpreted as a zero setback.

Table 4: Setbacks above the street wall

Location	Overall building height	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside the: <ul style="list-style-type: none"> ▪ West Gate Freeway 	≤ 8 storeys	5 metres	3 metres
	> 8 storeys	10 metres	5 metres
Williamstown Road		As specified for other locations	10 metres
Other locations	≤ 8 storeys	5 metres	3 metres
	> 8 storeys and ≤ 20 storeys	10 metres	5 metres
	> 20 storeys	10 metres	10 metres

2.9 Side and rear setbacks

Built form outcomes

Side and rear setbacks that:

- Create a continuous street wall along streets and laneways in Core areas.
- Adequate daylight and sunlight into streets and laneways.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow sunlight and daylight to, and outlook from habitable rooms in existing and potential developments on adjoining sites with higher levels of amenity provided within Non-core areas.
- Mitigate wind effects on the public realm.
- Ensure tall buildings do not appear as a continuous wall when viewed from street level.
- Allow for views to the sky between buildings.
- Minimise visual bulk.
- Achieve privacy by setbacks rather than screening.

Built form requirements

That part of a new building below the Maximum street wall height should be built on or within 300 mm of a side boundary.

That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:

- The building is built on or within 300 mm of the boundary.
- The built form outcomes are achieved.
- The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.
- The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.
- The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.

A new building not on or within 300 mm of a boundary:

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.
- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.

Table 5: Side and rear setbacks

Part of building	Qualification	Qualification	Preferred setback	Minimum setback
Below the Maximum street wall height	if not within 300 mm of a side or rear boundary	Within Core areas	6 metres	6 metres
		Within Non-core	9 metres	6 metres
Above the Maximum street wall height	Building height ≤ 20 storeys		10 metres	5 metres
	Building height > 20 storeys		10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- Delivers high quality amenity within buildings having regard to outlook, daylight, and overlooking with higher amenity provided in Non-core areas.
- Offsets direct views between buildings within the same site.
- Achieves privacy by building separation rather than screening.

Ensure tall buildings do not appear as a continuous wall when viewed from street level.

Built form requirements

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Qualification	Preferred building separation	Minimum building separation
Below the Maximum street wall height	In Non-core areas	9 metres	6 metres
	In Core areas	12 metres	6 metres
Above the Maximum street wall height	≤ 20 storeys	20 metres	10 metres
	> 20 storeys	20 metres	20 metres

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

- Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.

Built form requirements

Buildings and works higher than 40 metres:

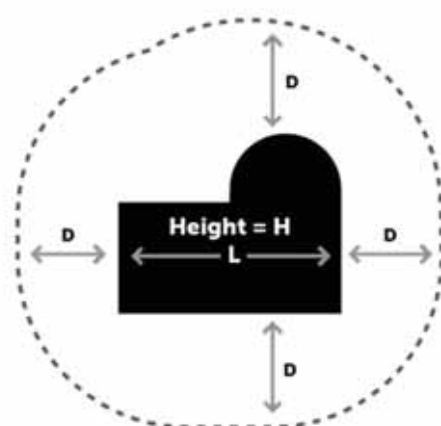
- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

The assessment distance is shown in the figure below and is the greater of:

- Half the longest width of the building.
- Half the total height of the building.

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	<p>The Hourly mean wind speed from all wind directions combined with a probability of exceedance of 20 per cent, is less than or equal to:</p> <ul style="list-style-type: none"> ▪ 3 metres/second for sitting areas. ▪ 4 metres/second for standing areas. ▪ 5 metres/second for walking areas. <p>Hourly mean wind speed is the maximum of:</p> <ul style="list-style-type: none"> ▪ The hourly mean wind speed. ▪ The gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	<p>The hourly maximum 3 second gust from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.</p>



Assessment distance D = greater of:
 $L/2$ (Half longest width of building)
 OR
 $H/2$ (Half overall height of building)

2.12 Communal open space

Built form outcomes

Communal open space that:

- Meets the needs of residents.
- Delivers significant opportunities for landscaping, including large trees, are included within the development and contribute to the visual amenity of apartments.
- Supports a range of recreational uses.
- Can be readily accessed from within the development and provide direct pedestrian connections to the street.

Built form requirements

These requirements do not apply in the Core area.

Communal open space should be a minimum of 30 per cent of the net developable site area, except where any of the following apply:

- An existing building is being retained and accounts for greater the 70 per cent of the net developable area.
- The site has a gross developable area of less than 1200 square metres.

- The responsible authority is satisfied that other site constraints warrant an reduction in communal open space.

2.13 Active street frontages

Built form outcomes

Buildings that:

- 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 facades with windows and legible entries.
- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level that:

- Create a sense of address by providing direct individual street entries to dwellings or home offices, where practicable.

Car parking that does not detract from the public realm.

Built form requirements

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 and Secondary active streets on Map 3 to this schedule, 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.

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent clear glazing along the ground level frontage to a height of 2.5 metres, excluding any solid plinth or base.
Secondary active frontages (Type 1)	At least 60 per cent clear glazing along the ground level frontage to a height of 2.5 metres, 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 2.5 metres, excluding any solid plinth or base.

2.14 Adaptable buildings

Built form outcomes

Buildings that:

- Provide for the future conversion of those parts of the building accommodating non-employment uses to employment uses.

Car parking that:

- Can be adapted to other uses over time.

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
Lower levels up to the height of the street wall	At least 4.0 metres floor to floor height at ground level. At least 3.8 metres floor to floor height for other lower levels.
Car parking areas	<ul style="list-style-type: none"> ▪ In areas not in a basement: Level floors. ▪ A floor-to-floor height at least 3.8 metres. Mechanical parking systems to reduce the area required for car parking
Dwelling layout	The ability for one and two-bedroom dwellings to be combined or adapted into three or more bedroom dwellings.
Internal layout	Minimal load bearing walls to maximise flexibility for retail or commercial refits.

2.15 Building finishes

Built form outcomes

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

Built form requirements

Buildings should avoid blank facades.

Building walls facing a street or public place should be detailed to provide visual richness.

Buildings fronting main roads should use materials and finishes with a perpendicular reflectivity less than 15 per cent, measured at 90 degrees to the facade surface.

Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

--/120--

None specified.

Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

--/20-- None specified.

5.0 Decision guidelines

--/20-- The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence.
- The cumulative impact of the proposed development and any existing adjoining development.
- Equitable access to privacy, sunlight, daylight and outlook having regard to the proposed internal uses and the height of existing or proposed adjoining built form.
- The effect of the proposed development on solar access to existing and proposed public spaces having regard to:
 - The area of additional shadow cast over the public space relative to the total area of public space and the area that will remain sunlit.
 - Any adverse impact on soft landscaping in public spaces.
 - Whether allowing additional shadows to be cast on public spaces, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.

Diagrams

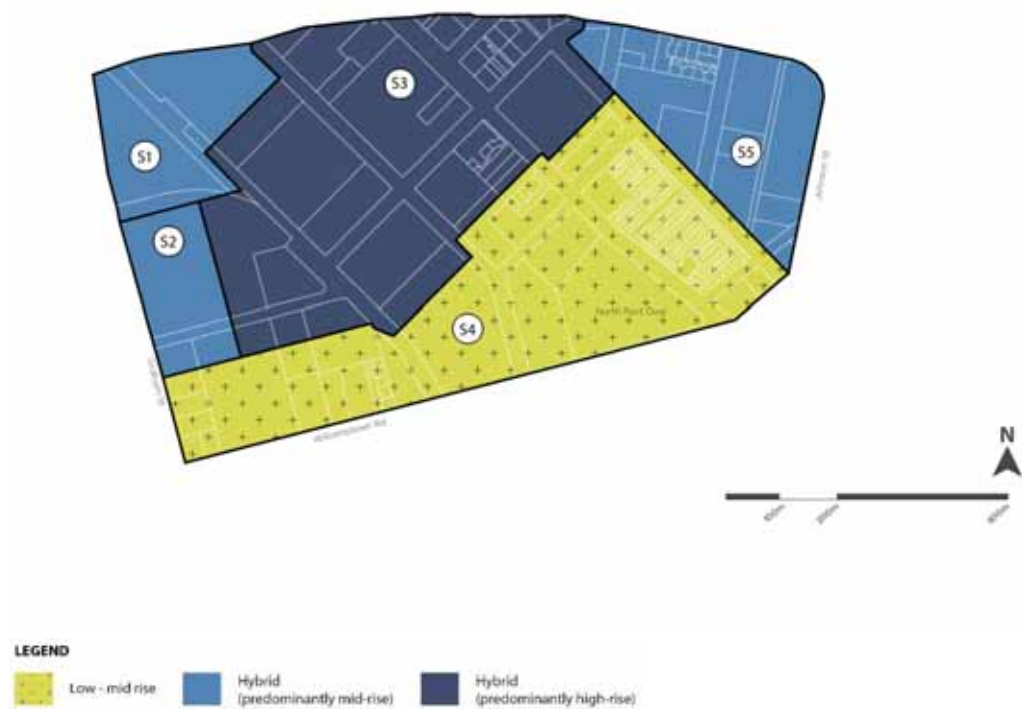
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[Include diagrams to illustrate street wall heights and setbacks:

- indicate storeys
- combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition
- present discretionary and mandatory requirements.]

Map 1: Building typologies

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 2: Building heights

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 3: Active street frontages

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 4: Overshadowing

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Appendix B.7: Wirraway Design and Development Overlay – clean version

SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

--/--/20--

Shown on the planning scheme map as **DDO[number]**.

FISHERMANS BEND – WIRRAWAY PRECINCT

1.0 Design objectives

--/--/20--

To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation.

To create a predominantly low to mid-rise precinct with a diversity of housing choices including family-friendly building typologies that incorporate communal open space with high levels of sunlight access and direct visual connections to apartments as well as some slender, well-spaced towers included in Core areas and a ‘tooth and gap’ approach on both sides of Plummer Street and the Core.

To ensure built form protects sunlight penetration to the Lorimer Parkway and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

To ensure high levels of internal amenity for all development.

To encourage adaptable floorspace to facilitate a reduction in car dependence, an increase in commercial floor space over time.

2.0 Buildings and works

--/--/20--

Buildings and works for which no permit is required

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use that provides services to the construction industry.
- An application to amend an existing permit granted before **[insert the approval date of Amendment GC81]** which does not increase the extent of non-compliance with the requirements.

A permit cannot be granted to vary a Built form requirement expressed with the term ‘must’.

A permit may be granted to vary a Built form requirement expressed with the term ‘should’.

An application for a development that does not meet a requirement expressed with the term ‘should’ must achieve the relevant built form outcomes.

Any reference to street width is a reference to the proposed ultimate width of the street reserve.

2.3 Definitions

For the purpose of this schedule:

Laneway means a street with a street reserve width of 9 metres or less.

Street wall means that part of a building constructed within 0.3 metres of a street or laneway including proposed streets and laneways.

Street wall height means a height measured from the footpath or natural surface level at the centre of the site frontage.

2.4 Building typologies

Built form outcomes

A precinct that is composed of subprecincts each with a distinctive character and built form typology.

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

Development should be generally in accordance with the built form typology in Table 1.

Development should help deliver the relevant preferred precinct character in Table 1.

Table 1: Building typologies

Precinct on Map 1	Building typology	Preferred future precinct character
Area W1	Mid-rise	<p>Generally mid-rise developments that:</p> <ul style="list-style-type: none"> ▪ Have the potential for commercial uses, including campus style developments and smaller scale commercial spaces that support creative industries, north of Woolboard Road. ▪ Include block (such as courtyard and perimeter block developments), hybrid and narrow lot developments, south of Woolboard Road extension. ▪ Retain and adaptively reuses heritage and character buildings. ▪ Provide landscaped spaces at ground level through the provision of lanes and through block links, plazas, courtyards and communal open space to provide high levels of amenity for residents and workers. ▪ Create a sense of address for properties fronting the Woolboard Road Linear Park and new Wirraway North Park.
Area W2	Hybrid (predominantly mid-rise)	<p>Mid-rise buildings with taller elements and block developments (including perimeter developments) located to ensure high levels of sunlight access to the south side of Plummer Street, that:</p> <ul style="list-style-type: none"> ▪ Are built to the boundary at the street. ▪ Retain and adaptively reuse heritage and character buildings. ▪ Deliver a lower varied street wall and mid-rise building heights along Plummer Street to create a fine-grain character, create a neighbourhood scale for the Retail Core and maximise the amount of sunlight penetrating between tower elements to reach the southern side of the street.

Precinct on Map 1	Building typology	Preferred future precinct character
		<ul style="list-style-type: none"> ▪ Provide of private and communal open space within developments with good access to sunlight. ▪ Create of a network of new lanes and plazas in the Core area. ▪ Are lower scale than the Sandridge Core. ▪ Activate Plummer Street new by north–south connections that connect to Plummer Street through a diversity of fine-grain street frontages.
Area W3	Low-mid-rise	<p>Generally a low to mid-rise scale of development, including, narrow lot, row, block and hybrid developments that do not result in podium–tower forms, that:</p> <ul style="list-style-type: none"> ▪ Respond to the context and character of adjacent low-rise neighbourhoods. Levels above the street wall of development that are visually recessive when viewed from streets and JL Murphy Reserve. ▪ Deliver a variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street and provide opportunities for portions of the streets to receive greater levels of sunlight access throughout the day. ▪ Create small landscaped frontages to Williamstown Road. ▪ Deliver landscaped spaces at ground level through the provision of lanes and through block links, plazas, courtyards and communal open space.
Area W4	Mid-rise	<p>Generally a mid-rise scale of development, including adaptive reuse of heritage and character buildings, narrow lot, row, block and hybrid developments that do not result in podium–tower forms, that:</p> <ul style="list-style-type: none"> ▪ Have visually recessive upper levels above the street wall when viewed from streets and JL Murphy Reserve. ▪ Are built to the boundary along Plummer Street. ▪ Provide active frontages to Plummer Street ▪ Provide private and communal open space within developments with good access to sunlight. ▪ Deliver a variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street and provide opportunities for portions of the street to receive greater levels of sunlight access throughout the day.

2.5

Building height

Built form outcomes

- Building heights that:
- Respond to the preferred precinct character and building typologies in Table 1.
- Contribute to a varied and architecturally interesting skyline.
- Ensure sunlight reaches parks and the southern side of Plummer Street.
- Avoid a stepped ‘wedding cake’ approach in response to overshadowing of the public realm and public open space requirements.
- Limit impacts on the amenity of the public realm as a result of overshadowing and wind.

- Provide an appropriate transition and relationship to heritage buildings and existing lower scale neighbourhoods of Port Melbourne.

Built form requirements

Development should not exceed the relevant height specified in Map 2 to this schedule.

Development must not exceed a building height specified as “mandatory” in Map 2.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.
- Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.

2.6 Overshadowing

Buildings must not (or should not where the overshadowing control is specified as discretionary) cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing residential zoned land south of Williamstown Road between the hours of 11.00am and 2.00pm on 22 September.
- The existing or proposed public open spaces or streets shown in Map 4 of this schedule for the hours specified in Table 2.

These requirements do not apply to buildings and works constructed within the open space.

For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:

- $\text{Height in metres} = (3.8 \times \text{number of storeys}) + 3.2.$

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
B	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September
B-Stripe	Discretionary	Plummer St Boulevard (first 6m north of property boundaries): Overshadowing control from 11:00am to 2:00pm, 22 September
C	Discretionary	Overshadowing control from 12:30pm to 3:30pm, 22 September
D	Discretionary	Overshadowing control from 10:00am to 1:00pm, 22 September

2.7 Street wall height

Built form outcomes

Street walls that:

- Deliver a distinct human scale street wall.
- Deliver a landscaped transition from the street to ground floor dwellings.
- Deliver appropriate street enclosure having regard to the width of the street with lower street walls on narrower streets.
- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Provide an appropriate transition to adjoining heritage places when viewed from the street.
- Enable adequate daylight and sunlight in streets and laneways.

- Make an appropriate transition back to the preferred street wall height from taller street walls on corner sites.

Built form requirements

Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in Table 3 except:

- Where a lower height is necessary to respond to an adjoining heritage place.
- For dwellings in Non-core areas not on a Secondary active frontages.

Dwellings in Non-core areas, not on a Secondary active frontage should be setback 3 metres from the street to facilitate landscaped a transition from the street to ground floor apartments.

A new street wall must not exceed a height the Maximum street wall height specified in Table 3.

Where a new building is on a corner, the taller Maximum street wall height applies to the frontage with the lower Maximum street wall:

- On streets wider than 9 metres a distance of 60 metres.
- On Laneways for a distance of 25 metres.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.

Where Table 3 specifies a ‘Tooth and gap approach’ the following requirements apply:

- On sites with a frontage 50 metres or more:
 - A street wall of 4 storeys or less must be provided for at least 20 per cent of the frontage. The remaining street wall may be up to the maximum building height.
 - Any element taller than 4 storeys should not be wider than 30 metres at the frontage.
 - Any element taller than 4 storeys should be adjacent to a 4-storey element.
- On sites with a frontage of less than 50 metres:
 - At least 40 per cent of the frontage should have a street wall of 4 storeys or less and must have a street wall of 4 storeys or less. The remaining street wall may be up to the maximum building height.

Table 3: Street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
On Plummer Street	Between Smith Street and opposite the western end of the JL Murphy Reserve.	Tooth and gap approach	
		6 storeys in height, except where a lower height is necessary to respond to an adjoining heritage place	
Along Williamstown Road		At least 4 storeys	4 storeys
Laneway (street \leq 9 m wide)		None specified	4 storeys
On a street $>$ 9 and \leq 22 m wide		None specified	6 storeys
On a street $>$ 22 m wide	Where the building height is \leq 10 storeys	At least 4 storeys	8 storeys
	Where the building height is $>$ 10 storeys	At least 4 storeys	6 storeys

2.8**Setbacks above the street wall****Built form outcomes**

Setbacks above street walls that:

- Help deliver comfortable wind conditions in the public realm.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow for views to the sky from the street or laneway.
- Do not overwhelm the public realm.
- Provide an appropriate setback to significant elements of any heritage place on, or adjoining the site.
- Minimise the visual bulk of upper floors.

Built form requirements

Any part of the building above the Maximum street wall height:

- Should be set back from a frontage at least the Preferred Setback specified in Table 4.
- Must be set back from a frontage at least the Minimum Setback specified in Table 4.

The setback from a street less than 9 metres wide must be measured from the centreline of the street. A negative value setback must be interpreted as a zero setback.

Table 4: Setbacks above the street wall

Location	Qualification	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside the: ▪ West Gate Freeway;	if the building height is ≤ 8 storeys	5 metres	3 metres
	if the building height is > 8 storeys	10 metres	5 metres
Williamstown Road		As specified for other locations	10 metres
Other locations	if the building height is ≤ 8 storeys	5 metres	3 metres
	if the building height is > 8 storeys and ≤ 20 storeys	10 metres	5 metres
	if the overall building height is > 20 storeys	10 metres	10 metres

2.9**Side and rear setbacks****Built form outcomes**

Side and rear setbacks that:

- Create a continuous street wall along streets and laneways.
- Enable adequate daylight and sunlight in streets and laneways.
- Allow sunlight and daylight to, and outlook from habitable rooms existing and potential developments on adjoining sites.
- Mitigate wind effects on the public realm.
- Ensure tall buildings do not appear as a continuous wall when viewed from street level.
- Allow for views to the sky between buildings.
- Minimise visual bulk.
- Achieve privacy by setbacks rather than screening.

Built form requirements

Within Core areas identified in the Schedule to the Capital City Zone, that part of a new building below the Maximum street wall height should be built on or within 300 mm of a side boundary.

That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:

- The building is built on or within 300 mm of the boundary.
- The built form outcomes are achieved.
- The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.
- The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.
- The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.

A new building not on or within 300 mm of a boundary:

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.

- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.

Table 5: Side and rear setbacks

Part of building	Qualification	Qualification	Preferred setback	Minimum setback
Below the Maximum street wall height	if not within 300 mm of a side or rear boundary	Within Core areas	6 metres	6 metres
		Within Non-core	9 metres	6 metres
Above the Maximum street wall height	Building height ≤ 20 storeys		10 metres	5 metres
	Building height > 20 storeys		10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- Delivers high quality amenity within buildings having regard to outlook, daylight, and overlooking.
- Offsets direct views between buildings within the same site.
- Achieves privacy by building separation rather than screening.
- Ensures tall buildings do not appear as a continuous wall when viewed from street level.
- Ensures that open space between buildings (excluding a road or laneway) adds to the amenity of the development.

Built form requirements

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Building height	Preferred building separation	Minimum building separation
Below the Maximum street wall height		12 metres	6 metres
Above the Maximum street wall height	≤ 20 storeys	20 metres	10 metres
	> 20 storeys	20 metres	20 metres

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

- Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.

Built form requirements

Buildings and works higher than 40 metres:

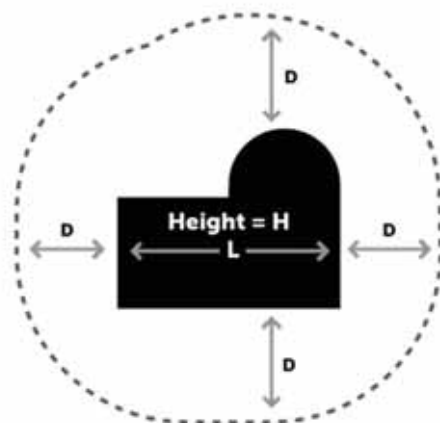
- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

The assessment distance is shown in the figure below and is the greater of:

- Half the longest width of the building.
- Half the total height of the building.

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	The Hourly mean wind speed from all wind directions combined with a probability of exceedance of 20 per cent, is less than or equal to: <ul style="list-style-type: none"> ▪ 3 metres/second for sitting areas. ▪ 4 metres/second for standing areas. ▪ 5 metres/second for walking areas. Hourly mean wind speed is the maximum of: <ul style="list-style-type: none"> ▪ The hourly mean wind speed. ▪ The gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	The hourly maximum 3 second gust from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.



Assessment distance D = greater of:
 L/2 (Half longest width of building)
 OR
 H/2 (Half overall height of building)

2.12 Communal open space

Built form outcomes

Communal open space that:

- Meets the needs of residents.
- Delivers significant opportunities for landscaping, including large trees, are included within the development and contribute to the visual amenity of apartments.
- Supports a range of recreational uses.
- Can be readily accessed from within the development and provide direct pedestrian connections to the street.

Built form requirements

These requirements do not apply in the Core area.

Communal open space should be a minimum of 30 per cent of the net developable site area, except where any of the following apply:

- An existing building is being retained and accounts for greater than 70 per cent of the net developable area.
- The site has a gross developable area of less than 1200 square metres.
- The responsible authority is satisfied that other site constraints warrant an reduction in communal open space.

2.13 Active street frontages

Built form outcomes

Buildings that:

- 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 facades with windows and legible entries.
- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level that:

- Create a sense of address by providing direct individual street entries to dwellings or home offices, where practicable.

Car parking that does not detract from the public realm.

Built form requirements

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 and Secondary active streets on Map 3 to this schedule, 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.

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent clear glazing along the ground level frontage to a height of 2.5 metres, excluding any solid plinth or base.
Secondary active frontages (Type 1)	At least 60 per cent clear glazing along the ground level frontage to a height of 2.5 metres, 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 2.5 metres, excluding any solid plinth or base.

2.14

Adaptable buildings

Built form outcomes

Buildings that:

- Provide for the future conversion of those parts of the building accommodating non-employment uses to employment uses.

Car parking that:

- Can be adapted to other uses over time.

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
Lower levels up to the height of the street wall	At least 4.0 metres floor to floor height at ground level. At least 3.8 metres floor to floor height for other lower levels.
Car parking areas	<ul style="list-style-type: none"> ▪ In areas not in a basement: Level floors. ▪ A floor-to-floor height at least 3.8 metres. Mechanical parking systems to reduce the area required for car parking
Dwelling layout	The ability for one and two-bedroom dwellings to be combined or adapted into three or more bedroom dwellings.
Internal layout	Minimal load bearing walls to maximise flexibility for retail or commercial refits.

2.15

Building finishes

Built form outcomes

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

Built form requirements

Buildings should avoid blank facades.

Buildings fronting main roads should use materials and finishes with a perpendicular reflectivity less than 15 per cent, measured at 90 degrees to the facade surface.

Building walls facing a street or public place should be detailed to provide visual richness.

2.16 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

--/20--

None specified.

Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

--/20--

None specified.

5.0 Decision guidelines

--/20--

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence.
- The cumulative impact of the proposed development and any existing adjoining development.
- Equitable access to privacy, sunlight, daylight and outlook having regard to the proposed internal uses and the height of existing or proposed adjoining built form.
- The effect of the proposed development on solar access to existing and proposed public spaces having regard to:
 - The area of additional shadow cast over the public space relative to the total area of public space and the area that will remain sunlit.
 - Any adverse impact on soft landscaping in public spaces.
 - Whether allowing additional shadows to be cast on public spaces, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.

Diagrams

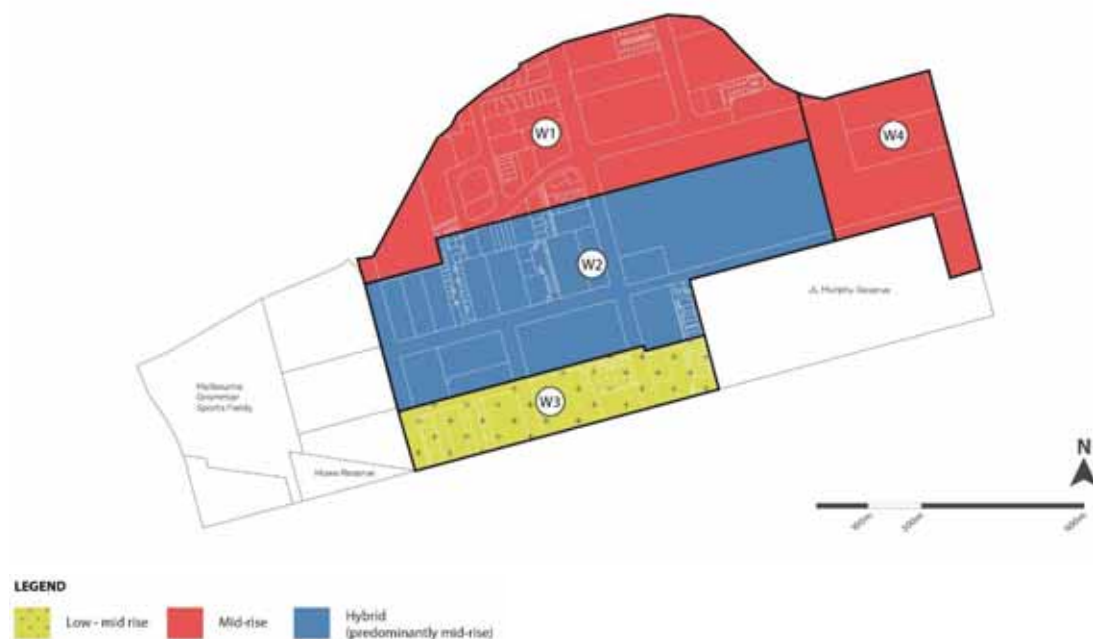
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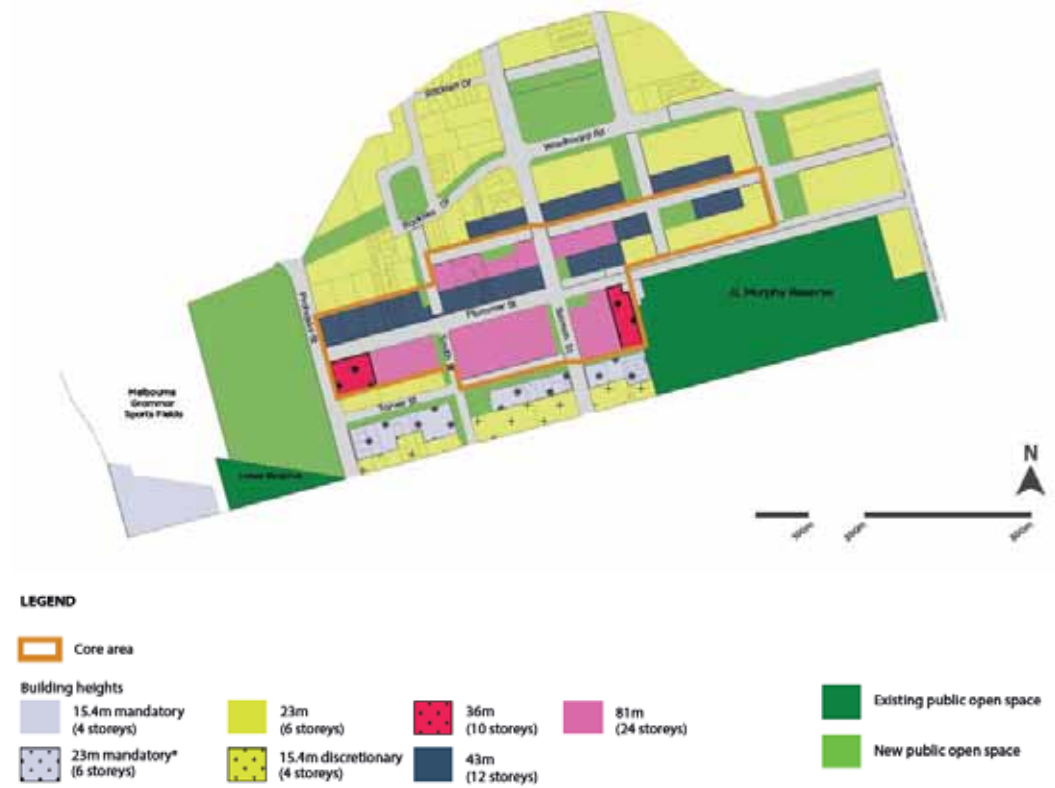
Map 1: Building typologies

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 2: Building heights

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



*Maximum street wall height of 4 storeys and setback 10m above street wall

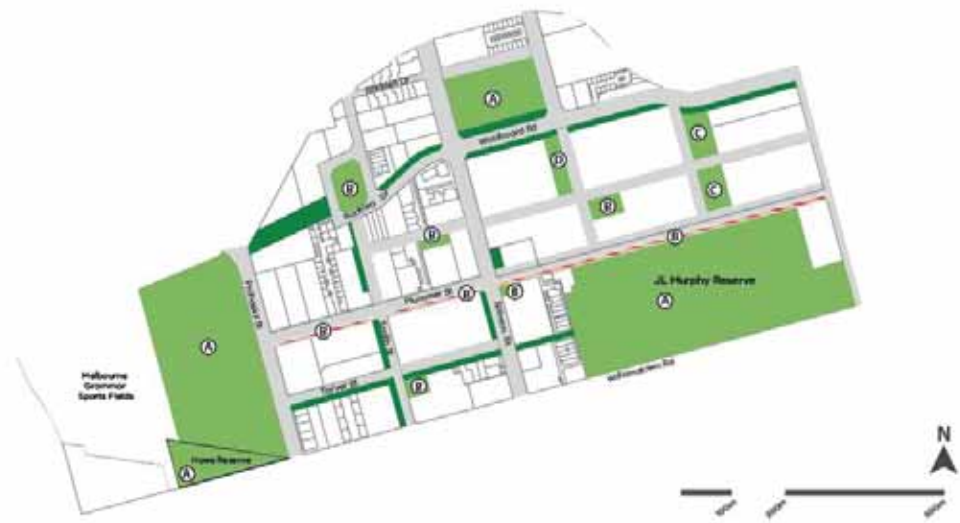
Map 3: Active street frontages

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



Map 4: Overshadowing

[Use updated GIS version of the map with changes identified in Section 4 of this Report]



LEGEND

- A** Public open space
Overshadowing control from 11am to 2pm, 21 June to 22 September
- B** Public open space
Overshadowing control from 11am to 2pm, 22 September
- C** Public open space
Overshadowing control from 12:30pm to 3:30pm, 22 September
- D** Public open space
Overshadowing control from 10:00am to 1:00pm, 22 September

- B** Plummer St Boulevard (first 6m north of property boundaries)
Overshadowing control from 11am to 2pm, 22 September
- Green** New and existing public open space
No overshading controls

Appendix C: Track change versions of the Review Panel preferred versions

Appendix C.1: Clause 22.XX – track change version

22. XX FISHERMANS BEND URBAN RENEWAL AREA

--/~/20-- This policy applies to use and development of all land within Fishermans Bend affected by the Capital City Zone Schedule [1 PPPS, 4 MPS] or Design and Development Overlay Schedule [30 PPPS, 67 MPS]

To the extent of any inconsistency with another local policy, this local policy prevails.

22.XX-1 Policy basis

--/~/20-- This policy implements the vision for Fishermans Bend, as set out in the [draft](#) Fishermans Bend Framework, [XX-2018-2017](#) as a ‘thriving place that is a leading example for environmental sustainability, liveability, connectivity, diversity and innovation’ that, [by 2050](#), will accommodate, [between 80,000 and 120,000](#) residents, 40,000 jobs and be Australia’s largest Green Star – Community. [Fishermans Bend is striving for a 6 Star Green Star – Communities rating.](#)

[This policy supports:](#)

- ~~It is policy to facilitate the Creation of at least 40,000 jobs in the Fishermans Bend Capital City Zone precincts by:~~
 - [Locating the highest densities of employment opportunities close to existing and planned public transport.](#)
 - [Delivering housing opportunities for a diverse community.](#)
 - [Providing at least six per cent of dwellings as Affordable housing, with additional Social housing dwellings provided as part of a Social housing uplift scheme.](#)
 - [Creating a place of design excellence.](#)
 - ~~It is policy to~~ [Creating a benchmark for sustainable and resilient urban transformation that supports the creation of a climate adept, water sensitive, low carbon, low waste community. This will be achieved through the application of Clause 22.13 and the following measures:](#)
 - [Creating a climate adept community that is resilient to extreme weather events by encouraging:](#)
 - [Creating resilience against the impacts of sea level rise and flooding from storm events through a combination of physical and management measures without compromising the urban form at the ground level.](#)
 - [Addressing the potential flood impacts in the first instance with measures which maintain activity at ground level. This includes:](#)
 - ~~The construction of a levy adequate to ensure that the expected rise in sea levels does not impact on the new urban areas;~~
 - ~~Giving primary consideration to mitigating the risk to human life and property damage.~~
 - [Creating a low waste community that is designed to provide best practice waste and resource recovery management.](#)
 - ~~It is policy to~~ [Creating a connected, permeable and accessible community that prioritises walking, cycling, and public transport use.](#)
 - ~~It is policy to~~ [Encouraging developments to be designed to support 80 per cent of movements being made via active and public transport.](#)
 - [Encouraging new uses and developments to implements measures to mitigate against adverse amenity impacts from existing industrial uses.](#)

22.XX-2 Objectives

--/20--

To ~~create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation~~ implement the Fishermans Bend Vision, September 2016 and Fishermans Bend Framework, XX 2018.

Comment: Planning schemes should not refer to external documents unless they are incorporated. The revised text is extracted from the Vision, with 'design excellence added'.

To create a prosperous community that ~~will~~ supports diverse employment opportunities across all precincts that build on proximity to the Central City and Port of Melbourne.

To promote employment generating floor space in all precincts that supports growth in the knowledge, creative, design, innovation, engineering, and service sectors.

~~To support the creation of a precinct of design excellence.~~

To create ~~thriving, lively~~ mixed use neighbourhoods that have distinct identity and character consistent with the Vision preferred character for each precinct.

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

To ensure development is carried out in accordance with ecologically sustainable development principles.

To encourage the transition ~~of over time from a primarily industrial land use area into a series of thriving mixed use neighbourhoods in a manner which supports growth of Fishermans Bend and protects existing and future land uses from adverse impacts to a high-density mixed uses area and to support the continued operation of existing industrial uses.~~ 22.XX 4

Definitions

The following definitions apply for the purposes of interpreting this policy:

Affordable housing has the same meaning as in the *Planning and Environment Act 1987*.

~~Core Area~~ means an area identified as a Core Area ~~in the relevant Map in schedule # to the CCZ.~~

Dwelling density ~~densities per hectare~~ (dw/ha) means the number of dwellings on the site divided by the gross developable area (hectares) of the site excluding any proposed road, laneway or public open space.

~~Floor area ratio~~ means the gross floor area divided by the gross developable area.

~~Gross developable area~~ means the total site area, including any proposed road, laneway, public open space or land to be set aside for a Public Benefit.

~~Gross floor area~~ means the area above ground of all buildings on a site, including all enclosed areas, services, lifts, car stackers and covered balconies. Dedicated communal residential facilities and recreation spaces are excluded from the calculations of gross floor area. Voids associated with lifts, car stackers and similar service elements should be considered as multiple floors of the same height as adjacent floors or 3 metres if there is no adjacent floor.

~~Public Benefit~~ means the provision of the following for the benefit of the community to the satisfaction of the Responsible Authority:

Social housing has the same meaning as in the *Housing Act 1983*.

Social housing uplift means dwellings that exceed the number of dwellings allowable under the dwelling density requirements in the Schedule to the Capital City Zone.

22.XX-3 Policy

22.XX-3.1 Providing for employment floor area

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~~It is policy to facilitate the creation of at least 40,000 jobs in the Fishermans Bend Capital City Zone precincts by:~~

~~Encouraging the highest densities of employment opportunities close to existing and planned public transport.~~

Comment: General statement to be addressed in the policy basis

It is policy to assess proposals against the following criteria:

- Encouraging all development in the core areas in the relevant Map in schedule # to the CCZ to ~~should~~ set aside non-residential floor area to provide floor area for employment generating uses. ~~To enable this, Table 1 to this policy outlines sets out the preferred minimum floor area plot ratio which that should be set aside provided~~ for a use other than Dwelling.

Table 1: Minimum floor area plot ratio not used for Dwelling

Precinct	Minimum floor area plot ratio not used for Dwelling
Lorimer	1.7:1
Wirraway	1.9:1
Sandridge	3.7:1
Montague	1.6:1

Where development in the core areas provides less than the minimum floor area plot ratio set out in Table 1 to this policy, ~~consideration will be given to the responsible authority will consider as appropriate:~~

- Whether the built form envelope available on the site makes it impractical to provide the minimum floor area plot ratios.
- Whether the application is associated with the continued operation of or expansion of an existing employment or residential use on site ~~that is currently less than the minimum floor area ratio.~~
- Whether the building floor to floor heights, layout and design will facilitate future conversion from residential to commercial employment generating uses or ~~for from~~ car parking areas to ~~be converted to alternate other~~ uses.
- Whether the development can demonstrate that it is contributing to the employment objectives of this policy while providing less than the minimum floor area plot ratio.

22.XX-3.2 Community and diversity

~~It is policy to deliver a range of housing opportunities for a diverse community, including for households with children, older people and households with low to moderate incomes and key workers in Fishermans Bend by:~~

Comment: General statement to be addressed in the policy basis

~~Supporting the provision of twenty per cent affordable housing across Fishermans Bend of which 6% is provided as Social Housing.~~

Comment: Affordable and Social housing is addressed below.

It is policy to:

- Encouraging Encourage a diversity of dwelling typologies and sizes within each precinct and within individual development sites.
- Encouraging Encourage any affordable housing provided to comprise a range of built form typologies.
- Encouraging proposals of more than 100 dwellings to provide the following percentage of three bedroom dwellings:
 - Lorimer: 20 per cent

~~— Wirraway: 30 per cent~~

~~— Sandridge: 20 per cent~~

~~— Montague: 25 per cent~~

- ~~Encouraging~~ Encourage design that delivers a range of housing types suitable for ~~different~~ households with children through:
 - The development of mid-rise housing with access to private open space.
 - Living room sizes that exceed minimum requirements ~~to enable multiple uses and/or areas.~~
 - 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.
- ~~Encouraging~~ Encourage the delivery of adaptable floor plates including the opportunity to combine ~~1 and 2~~ one- and two-bedroom units to form larger apartments.
- ~~Encouraging~~ Encourage communal open spaces within residential development to ~~create opportunities for social interaction and a sense of community. This includes~~ include a range of facilities, garden and recreation areas, with consideration given to opportunities for a range of users.

It is policy to assess proposals against the following criteria:

- ~~Encouraging p~~Proposals of more than 100 dwellings ~~to~~ should provide the following percentage of three bedroom dwellings:
 - Lorimer: 20 per cent
 - Wirraway: 30 per cent
 - Sandridge: 20 per cent
 - Montague: 25 per cent.

22.XX-3.3 Providing for Affordable including Social housing

Affordable housing

It is policy to assess proposals against the following criteria:

- Development should provide at least six per cent of dwellings permitted under the dwelling density requirements in the Capital City Zone (excluding any Social housing uplift dwellings) as Affordable housing, unless, any of the following apply:
 - The built form envelope available on the site makes it impractical to do so.
 - It can be demonstrated that the development will contribute to the Affordable housing objectives of this policy while providing less than the minimum amount.
 - It can be demonstrated that meeting the Affordable housing objectives of this policy would render the proposed development economically unviable.
- Affordable housing should:
 - Be a mix of 1, 2 and 3 bedrooms that reflects the overall dwelling composition of the building.
 - Have internal layouts identical to other comparable dwellings in the building.
 - Be externally indistinguishable from other dwellings.

Social housing

It is policy to:

- Encourage development to provide Social housing, in addition to the provision of six per cent Affordable housing by allowing a Social housing uplift equivalent to eight additional private dwellings of equivalent size for each Social housing unit provided.

~~It is policy to ensure w~~Where a floor area ~~is sought~~ Social housing uplift is sought ~~that~~ the responsible authority, in consultation with the receiving ~~housing provider~~ of the proposed ~~public benefit(s)~~ Social housing, will consider ~~as appropriate the following~~:

- Whether the ~~public benefit(s)~~ proposed Social housing is consistent with state and local policy, ~~and~~ strategic initiatives. ~~Whether the grant of the uplift will result in the early delivery of community infrastructure hubs.~~
- ~~Whether the quantity and value of the floor area uplift has been appropriately calculated.~~
- Whether the proposed ~~public benefit(s)~~ Social housing can be realistically delivered and secured by a suitable legal agreement ~~and~~.
- Whether the proposed ~~public benefit~~ Social housing is supported by the ~~housing provider~~ receiving ~~the housing agency~~ and can be maintained ~~as Social housing in perpetuity.~~
- Whether the Social housing uplift will have acceptable consequences, having regard to the ~~preferred character of the area, and the~~ level of public transport and other infrastructure available.

22.XX-3.4 Design excellence

It is policy to ~~create a place of design excellence by~~:

- ~~Encouraging~~ Encourage varied built form typologies that align with the precinct character area as detailed in the ~~Municipal Strategic Statement~~ Design and Development Overlay.
- ~~Encouraging variation in the design of buildings and spaces, to create a unique city image and assist in way finding.~~
- ~~Encouraging large sites to incorporate a range of built form typologies.~~
- Encourage large sites to create Encourage a fine-grain, pedestrian scale environment.

It is policy to assess proposals against the following criteria:

- ~~Ensuring the design of b~~Buildings ~~should~~ contribute to a high quality public realm.
- ~~Encouraging developments~~ Development ~~should~~ deliver spaces, including open spaces, for people to meet, gather, socialise, exercise and relax.
- Development ~~should~~ Delivering variation in massing, building height, and roof forms and staggering or offsetting of tower footprints ~~where there are multiple towers.~~
- ~~Encouraging design to respond to architectural and cultural heritage including aboriginal cultural heritage through interpretive design.~~
- ~~Encouraging the building design to respond to the existing industrial built form.~~
- ~~Encouraging the retention or reuse of existing industrial building elements.~~
- ~~Ensuring materials palettes and building finishes respond to the industrial context and social history of the area.~~

Comment: These design approaches might may be warranted for all sites

22.XX-3.5 Achieving a climate adept, water sensitive, low carbon, low waste community

~~It is policy to create a benchmark for sustainable and resilient urban transformation that supports the creation of a climate adept, water sensitive, low carbon, low waste community. This will be achieved through the application of Clause 22.13 and the following measures:~~

Energy

~~Creating a low carbon community that provides energy efficient design by encouraging:~~

It is policy to assess proposals against the following criteria:

- Developments ~~to~~ should achieve a 20 per cent improvement on current National Construction Code energy efficiency standards. This includes energy efficiency standards for building envelopes and for lighting and building services.
- Residential developments ~~to~~ should achieve an average 7 star NatHERS rating for each building.
- Development ~~to~~ should incorporate renewable energy generation, on-site energy storage, and opportunities to connect to a future precinct-wide or locally distributed low carbon energy supply.

Urban heat island

~~Creating a climate adept community that is resilient to extreme weather events by encouraging:~~

- ~~▪ Building design to include green roofs, green walls and deep planters for canopy trees to maximise shading.~~

It is policy to assess proposals against the following criteria:

- ~~▪ Non-glazed facades materials exposed to summer sun to have a low solar absorptance.~~
- At least 70 per cent of the total site area should comprise building or landscape elements that reduce the impact of the urban heat island effect including:
 - Vegetation, green roofs and water bodies.
 - Roof materials, shade structures or hard scaping materials with high solar reflectivity index, including solar panels.
- Non-glazed facade materials exposed to direct summer sun ~~to~~ should have a low solar absorptance.

Sea level rise, flooding and water recycling and management

~~Creating resilience to the impacts of sea level rise and flooding from storm events through a combination of physical and management measures without compromising the urban form at the ground level by:~~

- ~~▪ Addressing the potential flood impacts in the first instance with measures which maintain activity at ground level. This includes:

 - The construction of a levy adequate to ensure that the expected rise in sea levels does not impact on the new urban areas;
 - Giving primary consideration to mitigating the risk to human life and property damage.~~

It is policy to:

- Only consider raising of internal ground floor level above street level should ~~only be considered~~ as a last resort, 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:

- ~~Encouraging d~~ Design elements and materials should be flood resilient, ~~in flood events~~ including waterproof doors and windows, elevated power outlets and the like.

- ~~Facilitating~~ Land uses at ground floor ~~that are~~should be able to easily recover from the impacts of temporary flooding.
- ~~Raising of internal ground floor level above street level should only be considered as a last resort where the implementation of other measures coupled with an evidence based approach to risk management reasonably necessitates raising internal floor levels above street level.~~
- ~~Where~~Any level changes ~~are~~ required between street level and internal ground floor, ~~the level changes~~ should be integrated into the design of the building to maintain good physical and visual connection between the street and internal ground floor. ~~This may include:~~
 - ~~The use of footpath level building entries with internal level changes.~~
 - ~~Ramp structures located internal to buildings.~~
 - ~~Where external ramps are necessary, they should be well integrated with the building and contribute to the quality and character of the public realm.~~
- ~~The location of~~eEssential services, such as power connections, switchboards and other critical services should be located to address ~~and be responsive to~~ potential flooding events.
- Development and public realm layout and design should integrate best practice Water Sensitive Urban Design.

Waste management

~~Create a low waste community that is designed to provide best practice waste and resource recovery management, by ensuring:~~

It is policy to assess proposals against the following criteria:

- Development should respond to any precinct waste management plan, ~~if one exists.~~
- Where practicable, developments should create opportunities to:
 - Optimise waste storage and efficient collection methods.
 - Combine commercial and residential waste storage.
 - Share storage or collections with adjacent developments.
 - Separate collection for recycling, hard waste, and food and green waste.

22.XX-3.6 ~~Public and~~ Communal open spaces

It is policy to:

- Create ~~publicly accessible,~~ 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 ~~pedestrian and~~ vehicle movement to or from the development does not unreasonably impact on the function, usability or amenity of the open space.
 - ~~Integrate any publicly accessible open space within the development with adjoining areas of open space.~~
- Encourage internal and external communal open 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 ~~and ensure the location, design and layout of these areas~~ that contribute to the creation of a network of passive, ~~in~~ formal and informal recreational spaces.

- ~~▪ Encourage new publicly accessible open spaces to have direct street access and where possible to be co-located with other existing or proposed open spaces.~~

Comment: This may not be the best approach in all cases. Some of the world's best public spaces do not have direct street access.

It is policy to assess proposals against the following criteria:

- ~~Ensure any Communal open space, including rooftop and podium spaces are should be~~ designed to meet the needs of a range of potential users.
- ~~▪ Encourage internal and external communal open 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 and ensure the location, design and layout of these areas contribute to the creation of a network of passive, informal and informal recreational spaces.~~
- Integrate any The location, design and layout of publicly accessible open space areas at ground level within the development should be integrated with adjoining areas of open space.
- ~~▪ Encourage new publicly accessible open spaces to have direct street access and where possible to be co-located with other existing or proposed open spaces.~~

22.XX-3.7 Landscaping

Comment: Landscaping text from Document 335

It is policy to:

- Encourage developments to provide landscaping in all areas of open space including public open space, communal open space, and private open space. ~~that~~

It is policy to assess proposals against the following criteria:

- Landscape areas should:
 - Contribute to the creation of a sense of place and identity and the preferred character sought for the precinct.
 - Incorporate innovative approaches to flood mitigation and stormwater runoff, and best practice Water Sensitive Urban Design.
 - Incorporate opportunities for productive landscaping or community gardens.
 - For public open space, interpret and celebrate heritage and culture, including aboriginal Aboriginal cultural heritage.
- Plant selection should:
 - Support the creation of complex and biodiverse habitat which that includes native and indigenous flora and fauna.
 - ~~▪ Encourages vertical and roof top greening to contribute to biodiversity outcomes.~~
 - Balance the provision of native and indigenous plants with exotic climate resilient plants that provide resources for biodiversity.
 - Support the creation of vegetation links within Fishermans Bend to surrounding areas of biodiversity through planting selection and design.
 - Incorporate productive landscaping food plants.
 - ~~▪ Encourages vertical and roof top greening to contribute to biodiversity outcomes.~~
- Buildings should:
 - Include deep soil zones of at least 1.5 metres or planter pits to accommodate canopy trees.

- Incorporates green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to microclimate conditions.
- ~~— Building design to include green roofs, green walls and deep planters for canopy trees to maximise shading.~~

Comment: Green walls can use substantial amount of water

- ~~— Incorporates opportunities for productive landscaping or community gardens.~~
- ~~— Interprets and celebrates heritage and culture, including aboriginal cultural heritage.~~
- ~~— Incorporates innovative approaches to flood mitigation and stormwater run-off and best practice water sensitive urban design.~~

22.XX-3.8 New streets, laneways and pedestrian connections

~~It is policy to create a connected, permeable and accessible community that prioritises walking, cycling, and public transport use, by:~~

It is policy to assess proposals against the following criteria:

- Ensuring nNew streets, laneways and pedestrian connections should be spaced:
 - ~~Are In core areas, not more than generally 50- to 70 metres apart in the preferred direction and 100 metres apart in the other direction in a block core areas as shown on the relevant Maps in the schedule ## to the Capital City Zone, or within 200 metres of public transport routes.~~
 - ~~Are In Non-core areas, not more than 100 metres apart and be oriented in the preferred direction in non-core areas.~~

The preferred direction for new pedestrians connections and laneways is:

 - In Lorimer north of the Lorimer Parkway, north–south, to encourage better connections with the Yarra River.
 - In Montague, north–south.
 - In Sandridge, north–south.
 - In Wirraway, north–south.
- ~~Encouraging on s~~Sites of more than 3000 square metres, should provide new streets, laneways or paths to create mid-block through links and define and separate buildings.
- New streets, laneways and pedestrian connections should be:
 - ~~Are~~ Aligned with and connected to existing and proposed streets as shown in the relevant Maps in the schedule ## to the Capital City Zone ~~and other,~~ laneways and ~~paths~~ pedestrian connections.
- New streets, laneways and pedestrian connections should provide direct access to existing or proposed public transport stations and routes, and existing or proposed public open space.
 - ~~— A maximum design speed of 10 km/hr in accordance with the 9 metre road cross-section.~~
 - ~~— A maximum design speed of 5 km/hr in accordance with the 6 metre road cross-section.~~
- ~~▪ Locating new streets, laneways or paths along a side boundary on sites with a street frontage of less than 100 metres.~~
- ~~Ensuring any n~~New shared streets or shared laneways are designed to should prioritise pedestrian movement and safety ~~and designed to:~~
- ~~▪ Encouraging on sites more than 3000 square metres, new streets, laneways or paths to create mid block through links and define and separate buildings.~~
- ~~Encouraging N~~new streets and laneways ~~to~~ should be designed to:

- Enable views through the street block.
- Have active frontages in a core areas.
- Be open to the sky.
- Allow for the canopy tree planting.

Smart cities

It is policy to encourage developments to include smart city technology, by:

- ~~▪ Embedding smart technology and installing digital sensors and actuators into built form to collect digital data.~~
- ~~▪ Embedding opportunities for ‘smart’ and responsive urban management and practices into the design and operation of infrastructure and buildings and services.~~
- ~~▪ Encouraging smart infrastructure to be installed on existing infrastructure.~~
- ~~▪ Integrating ‘smart’ management and design of energy, water, and waste infrastructure that supports efficient use of resources.~~
- ~~▪ Ensuring developments make provision for the delivery of high speed data networks.~~
- ~~▪ Ensuring that all technology and data systems meet best practices.~~

22.XX-3.9 Sustainable transport

It is policy to encourage developments to be designed to support 80 per cent of movements being made via active and public transport, by:

It is policy to:

- ~~Ensure development does not compromise~~ **Facilitating** the delivery of future public transport including new trams, ~~and~~ train and bus routes.
- **Reducing** impacts of new vehicle access points on pedestrian, public transport and bicycle priority routes.
- **Designing** internal connections to give priority to bicycle and pedestrian movements.
- **Providing** high levels of and easy access to bicycle parking facilities, including end of trip change rooms, showers and lockers.
- ~~▪ Facilitating the delivery of future public transport including new trams, train and bus routes.~~
- ~~▪ Designing internal connections to give priority to bicycle and pedestrian movements.~~
- ~~▪ Delivering new streets and laneways to provide walking and cycling permeability.~~
- ~~Discouraging~~ **Encouraging** development ~~from to~~ **providing more-less** than the preferred maximum number of car spaces.
- **Encouraging** development to provide for future conversion of car parking to alternative uses.
- ~~▪ Reducing impacts of new vehicle access points on pedestrian, public transport and bicycle priority routes.~~
- ~~▪ Providing information to residents and employees about local walking, cycling and public transport routes.~~

Floor area uplift

~~It is policy to ensure where a floor area uplift is sought that the responsible authority, in consultation with the receiving agency of the proposed public benefit(s) considers the following:~~

- ~~▪ Whether the public benefit(s) is consistent with state and local policy, strategic initiatives. Whether the grant of the uplift will result in the early delivery of community infrastructure hubs.~~
- ~~▪ Whether the quantity and value of the floor area uplift has been appropriately calculated.~~
- ~~▪ Whether the proposed public benefit(s) can be realistically delivered and secured by a suitable legal agreement, and~~
- ~~▪ Whether the proposed public benefit is supported by the proposed receiving agency and can be maintained. Whether the uplift will have acceptable consequences, having regard to the level of public transport and other infrastructure available in the area.~~

22.XX-4 Land use transition

~~It is policy to ensure where a new use or development is sought amenity impact from pre-existing uses is considered, by:~~

~~It is policy to:~~

- ~~▪ Ensure new uses and the expansion of existing uses with potential adverse amenity impacts do not prejudice the urban renewal of Fishermans Bend.~~
- ~~▪ Preparing For applications that might be affected by adverse amenity impacts, require an Amenity Impact Plan that ~~identifies existing industrial activities and contains~~ includes measures to mitigate adverse amenity impacts ~~from those activities.~~~~
- ~~▪ Encouraging new uses and developments to implements measures to mitigate against adverse amenity impacts from existing industrial uses.~~

22.XX-5 Reference documents

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~~Fishermans Bend Vision, September 2016~~

~~Fishermans Bend draft Framework, ~~XX 2018~~2017~~

~~Fishermans Bend Community Infrastructure Plan 2017~~

~~Fishermans Bend Urban Design Strategy 2017~~

~~Fishermans Bend Waste and Resource Recovery Strategy 2017~~

~~How to calculate floor area uplift and public benefits in Fishermans Bend~~

Appendix C.2: Capital City Zone – track change version

SCHEDULE [1] [4] TO CLAUSE 37.04 CAPITAL CITY ZONE

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Shown on the planning scheme map as **[CCZ1] [CCZ4]**.

FISHERMANS BEND URBAN RENEWAL AREA

Purpose

To create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation implement the Fishermans Bend Vision, September 2016 and Fishermans Bend Framework, XX 2018.

To create a highly liveable mixed use area well serviced by public transport, and encourage a scale of growth that is aligned with the provision of public transport and other infrastructure.

To create a world leading sustainable urban renewal area that incorporates sustainable transport patterns and best practice sustainable design into all developments.

To create a highly liveable mixed use area that prioritises employment uses over residential uses, within core areas well serviced by public transport.

To achieve the population targets, job growth and residential densities [within each precinct] of Fishermans Bend and enable a scale of growth that is aligned with the provision of infrastructure.

To provide public benefits in the form of Social housing where the scale of development exceeds the nominated Floor Area Ratios Dwelling density.

To support the continued operation of strategically important existing industrial uses and existing industrial uses that provide services to the construction industry which facilitates the urban renewal of Fishermans Bend, and to apply the agent of change principle to ensure that new development for sensitive uses incorporates measures to mitigate potential amenity impacts from those industrial uses.

1.0 Table of uses

Section 1 - Permit not required

Use	Condition
Accommodation (other than Dwelling, Corrective institution, Motel, Residential aged care facility, Residential hotel, Residential village and Retirement village)	<p>Must not be within an Amenity buffer shown on [Map 5].</p> <p>Must meet the threshold distance from industrial and/or warehouse uses referred to in the table to Clause 52.10.</p> <p>Must be no less than 300 m from 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne.</p> <div data-bbox="983 607 1401 674" style="border: 1px solid black; padding: 5px;"> <p>Comment: These areas should be mapped</p> </div> <p>Must not be within the Pipelines buffer shown on [Map 6].</p> <p>Must not be within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map #.</p> <p>Must not be within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.</p>
Art and craft centre	
Bank	Must be located in a Core area with frontage to a primary or secondary active frontage street shown on the relevant Urban Structure map .
Child care centre	<p>Must not be within an Amenity buffer shown on [Map 5].</p> <p>Must meet the threshold distance from industrial and/or warehouse uses referred to in the table to Clause 52.10.</p> <p>Must be more than 300 m from 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne.</p> <p>Must not be within the Pipelines buffer shown on [Map 6].</p> <p>Must not be within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map #.</p> <p>Must not be within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.</p>
Cinema based entertainment facility	<p>Must be located in a Core area with frontage to a primary or secondary active frontage street shown on the relevant Urban Structure map.</p> <p>Must not be within the Pipelines buffer shown on [Map 6].</p> <p>Must not be within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map #.</p> <p>Must not be within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.</p>
Department store	Must be located in a Core area with frontage to a primary or secondary active frontage street shown on the relevant Urban Structure map .

Use	Condition
Display home	
Dwelling	<p>Must be in a Non-core area.</p> <p>Must not be within an Amenity buffer shown on [Map 5].</p> <p>Must meet the threshold distance from industrial and/or warehouse uses referred to in the table to Clause 52.10.</p> <p>Must be more than 300 m from 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne.</p> <p>Must not be within the Pipelines buffer shown on [Map 6].</p> <p>Must not be within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map #.</p> <p>Must not be within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.</p>
Education centre	<p>Must not be within an Amenity buffer shown on [Map 5].</p> <p>Must meet the threshold distance from industrial or warehouse uses referred to in the table to Clause 52.10.</p> <p>Must be more than 300 m from 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne.</p>
Home occupation	Must meet requirements of Clause 52.11.
Informal outdoor recreation	
Minor sports and recreation facility	
<u>Motel</u>	Must not be within an Amenity buffer shown on [Map 5].
Office (other than Bank)	
<u>Railway station</u>	
Place of assembly (other than Amusement parlour, Function centre and Nightclub)	<p>Must not be within the Pipelines buffer shown on [Map 6].</p> <p>Must not be within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map #.</p> <p>Must not be within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.</p>
<u>Railway station</u>	
Retail premises (other than Hotel, Shop and Tavern)	Must not exceed 1000 square metres gross leasable floor area, and be located in a <u>C</u> ore area.
Restricted retail premises	
Residential aged care facility	Must not be within an Amenity buffer shown on [Map 5].
Residential hotel	
<u>Motel</u>	<p>Must meet the threshold distance from industrial or warehouse uses referred to in the table to Clause 52.10.</p> <p>Must be more than 300 m from 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne.</p>

Use	Condition
Shop (other than Adult sex bookshop, Department store, Supermarket and Restricted retail premises)	
Supermarket	Must be located in a Core area with frontage to a primary active frontage street shown on the relevant Urban Structure map .
Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Accommodation (other than Dwelling, Corrective institution, Motel, Residential aged care facility, Residential hotel, Residential village and Retirement village)	
Adult sex bookshop	
Car park	Must not be an open lot car park.
	Comment: This may be an acceptable temporary use.
Dwelling	Comment: Listed in section 1 so does no need to be relisted
Function centre	
Hotel	
Industry	
Leisure and recreation (other than Informal outdoor recreation, Minor sport and recreation facility, Motor racing track and Racecourse)	
Nightclub	
Residential village	
Retirement village	
Tavern	
Transport terminal (other than Airport and Railway station)	
Utility installation	
Warehouse	
Any other use not in Section 1 or 3	

Section 3 - Prohibited

Use

Airport

Agriculture (other than Apiculture and Crop-raising)

Comment: Some agricultural uses such as ‘doggy day care’ may be acceptable

Brothel

Cemetery

Corrective institution

Motor racing track

Racecourse

Pleasure boat facility

2.0 Use of land

2.1 Requirements

The use of land must be generally in accordance with the Maps in this schedule.

Use of the land for a dwelling must not exceed: the Dwelling density specified in Table 1.

~~▪ The Dwelling Floor Area Ratio specified in Table 1 in a core area~~

~~▪ The Floor Area Ratio specified in Table 1 in a non-core area~~

The use of land for a dwelling may exceed the specified Dwelling density except where an agreement made under section 173 of the Planning and Environment Act 1987 has been entered into between the landowner, the Responsible Authority and the local council (if not the Responsible Authority) ~~which that provides for a Public Benefit~~ requires the landowner that requires the landowner to either:

- Provide at least one Social housing dwelling for every eight dwellings provided above the number of dwellings allowable under the specified dwelling density.
- Provide dwellings above the number of dwellings allowable under the specified dwelling density as part of shared accommodation use, such as student accommodation or a boarding house, and where those dwellings are not subdivided.
- Provide dwellings above the number of dwellings allowable under the specified dwelling density for a ‘build-to-rent’ project and where those dwellings are not subdivided.

These requirements do not apply to an application for the use of land in accordance with a planning permit for buildings and works ~~issued-granted~~ before [insert the approval date of Amendment GC81].

Table 1: Dwelling density

<u>Precinct</u>	<u>Core area</u>	<u>Non core area</u>
<u>Lorimer</u>	<u>339-339 dw/ha</u>	<u>Not applicable</u>
<u>Montague</u>	<u>400-440 dw/ha</u>	<u>263-290 dw/ha</u>
<u>Sandridge</u>	<u>444-14 dw/ha</u>	<u>205-225 dw/ha</u>
<u>Wirraway</u>	<u>185-203 dw/ha</u>	<u>174-348 dw/ha</u>

Comment: The struck out values are the values from Part A 22.XX adjusted for a 75 per cent build out, making them equivalent to the dwelling FAR. The Review Panel has recommended changes to these.

2.2 Application requirements

The following application requirements apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

Residential development

An application to use ~~the~~ land for a Dwelling, Residential village or Retirement village must be accompanied by a report ~~which that~~ addresses:

- How the proposal contributes to an activated frontage.
- How the proposal achieves the ~~dwelling density~~ Community and diversity objectives of the Fishermans Bend Urban Renewal Local Policy, including an assessment of the composition and size of dwellings proposed.
- How the proposal contributes to the job growth targets and employment floor area set out in the Fishermans Bend Urban Renewal Area Local Policy.

Industry and warehouse uses

An application to use land for an industry or warehouse must be accompanied by the following information, as appropriate:

- The purpose of the use and the types of processes to be utilised.
- The type and quantity of goods to be stored, processed or produced.
- How land not required for immediate use is to be maintained.
- Whether a Works Approval or Waste Discharge Licence is required from the Environment Protection Authority.
- Whether a notification under the *Occupational Health and Safety Regulations 2017* is required, a licence under the *Dangerous Goods Act 1985* is required, or a fire protection quantity under the *Dangerous Goods (Storage and Handling) Regulations 2012* is exceeded.
- The likely effects, if any, on the neighbourhood and the urban renewal of Fishermans Bend, including:
 - Noise levels.
 - Airborne emissions.
 - Emissions to land or water.
 - Traffic, including the hours of delivery and dispatch.
 - Light spill or glare.

Permit requirement

~~A permit granted for a sensitive use on land within 450 metres of the South Melbourne to Brooklyn pipeline or the Dandenong to West Melbourne pipeline or within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map # must include a condition requiring that before development including demolition starts, a construction management plan addressing the protection of the pipeline must be prepared in consultation with the operator of the pipeline and submitted to and approved by the responsible authority.~~

Comment: This is a development condition on a use permission

2.3 Exemption from notice and review

An application for the use of land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

This exemption does not apply to an application to use land for a nightclub, tavern, hotel or adult sex bookshop.

2.4 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- If a dwelling is proposed, whether the proposal:
 - ~~— Delivers dwelling diversity and dwelling density that aligns with the population targets and provision of community infrastructure.~~
- Comment:** SHU dwellings will not be in accordance with population targets
- Creates an activated ground floor, particularly in core areas.
 - Provides home offices or communal facilities that support ‘work from home’ or ‘mobile’ employment.
 - ~~If a dwelling is proposed within a buffer area to the Port of Melbourne shown on Map ##, whether the has an appropriate intensity of use is appropriate to its location.~~
 - Provides Affordable housing consistent with the objectives and targets set out in the Fishermans Bend Urban Renewal Area Local Policy.
- Whether the use provides ~~for employment uses in line with targets~~ the non-Dwelling plot ratio set out in the Fishermans Bend Urban Renewal Area Local Policy.
 - The impact the proposal has on the realisation of employment targets, ~~ensuring that employment uses are maximised and safeguarded in core areas well served by public transport.~~
 - The temporary uses of land not immediately required for the proposed use.
 - ~~▪ If a dwelling is located within a buffer area to the Port of Melbourne, whether the intensity of use is appropriate to its location.~~
 - Whether the proposal incorporates appropriate measures to mitigate against adverse amenity from existing industrial or warehouse uses ~~referred to in the table to Clause 52.10,~~ identified in any Fishermans Bend Existing Industrial Uses with Adverse Amenity Potential Incorporated Document (where relevant).
 - ~~▪ The views of the pipeline licensee in respect of a permit application to use land for a sensitive use where the land is within:

 - ~~— 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map #; or~~
 - ~~— 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.~~~~
 - Whether the use would create an unreasonable increase in the risk of undesirable outcomes by being located within the pipeline buffer.

3.0 Subdivision

3.1 Requirements

The subdivision of land must be generally in accordance with Maps of this schedule. This does not include streets or laneways marked as indicative.

This requirement does not apply to an application for the subdivision of land in accordance with a planning permit for buildings and works ~~issued~~ granted before [insert the approval date of Amendment GC81].

Permit requirements

~~The following requirements apply to subdivide land:~~

~~The layout of the subdivision must make provision for any new roads, streets or laneways [.] generally in accordance with Maps # included in this Schedule.~~

Car parking areas must be retained in a single or a consolidated title as common property, unless the responsible authority ~~is satisfied that this requirement is not required~~ agrees otherwise.

These requirements do not apply to a subdivision of land in accordance with a planning permit for buildings and works ~~issued~~ granted before [insert the approval date of Amendment GC81].

3.2 Application requirements

The following application requirements apply to an application for a permit to subdivide land under Clause 37.04-3, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- ~~▪ The location of abutting roads, services, infrastructure[,] and street trees.~~
- ~~▪ Information which demonstrates how the subdivision makes provision for the roads, streets, laneways[,] and open spaces[,] generally in accordance with the relevant Maps of this schedule.~~
- ~~▪ Information which demonstrates how the subdivision will allow for the transition of car parking spaces to alternate uses over time.~~
- A layout plan, drawn to scale and fully dimensioned showing:
 - The location, shape and size of the site.
 - The location of any existing buildings, car parking areas and private open space.
 - The location, shape and size of the proposed lots to be created.
 - The location of any easements on the subject land.
 - The location of abutting roads, services, infrastructure and street trees.
 - ~~— Any abutting roads.~~
 - Any proposed common property to be owned by a body corporate and the lots participating in the body corporate.
- Information which that demonstrates how the subdivision makes provision for the roads, streets, laneways[,] and open spaces, generally in accordance with the relevant Maps of this schedule.
- Information which that demonstrates how the subdivision will allow for the transition of car parking spaces to alternate uses over time.
- ~~▪ A land budget showing the extent of land provided as a Public Benefit for Social housing.~~

3.3 Exemption from notice and review

An application for the subdivision of land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.4 Decision guidelines

The following decision guidelines apply to an application for a permit to subdivide land under Clause 37.04-3, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The contribution the proposed subdivision makes to a fine-grain precinct, and pedestrian and bicycle permeability.

- Whether the ~~subdivision will facilitate the~~ **future adaptation or repurposing of** proposed car parking areas ~~are designed for future adaptation or repurposing of land in line with the future provision of public transport.~~
- ~~Where the application to subdivide land provides for residential development, the objectives of Clause 56.~~
- Whether the subdivision provides for the necessary utilities infrastructure to service the development of the subdivided parcels, and allows for shared trenching.
- Whether any proposed staging of development is appropriate.
- **The** impacts the subdivision may have on landscape opportunities along street frontages, particularly for large canopy trees.
- Whether the subdivision can accommodate an appropriate building envelope.

3.5 Existing ~~industrial and warehouse~~ uses

The ~~application requirements, conditions on permits and permit requirements for subdivision of Clause 3.0 set out above~~ do not apply to an application for subdivision associated with a continuing lawful use of land ~~for industry or warehouse.~~

In considering whether a permit should be granted for the subdivision of land associated with an ongoing existing use of land ~~for industry or warehouse~~, the Responsible Authority must consider, as appropriate:

- The impact of the proposed subdivision on the amenity of the future urban renewal area.
- Whether the grant of the permit will prejudice the achievement or orderly development of the future urban structure for the area.

~~The extent to which the subdivision will facilitate an important ongoing use of the land during the transition from an industrial area to a high density mixed use precinct;~~

- Whether the subdivision supports the continued operation of an existing ~~industrial~~ use **that is of strategic importance, or which that** will facilitate the urban renewal of Fishermans Bend.

4.0 Buildings and works

4.1 Permits required

No permit is required to construct a building or construct or carry out works for the following:

- An addition of or modification to a verandah, awning, sunblind or canopy of an existing building.

A permit is required to demolish or remove a building or works, except for:

- The demolition or removal of temporary structures.
- The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation ~~and/or~~ local law.

4.2 Requirements

The construction of a building, and the carrying out of works, must be generally in accordance with the relevant Maps of this schedule. **This does not include streets or laneways marked as indicative.**

This requirement does not apply to an application to amend a permit issued before **[insert the approval date of Amendment GC81]**.

Permit requirements

~~A permit must not be granted to construct a building or construct or carry out works where the vehicle access points and crossovers (not including openings for a road) are located along roads designated as ‘no cross overs permitted’ in the relevant Map of this schedule, unless no other access is possible.~~

~~A permit allowing a sensitive use on land within 450 metres of the South Melbourne to Brooklyn pipeline or the Dandenong to West Melbourne pipeline or within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map # must include a condition requiring that before development starts, including demolition, a construction management plan addressing the must be submitted to and approved by the responsible authority. The plan must be endorsed by the operator of the relevant high pressure pipeline.~~

Dwelling density Floor Area Ratio

A permit must not be granted to construct a building or construct or carry out works with a ~~Floor Area Ratio Dwelling density~~ in excess of the ~~Floor Area Ratios Dwelling density~~ in Table 1 unless an agreement made under section 173 of the ~~Planning and Environment Act 1987~~ has been entered into between the landowner, the Responsible Authority and the local council (if not the Responsible Authority) ~~which that provides for a Public Benefit requires the landowner to either:~~

- ~~Provide at least one Social housing dwelling for every eight dwellings provided above the number of dwellings allowable under the specified dwelling density.~~
- ~~Provide dwellings above the number of dwellings allowable under the specified dwelling density as part of shared accommodation use, such as student accommodation or a boarding house, and where those dwellings are not subdivided.~~
- ~~Provide dwellings above the number of dwellings allowable under the specified dwelling density for a ‘build-to-rent’ project and where those dwellings are not subdivided.~~
- * ~~For a permit amendment, the extent of non-compliance with the Floor Area Ratios in Table 1 is not increased.~~

Table 1: Floor Area Ratios

Precinct	Core area		Non core area
	Total Floor Area Ratio	Dwelling Floor Area Ratio	
Lorimer [MPS]	5.4:1	3.7:1	
Wirraway	4.1:1	2.2:1	2.4:1
Sandridge	7.4:1	3.7:1	3.3:1
Montague	6.3:1	4.7:1	3.6:1

Bicycle, Motorcycle and Car share parking

Developments must provide bicycle, motorcycle and car share parking [space](#) in accordance with Table 2.

Table 2: Parking Provision

	Bicycle spaces	Motorcycle spaces	Spaces allocated to a car share scheme
For	Provision of	1 per dwelling	1 per 50
			<u>2 spaces plus 1 per 25 car</u>

Developments of more than 50 dwellings	spaces rate		dwellings	spaces. For developments of more than 180 dwellings: 1 space per 90 dwellings	
	Provision rate for of visitor spaces	1 per 10 dwellings	None specified	None specified	
For Developments with over 10,000 sqm non-residential floor space	Provision of spaces rate	1 per 50 sqm of net non-residential floor area	1 per 100 car parking spaces	For all developments with 120 or less car spaces: A minimum of 2 spaces	For developments with more than 120 car spaces: 1 per 60 car parking spaces
	Provision rate for of visitor spaces	1 per 1000 sqm of net non-residential floor area	None specified	None specified	

Comment: The table has been transposed

Application requirement

~~An application to construct or extend a building of four or less storeys must, where the building includes two or more dwellings, be accompanied by a design response and report explaining how the proposed design meets the objectives of Clause 55.~~

No permit required

~~A permit is required to construct a building or construct or carry out works for the following:~~

- ~~▪ An addition of or modification to a verandah, awning, sunblind or canopy of an existing building.~~

Conditions on permits

- ~~▪ A permit granted to construct a building or to construct or carry out works, other than alterations and additions to an existing building or buildings and work for an existing use, must include conditions which require the following:~~
- ~~▪ Prior to the commencement of buildings and works, evidence must be submitted that demonstrates the project has been registered to seek a minimum 4 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.~~
- ~~▪ Prior to the occupation of the building, evidence must be submitted that demonstrates the building can achieve a minimum 4 Star Green Star Design Review certification (or equivalent).~~
- ~~▪ Within 12 months of occupation of the building, certification must be submitted that demonstrates that the building has achieved a minimum 4 Star Green Star Design and As-Built rating (or equivalent). Installation of a third pipe for recycled water to supply non-potable uses within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.~~

- ~~Provision of an agreed building connection point 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.~~
- ~~Provision of a rainwater tank:

 - with a minimum capacity of 0.5 cubic metres for every 10 square metres of catchment area to capture rainwater from 100% of suitable roof rainwater harvesting areas;
 - 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.~~
- ~~A permit granted to construct a building within 50 metres of a potential future metro alignment shown on the relevant Map of this schedule, must also include a condition to the effect that:~~
- ~~Prior to the commencement of buildings and works, plans must be submitted to the satisfaction of the responsible authority in consultation with Transport for Victoria showing that the proposed building footings and foundations will not compromise delivery of the proposed future metro alignment.~~

~~Where a new road, street or laneway is proposed on the land, and the road, street or laneway is not funded through an Infrastructure Contributions Plan, a permit must include a condition requiring an agreement to be made under section 173 Agreement of the Planning and Environment Act 1987 between the landowner, the responsible authority and the local council (if not the responsible authority) which provides for the:~~

- ~~Construction of the new road, street or laneway to the satisfaction of the Responsible Authority and the relevant road management authority; and~~
- ~~Transfer of the new road, street or laneway to, or vesting in the relevant road authority as a public road at no cost to the relevant road authority.~~

Demolition or removal of buildings requirements

~~A permit is required to demolish or remove a building or works, except for:~~

- ~~The demolition or removal of temporary structures.~~
- ~~The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation and/or local law.~~

~~Before deciding on an application to demolish or remove a building or works, the responsible authority must consider any need for a condition requiring an agreement made under section 173 of the Planning and Environment Act 1987 to be entered into by the landowner and the Responsible Authority and the local council (if not the Responsible Authority) to the effect of requiring:~~

- ~~Temporary buildings or works on the vacant site should it remain vacant for six months after completion of the demolition.~~
- ~~Temporary buildings or works on the vacant site where demolition or construction activity has ceased for six months, or an aggregate of six months[,] after commencement of the construction.~~
- ~~Temporary buildings or works may include:

 - The construction of temporary buildings for short term retail or commercial use. Such structures shall include the provision of an active street frontage.
 - Landscaping of the site for the purpose of public recreation and open space.~~

Vehicle access points and crossovers

~~A permit must not be granted to construct a building or construct or carry out works where the vehicle access points and crossovers (not including openings for a road) are located along roads designated as ‘no cross overs permitted’ in the relevant Map of this schedule, unless no other access is possible.~~

4.3 Conditions on permits

A permit granted to construct a building or to construct or carry out works ~~for:~~

- For a new buildings or additions that contain 10 or more dwellings or 5000 square metres or more of floor space must include ~~conditions which require~~ the following conditions:
 - Prior to the commencement of buildings and works, evidence must be submitted that demonstrates the project has been registered to seek a minimum 4.5 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.
 - Within 12 months of occupation of the building, certification must be submitted that demonstrates that the building has achieved a minimum 4.5 Star Green Star Design and As-Built rating (or equivalent).
- For other buildings and alterations and additions of more than 50 square metres must include ~~conditions which require~~ the following conditions:
 - Prior to the commencement of buildings and works, evidence must be submitted that demonstrates the project has been registered to seek a minimum 4 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.
 - ~~— Prior to the occupation of the building, evidence must be submitted that demonstrates the building can achieve a minimum 4 Star Green Star Design Review certification (or equivalent).~~
 - Within 12 months of occupation of the building, certification must be submitted that demonstrates that the building has achieved a minimum 4 Star Green Star Design and As-Built rating (or equivalent).

A permit granted to construct a building or to construct or carry out works ~~other than alterations and additions to an existing building or buildings and work for an existing use,~~ must include ~~conditions which require~~ the following conditions.

- ~~Installation of a~~ A third pipe must be installed for recycled water to supply non-potable uses within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.
- ~~Provision of an~~ 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.
- ~~Provision of a~~ A rainwater tank must be provided that:
 - ~~With~~ has a minimum capacity of 0.5 cubic metres for every 10 square metres of catchment area to capture rainwater from 100% of suitable roof rainwater harvesting areas;
 - 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.

~~Where a new road, street or laneway is proposed on the land, and the road, street or laneway is not funded through an Infrastructure Contributions Plan, a permit must include a condition requiring an:~~

- ~~▪ agreement to be made under section 173 Agreement of the Planning and Environment Act 1987 between the landowner, the responsible authority and the local council (if not the responsible authority) which provides for the:~~
 - ~~— Construction of the new road, street or laneway to the satisfaction of the Responsible Authority and the relevant road management authority; and~~
 - ~~— Transfer of the new road, street or laneway to, or vesting in the relevant road authority as a public road at no cost to the relevant road authority.~~

A permit granted to construct a building ~~or to construct or carry out works~~ within 50 metres of a potential future Metro alignment shown on the relevant Map of this schedule, must ~~also~~ include ~~a~~ the following condition ~~to the effect that~~:

- Prior to the commencement of buildings and works, plans must be submitted to the satisfaction of the responsible authority in consultation with Transport for Victoria showing that the proposed building footings and foundations will not compromise delivery of the proposed future Metro alignment.

A permit ~~allowing a sensitive use~~ granted to construct a buildings or to construct or carry out works on land within ~~450~~ 50 metres of the ~~South Melbourne to Brooklyn pipeline or the Dandenong to West Melbourne pipeline or within 100 metres of the Port Melbourne to Symex Holdings pipeline as~~ high pressure gas transmission pipelines shown on Map [REF] must include ~~a~~ the following condition ~~requiring that before~~:

- Before development ~~starts~~, including demolition ~~starts~~, a Construction Management Plan, addressing the protection of the pipeline must be prepared in consultation with the operator of the pipeline and submitted to and approved by the Responsible Authority. ~~The plan must be endorsed by the operator of the relevant high pressure pipeline~~

These conditions are not required on a permit to construct alterations and additions to an existing building ~~or buildings and works for an existing use~~.

4.4 Application requirements

The following application requirements apply to an application for a permit under Clause 37.04, in addition to those specified in Clause 37.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A written urban context report documenting the key planning influences on the development and how it relates to its surroundings.
- A design response, detailing how the design makes provision for ~~the~~ streets, laneways, and open space generally in accordance with the relevant Maps of this schedule.
- A 3D digital model suitable for insertion into the responsible authority's interactive city model.
- An assessment and report detailing how the proposal responds to the Fishermans Bend Urban Renewal Area Local Policy.
- ~~▪ An assessment and report of the proposed floor area ratio and if the proposed floor area ratio exceeds the Floor Area Ratio in Table 1 of this schedule, details of the Public Benefit and the additional floor area that is to be provided.~~
- ~~▪ An application for buildings and works associated with accommodation, dwelling, motel, residential aged care facility, retirement village, residential village, residential hotel, hostel, child care centre, education centre, or located within 100 metres of a freight alignment shown in the relevant Map of this schedule or located within 100 metres of the West Gate Freeway or which does not meet the threshold distance from [industrial or warehouse uses referred to in the table to Clause 52.10,][the concrete batching plans referred to in the table to Clause 52.10 must be accompanied by the following information to show how the development is designed to protect future occupants from potential adverse amenity impacts, including:~~
 - ~~— Incorporation of noise attenuation measures in accordance with Australian Standard 2107 and SEPP N 1.~~
 - ~~— Measures to protect against the impacts of vibration, light pollution, and odours and poor air quality.~~
- Any technical or supporting information necessary, prepared by suitably qualified professionals, including:

- A ~~Environmentally Sustainable Design Statement~~ Sustainability Management Plan addressing ~~ESD-Environmentally Sustainable Design~~, Waste and Water management.
- A Sustainable Transport Plan demonstrating how the development supports sustainable travel behaviour and promotes active transport modes.
- A Landscape Plan for all areas of open space, except private open space for dwellings, providing for biodiversity, canopy tree planting, water sensitive urban design ~~+~~ and microclimate management of buildings.

Affordable housing including Social housing

An application to construct a building or to construct or carry out works for a Dwelling must be accompanied by the following information, to the satisfaction of the responsible authority:

- A report that addresses how the proposal contributes to the Affordable housing objectives and targets of the Fishermans Bend Urban Renewal Local Policy, and identifies:
 - The number and location of Affordable housing dwellings proposed to be provided.
 - The proportion of total dwellings that are proposed to be Affordable housing dwellings.
 - The mix of 1, 2 and 3 bedroom Affordable housing dwellings that reflects the overall dwelling composition of the building.
- Plans that demonstrate that:
 - The proposed Affordable housing dwellings have internal layouts similar to other comparable dwellings in the building.
 - The proposed Affordable housing dwellings will be externally indistinguishable from other dwellings.

These plans are not required for Affordable housing that is proposed to be provided as Social housing.
- If Social housing is proposed, a report that:
 - Includes a dwelling schedule that shows the number, size and composition of private dwellings, Social housing dwellings, and private dwellings proposed to be provided to obtain a Social housing uplift.
 - Provides details of the participating registered agency proposed to own or manage the Social housing units.
 - Provides evidence of the agency's agreement to own or manage the Social housing units.

Amenity impacts from existing industrial uses, freight routes and transport corridors

An application to use land within an Amenity buffer shown on [Map 5] for:

- ~~Accommodation, dwelling, motel, residential aged care facility, residential hotel, residential village, retirement village, hostel,~~
- ~~Child care centre,~~
- ~~Education centre,~~~~or,~~
- Hospital.
- ~~Informal outdoor recreation use,~~

~~{on land that is within 300 m from 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne [MPS]} {on land which does not meet the threshold distance from industrial or warehouse uses referred to in the table in Clause 52.10.}~~

must be accompanied by an Amenity Impact Plan that responds to ~~the~~ any Fishermans Bend Existing Industrial Uses with Adverse Amenity Potential Incorporated Document and includes, as appropriate:

- [Measures to mitigate potential amenity impacts from uses and activities with potential adverse amenity impacts.](#)

Comment: The 'Amenity buffer shown on Map ##' in the CCZ specifies which land is affected.
The 'Fishermans Bend Existing Industrial Uses with Adverse Amenity Potential Incorporated Document', identifies the uses that require the buffer, their potential adverse impacts, and how these impacts are to be modelled.

- ~~• Measures to mitigate potential amenity impacts from any concrete batching plants within 300 m of the land to acceptable levels~~
- ~~• Measures to mitigate potential amenity impacts from any existing industrial or warehouse use referred to in the table in Clause 52.10~~
- ~~• [A site plan identifying the type and nature of any industrial or warehouse use within the threshold distance referred to in the table in Clause 52.10 and any permits granted for the upgrade or expansion of such use. [PPPS]~~
- ~~• A site plan identifying the type and nature of the concrete batching plants within 300 m of the land. [MPS]~~
- ~~• An assessment of the impact of the proposed sensitive use on any existing industrial or warehouse uses referred to in the table in Clause 52.10~~
- ~~• An assessment of the impact of the proposed sensitive use on the concrete batching plants within 300 m of the land.~~
- ~~• An assessment of the amenity impact of nearby port operations, freight routes or major transport infrastructure on the proposed sensitive uses.~~
- ~~• Measures proposed to mitigate potential amenity impacts of any [existing industrial or warehouse use referred to in the table in Clause 52.10 PPPS] [existing concrete batching plants MPS] or port, freight or transport infrastructure on the proposed sensitive use, to within acceptable levels.~~
- ~~• Incorporation of noise attenuation measures internally and externally in accordance with Australian Standard 2107 and SEPP N-1.~~

4.5 Exemption from notice and review

An application to demolish or remove a building or to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.6 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.04-4, in addition to those specified in Clause 37.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposal responds satisfactorily to the Fishermans Bend Urban Renewal Area Local Policy.
- Whether the layouts of streets, laneways and open space are [consistent generally in accordance](#) with those shown in the relevant Maps of this schedule.
- How the proposal contributes to establishing sustainable transport as the primary mode of transport through integrated walking, cycling and pedestrian links.
- Whether the development [compromises supports](#) the function, form and capacity of public spaces and public infrastructure.
- ~~• Whether the proposal delivers design excellence, and contributes to creating a range of built form typologies.~~
- ~~• Whether the building design at street level provides for active street frontages, pedestrian engagement and weather protection.~~

- ~~• Whether the proposal delivers a diversity of households and housing typologies provides the necessary community infrastructure and facilities.~~

Comment: These are covered in other controls

- ~~• Any impacts to the future metro train alignment and potential future elevated freight alignment.~~
- For proposals within an Amenity buffer shown on Map [5], whether the proposal includes appropriate mitigation measures to protect against off-site amenity impacts ~~[associated with existing concrete batching plants] [MPS] [associated with existing uses] [CPP].~~
 - ~~— the existing concrete batching plants at 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne~~
 - ~~— the freight alignment shown in the relevant Map of this schedule;~~
 - ~~— the West Gate Freeway;~~
 - ~~— existing industrial uses identified in the Fishermans Bend Existing Industrial Uses with Adverse Amenity Potential Incorporated Document.~~
 - Whether the proposal is designed for all deliveries, servicing and waste management to occur on site.
 - ~~Any constraints to Whether the proposed vehicle access to the site, and from the impact of vehicle access development impacts on the provision of public transport, pedestrian and cyclist safety, and whether there are any constraints to vehicle access to the site.~~
 - The proposed ~~4 Star Green Star Design and As-Built sustainability~~ rating ~~(or equivalent) of the building.~~
 - Whether appropriate sustainable water, waste and energy management is proposed.
 - Where only part of a site is developed, whether an agreement made under section 173 of the ~~Planning and Environment Act 1987~~ has been entered into between the landowner, the Responsible Authority and the local council (if not the Responsible Authority) to ensure that the ~~Floor Area Ratio-Dwelling density~~ across the whole of the site will not be exceeded and whether the development is sited so that adequate setbacks are maintained in the event that the site is subdivided or otherwise altered to create a separate future development site.
- ~~• If a Public Benefit is proposed:~~
 - The management and maintenance of ~~any Affordable housing, including Social housing, the Public Benefit(s).~~
 - Any impacts to the future ~~Metro train alignment, the possible tram alignments, bus routes~~ and ~~the~~ potential future elevated freight alignment.
 - ~~Where the buildings and works are The views of Transport for Victoria for any proposal to construct a building, other than alterations and additions to an existing buildings that are~~ within 50 metres of ~~the~~ potential future elevated freight route shown in the relevant Map to this schedule:
 - ~~Whether to ensure~~ the proposed building location and access points will ~~not~~ compromise construction of the future freight route.
 - ~~The views of Transport for Victoria.~~
 - Whether residential development includes floor plate layouts and servicing strategies that demonstrate a future capacity to allow one and two-bedroom dwellings to be combined and adapted into three or more bedroom dwellings. ~~Whether residential development of four or less storeys meets the objectives of Clause 55.~~

Demolition and removal of buildings

Before deciding on an application to demolish or remove a building or works, the responsible authority must consider any need for a condition requiring an agreement made under section 173 of the [Planning and Environment Act 1987](#) to be entered into by the landowner and the Responsible Authority and the local council (if not the Responsible Authority) ~~to the effect of~~ requiring:

- Temporary buildings or works on the vacant site should it remain vacant for six months after completion of the demolition.
- Temporary buildings or works on the vacant site where demolition or construction activity has ceased for ~~six months, or~~ an aggregate of six months ~~[,]~~ after commencement of the construction.
- Temporary buildings or works may include:
 - The construction of temporary buildings for short-term retail or commercial use. Such structures ~~shall~~ **must** include the provision of an active street frontage.
 - Landscaping of the site for the purpose of public recreation and open space.
 - [A demolition plan, detailing the staging of demolition and any temporary works proposed.](#)

4.7 Existing ~~industrial and warehouse~~ uses

The ~~application~~ requirements, ~~conditions on permits and permit requirements for buildings and works of Clause 4.0 set out above~~ do not apply to an application for buildings and works associated with a continuing lawful use of land ~~for industry or warehouse.~~

In considering whether a permit should be granted for ~~the~~ buildings and works associated with an existing use of land for industry or warehouse, the Responsible Authority must consider, as appropriate:

- The impact of the proposed buildings and works on the amenity of the future urban renewal area.
- Whether the grant of the permit will prejudice the achievement or orderly development of the future urban structure for the area.
- ~~▪ The extent to which the buildings and works will facilitate an important ongoing use of the land during the transition from an industrial area to a high density mixed use precinct;~~
- Whether the buildings and works support the continued operation of an existing industrial use [that is of strategic importance, or which that](#) will facilitate the urban renewal of Fishermans Bend.
- [Whether the buildings and works may compromise the delivery of the potential future Metro alignment, the possible tram alignments or the future elevated freight route.](#)

5.0 Advertising signs

A permit is required to construct and display a sign except for:

- Advertising signs exempted by Clause 52.05-4.
- Renewal or replacement of an existing internally illuminated business identification sign.
- A home occupation sign with an advertisement area not more than 0.2 square metres.
- A direction sign where there is only one to each premises.
- In core areas as shown on the relevant Map of this schedule, a business identification sign, bed and breakfast sign, home occupation sign, or promotion

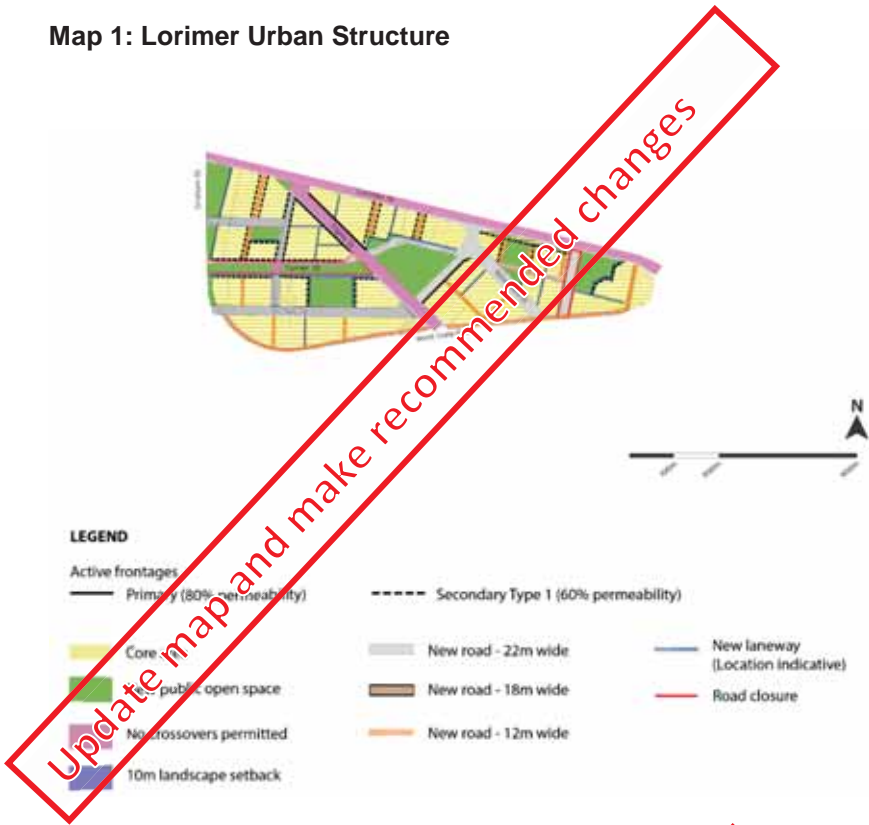
sign, that have a combined total advertisement area to each premises not exceeding 8 square metres.

- In core areas as shown on the relevant Map of this schedule, an internally illuminated sign of no greater than 1.5 square metres and the sign is not above a verandah or more than 3.7 metres above pavement level. The sign must be more than 30 metres from a residential zone or pedestrian or traffic lights.
- In core areas as shown on the relevant Map of this schedule, a non-illuminated sign provided no part of the sign protrudes the fascia of the building.

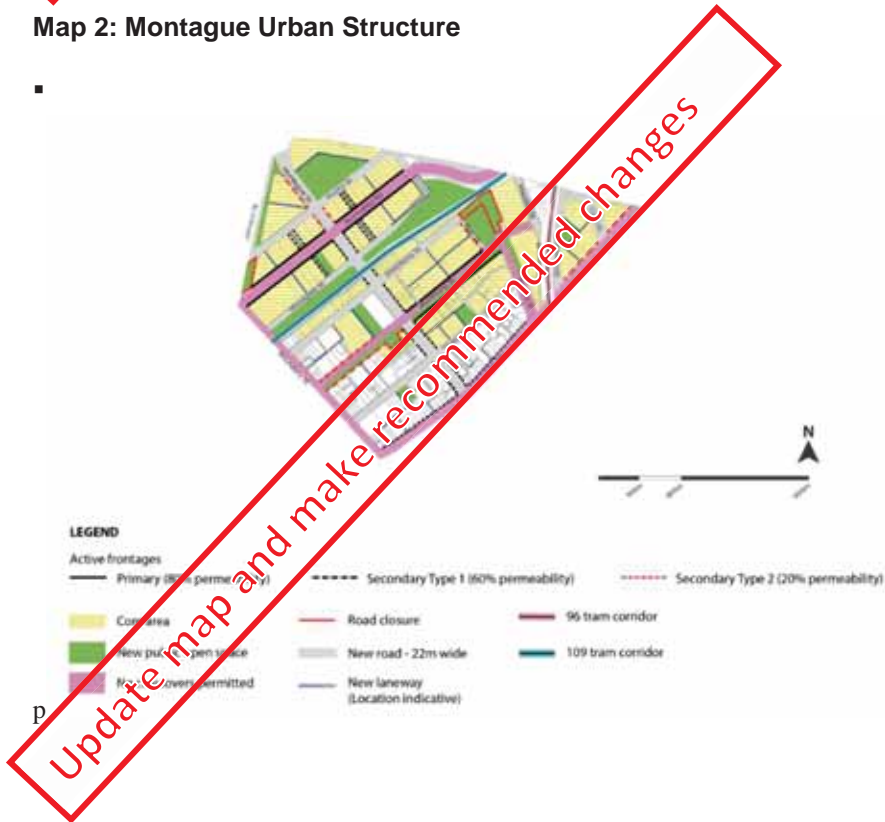
Exemption from notice and review

An application to construct and display a sign is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

Map 1: Lorimer Urban Structure



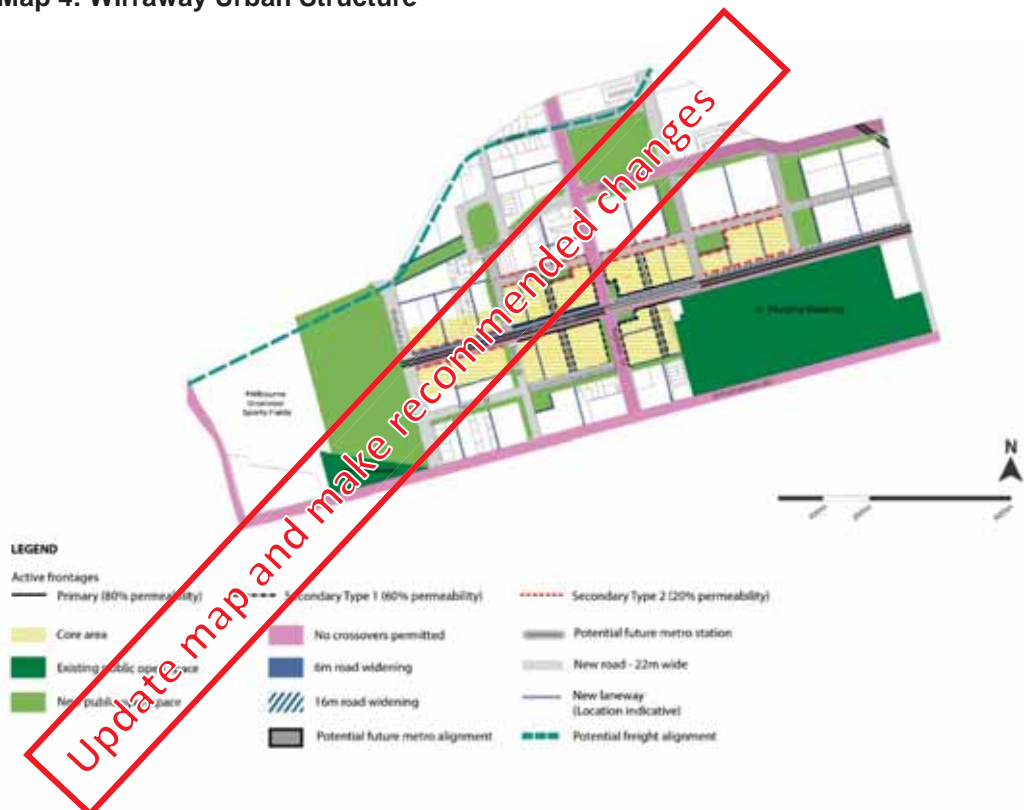
Map 2: Montague Urban Structure



Map 3: Sandridge Urban Structure



Map 4: Wirraway Urban Structure



MAP 5: Amenity buffers map

[Insert a new map that shows land within the threshold distance from industrial or warehouse uses referred to in the table to Clause 52.10, and land within 300 metres of 223-235 Boundary St, 310-324 Ingles St and 209-221 Boundary St, Port Melbourne]

MAP 6: Pipelines buffers map

[Insert a new map that shows land within 450 metres of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline, and land within 100 metres of the Port Melbourne to Symex Holdings pipeline as shown on Map #.]

MAP 7: Transport infrastructure

[Insert a new map that shows the elevated freight route, metro route, possible tram routes and future bus routes.]

Definitions

The following definitions apply for the purposes of interpreting this schedule:

~~Active frontage street is a street shown as ‘Primary active frontage’ or a ‘Secondary active frontage’ on the relevant Map to this schedule.~~

Affordable housing has the same meaning as in the *Planning and Environment Act 1987*.

Core area and **Non-core area** are those area identified on the relevant Map.

Dwelling density (dw/ha) means the number of dwellings on the site divided by the total site area (hectares), including any proposed road, laneway and public open space.

~~Floor area ratio means the gross floor area divided by the gross developable area.~~

~~Gross developable area means the total site area, including any proposed road, laneway and public open space.~~

~~Gross floor area means the area above ground of all buildings on a site, including all enclosed areas, services, lifts, car stackers and covered balconies. Dedicated communal residential facilities and recreation spaces are excluded from the calculations of gross floor area. Voids associated with lifts, car stackers and similar service elements should be considered as multiple floors of the same height as adjacent floors or 3.0 metres if there is no adjacent floor~~

~~Public Benefit means the provision of Social housing to the satisfaction of the Responsible Authority.~~

Social housing has the same meaning as in the *Housing Act 1983*.

Social housing uplift means dwellings that exceed the number of dwellings allowable under the dwelling density requirements in this Schedule.

Appendix C.3: Parking Overlay – track change version

SCHEDULE [1] [13] TO CLAUSE 45.09 PARKING OVERLAY

Shown on the planning scheme map as [PO1] [PO13].

FISHERMANS BEND URBAN RENEWAL AREA

1.0 Parking objectives to be achieved

To identify appropriate car parking rates for various uses in the Fishermans Bend Urban Renewal Area.

~~To support long term sustainable transport patterns as set out in the Fishermans Bend Framework XXXX.~~

~~To create a liveable and connected community that uses active transport options in preference to private motor vehicles.~~

To provide for the future adaptation of car parking to other uses and innovations in transport technology.

To encourage alternative forms of parking to be provided including car share and precinct based parking.

2.0 Permit requirement

A permit is required to provide more than the maximum parking provision specified for a use in Table 1 to this schedule.

This does not apply to the provision of additional car parking ~~to the satisfaction of the responsible authority which that~~ is allocated for car share or precinct based parking ~~to the satisfaction of the responsible authority.~~

3.0 Number of car parking spaces required

If a use is specified in the table below, the maximum number of car parking spaces to be provided for the use is calculated by multiplying the *rate* specified for the use by the accompanying *measure*.

For all other uses listed in Table 1 of Clause 52.06-5, the maximum number of car parking spaces to be provided for the use is calculated by multiplying the rate in Column B of Table 1 in Clause 52.06-5 specified for the use by the accompanying measure ~~applies as the maximum car parking rate.~~

Table 1: Maximum car parking spaces

Use	Rate	Measure
Dwelling, Residential Village, Retirement Village	0.5	To each <u>1 or 2 bedroom</u> dwelling
	<u>1</u>	<u>To each 3 or more bedroom dwelling</u>
Industry	1	To each 150 square metres of gross floor area
Office	1	To each 100 square metres of gross floor area
Place of assembly	1	To each 100 square metres of gross floor area
Residential Village, Retirement Village		<u>To each dwelling</u>
Restricted retail premises	1	To each 100 square metres of gross floor area

Use	Rate	Measure
Retail premises	1	To each 100 square metres of gross floor area
Supermarket	2	To each 100 square metres of gross floor area

~~For all other uses listed in Table 1 of Clause 52.06-5, the rate in Column B of Table 1 in Clause 52.06-5 applies as the maximum car parking rate.~~

4.0 Application requirements and decision guidelines for permit applications

Application requirements

An application to provide more than the maximum parking provision specified in Table 1 of this schedule must be accompanied by a statement ~~which that~~ demonstrates how any additional car parking will be transitioned to other uses over time.

Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 52.06-3, in addition to those specified in Clause 52.06-7 and elsewhere in the scheme. ~~The responsible authority must consider which must be considered~~, as appropriate, ~~by the responsible authority~~:

- Whether the objectives of this schedule have been met.
- The availability of public transport in the locality and the timing of future improvements to the network.
- The number and type of dwellings proposed, including the proportion of dwellings ~~which that~~ contain ~~3~~three or more bedrooms.
- Whether car parking is to be provided off-site in a stand-alone building to be used for precinct car parking.
- If any parking is proposed to be provided off-site, ~~whether~~ the recipient site ~~should be is~~ located within convenient walking distance (200 metres) of the subject site, and ~~should be is~~ as part of a precinct parking facility.
- The impact of the proposed car parking rates on local amenity, including pedestrian amenity and the creation of a high quality public realm.
- The future adaptability of the car parking areas and ability to transition to future uses over time.
- The proportion of car share, motorcycle and bicycle parking proposed.
- The impacts ~~of~~ the proposed car parking rates on creating sustainable transport patterns, ~~which that~~ preference walking, cycling and public transport use.

5.0 Financial contribution requirement

None specified.

6.0 Requirements for a car parking plan

The following requirements must be shown on a car parking plan, in addition to the matters that must be shown on plans prepared under Clause 52.06-8:

- Any spaces allocated to car share parking, motorcycle parking and bicycle parking.
- If a green travel plan is provided under another provision of the scheme, any relevant information specified in the green travel plan.

7.0 Design standards for car parking

The following design standards for car parking and other requirements for the design and management of car parking must be met, in addition to the matters that must be shown on plans prepared under Clause 52.06-9:

Vehicle access ways, crossovers and car park entries should be provided from service roads, side or rear laneways, or secondary streets (in order of preference) where available.

All crossovers (except ~~those on the service roads~~ adjacent to the freeway) should:

- Be consolidated to provide shared access to multiple buildings.

~~▪ Be designed to give priority to pedestrian movement.~~

Comment: Under the Road Rules any vehicle entering or leaving a driveway must give way to a pedestrian

- Include intermediate pedestrian refuges if the vehicle access or crossover is more than 6.1 metres wide.

~~Unless no other vehicle access point is available, vehicle access ways and crossovers and vehicle loading/unloading areas should not be located on:~~

~~▪ Roads designated as public transport routes.~~

~~▪ Primary or secondary active frontages as identified in the Capital City Zone Schedule #.~~

~~▪ Existing or proposed on road or off road cycling paths or strategic cycling corridors.~~

Comment: This is covered in the CCZ

The design and layout of car parking areas should:

- Ensure the layout and design of car parking areas encourages sharing of car parking spaces between different uses with different peak demand patterns.
- Include provision for future conversion of car parking areas to alternative employment generating uses.
- Allow natural ventilation, without compromising the provision of activated frontages.
- Ensure the use of car lifts, turntables and stackers do not result in cars queuing on the street.
- Include the provision for internal queuing and minimise the need for cars to queue on the street.
- Provide dedicated parking for car share and car charging stations.
- Where appropriate, make provision for easily accessible short-term temporary parking and drop-off/pick up zones.

8.0 Decision guidelines for car parking plans

The following decision guidelines apply to car parking plans prepared under Clause 52.06-8, and must be considered, as appropriate, by the responsible authority:

- Whether the car parking plan encourages sustainable transport patterns, ~~which~~ that preference walking, cycling and public transport use.
- The extent to which the car parking areas (not located within a basement) are designed for future adaptation and repurposing.
- The availability of car share vehicles and precinct parking facilities in the locality.
- The rates of care share, motorcycle and bicycle spaces provided.
- If a green travel plan is required under another provision, any recommendations of the green travel plan.

- Whether alternative access to the site is constrained and no other access is possible.

9.0 Reference document

[Draft Fishermans Bend Framework ~~XXXX~~ 2017](#)

Fishermans Bend Integrated Transport Plan 2017

Appendix C.4: Lorimer Design and Development Overlay – track change version

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SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Combined

Shown on the planning scheme map as **DDO[number]**.

FISHERMANS BEND – LORIMER PRECINCT

1.0 Design objectives

--/~/20--

To ~~create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation~~ ~~implement the Fishermans Bend Vision, September 2016 and the Fishermans Bend Framework, ## 2018.~~

To encourage a diversity of mid and high-rise scale developments, including hybrid developments on larger sites that incorporate communal open space, with taller buildings located along the interface to the West Gate Freeway.

To ensure ~~the scale, height and setbacks of development~~ ~~built form~~ ~~protects~~ sunlight penetration to the Lorimer Parkway and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

To ensure ~~building separation and setbacks achieve~~ high levels of internal amenity for all development.

To encourage ~~buildings to be designed so that they are capable of being adapted~~ ~~adaptable floorspace~~ to facilitate a reduction in car dependence, an increase in commercial floor space ~~over time~~, ~~and to ensure that flood protection measures do not detract from the public realm.~~

2.0 Buildings and works

2.1 Buildings and works for which no permit is required

--/~/20--

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use ~~that provides services to the construction industry which facilitates the urban renewal of Fishermans Bend.~~
- An application to amend an existing permit granted before ~~insert the approval date of Amendment GC81~~ which does not increase the extent of non-compliance with the requirements.

~~A built form requirement expressed with the term ‘must’ is a mandatory requirement. A permit cannot be granted to vary a mandatory built form requirement expressed with the term ‘must’.~~

~~A built form requirement expressed with the term ‘should’ is a discretionary requirement. A permit may be granted to vary a discretionary built form requirement expressed with the term ‘should’.~~

An application for ~~buildings and works~~ a development that does not meet a requirement expressed with the term ‘should’ must achieve the relevant built form outcomes.

Any reference to street width is a reference to the proposed ultimate width of the street reserve.

2.3 Definitions

For the purpose of this schedule:

~~Building height means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building excluding:~~

- ~~▪ Non-habitable architectural features not more than 3.0 metres in height.~~
- ~~▪ Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.~~

~~Laneway means a street with a road-street reserve width of 9 metres or less in width.~~

~~Street means a road reserve of greater than 9 metres in width.~~

~~Street wall means any that part of the a building constructed within 0.3 metres of a lot boundary fronting the a street or laneway including proposed streets and laneways.~~

~~Street wall height means the vertical distance between a height measured from the footpath or natural surface level at the centre of the site frontage and the highest point of the street wall excluding non-habitable architectural features not more than 3 metres in height.~~

2.4 Building typologies

Built form outcomes

A precinct that is composed of subprecincts each with a distinctive character and built form typology.

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

Development should be generally in accordance with the built form typology in Table 1.

Development should help deliver the relevant preferred precinct character in Table 1.

Table 1: Building typologies and preferred precinct character

Precinct on Map 1	<u>Building typology</u>	<u>Preferred precinct character</u> Built form outcomes
Area L1	<u>Hybrid (predominantly mid-rise)</u>	<p>Predominantly mid-rise buildings. On larger sites, a hybrid of mid-rise perimeter blocks (with <u>central</u> communal open space) and slender towers that create fast moving shadows to minimise overshadowing of the Lorimer Parkway (Turner Street).</p> <p>Lower street wall heights along Lorimer Parkway (Turner Street) to minimise overshadowing impacts.</p> <p>Developments that incorporate north–south laneways that provide activated pedestrian connections towards the Yarra River.</p>
Area L2	<u>Mid-rise</u>	<p>Mid-rise developments with opportunities for some additional upper levels that are visually recessive from the street and <u>from</u> within Lorimer Central and do not result in tower–podium building types.</p> <p>Developments that incorporate north–south laneways</p>

Precinct on Map 1	Building typology	Preferred precinct character Built form outcomes
		that provide activated pedestrian connections towards the Yarra River. Lower scale development to interface with Lorimer Central.
Area L3	Hybrid (predominantly mid-rise)	Predominantly mid-rise developments that incorporate slender towers to minimise overshadowing of the Lorimer Parkway (Turner Street). Upper levels of mid-rise buildings are visually recessive from the street and Lorimer Parkway (Turner Street). Developments that incorporate north-south laneways that provide activated pedestrian connections towards the Yarra River.
Area L4	Hybrid (predominantly high-rise)	Predominantly podium -tower developments interspersed with some mid-rise perimeter blocks and courtyard buildings. A variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street. Well-spaced, slender towers that avoid a wall-of-towers effect through appropriate massing, differentiation of materials and architectural detailing when viewed from the Yarra River, Lorimer Parkway (Turner Street), streets in Lorimer and the West Gate Freeway. Well-spaced slender towers that minimise overshadowing of the Sandridge Precinct.

2.5 Building height

Built form outcomes

~~The height of new buildings in all areas must:~~ [Building heights that:](#)

- Respond to the preferred ~~future~~ precinct character and building typologies in Table 1 ~~and Map 1~~.
- Contribute to a varied and architecturally interesting skyline.
- Contribute to a diversity of building typologies and avoid repetitive built form ~~outcomes for the precinct~~.
- Limit impacts on the amenity of the public realm ~~and Lorimer Central open space~~ as a result of overshadowing and wind ~~effects~~.
- ~~Share~~ [Consider](#) outlook to the north towards the Yarra River and access to sunlight and views by locating lower buildings north of Lorimer Parkway ~~(Turner Street)~~ and taller buildings south of the [Lorimar](#) Parkway along the West Gate Freeway.

Built form requirements

~~A new building or works~~ [Development](#) should not exceed the [building relevant](#) height ~~shown~~ [specified](#) in Map 2 to this schedule.

[The following elements may exceed the specified height:](#)

- [Non-habitable architectural features not more than 3.0 metres in height.](#)
- [Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.](#)

2.6 Overshadowing

Buildings ~~and works~~ must not ~~(or should not where the overshadowing control is specified as discretionary)~~ cast any additional shadow above the ~~shadows cast by hypothetical buildings built to the~~ Maximum street wall height ~~and existing buildings~~ over:

- The existing or proposed public open spaces ~~or streets~~ shown in ~~the relevant maps~~ Map 5 of this schedule for the hours specified ~~on the same map in Table 2.~~

~~These requirements do not apply to buildings and works constructed within the open space.~~

~~For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:~~

- Height in metres = (3.8 x number of storeys) + 3.2.

Comment: This formula allows for a 4.0 metre ground floor and architectural features that can extend above the street wall, or on the building itself.

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September
B	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
C	Discretionary	Overshadowing control from 10:00am to 1:00pm, 22 September
D	Discretionary	Overshadowing control from 10:30am to 1:30pm, 22 September

2.7 Street wall height

Built form outcomes

With the exception of street walls to the West Gate Freeway ~~and the~~ City Link overpass, ~~and other elevated road structures~~ street walls that ~~ensure~~:

- ~~Deliver an appropriately sealed and distinct~~ human scale street wall ~~effect.~~
- ~~A human scale.~~
- ~~Deliver an~~ appropriate level of street enclosure having regard to the width of the street, with lower street walls ~~heights to~~ narrower streets.
- ~~Allow for views to the sky~~ Skyviews from the street or laneway ~~and.~~
- ~~Do not overwhelm the public realm.~~
- ~~Provide an~~ appropriate transition to adjoining heritage places when viewed from the street.
- ~~Enable~~ adequate daylight and sunlight in ~~the streets or~~ and laneways.
- ~~Street walls on a corner site to~~ Make an appropriate transition back to the preferred street wall height ~~from taller street walls on corner sites.~~
- ~~Street wall heights along the northern side of the Lorimer Parkway (Turner Street)~~ Enable a high degree of sunlight access to the Lorimer Parkway.

~~Higher~~ Street walls along the interface with the West Gate Freeway ~~and the~~ City Link overpass, ~~and other elevated road structures, that:~~

- ~~designed to~~ Assist with mitigating noise impacts ~~and visual impacts~~ from the freeway ~~into the Lorimer Precinct.~~

~~Street wall heights along the northern side of the Lorimer Parkway (Turner Street) Enable a high degree of sunlight access to the Parkway.~~

Built form requirements

Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in [Map 4 and Table 3](#).

A new street wall must not exceed the Maximum street wall height specified in Table 3, [unless required to deliver a building typology other than tower-podium.](#)

~~Where a new building is on a corner, the taller maximum street wall height applies to both frontages, except on the northern edge of Lorimer Central where the maximum 6 storeys applies.~~

Where a new building is on a corner, the taller Maximum street wall height applies to ~~both frontages~~ [the frontage with the lower Maximum street wall:](#)

- [On streets wider than 9 metres a distance of 60 metres.](#)
- [On streets 9 metres wide or narrower for a distance of 25 metres.](#)

The following elements may exceed the Maximum street wall height:

- [Non-habitable architectural features not more than 3.0 metres in height.](#)

Table 3: Street wall height

Location	Preferred street wall height	Maximum street wall height
Fronting the Lorimer Parkway (Turner Street) Type A	4 storey	6 storeys
	6 storey	
On the south side of the new east-west street in Subprecinct L4 Type B	at least 4 storeys	8 storeys
On a street or laneway ≤22 m wide Type C and Laneways	at least 4 storeys	6 storeys
On a street >22 m wide Type D	at least 4 storeys	8 storeys
	at least 4 storeys	6 storeys

2.8 **Setbacks above the street wall** ~~from new and existing streets and laneways~~

Built form outcomes

Setbacks above street walls that ~~ensure~~:

- [Help deliver](#) comfortable wind conditions in the public realm.
- [Enable](#) adequate daylight and sunlight ~~into~~ streets and laneways.
- [Allow for views to the sky](#) ~~Skyviews~~ from the street or laneway ~~and~~.
- [Do](#) not overwhelm the public realm.
- ~~Upper floors are visually recessive to~~ [Minimise visual bulk of upper floors](#) when viewed from streets and laneways.

Built form requirements

Any part of the building above the [Maximum](#) street wall [height](#):

- Should be set back [from a frontage](#) at least the Preferred setback specified in Table 4.
- Must be set back [from a frontage](#) at least the Minimum setback specified in Table 4, [unless a lesser setback is required to deliver a building typology other than tower-podium.](#)

~~Note: For the purpose of Table 4:~~

The setback of a building above a street wall from a laneway is the shortest horizontal distance from the building facade to the a street reserve less than 9 metres wide must be measured from the centreline of the street laneway. A negative value setback must be interpreted as a zero setback.

- The setback of a building above a street wall from a street is the shortest horizontal distance from the building facade to the street boundary.

Table 4: Setbacks above the street wall

Location	Qualification	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside the has direct interface with: <ul style="list-style-type: none"> ▪ West Gate Freeway ▪ City Link overpass ▪ An elevated road structures 	If the building height is ≤ 8 storeys	5 metres	3 metres
	If the building height is > 8 storeys	10 metres	5 metres
Other locations	If the building height is ≤ 8 storeys	5 metres	3 metres
	If the building height is > 8 storeys and ≤ 20 storeys	10 metres	5 metres
	If the overall building height is > 20 storeys	10 metres	10 metres

2.9 Side and rear setbacks

Built form outcomes

Side and rear setbacks that:

- To Create a continuous street wall along all site frontages streets and laneways. New buildings (above and below the street wall) are setback to ensure:
 - Enable adequate daylight and sunlight in streets and laneways.
 - Allow sunlight, and daylight and privacy to, and outlook from habitable rooms, for both in existing and potential developments on adjoining sites.
 - Mitigate wind effects on the public realm are mitigated.
 - Ensure tall buildings do not appear as a continuous wall when viewed from street level and on the northern side of the Yarra River.
 - Allow for views to the sky Skyviews between buildings.
 - Minimise visual bulk is minimised.
 - Achieve internal amenity privacy is achieved by setbacks rather than privacy screening.
- To Provide opportunities for buildings in the south of Lorimer to have views to the water Yarra River through building separation that is created by setbacks.

Built form requirements

That part of a new building below the **Maximum** street wall **height** should be built on or within 300 mm of a side boundary.

That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:

- **The building is built on or within 300 mm of the boundary.**
- **The built form outcomes are achieved.**

- ~~The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.~~
- ~~The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.~~
- ~~The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.~~

~~If any part of a new building is setback from a side or rear not on or within 300 mm of a boundary it:~~

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.
- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary

~~The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.~~

Table 5: Side and rear setbacks

Part of building	Building height	Qualification	Preferred setback	Minimum setback
Below the <u>Maximum street wall height</u> .		If not within 300 mm of a side or rear boundary.	9 metres	6 metres
Above the <u>Maximum street wall height</u> .	≤ 20 storeys	Where the building below the <u>Maximum street wall height</u> is built on the boundary.	10 metres	5 metres
		Other buildings.	10 metres	10 metres
	> 20 storeys	Where the building has direct interface with: <ul style="list-style-type: none"> ▪ West Gate Freeway. ▪ City Link overpass. 	10 metres	5 metres
		Other buildings	10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- ~~To ensure Delivers~~ high quality ~~internal~~ amenity ~~outcomes~~ within buildings having regard to outlook, daylight, and overlooking ~~and~~.
- ~~Offsetting~~ direct views between buildings within the same site.
- ~~Internal amenity is achieved by~~ Achieves privacy by building separation rather than screening.
- ~~To Ensure~~ tall buildings do not appear as a continuous wall when viewed from street level or the northern side of the Yarra River.
- ~~To ensure building separation of tall buildings is adequate to allow sunlight penetration to areas of identified open space and to streets.~~

Comment: This is too vague

Built form requirements

~~Note: For the purpose of Table 6 building separation distance within a site is to be measured from the face of each building.~~

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Building height	Preferred building separation	Minimum building separation
Below the Maximum street wall height		12_metres	6_metres
Above the Maximum street wall height	A new building up to ≤ 20 storeys in height	20_metres	10_metres
	A new building over ≥ 20 storeys in height	20_metres	20_metres

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

To ensure that the ground level wind gust speeds do not cause unsafe wind conditions to pedestrians adjacent to the development or to pedestrians adjacent to public spaces.

- Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.
- To ensure that the proposed development achieves comfortable wind conditions commensurate to the identified principal role of publicly accessible areas for sitting, standing or walking.

Built form requirements

Buildings and works with a total building height in excess of higher than 40 metres:

- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

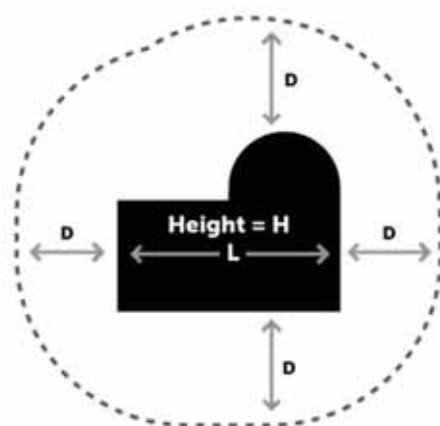
The assessment distance is shown in the figure below and is the greater of:

- a distance equal to Half the longest width of the building above 40 metres in height measured from all facades, or,
- Half the total height of the building – whichever is greater as shown in the figure below, demonstrated by a wind analysis report prepared by a suitably qualified person.

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	<u>means a The Hourly mean wind speed from all wind directions combined with a probability of exceedance of less than 20 per cent of the time, is equal to or less than or equal to:</u>

Wind condition	Specification
	<ul style="list-style-type: none"> 3 metres/second for sitting areas. 4 metres/second for standing areas. 5 metres/second for walking areas. <p><u>Hourly mean wind speed means is</u> the maximum of:</p> <ul style="list-style-type: none"> <u>The</u> hourly mean wind speed of. <u>The</u> gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	<p>means The hourly maximum 3 second gust which exceeds 20 metres/second from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.</p>



Assessment distance D = greater of:
 L/2 (Half longest width of building)
 OR
 H/2 (Half overall height of building)

2.12 Active street frontages

Built form outcomes

~~Development designed to enhance access to the Yarra River through the provision of north-south activated streets and laneways that maximise connectivity into and through the Yarra's Edge development.~~

Buildings ~~that~~ designed to:

- ~~Development designed to Enhance access connectivity to the Yarra River through the provision of north-south activated streets and laneways that maximise connectivity into and through the Yarra's Edge development.~~
- 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 facades with windows and ~~regularly spaced and~~ legible entries.
- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- ~~Buildings are designed to~~ Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level ~~that~~ designed to:

- Create a sense of address by providing direct individual street entries to dwellings or home offices, ~~where~~ practicable.

- ~~▪ Achieve a degree of privacy through permeable screening and level changes.~~
- ~~Buildings are designed to avoid unsafe indents with limited visibility.~~

Car parking ~~and building services~~ that does not detract from the public realm.

~~Service areas are consolidated and located to maximise activation of the public realm.~~

~~Any externally accessible services or substations are integrated into the facade design.~~

~~A safe and high quality interface between the public and private realm through the arrangement of uses internal to a building.~~

Built form requirements

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.
- ~~▪ Canopies over footpaths on primary or secondary active streets where retail uses are proposed.~~

~~The area of any Ground floor of a building occupied by building services, including waste, loading and parking should be occupy less than 40% per cent of the ground floor area of the building total site area.~~

Buildings fronting the Primary and Secondary active streets on Map 3 to this schedule, should:

- ~~be designed to~~ Achieve a diversity of fine-grain frontages.
- Provide canopies over footpaths ~~on primary or secondary active streets where retail uses are proposed.~~
- Deliver the Clear glazing specified in Table 8.

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.
- ~~▪ Not be located at ground floor level.~~
- ~~▪ Not be visible from the street.~~
- ~~▪ Be contained within a building.~~

~~The area of any ground floor of a building occupied by building services, including waste, loading and parking should be less than 40% of the total site area.~~

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base. Pedestrian entries at least every 10 m. The frontage to a Residential lobby at ground level should not exceed 4m.
Secondary active frontages (Type 1)	At least 60 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base. Pedestrian entries at least every 15m.
Secondary active frontages (Type 2)	At least 20 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base.

2.13 Adaptable buildings

Built form outcomes

Buildings that:

- are designed to accommodate employment uses and Provide for the future adaptation or conversion of those parts of a the building accommodating non-employment generating uses (including car parking) to employment generating uses over time.

Car parking is designed that:

- So that it Can be adapted to other uses over time.
- ~~To minimise its footprint within a building.~~

~~Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms.~~

~~Internal layouts and floor plates should be flexible and adaptable with minimal load bearing walls that maximise flexibility for retail or commercial refits.~~

~~Floorplate layout designed to enable one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.~~

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
<u>Lower levels up to the height of the street wall</u>	Buildings should be designed with minimum floor to floor heights of: At least 4.0 metres <u>floor to floor height</u> at ground level; At least 3.8 metres <u>floor to floor height</u> for other lower levels up to the height of the street wall.
<u>Car parking areas</u>	Car parking In areas not within a basement; should have <ul style="list-style-type: none"> <u>Level floors</u>, and <u>A floor-to-floor height not less than at least 3.8 metres.</u> Mechanical <u>parking</u> systems should be utilised to reduce the <u>area required for footprint of car parking areas.</u>
<u>Dwelling layout</u>	Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms. <u>The ability for one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.</u>
<u>Internal layout</u>	Internal layouts and floor plates should be flexible and adaptable with <u>Minimal load bearing walls that to maximise flexibility for retail or commercial refits.</u> Internal layouts should be designed and arranged to enable adaptable floorplates to accommodate change of uses over time.

2.14 Building finishes

Built form outcomes

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

~~Buildings are not designed in a manner that creates blank facades.~~

~~Internal uses of the buildings are expressed within the external building design creating a relationship between the private and public realm.~~

Built form requirements

Buildings ~~are not designed in a manner that creates~~ should avoid blank facades.

Building walls facing a street or public place should be detailed to provide visual richness.

Buildings fronting main roads should use materials and finishes ~~for on buildings fronting main roads should~~ with a perpendicular reflectivity ~~not exceed less than~~ 15 per cent ~~perpendicular reflectivity~~, measured at 90 degrees to the facade surface.

~~Buildings should be designed to emphasise internal uses within the facade design (below the street wall) and reduce visual bulk.~~

Table 10: Building finishes

2.15 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

--/20-- None specified.

Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

--/20-- None specified.

5.0 Decision guidelines

--/20-- The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The preferred Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence ~~and contributes to creating a range of built form typologies.~~
- ~~Whether~~ The cumulative impact of the proposed development and any existing adjoining development ~~supports achievement of a high quality pedestrian amenity in the public realm, in relation to scale, visual bulk, overshadowing and wind effects.~~
- ~~Whether the proposed building setbacks and separation distances allow~~ Equitable access to privacy, sunlight, daylight and outlook ~~Consideration of this issue should have~~ ing regard to the proposed internal use's ~~within a new building~~ and the height of any existing or proposed adjoining built form.
- The effect of the proposed buildings and works development on solar access to existing and proposed public spaces having regard to:
 - The area of additional shadow cast over the public space relative to the total area of public space and the area ~~which that~~ will remain sunlit.
 - Any adverse impact on soft landscaping in public space ~~and~~

- Whether allowing additional shadows to be cast on public spaces ~~other than open space~~, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.

- ~~▪ Whether the proposal delivers design excellence, and contributes to creating a range of built form typologies.~~
- ~~▪ The impacts of built form and visual bulk on daylight, sunlight and sky views from within public spaces or on adjoining heritage places.~~
- ~~▪ The internal amenity of the development and the amenity and equitable development opportunities of adjoining properties.~~
- ~~▪ The impacts of wind on the amenity and usability of nearby public open spaces, streetscapes or the public realm.~~

Comment: These should not duplicate the Built form outcomes.

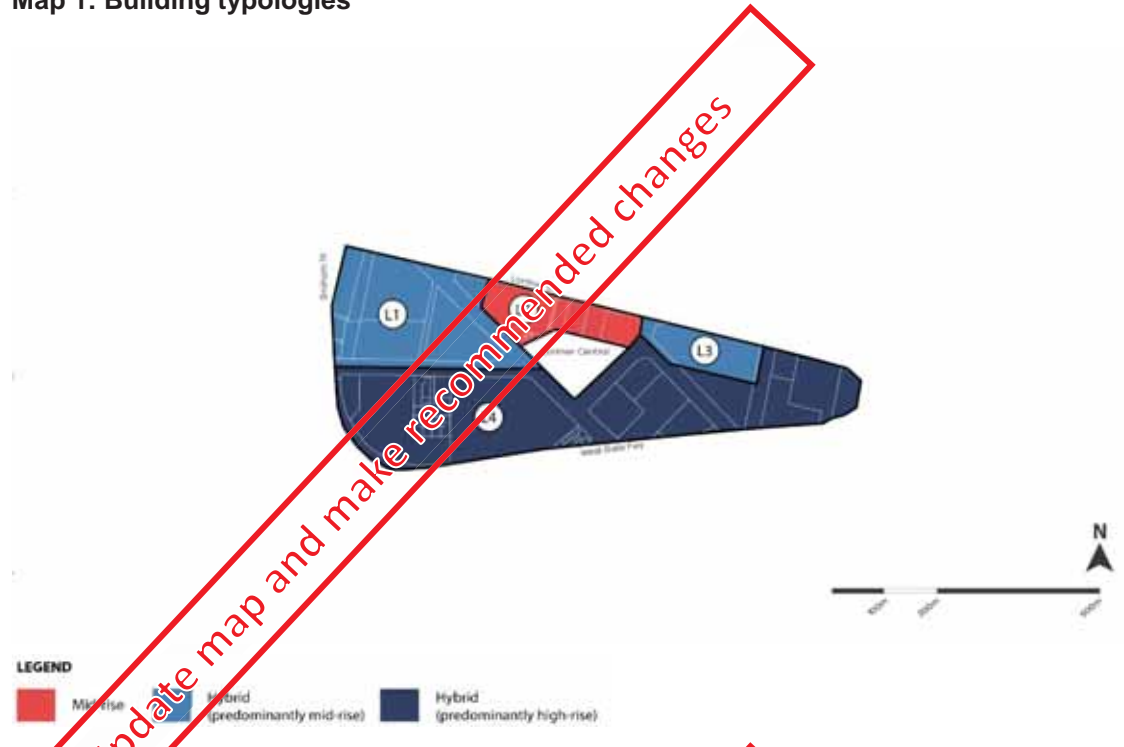
Diagrams

These diagrams are for illustrative purposes. If there is a discrepancy between these diagrams and the text of the controls the text should be used.

[Include diagrams to illustrate street wall heights and setbacks:

- indicate storeys
- combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition
- present discretionary and mandatory requirements.]

Map 1: Building typologies



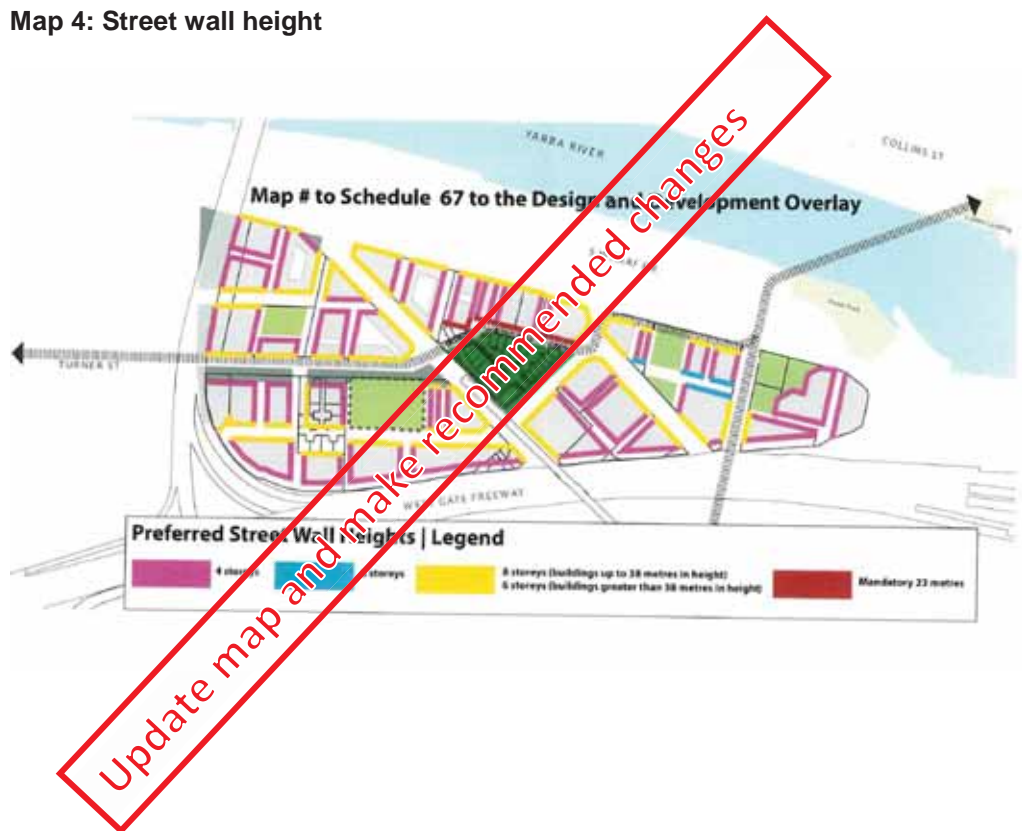
Map 2: Building heights



Map 3: Active street frontages



Map 4: Street wall height



Map 5: Overshadowing



Appendix C.5: Montague Design and Development Overlay – track change version

SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

--/20--

Shown on the planning scheme map as **DDO [Number]**.

FISHERMANS BEND – MONTAGUE PRECINCT

1.0 Design objectives

--/20--

To ~~create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation~~ ~~implement the Fishermans Bend Vision, September 2016 and the Fishermans Bend Framework, ## 2018.~~

To ensure, ~~in Montague North,~~ a mix of mid and high-rise scales with hybrid and podium–tower typologies. ~~in Montague North and~~

~~to~~ To ensure, ~~in Montague South,~~ a mid-rise scale encouraging ~~predominantly hybrid and tooth and gap typology, supported by~~ infill row, terrace and shop top developments ~~with some hybrid typologies~~ that preserve identified character buildings and sensitively respond to heritage fabric ~~in Montague South.~~

To ensure ~~the scale, height and setbacks of development~~ ~~built form~~ ~~protect-avoids where possible~~ sunlight penetration to the ~~Lorimer Parkway~~ ~~key open space spines~~ and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

~~To ensure building separation and setbacks achieve high levels of internal amenity for all development.~~

To encourage ~~buildings to be designed so that they are capable of being adapted~~ ~~adaptable floorspace~~ to facilitate a reduction in car dependence, an increase in commercial floor space ~~over time.~~

2.0 Buildings and works

--/20--

Buildings and works for which no permit is required

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use ~~that provides services to the construction industry~~ ~~which facilitates the urban renewal of Fishermans Bend.~~
- An application to amend an existing permit granted before ~~insert the approval date of~~ ~~Amendment GC81~~ which does not increase the extent of non-compliance with the requirements.

~~A built form requirement expressed with the term ‘must’ is a mandatory requirement. A permit cannot be granted to vary a mandatory built form requirement expressed with the term ‘must’.~~

~~A built form requirement expressed with the term ‘should’ is a discretionary requirement. A permit may be granted to vary a discretionary built form requirement expressed with the term ‘should’.~~

~~An application for buildings and works a development that does not meet a requirement expressed with the term ‘should’ must achieve the relevant built form outcomes.~~

~~Any reference to street width is a reference to the proposed ultimate width of the street reserve.~~

2.3 Definitions

For the purpose of this schedule:

~~Building height means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building excluding:~~

- ~~▪ Non-habitable architectural features not more than 3.0 metres in height.~~
- ~~▪ Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.~~

~~Laneway means a street with a road-street reserve width of 9 metres or less in width.~~

~~Street means a road reserve of greater than 9 metres in width.~~

~~Street wall means any that part of the a building constructed within 0.3 metres of a lot boundary fronting the a street or laneway including proposed streets and laneways.~~

~~Street wall height means the vertical distance between a height measured from the footpath or natural surface level at the centre of the site frontage and the highest point of the street wall excluding non-habitable architectural features not more than 3 metres in height.~~

2.4 Building typologies

Built form outcomes

~~A precinct that is composed of subprecincts each with a distinctive character and built form typology.~~

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

~~Development should be generally in accordance with the built form typology in Table 1.~~

~~Development should help deliver the relevant preferred precinct character in Table 1.~~

Table 1: Building typologies and preferred precinct character

Precinct on Map 1	Building typology	Preferred precinct character-Built form outcomes
Area M1	Hybrid (predominantly mid-rise)	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.
Area M2	Mid-rise	Predominantly mid-rise developments with some opportunities for additional upper levels that are visually recessed from the street and protect solar access to the existing school forecourt.
Area M3	Hybrid	Mid to high-rise developments. On larger sites, a

	(predominantly mid-rise)	hybrid of perimeter blocks with some slender towers that avoid overshadowing the proposed park and retain, and sensitively respond to heritage and character elements.
Area M4	Mid-rise	Mid-rise developments with opportunities for some additional upper levels that are visually recessive from the street and do not result in tower-podium building types and retain, and sensitively respond to heritage and character elements.
Area M5	Hybrid (predominantly mid-rise)	Predominantly mid-rise developments with some high-rise forms on larger sites where well-spaced, slender towers can be demonstrated to provide sunlight access to streets with a particular focus on Buckhurst Street incorporating a tooth and gap typology where practicable .
Area M6	Low-rise	Low-rise development that responds to the context and character of the adjacent low-rise neighbourhoods.

2.5 Building height

Built form outcomes

~~The height of new buildings in all areas must:~~ [Building heights that:](#)

- Respond to the preferred ~~future~~ precinct character and building typologies in Table 1.
- Contribute to a varied and architecturally interesting skyline.
- Limit impacts on the amenity of the public realm as a result of overshadowing and wind.
- Provide an appropriate transition and relationship to heritage buildings and existing lower scale neighbourhoods of South Melbourne and Port Melbourne [to the west of the No. 96 tram corridor](#).
- Minimise overshadowing of the footpaths ~~around~~ [at](#) the South Melbourne Market.

Built form requirements

~~A new building or works~~ [Development](#) should not exceed the [building relevant](#) height ~~shown~~ [specified](#) in Map 2 to this schedule.

~~A new building or works~~ [Development](#) must not exceed ~~the a~~ building height [specified as](#) of “4 storeys mandatory” ~~shown~~ in Map 2 ~~to this schedule~~.

~~A new building or works must not exceed the building height of “6 storeys mandatory” shown in Map 2 to this schedule.~~

[The following elements may exceed the specified height:](#)

- [Non-habitable architectural features not more than 3.0 metres in height.](#)
- [Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.](#)

2.6 Overshadowing

Buildings ~~and works~~ must not [\(or should not where the overshadowing control is specified as discretionary\)](#) cast any additional shadow above the [shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings](#) over:

- The existing residential zoned land south of City Road and east of Montague Street between the hours of 11.00am and 2.00pm on 22 September. [This is discretionary.](#)

- The existing or proposed public open spaces ~~or streets~~ shown in ~~the relevant maps~~ Map 4 of this schedule for the hours specified ~~on the same map in Table 2.~~ These requirements do not apply to buildings and works constructed within the open space. For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:
- $\text{Height in metres} = (3.8 \times \text{number of storeys}) + 3.2.$

Comment: This formula allows for a 4.0 metre ground floor and architectural features that can extend above the street wall, or on the building itself.

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
B	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September

2.7 Street wall height

Built form outcomes

Street walls that ~~ensure~~:

- ~~Deliver an appropriately scaled and distinct human scale street wall effect.~~
- ~~A human scale.~~
- ~~Deliver an appropriate level of street enclosure having regard to the width of the street with lower street walls heights to on narrower streets.~~
- ~~Allow for views to the sky Skyviews from the street or laneway and.~~
- ~~Do not overwhelm the public realm.~~
- ~~Provide an appropriate transition to adjoining heritage places when viewed from the street.~~
- ~~Enable adequate daylight and sunlight in the streets or and laneways.~~
- ~~Street walls on a corner site to Make an appropriate transition back to the preferred street wall height from taller street walls on corner sites.~~
- ~~New street walls On Normanby Road and Buckhurst Street are designed to seek to maximise the amount of opportunities for sunlight penetration on the southern side of the street for Normanby Road, and to the proposed green spine for Buckhurst Street.~~
- On Buckhurst Street seek to maximise opportunities for sunlight penetration to the proposed green spine for Buckhurst Street.

Built form requirements

Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in Table 3.

A new street wall must not exceed the Maximum street wall height specified in Table 3.

Where a new building is on a corner, the taller Maximum street wall height applies to ~~both frontages the frontage with the lower Maximum street wall:~~

- On streets wider than 9 metres a distance of 60 metres.
- On streets 9 metres wide or narrower for a distance of 25 metres.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.

Where Table 3 specifies a ‘Tooth and gap approach’ the following requirements apply:

- On sites with a frontage 50 metres or more:
 - A street wall of 4 storeys or less must be provided for at least 20 per cent of the frontage. The remaining street wall may be up to the maximum building height.
 - Any element taller than 4 storeys should not be wider than 30 metres at the frontage.
 - Any element taller than 4 storeys should be adjacent to a 4-storey element.
- On sites with a frontage of less than 50 metres:
 - At least 40 per cent of the frontage should have a street wall of 4 storeys or less and must have a street wall of 4 storeys or less. The remaining street wall may be up to the maximum building height.

Table 3: Street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
<u>Buckhurst Street on the north side between Kerr and Montague Streets</u>		<u>Tooth and gap approach</u>	
On City Road		at least 4 storeys, except where a lower height is necessary to respond to <u>an</u> adjoining heritage places	4 storeys
At 30-38 Thistlethwaite Street, Port Melbourne			6 storeys (23 m)
Normanby Road or Buckhurst Street		4 storeys	General provisions apply
Laneways (street ≤9 m)		4 storeys	6 storeys (23 m)
On a street >9 m and ≤22 m wide		at least 4 storeys in height, except where a lower height is necessary to respond to <u>an</u> adjoining heritage places	6 storeys (23 m)
On a street >22 m wide	where the building height is ≤10 storeys		8 storeys
	where the building height is >10 storeys		6 storeys

2.8 Setbacks above the street wall ~~from new and existing streets and laneways~~**Built form outcomes**Setbacks above street walls that ~~ensure~~:

- Help deliver comfortable wind conditions in the public realm.
- Enable adequate daylight and sunlight ~~into~~ streets and laneways.
- Allow for views to the sky ~~Skyviews~~ from the street or laneway ~~and~~.
- Do not overwhelm the public realm.
- Upper floors are visually recessive to ~~Minimise~~ the visual bulk of upper floors when viewed from streets and laneways.
- Minimise overshadowing of the footpaths ~~around at~~ the South Melbourne Market ~~is minimised~~.

Built form requirements

Any part of the building above the **Maximum** street wall **height**:

- Should be set back [from a frontage](#) at least the Preferred Setback specified in Table 4.
- Must be set back [from a frontage](#) at least the Minimum Setback specified in Table 4.

Note: For the purpose of Table 4:

The setback ~~of a building above a street wall from a laneway is the shortest horizontal distance from the building facade to the a street less than 9 metres wide must be measured from the~~ centreline of the ~~street laneway~~. ~~A negative value setback must be interpreted as a zero setback.~~

- ~~————— The setback of a building above a street wall from a street is the shortest horizontal distance from the building facade to the street boundary.~~

Table 4: Setbacks above the street wall

Location	Building height	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside the has direct interface with: <ul style="list-style-type: none"> ▪ West Gate Freeway. ▪ City Link overpass. ▪ Route 96 tram corridor. ▪ Route 109 tram corridor. 	≤ 8 storeys	5 metres	3 metres
	> 8 storeys	10 metres	5 metres
On City Road		None specified	10 metres
If the building fronts City Road and Williamstown Road		As specified for other locations	10 metres
Other locations	≤ 8 storeys	5 metres	3 metres
	> 8 storeys and ≤ 20 storeys	10 metres	5 metres
	> 20 storeys	10 metres	10 metres

2.9 Side and rear setbacks

Built form outcomes

Side and rear setbacks that:

- ~~To~~ **Create** a continuous street wall along ~~all site frontages streets and laneways~~.
- ~~New buildings (above and below the street wall) are setback to ensure:~~
- **Enable** adequate daylight and sunlight ~~into~~ streets and laneways.
 - **Allow** sunlight ~~and~~ daylight ~~and privacy to~~, and outlook from habitable rooms ~~for both in~~ existing and potential developments on adjoining sites.
 - **Mitigate** wind effects on the public realm ~~are mitigated~~.
 - **Ensure** tall buildings do not appear as a continuous wall when viewed from street level.
 - **Allow for views to the sky** ~~Skyviews~~ between buildings.

- Minimise visual bulk ~~is minimised~~.
- Achieve ~~internal amenity~~ privacy ~~is achieved~~ by setbacks rather than ~~privacy~~ screening.

Built form requirements

That part of a new building below the Maximum street wall height should be built on or within 300 mm of a side boundary.

That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:

- The building is built on or within 300 mm of the boundary.
- The built form outcomes are achieved.
- The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.
- The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.
- The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.

If any part of a new building is setback from a side or rear boundary ~~it~~ not on or within 300 mm of a boundary ~~it~~:

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.
- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.

Table 5: Side and rear setbacks

Part of building	Building height	Qualification	Preferred setback	Minimum setback
Below the <u>Maximum</u> street wall <u>height</u>		If not within 300 mm of a side or rear boundary	9 metres	6 metres
Above the <u>Maximum</u> street wall height	≤ 20 storeys	Where <u>any part of</u> the building below the <u>Maximum</u> street wall <u>height</u> is built on the boundary	10 metres	5 metres
		Other buildings	10 metres	10 metres
	> 20 storeys	Where the building has direct interface with: <ul style="list-style-type: none"> ▪ West Gate Freeway. ▪ City Link overpass. 	10 metres	5 metres
		Other buildings	10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- To ensure Delivers high quality ~~internal~~ amenity ~~outcomes~~ within buildings having regard to outlook, daylight, and overlooking ~~and~~.

- ~~Offsets~~ direct views between buildings within the same site.
- ~~Internal amenity is achieved by~~ Achieves privacy by building separation rather than screening.
- ~~To~~ Ensures tall buildings do not appear as a continuous wall when viewed from street level.

Built form requirements

~~Note: For the purpose of Table 6 building separation distance within a site is to be measured from the face of each building.~~

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Building height	Preferred building separation	Minimum building separation
Below the <u>Maximum street wall height</u>		<u>12 metres</u>	<u>6 metres</u>
Above the <u>Maximum street wall height</u>	A new building up to <u>A new building up to</u> ≤ 20 storeys in height	<u>20 metres</u>	<u>10 metres</u>
	A new building over <u>A new building over</u> ≥ 20 storeys in height	<u>20 metres</u>	<u>20 metres</u>

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

~~To ensure that the ground level wind gust speeds do not cause unsafe wind conditions to pedestrians adjacent to the development or to pedestrians adjacent to public spaces.~~

- Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.
- ~~To ensure that the proposed development achieves comfortable wind conditions commensurate to the identified principal role of publicly accessible areas for sitting, standing or walking.~~

Built form requirements

Buildings and works ~~with a total building height in excess of~~ higher than 40 metres:

- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

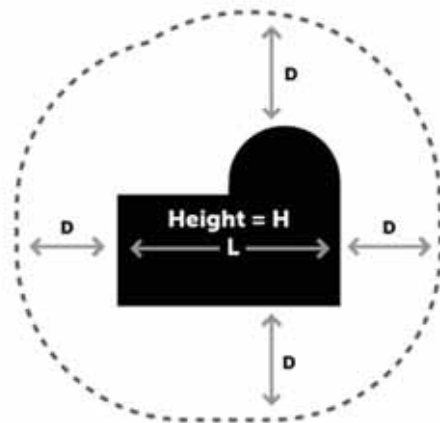
The assessment distance is shown in the figure below and is the greater of:

- a distance equal to Half the longest width of the building above 40 metres in height measured from all facades, or,

- ~~Half the total height of the building~~ ~~whichever is greater as shown in the figure below,~~ ~~demonstrated by a wind analysis report prepared by a suitably qualified person.~~

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	<p>means a <u>The Hourly</u> mean wind speed from all wind directions combined with <u>a</u> probability of exceedance <u>of less than</u> 20 per cent <u>of the time, is equal to or less than</u> <u>or equal to</u>:</p> <ul style="list-style-type: none"> ▪ 3 metres/second for sitting areas. ▪ 4 metres/second for standing areas. ▪ 5 metres/second for walking areas. <p><u>Hourly mean wind speed</u> means is the maximum of:</p> <ul style="list-style-type: none"> ▪ <u>The</u> hourly mean wind speed, of ▪ <u>The</u> gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	<p>means The hourly maximum 3 second gust which exceeds 20 metres/second from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.</p>



Assessment distance D = greater of:
 L/2 (Half longest width of building)
 OR
 H/2 (Half overall height of building)

2.12 Active street frontages

Built form outcomes

Buildings ~~that designed to~~:

- 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 facades with windows and ~~regularly spaced and~~ legible entries.
- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- Buildings are designed to Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level ~~that designed to~~:

- Create a sense of address by providing direct individual street entries to dwellings or home offices, where practicable.

~~▪ Achieve a degree of privacy through permeable screening and level changes.~~

~~Buildings are designed to avoid unsafe indents with limited visibility.~~

Car parking ~~and building services~~ that does not detract from the public realm.

~~Service areas are consolidated and located to maximise activation of the public realm.~~

~~Any externally accessible services or substations are integrated into the facade design.~~

~~A safe and high quality interface between the public and private realm through the arrangement of uses internal to a building.~~

Built form requirements

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.
- ~~▪ Canopies over footpaths on primary or secondary active streets where retail uses are proposed.~~

~~The area of any Ground floor of a building occupied by building services, including waste, loading and parking should be occupy less than 40% per cent of the ground floor area of the building-total site area.~~

Buildings fronting the Primary and Secondary active streets on Map 3 to this schedule, should:

- ~~▪ be designed to Achieve a diversity of fine-grain frontages.~~
- ~~▪ Provide canopies over footpaths ~~on primary or secondary active streets~~ where retail uses are proposed.~~
- ~~▪ Deliver the Clear glazing specified in Table 8.~~

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.
- ~~▪ Not be located at ground floor level.~~
- ~~▪ Not be visible from the street.~~
- ~~▪ Be contained within a building.~~

~~The area of any ground floor of a building occupied by building services, including waste, loading and parking should be less than 40% t of the total site area.~~

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base. Pedestrian entries at least every 10 m. The frontage to a Residential lobby at ground level should not exceed 4m.
Secondary active frontages (Type 1)	At least 60 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base. Pedestrian entries at least every 15 m.
Secondary active frontages (Type 2)	At least 20 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base.

2.13 Adaptable buildings

Built form outcomes

Buildings that:

- are designed to accommodate employment uses and Provide for the future adaptation or conversion of those parts of a the building accommodating non-employment generating uses (including car parking) to employment generating uses over time.

Car parking is designed that:

- So that it Can be adapted to other uses over time.
- To minimise its footprint within a building.

Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms.

Internal layouts and floor plates should be flexible and adaptable with minimal load bearing walls that maximise flexibility for retail or commercial refits.

Floorplate layout designed to enable one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
<u>Lower levels up to the height of the street wall</u>	Buildings should be designed with minimum floor to floor heights of: At least 4.0 metres <u>floor to floor height</u> at ground level. At least 3.8 metres <u>floor to floor height</u> for other lower levels up to the height of the street wall.
<u>Car parking areas</u>	Car parking In areas not within a basement; should have <ul style="list-style-type: none"> Level floors, and A floor-to-floor height not less than at least 3.8 metres. Mechanical parking systems should be utilised to reduce the area required for footprint of car parking areas.
<u>Dwelling layout</u>	Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms. Floorplate layout designed to enable The ability for one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.
<u>Internal layout</u>	Internal layouts and floor plates should be flexible and adaptable with Minimal load bearing walls that to maximise flexibility for retail or commercial refits. Internal layouts should be designed and arranged to enable adaptable floorplates to accommodate change of uses over time.

2.14 Building finishes

Built form outcomes

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

~~Buildings are not designed in a manner that creates blank facades.~~

- ~~▪ Buildings are designed to Achieve a fine grain on City Road, Normanby Road and on new north-south laneways connecting Normanby Road to Munro Street and Woodgate Street.~~

Built form requirements

Buildings ~~are not designed in a manner that creates~~ should avoid blank facades.

Buildings fronting main roads should use materials and finishes for on buildings fronting main roads should with a perpendicular reflectivity not exceed less than 15 per cent perpendicular reflectivity, measured at 90 degrees to the facade surface.

Buildings should provide different facade treatments every 10 metres along:

- ~~▪ City Road;~~
- ~~▪ Normanby Road; and~~
- ~~▪ New north-south laneways connecting Normanby Road to Munro Street and Watergate Street.~~

Building walls facing a street or public place should be detailed to provide visual richness.

2.15 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

--/20--

None specified.

2.16 Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

--/20--

None specified.

5.0 Decision guidelines

--/20--

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The preferred Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence ~~and contributes to creating a range of built form typologies.~~
- ~~Whether~~ The cumulative impact of the proposed development and any existing adjoining development supports achievement of a high-quality pedestrian amenity in the public realm, in relation to scale, visual bulk, overshadowing and wind effects.
- Whether the proposed building setbacks and separation distances allow Equitable access to privacy, sunlight, daylight and outlook. ~~Consideration of this issue should have~~ing regard to the proposed internal use's within a new building and the height of any existing or proposed adjoining built form.
- The effect of the proposed buildings and works development on solar access to existing and proposed public spaces having regard to:

- The area of additional shadow cast over the public space relative to the total area of public space and the area ~~which that~~ will remain sunlit.
- Any adverse impact on soft landscaping in public spaces. ~~and~~
- Whether allowing additional shadows to be cast on public spaces ~~other than open space~~, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.
- ~~• Whether the proposal delivers design excellence, and contributes to creating a range of built form typologies.~~
- ~~• The impacts of built form and visual bulk on daylight, sunlight and sky views from within public spaces or on adjoining heritage places.~~
- ~~• The internal amenity of the development and the amenity and equitable development opportunities of adjoining properties.~~
- ~~• The impacts of wind on the amenity and usability of nearby public open spaces, streetscapes or the public realm.~~

Comment: These should not duplicate the Built form outcomes.

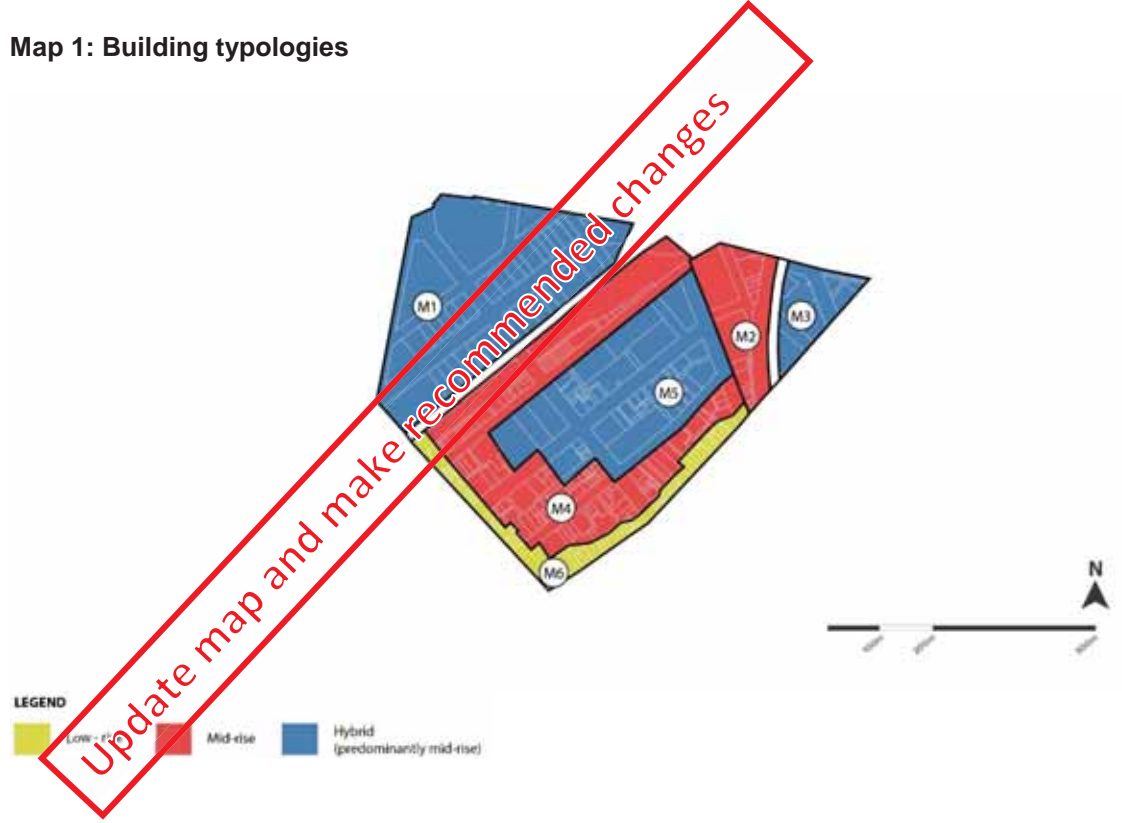
Diagrams

These diagrams are for illustrative purposes. If there is a discrepancy between these diagrams and the text of the controls the text should be used.

[Include diagrams to illustrate street wall heights and setbacks:

- indicate storeys
- combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition
- present discretionary and mandatory requirements.]

Map 1: Building typologies



Map 2: Building heights



* Maximum street wall height of 4 storeys and minimum 10 metre setback above the street wall.

Map 3: Active street frontages



Map 4: Overshadowing



Appendix C.6: Sandridge Design and Development Overlay – track change version

SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

--/~/20--

Shown on the planning scheme map as **DDO[number]**.

FISHERMANS BEND – SANDRIDGE PRECINCT

1.0 Design objectives

--/~/20--

To ~~create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation~~ implement the Fishermans Bend Vision, September 2016 and the Fishermans Bend Framework, ## 2018.

To ensure in the core area a mix of mid-rise and high-rise podium towers that support significant commercial buildings. In Non-core areas, a range of mid-rise and hybrid (perimeter block with towers) developments that create a diversity of architectural styles and housing choices and encourage the delivery of communal open space.

To ensure ~~the scale, height and setbacks of development~~ built form protects sunlight penetration to the Lorimer Parkway and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

To ensure ~~building separation and setbacks achieve~~ high levels of internal amenity for all development.

To encourage ~~buildings to be designed so that they are capable of being adapted~~ adaptable floorspace to facilitate a reduction in car dependence, an increase in commercial floor space over time.

2.0 Buildings and works

--/~/20--

Buildings and works for which no permit is required

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use that provides services to the construction industry ~~which facilitates the urban renewal of Fishermans Bend.~~
- An application to amend an existing permit granted before insert the approval date of Amendment GC81 which does not increase the extent of non-compliance with the requirements.

~~A built form requirement expressed with the term 'must' is a mandatory requirement. A permit cannot be granted to vary a mandatory built form requirement expressed with the term 'must'.~~

~~A built form requirement expressed with the term 'should' is a discretionary requirement. A permit may be granted to vary a discretionary built form requirement expressed with the term 'should'.~~

An application for ~~buildings and works~~ a development that does not meet a requirement expressed with the term ‘should’ must achieve the relevant built form outcomes.

Any reference to street width is a reference to the proposed ultimate width of the street reserve.

2.3 Definitions

For the purpose of this schedule:

~~Building height means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building excluding:~~

- ~~▪ Non-habitable architectural features not more than 3.0 metres in height.~~
- ~~▪ Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.~~

~~Laneway means a street with a road-street reserve width of 9 metres or less in width.~~

~~Street means a road reserve of greater than 9 metres in width.~~

~~Street wall means any that part of the a building constructed within 0.3 metres of a lot boundary fronting the a street or laneway including proposed streets and laneways.~~

~~Street wall height means the vertical distance between a height measured from the footpath or natural surface level at the centre of the site frontage and the highest point of the street wall excluding non-habitable architectural features not more than 3.0 metres in height.~~

2.4 Building typologies

Built form outcomes

A precinct that is composed of subprecincts each with a distinctive character and built form typology.

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

Development should be generally in accordance with the built form typology in Table 1.

Development should help deliver the relevant preferred precinct character in Table 1.

Table 1: Building typologies and preferred precinct character

Precinct on Map 1	Building typology	Preferred precinct character	Built form outcomes
Area S1	Hybrid (predominantly mid-rise)	Mid to high-rise developments. A mix of a hybrid of perimeter blocks and towers with larger mid-rise floorplates that support campus style commercial developments.	
Area S2	Hybrid (predominantly mid-rise)	Mid to high-rise developments including hybrid of mid-rise perimeter blocks and slender towers.	
Area S3	Hybrid (predominantly high-rise)	Predominantly tower developments with some mid-rise buildings. Provision of towers with large floorplates with high quality outlook to support commercial development. Provision of publicly accessible private urban courtyard spaces within new developments to enhance the overall network of open spaces to support high densities of activity.	

Precinct on Map 1	Building typology	Preferred precinct character	Built form outcomes
			Developments that incorporate north–south laneways that provide high levels of pedestrian permeability and activation.
Area S4	Low-mid-rise		<p>Low-mid-rise scale of development that incorporates communal open space and responds to the context and character of adjacent low-rise neighbourhoods. Opportunities for additional upper levels that are visually recessive when viewed from within the street and North Port Oval.</p> <p>A variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street and provide opportunities for portions of the street to receive greater levels of sunlight access throughout the day.</p>
Area S5	Hybrid (predominantly mid-rise)		<p>Mid to high-rise developments. On large sites, a hybrid of low-mid-rise perimeter blocks with slender towers that minimise overshadowing impacts on streets, linear parks and communal open spaces..</p> <p>Communal open spaces with good access to sunlight to provide high levels of amenity for residents.</p>

2.5 Building height

Built form outcomes

- ~~The height of new buildings in all areas must:~~ Building heights that:
- Respond to the preferred ~~future~~ precinct character and building typologies in Table 1 ~~and Map ##~~.
- Contribute to a varied and architecturally interesting skyline.
- Limit impacts on the amenity of the public realm as a result of overshadowing and wind.
- Provide an appropriate transition and relationship to heritage buildings and existing lower scale neighbourhoods of Port Melbourne.

Built form requirements

~~A new building or works~~ Development should not exceed the building relevant height ~~shown~~ specified in Map 2 to this schedule.

~~A new building or works~~ Development must not exceed ~~the a~~ building height specified as of “4 storeys mandatory” ~~shown~~ in Map 2 ~~to this schedule~~.

~~A new building or works must not exceed the building height of “6 storeys mandatory” shown in Map 2 to this schedule.~~

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.
- Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.

2.6 Overshadowing

Buildings ~~and works~~ must not (or should not where the overshadowing control is specified as discretionary) cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing residential zoned land south of Williamstown Road between the hours of 11.00am and 2.00pm on 22 September ~~2018~~.

- The existing or proposed public open spaces or streets shown in ~~the relevant maps~~ Map 4 of this schedule for the hours specified ~~on the same map in Table 2.~~

These requirements do not apply to buildings and works constructed within the open space. For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:

- Height in metres = (3.8 x number of storeys) + 3.2.

Comment: This formula allows for a 4.0 metre ground floor and architectural features that can extend above the street wall, or on the building itself.

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
B	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September
B-Stripe	Discretionary	Plummer St Boulevard (first 6m north of property boundaries): Overshadowing control from 11:00am to 2:00pm, 22 September

2.7 Street wall height

Built form outcomes

~~To ensure privacy and sense of separation between ground floor residential spaces and the street is provided.~~

Street walls that ~~ensure~~:

- ~~To~~ Ensure privacy and sense of separation between ground floor residential spaces and the street ~~is provided.~~
- Deliver an ~~appropriately scaled and~~ distinct human scale street wall ~~effect~~, including the creation of a civic boulevard along Plummer/~~Fennel~~ Streets that is well-defined by its building edges.
- ~~Definition of~~ main street corners within the core area.
- ~~A human scale.~~
- Deliver an appropriate level of street enclosure having regard to the width of the street with lower street walls ~~heights to~~ narrower streets.
- Allow for views to the sky Skyviews from the street or laneway ~~and.~~
- Do not overwhelm the public realm.
- Provide an appropriate transition to adjoining heritage places when viewed from the street.
- Enable adequate daylight and sunlight in ~~the streets~~ ~~or~~ ~~and~~ laneways.
- ~~Street walls on a corner site to~~ Make an appropriate transition back to the preferred street wall height from taller street walls on corner sites.

Built form requirements

~~In all other areas, any new~~ Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in Table 3 except:

- Where a lower height is necessary to respond to an adjoining heritage place ~~and.~~
- ~~On the north east corner of Fennell and Bridge Streets.~~
- For ground floor residential uses in Non-core areas, not on secondary active frontages.

Ground floor residential uses in non-core areas, ~~except not~~ on secondary active frontages, ~~residential uses at ground floor~~ should be setback 3 metres from the street ~~boundary~~ to facilitate landscaped ~~a~~ transition from the street to ground floor apartments.

A new street wall must not exceed the Maximum street wall height specified in Table 3: Street wall height.

Where a ~~new building site~~ is on a corner:

- ~~On corner sites in core areas where~~ If both streets are > wider than 22 metres in ~~which case~~ a Maximum street wall height of 18 storeys applies which should not extend more than 25 metres along each street frontage.
- For other corner sites the taller Maximum street wall height applies to ~~both frontages~~ the frontage with the lower Maximum street wall:
 - On streets wider than 9 metres a distance of 60 metres.
 - On Laneways for a distance of 25 metres.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3 metres in height.

Table 3: Street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
Along City Road and Williamstown Road		at least 4 storeys (16 m)	4 storeys
On Fennell and Plummer Streets (between Ingles and Graham Streets)		at least 6 storeys (23 m)	8 storeys except on land on the north-east corner of Fennell and Bridge Streets where the General provisions apply
On a street or laneway ≤22 m wide		at least 4 storeys (16 m)	6 storeys
On a street >22 m wide	where the building height is ≤10 storeys	at least 4 storeys (16 m)	8 storeys
	where the building height is >10 storeys	at least 4 storeys (16 m)	6 storeys

2.8

Setbacks above the street wall ~~from new and existing streets and laneways~~

Built form outcomes

Setbacks above street walls that ~~ensure~~:

- Help deliver comfortable wind conditions in the public realm.
- Enable adequate daylight and sunlight ~~into~~ streets and laneways.
- Allow for views to the sky ~~Skyviews~~ from the street or laneway ~~and~~.
- Do not overwhelm the public realm.
- ~~An~~ Maintain an appropriate setback to significant elements of any heritage place on, or adjoining the site.

Built form requirements

Any part of the building above the Maximum street wall height:

- Should be set back from a frontage at least the Preferred Setback specified in Table 4.

- Must be set back [from a frontage](#) at least the Minimum Setback specified in Table 4.

Note: For the purpose of Table 4:

The setback of a building above a street wall from a laneway is the shortest horizontal distance from the building facade to the a street less than 9 metres wide must be measured from the centreline of the street laneway. A negative value setback must be interpreted as a zero setback.

- The setback of a building above a street wall from a street is the shortest horizontal distance from the building facade to the street boundary.

Table 4: Setbacks above the street wall from new and existing streets and laneways

Location	Overall building height	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside the has direct interface with: ▪ West Gate Freeway	≤ 8 storeys	5 metres	3 metres
	> 8 storeys	10 metres	5 metres
Williamstown Road		As specified for other locations	10 metres (≤15.4 m in diagram)
Other locations	≤ 8 storeys	5 metres	3 metres
	> 8 storeys and ≤ 20 storeys	10 metres	5 metres
	> 20 storeys	10 metres	10 metres

2.9 Side and rear setbacks

Built form outcomes

[Side and rear setbacks that:](#)

- ~~To~~ Create a continuous street wall along ~~all site frontages~~ streets and laneways in core areas.

~~New buildings (above and below the street wall) are designed and spaced to ensure:~~

- Adequate daylight and sunlight into streets and laneways.
- [Enable](#) adequate daylight and sunlight into streets and laneways.
- [Allow](#) sunlight, and daylight and privacy to, and outlook from habitable rooms, for both in existing and potential developments on adjoining sites with higher levels of amenity provided within non-core areas.
- [Mitigate](#) wind effects on the public realm ~~are mitigated~~.
- [Ensure](#) tall buildings do not appear as a continuous wall when viewed from street level.
- [Allow for views to the sky](#) Skyviews between buildings.
- [Minimise](#) visual bulk ~~is minimised~~.
- [Achieve](#) internal amenity [privacy](#) ~~is achieved~~ by setbacks rather than [privacy](#) screening.

Built form requirements

That part of a new building below the [Maximum](#) street wall [height](#) should be built on or within 300 mm of a side boundary.

[That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:](#)

- The building is built on or within 300 mm of the boundary.
- The built form outcomes are achieved.
- The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.
- The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.
- The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.

If any part of ~~A~~ new building is setback from a side or rear ~~not on or within 300 mm of a boundary~~:

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.
- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary.
- The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.

Table 5: Side and rear setbacks

Part of building	Qualification	Qualification	Preferred setback	Minimum setback
Below the <u>Maximum</u> street wall height	if not within 300 mm of a side or rear boundary	Within core areas	6 metres	6 metres
		Within non-core	9 metres	6 metres
Above the <u>Maximum</u> street wall height	Building height ≤ 20 storeys		10 metres	5 metres
	Building height > 20 storeys		10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- To ensure Delivers high quality internal amenity outcomes within buildings having regard to outlook, daylight, and overlooking ~~and~~ with higher amenity provided in non-core areas.
- Offsetting direct views between buildings within the same site.
- Internal amenity is achieved by Achieves privacy by building separation rather than screening.
- To Ensure tall buildings do not appear as a continuous wall when viewed from street level.

Built form requirements

Note: For the purpose of Table 6 building separation distance within a site is to be measured from the face of each building.

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Qualification	Preferred building separation	Minimum building separation
Below the Maximum street wall height	In non-core areas	9 metres	6 metres
	In core areas	12 metres	6 metres
Above the Maximum street wall height	A new building up to ≤ 20 storeys in height	20 metres	10 metres
	A new building over ≥ 20 storeys in height	20 metres	20 metres

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

~~To ensure that the ground level wind gust speeds do not cause unsafe wind conditions to pedestrians adjacent to the development or to pedestrians adjacent to public spaces.~~

- Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.
- ~~To ensure that the proposed development achieves comfortable wind conditions commensurate to the identified principal role of publicly accessible areas for sitting, standing or walking.~~

Built form requirements

Buildings and works ~~with a total building height in excess of~~ higher than 40 metres:

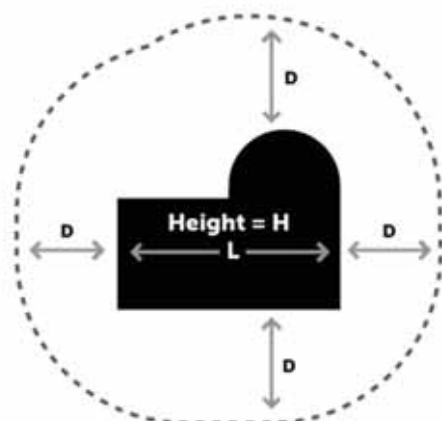
- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

The assessment distance is shown in the figure below and is the greater of:

- a distance equal to Half the longest width of the building above 40 metres in height measured from all facades, or,
- Half the total height of the building, whichever is greater as shown in the figure below, demonstrated by a wind analysis report prepared by a suitably qualified person.

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	<p>means a <u>The Hourly</u> mean wind speed from all wind directions combined with <u>a</u> probability of exceedance of less than 20 per cent of the time, <u>is equal to or less than or equal to</u>:</p> <ul style="list-style-type: none"> 3 metres/second for sitting areas. 4 metres/second for standing areas. 5 metres/second for walking areas. <p><u>Hourly mean wind speed means is</u> the maximum of:</p> <ul style="list-style-type: none"> <u>The</u> hourly mean wind speed, of, <u>The</u> gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	<p>means <u>The</u> hourly maximum 3 second gust which exceeds 20 metres/second from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.</p>



Assessment distance D = greater of:
 L/2 (Half longest width of building)
 OR
 H/2 (Half overall height of building)

2.12 Communal open space

Built form outcomes

Communal open space that:

- ~~Outdoor communal open space is provided within developments. Meets the needs of residents.~~
- Delivers significant opportunities for landscaping, including large trees, are included within the development and contribute to the visual amenity of apartments.
- ~~The design and size of the communal open space~~ Supports a range of recreational uses.
- ~~Communal open spaces~~ Can be readily accessed from within the development and provide direct pedestrian connections to the street.

Built form requirements

These requirements do not apply ~~only to land within a non-~~ the core area.

Communal open space should be a minimum of 30 per cent of the net developable site area, except where any of the following apply:

- An existing building is being retained and accounts for greater than >70 per cent of the net developable area.
- The site has a gross developable area of less than 1200 square metres.~~sqm; or~~
- The responsible authority is satisfied that other site constraints warrant an reduction in communal open space.

~~Communal open space should be provided on ground.~~

2.13 Active street frontages

Built form outcomes

Buildings ~~that designed to:~~

- 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 facades with windows and ~~regularly spaced and~~ legible entries.
- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- ~~Buildings are designed to~~ Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level ~~that designed to:~~

- Create a sense of address by providing direct individual street entries to dwellings or home offices, where practicable.
- ~~Achieve a degree of privacy through permeable screening and level changes.~~

~~Buildings are designed to avoid unsafe indents with limited visibility.~~

Car parking ~~and building services~~ that does not detract from the public realm.

~~Service areas are consolidated and located to maximise activation of the public realm.~~

~~Any externally accessible services or substations are integrated into the facade design.~~

~~A safe and high quality interface between the public and private realm through the arrangement of uses internal to a building.~~

Built form requirements

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.
- ~~Canopies over footpaths on primary or secondary active streets where retail uses are proposed.~~

~~The area of any~~ Ground floor of a building occupied by building services, including waste, loading and parking should be occupy less than 40% per cent of the ground floor area of the building total site area.

Buildings fronting the Primary and Secondary active streets on Map 3 to this schedule, should:

- ~~be designed to~~ Achieve a diversity of fine-grain frontages.
- Provide canopies over footpaths ~~on primary or secondary active streets where~~ retail uses are proposed.
- Deliver the Clear glazing specified in Table 8.

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.

~~▪ Not be located at ground floor level.~~

~~▪ Not be visible from the street.~~

~~▪ Be contained within a building.~~

~~The area of any ground floor of a building occupied by building services, including waste loading and parking should be less than 40% of the total site area.~~

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base. Pedestrian entries at least every 15.
Secondary active frontages (Type 1)	At least 60 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base. Pedestrian entries at least every 15 m.
Secondary active frontages (Type 2)	At least 20 per cent visual permeability <u>clear glazing</u> along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base.

2.14 Adaptable buildings

Built form outcomes

Buildings that:

- ~~are designed to accommodate employment uses and~~ Provide for the future adaptation or conversion of those parts of a the building accommodating non-employment generating uses (including car parking) to employment generating uses over time.

Car parking ~~is designed that~~:

- ~~So that it~~ Can be adapted to other uses over time.

~~To minimise its footprint within a building.~~

~~Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms.~~

~~Internal layouts and floor plates should be flexible and adaptable with minimal load-bearing walls that maximise flexibility for retail or commercial refits.~~

~~Floorplate layout designed to enable one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.~~

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
<u>Lower levels up to the height of the street wall</u>	Buildings should be designed with minimum floor to floor heights of: At least 4.0 metres <u>floor to floor height</u> at ground level; At least 3.8 metres <u>floor to floor height</u> for other lower levels up to the height of the street wall.
<u>Car parking areas</u>	Car parking in areas not within a basement; should have ▪ <u>Level floors</u> ; and

Building element	Adaptability opportunity
	<ul style="list-style-type: none"> A floor-to-floor height not less than <u>at least</u> 3.8 metres. Mechanical <u>parking</u> systems should be utilised to reduce the <u>area required for footprint of car parking areas</u> .
<u>Dwelling layout</u>	Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms. Floorplate layout designed to enable <u>The ability for</u> one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.
<u>Internal layout</u>	Internal layouts and floor plates should be flexible and adaptable with <u>Minimal load bearing walls that to</u> maximise flexibility for retail or commercial refits. Internal layouts should be designed and arranged to enable adaptable floorplates to accommodate change of uses over time.

2.15 Building finishes

Built form outcomes

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

~~Buildings are not designed in a manner that creates blank facades.~~

~~Buildings are designed to achieve a fine grain street interaction.~~

Built form requirements

~~Buildings are not designed in a manner that creates~~ should avoid blank facades.

~~Buildings fronting main roads should~~ use materials and finishes for on buildings fronting main roads should with a perpendicular reflectivity ~~not exceed less than~~ 15 per cent perpendicular reflectivity, measured at 90 degrees to the facade surface.

~~Buildings should provide different facade treatments every 10 m.~~

Building walls facing a street or public place should be detailed to provide visual richness.

2.16 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

--/20--

None specified.

Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

--/20--

None specified.

5.0 Decision guidelines

--/20--

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The preferred Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence ~~and contributes to creating a range of built form typologies.~~
- ~~Whether~~ The cumulative impact of the proposed development and any existing adjoining development ~~supports achievement of a high quality pedestrian amenity in the public realm, in relation to scale, visual bulk, overshadowing and wind effects.~~
- ~~Whether the proposed building setbacks and separation distances allow~~ Equitable access to privacy, sunlight, daylight and outlook ~~Consideration of this issue should have~~ ing regard to the proposed internal use's ~~within a new building~~ and the height of ~~any~~ existing or proposed adjoining built form.
- The effect of the proposed ~~buildings and works~~ development on solar access to existing and proposed public spaces having regard to:
 - The area of additional shadow cast over the public space relative to the total area of public space and the area ~~which that~~ will remain sunlit.
 - Any adverse impact on soft landscaping in public spaces, ~~and~~
 - Whether allowing additional shadows to be cast on public spaces ~~other than open space~~, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.
- ~~Whether the proposal delivers design excellence, and contributes to creating a range of built form typologies.~~
- ~~The impacts of built form and visual bulk on daylight, sunlight and sky views from within public spaces or on adjoining heritage places.~~
- ~~The internal amenity of the development and the amenity and equitable development opportunities of adjoining properties.~~
- ~~The impacts of wind on the amenity and usability of nearby public open spaces, streetscapes or the public realm.~~

Comment: These should not duplicate the Built form outcomes.

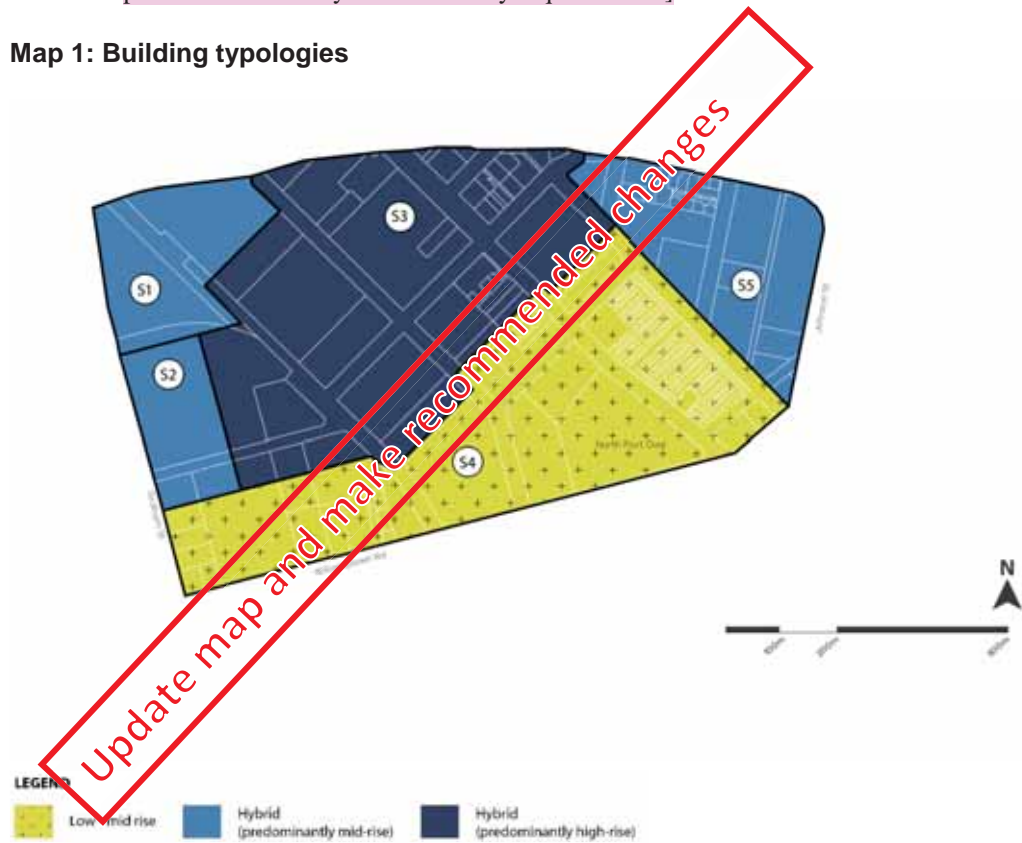
Diagrams

These diagrams are for illustrative purposes. If there is a discrepancy between these diagrams and the text of the controls the text should be used.

[Include diagrams to illustrate street wall heights and setbacks:

- indicate storeys
- combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition
- present discretionary and mandatory requirements.]

Map 1: Building typologies



Map 2: Building heights



Map 3: Active street frontages



Map 4: Overshadowing



Map 4: Overshadowing



LEGEND

- | | |
|---|---|
| <p>A Public open space
Overshadowing control from 11am to 2pm, 21 June to 22 September</p> | <p>B Plummer St Boulevard (first 6m north of property boundaries)
Overshadowing control from 11am to 2pm, 22 September</p> |
| <p>B Public open space
Overshadowing control from 11am to 2pm, 22 September</p> | <p>■ New and existing public open space
No overshadowing controls</p> |

Appendix C.7: Wirraway Design and Development Overlay – track change version

SCHEDULE [NUMBER] TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

--/20--

Shown on the planning scheme map as **DDO[number]**.

FISHERMANS BEND – WIRRAWAY PRECINCT

1.0 Design objectives

--/20-- To ~~create a thriving urban renewal area that is a leading example for design excellence, environmental sustainability, liveability, connectivity, diversity and innovation~~ ~~implement the Fishermans Bend Vision, September 2016 and the Fishermans Bend Framework, ## 2018.~~

To create a predominantly low to mid-rise precinct with a diversity of housing choices including family-friendly building typologies that incorporate communal open space with high levels of sunlight access and direct visual connections to apartments as well as some slender, well-spaced towers included in core areas and a ‘tooth and gap’ approach on both sides of Plummer Street and the Core.

To ensure ~~the scale, height and setbacks of development~~ built form protects sunlight penetration to the Lorimer Parkway and other identified public open spaces, streets and laneways, and facilitate comfortable wind conditions, to deliver a high quality public realm.

To ensure ~~building separation and setbacks achieve~~ high levels of internal amenity for all development.

To encourage ~~buildings to be designed so that they are capable of being adapted~~ adaptable floorspace to facilitate a reduction in car dependence, an increase in commercial floor space over time.

2.0 Buildings and works

--/20-- Buildings and works for which no permit is required

A permit is not required to construct or carry out works for a new or modified verandah, awning, sunblind or canopy to an existing building.

2.2 Requirements

The following requirements apply to an application to construct a building or construct or carry out works.

The following requirements do not apply to:

- An application for buildings and works associated with an existing industrial use that provides services to the construction industry which facilitates the urban renewal of Fishermans Bend.
- An application to amend an existing permit granted before **[insert the approval date of Amendment GC81]** which does not increase the extent of non-compliance with the requirements.

~~A built form requirement expressed with the term ‘must’ is a mandatory requirement. A permit cannot be granted to vary a mandatory built form requirement expressed with the term ‘must’.~~

~~A built form requirement expressed with the term ‘should’ is a discretionary requirement. A permit may be granted to vary a discretionary built form requirement expressed with the term ‘should’.~~

An application for ~~buildings and works~~ a development that does not meet a requirement expressed with the term ‘should’ must achieve the relevant built form outcomes.

Any reference to street width is a reference to the proposed ultimate width of the street reserve.

2.3 Definitions

For the purpose of this schedule:

~~Building height means the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building excluding:~~

- ~~▪ Non-habitable architectural features not more than 3.0 metres in height.~~
- ~~▪ Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.~~

~~Laneway means a street with a road-street reserve width of 9 metres or less in width.~~

~~Street means a road reserve of greater than 9 metres in width.~~

~~Street wall means any that part of the a building constructed within 0.3 metres of a lot boundary fronting the a street or laneway including proposed streets and laneways.~~

~~Street wall height means the vertical distance between a height measured from the footpath or natural surface level at the centre of the site frontage and the highest point of the street wall excluding non-habitable architectural features not more than 3.0 metres in height.~~

2.4 Building typologies

Built form outcomes

A precinct that is composed of subprecincts each with a distinctive character and built form typology.

For the purpose of this schedule:

- Low-rise is development up to and including 6 storeys
- Mid-rise is development of 7 storeys to 15 storeys
- High-rise is development of 16 storeys and taller.

Built form requirements

Development should be generally in accordance with the built form typology in Table 1.

Development should help deliver the relevant preferred precinct character in Table 1.

Table 1: Building typologies

Precinct on Map 1	Building typology	Preferred future precinct character Built form outcomes
Area W1	Mid-rise	<p><u>Generally mid-rise developments that:</u></p> <ul style="list-style-type: none"> ▪ <u>Have the potential for commercial uses, including campus style developments and smaller scale commercial spaces that support creative industries, north of Woolboard Road.</u> ▪ <u>Include block (such as courtyard and perimeter block developments), hybrid and narrow lot developments, south of Woolboard Road extension.</u> ▪ <u>Retain and adaptively reuses heritage and character buildings.</u> ▪ <u>Provide landscaped spaces at ground level through the provision of lanes and through block links, plazas, courtyards and communal open space to provide high levels of amenity for residents and workers.</u> ▪ <u>Create a sense of address for properties fronting the</u>

Precinct on Map 1	Building typology	Preferred future precinct character Built form outcomes
		<p><u>Woolboard Road Linear Park and new Wirraway North Park.</u></p> <p>Mid-rise developments that incorporate communal open spaces with high levels of sunlight access.</p> <p>Campus-style developments and smaller scale commercial spaces that support creative industries, north of Woolboard Road.</p>
Area W2	Hybrid (predominantly mid-rise)	<p><u>Mid-rise buildings with taller elements and block developments (including perimeter developments) located to ensure high levels of sunlight access to the south side of Plummer Street, that:</u></p> <ul style="list-style-type: none"> ▪ <u>Are built to the boundary at the street.</u> ▪ <u>Retain and adaptively reuse heritage and character buildings.</u> ▪ <u>Deliver a lower varied street wall and mid-rise building heights along Plummer Street to create a fine-grain character, create a neighbourhood scale for the Retail Core and maximise the amount of sunlight penetrating between tower elements to reach the southern side of the street.</u> ▪ <u>Provide of private and communal open space within developments with good access to sunlight.</u> ▪ <u>Create of a network of new lanes and plazas in the Core area.</u> ▪ <u>Are lower scale than the Sandridge Core.</u> ▪ <u>Activate Plummer Street by new north-south connections that connect to Plummer Street through a diversity of fine-grain street frontages.</u> <p>Hybrid developments that are predominantly mid-rise perimeter block typologies that incorporate some slender, well-spaced towers. High levels of sunlight access to the south side of Plummer Street.</p>
Area W3	Low-mid-rise	<p><u>Generally a low to mid-rise scale of development, including, narrow lot, row, block and hybrid developments and do not result in podium-tower forms, that:</u></p> <ul style="list-style-type: none"> ▪ <u>Respond to the context and character of adjacent low-rise neighbourhoods. Levels above the street wall of development that are visually recessive when viewed from streets and JL Murphy Reserve.</u> ▪ <u>Deliver a variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street and provide opportunities for portions of the streets to receive greater levels of sunlight access throughout the day.</u> ▪ <u>Create small landscaped frontages to Williamstown Road.</u> ▪ <u>Deliver landscaped spaces at ground level through the provision of lanes and through block links, plazas, courtyards and communal open space.</u> <p>Low-mid-rise scale of development that incorporates communal open space and responds to the context and character of adjacent low-rise neighbourhoods.</p> <p>Opportunities for additional upper levels that are visually recessive from the streets and JL Murphy Reserve and do not result in podium-tower levels.</p>
Area W4	Mid-rise	<p><u>Generally a mid-rise scale of development, including adaptive reuse of heritage and character buildings,</u></p>

Precinct on Map 1	Building typology	Preferred future precinct character Built form outcomes
		<p><u>narrow lot, row, block and hybrid developments and do not result in podium–tower forms, that.</u></p> <ul style="list-style-type: none"> ▪ <u>Have visually recessive upper levels above the street wall when viewed from streets and JL Murphy Reserve.</u> ▪ <u>Are built to the boundary along Plummer Street.</u> ▪ <u>Provide active frontages to Plummer Street</u> ▪ <u>Provide of private and communal open space within developments with good access to sunlight.</u> ▪ <u>Deliver a variety of street wall heights between 4 and 8 storeys to contribute to architectural diversity within the street and provide opportunities for portions of the street to receive greater levels of sunlight access throughout the day.</u> <p><u>Mid-rise scale of development that incorporate communal open space with opportunities for additional upper levels that are visually recessive from the streets and JL Murphy Reserve and do not result in podium–tower forms.</u></p>

2.5 Building height

Built form outcomes

- ~~The height of new buildings in all areas must:~~ Building heights that:
- Respond to the preferred ~~future~~ precinct character and building typologies in Table 1 ~~and Map 1~~.
- Contribute to a varied and architecturally interesting skyline.
- Ensure sunlight reaches parks and the southern side of Plummer Street.
- Avoid a stepped ‘wedding cake’ approach in response to overshadowing of the public realm and public open space requirements.
- Limit impacts on the amenity of the public realm as a result of overshadowing and wind.
- Provide an appropriate transition and relationship to heritage buildings and existing lower scale neighbourhoods of Port Melbourne.

Built form requirements

~~A new building or works~~ Development should not exceed the building relevant heights ~~shown~~ specified in Map 2 to this schedule.

~~A new building or works~~ Development must not exceed ~~the a~~ building height specified as of “~~6 storeys mandatory~~” ~~shown~~ in Map 2 ~~to this schedule~~.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.
- Building services and communal recreation facilities setback at least 3.0 metres behind the building facade.

2.6 Overshadowing

Buildings ~~and works~~ must not (or should not where the overshadowing control is specified as discretionary) cast any additional shadow above the shadows cast by hypothetical buildings built to the Maximum street wall height and existing buildings over:

- The existing residential zoned land south of Williamstown Road between the hours of 11.00am and 2.00pm on 22 September ~~2018~~.

- The existing or proposed public open spaces or streets shown in ~~the relevant maps~~ Map 4 of this schedule for the hours specified ~~on the same map in Table 2.~~

These requirements do not apply to buildings and works constructed within the open space.

For the purpose of determining the shadow cast by the Maximum street wall height, the Maximum street wall height must be converted from storeys to metres using the following formula:

- Height in metres = (3.8 x number of storeys) + 3.2.

Comment: This formula allows for a 4.0 metre ground floor and architectural features that can extend above the street wall, or on the building itself.

Table 2: Overshadowing

Area on Map	Is the control discretionary?	Hours and dates
A	Mandatory	Overshadowing control from 11:00am to 2:00pm, 21 June to 22 September
B	Discretionary	Overshadowing control from 11:00am to 2:00pm, 22 September
B-Stripe	Discretionary	Plummer St Boulevard (first 6m north of property boundaries): Overshadowing control from 11:00am to 2:00pm, 22 September
C	Discretionary	Overshadowing control from 12:30pm to 3:30pm, 22 September
D	Discretionary	Overshadowing control from 10:00am to 1:00pm, 22 September

Setbacks from the street for dwellings

~~Built form outcomes~~

~~To facilitate a landscaped transition from the street to ground floor dwellings.~~

~~Built form requirements~~

~~These requirements apply only to land within a non-core area.~~

~~For dwellings in non-core areas not on a Secondary active frontage, buildings should be setback a minimum 3 metres from the street.~~

2.7 Street wall height

Built form outcomes

Street walls that ~~ensure~~:

- ~~Deliver an appropriately sealed and~~ distinct human scale street wall ~~effect.~~
- ~~Deliver~~ a landscaped transition from the street to ground floor dwellings.
- ~~A human scale.~~
- ~~Deliver an~~ appropriate level of street enclosure having regard to the width of the street with lower street walls ~~heights to~~ narrower streets.
- ~~Allow for views to the sky~~ Skyviews from the street or laneway ~~and.~~
- ~~Do~~ not overwhelm the public realm.
- ~~Provide~~ an appropriate transition to adjoining heritage places when viewed from the street.
- ~~Enable~~ adequate daylight and sunlight in ~~the streets or and~~ laneways.
- ~~Street walls on a corner site to~~ Make an appropriate transition back to the preferred street wall height ~~from taller street walls on corner sites.~~

Built form requirements

~~Any new~~ Buildings should include a street wall (built to the boundary) of the Preferred street wall height specified in Table 3 except:

- Where a lower height is necessary to respond to respond to an adjoining heritage place~~s~~.
- For dwellings in non core areas not on a Secondary active frontages.

~~Note: For dwellings in non core areas not on a Secondary active frontage, refer to Table 6: Setbacks from the street for dwellings~~

Dwellings in non core areas, except not on a Secondary active frontage, residential uses at ground floor should be setback 3 metres from the street boundary to facilitate landscaped a transition from the street to ground floor apartments.

A new street wall must not exceed a height the Maximum street wall height specified in Table 3.

~~Where a new building is on a corner:~~

- ~~▪ Along laneways except on corner sites in which case the higher street wall applies and should not extend more than 25 metres along the laneway~~
- ~~▪ For other corner sites the taller Maximum street wall height applies to both frontages.~~

Where a new building is on a corner, the taller Maximum street wall height applies to ~~both frontages~~ the frontage with the lower Maximum street wall:

- On streets wider than 9 metres a distance of 60 metres.
- On Laneways for a distance of 25 metres.

The following elements may exceed the specified height:

- Non-habitable architectural features not more than 3.0 metres in height.

Where Table 3 specifies a ‘Tooth and gap approach’ the following requirements apply:

- On sites with a frontage 50 metres or more:
 - A street wall of 4 storeys or less must be provided for at least 20 per cent of the frontage. The remaining street wall may be up to the maximum building height.
 - Any element taller than 4 storeys should not be wider than 30 metres at the frontage.
 - Any element taller than 4 storeys should be adjacent to a 4-storey element.
- On sites with a frontage of less than 50 metres:
 - At least 40 per cent of the frontage should have a street wall of 4 storeys or less and must have a street wall of 4 storeys or less. The remaining street wall may be up to the maximum building height.

Table 3: Street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
On Plummer Street	<u>Between Smith Street and opposite the western end of the JL Murphy Reserve.</u>	<u>Tooth and gap approach</u>	
		6 storeys (23 m) in height, except where a lower height is necessary to respond to <u>an</u> adjoining heritage places	
Along Williamstown Road		At least 4 storeys (16 m)	4 storeys

Location	Qualification	Preferred street wall height	Maximum street wall height
Laneway (street ≤9 m wide)		None specified	4 storeys
On a street >9 and ≤22 m wide		None specified	6 storeys
On a street >22 m wide	Where the building height is ≤10 storeys	At least 4 storeys (16 m)	8 storeys
	Where the building height is >10 storeys	At least 4 storeys (16 m)	6 storeys

2.8 Setbacks above the street wall ~~from new and existing streets and laneways~~

Built form outcomes

Setbacks above street walls that ~~ensure~~:

- [Help deliver](#) comfortable wind conditions in the public realm.
- [Enable](#) adequate daylight and sunlight in ~~to~~ streets and laneways.
- [Allow for views to the sky](#) ~~Skysviews~~ from the street or laneway ~~and~~.
- [Do not overwhelm](#) the public realm.
- [Provide an](#) appropriate setback to significant elements of any heritage place on, or adjoining the site.
- ~~Upper floors are visually recessive to~~ [Minimise the](#) visual bulk [of upper floors](#).

Built form requirements

Any part of the building above the [Maximum](#) street wall [height](#):

- Should be set back [from a frontage](#) at least the Preferred Setback specified in Table 4.
- Must be set back [from a frontage](#) at least the Minimum Setback specified in Table 4.

~~Note: For the purpose of Table 4:~~

~~The setback of a building above a street wall from a laneway is the shortest horizontal distance from the building facade to the a street less than 9 metres wide must be measured from the~~ centreline of the ~~street laneway~~. ~~A negative value setback must be interpreted as a zero setback.~~

~~*————— The setback of a building above a street wall from a street is the shortest horizontal distance from the building facade to the street boundary.~~

Table 4: Setbacks above the street wall

Location	Qualification	Preferred Setback	Minimum Setback
Where the building fronts a street that runs beside the has direct interface with:	if the building height is ≤ 8 storeys	5 metres	3 metres
	if the building height is > 8 storeys	10 metres	5 metres
▪ West Gate Freeway;			
Williamstown Road		As specified for other locations	10 metres

Location	Qualification	Preferred Setback	Minimum Setback
Other locations	if the building height is ≤ 8 storeys	5_metres	3_metres
	if the building height is > 8 storeys and ≤ 20 storeys	10_metres	5_metres
	if the overall building height is > 20 storeys	10_metres	10_metres

2.9 Side and rear setbacks

Built form outcomes

Side and rear setbacks that:

- ~~To~~ Create a continuous street wall along ~~all site frontages~~ streets and laneways. ~~New buildings (above and below the street wall) are setback to ensure:~~
- Enable adequate daylight and sunlight ~~into~~ streets and laneways.
- Allow sunlight, and daylight ~~and privacy to~~, and outlook from habitable rooms, ~~for both~~ existing and potential developments on adjoining sites.
- Mitigate wind effects on the public realm ~~are mitigated~~.
- Ensure tall buildings do not appear as a continuous wall when viewed from street level.
- Allow for views to the sky ~~Skyviews~~ between buildings.
- Minimise visual bulk ~~is minimised~~.
- Achieve ~~internal amenity~~ privacy ~~is achieved~~ by setbacks rather than ~~privacy~~ screening.

Built form requirements

Within core areas identified in the Schedule to the Capital City Zone, that part of a new building below the Maximum street wall height should be built on or within 300 mm of a side boundary.

That part of a new building above the Maximum street wall height may be built on or within 300 mm of one side boundary if all the following apply:

- The building is built on or within 300 mm of the boundary.
- The built form outcomes are achieved.
- The development provides an opportunity for development on the neighbouring site to build to the same side boundary without a setback.
- The development does not compromise the equitable access of the neighbouring site to privacy, sunlight, daylight and outlook.
- The built form created by the proposal and a similar abutting building would meet the requirements of this Schedule if it were built as a single building.

If any part of a new building is setback from a side or rear not on or within 300 mm of a boundary it:

- Should be setback at least the Preferred setback specified in Table 5 from the side or rear boundary.
- Must be setback at least the Minimum setback specified in Table 5 from the side or rear boundary.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to the side or rear boundary.

Table 5: Side and rear setbacks

Part of building	Qualification	Qualification	Preferred setback	Minimum setback
Below the <u>Maximum street wall height</u>	if not within 300 mm of a side or rear boundary	Within core areas	6 metres	6 metres
		Within non core	9 metres	6 metres
Above the <u>Maximum street wall height</u>	Building height ≤ 20 storeys		10 metres	5 metres
	Building height > 20 storeys		10 metres	10 metres

2.10 Building separation within a site

Built form outcomes

Building separation that:

- ~~To ensure~~ Delivers high quality ~~internal~~ amenity ~~outcomes~~ within buildings having regard to outlook, daylight, ~~and overlooking~~ and.
- ~~Offsetting~~ direct views between buildings within the same site.
- ~~Internal amenity is achieved by~~ Achieves privacy by building separation rather than screening.
- ~~To Ensure~~ tall buildings do not appear as a continuous wall when viewed from street level.
- ~~To Ensure~~ areas of open space between buildings ~~where (excluding a road or laneway) is not proposed, particularly for campus style typologies~~ adds to the amenity of the development.

Built form requirements

~~Note: For the purpose of Table 6 building separation distance within a site is to be measured from the face of each building.~~

Buildings within the same site:

- Should be separated from each other by at least the Preferred building separation specified in Table 6.
- Must be separated from each other by at least the Minimum building separation specified in Table 6.

Architectural features, but not balconies, may encroach into the Minimum building separation.

The reference to the Maximum street wall height is a reference to the Maximum street wall height that applies on the nearest frontage to buildings.

Table 6: Minimum building separation within a site

Part of building	Building height	Preferred building separation	Minimum building separation
Below the <u>Maximum street wall height</u>		<u>12 metres</u>	<u>6 metres</u>
Above the <u>Maximum street wall height</u>	A new building up to ≤ 20 storeys in height	<u>20 metres</u>	<u>10 metres</u>
	A new building over ≥ 20 storeys in height	<u>20 metres</u>	<u>20 metres</u>

2.11 Wind effects on the public realm

Built form outcomes

Local wind conditions that:

~~To ensure that the ground level wind gust speeds do not cause unsafe wind conditions to pedestrians adjacent to the development or to pedestrians adjacent to public spaces.~~

- ~~Maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting or standing.~~
- ~~To ensure that the proposed development achieves comfortable wind conditions commensurate to the identified principal role of publicly accessible areas for sitting, standing or walking.~~

Built form requirements

Buildings and works ~~with a total building height in excess of~~ higher than 40 metres:

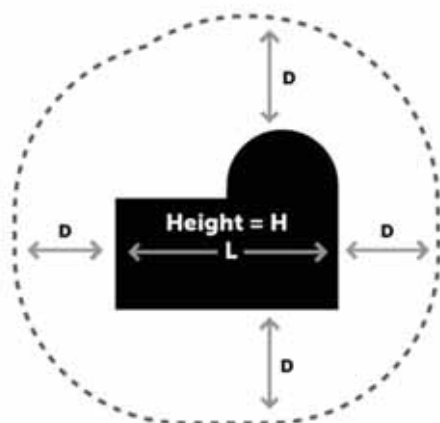
- Must not cause unsafe wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.
- Should achieve comfortable wind conditions as specified in Table 7 in publicly accessible areas within the assessment distance from all facades.

The assessment distance is shown in the figure below and is the greater of:

- ~~a distance equal to~~ Half the longest width of the building above 40 metres in height measured from all facades, or,
- Half the total height of the building, whichever is greater as shown in the figure below, demonstrated by a wind analysis report prepared by a suitably qualified person.

Table 7: Wind effects on the public realm

Wind condition	Specification
Comfortable wind conditions	<p>means a <u>The Hourly</u> mean wind speed from all wind directions combined with <u>a</u> probability of exceedance of less than 20 per cent of the time, is equal to or less than <u>or equal to</u>:</p> <ul style="list-style-type: none"> ▪ 3 metres/second for sitting areas. ▪ 4 metres/second for standing areas. ▪ 5 metres/second for walking areas. <p><u>Hourly mean wind speed means is</u> the maximum of:</p> <ul style="list-style-type: none"> ▪ <u>The</u> hourly mean wind speed, or, ▪ <u>The</u> gust equivalent mean speed (3 second gust wind speed divided by 1.85).
Unsafe wind conditions	<p>means <u>The</u> hourly maximum 3 second gust which exceeds 20 metres/second from any wind direction considering at least 16 wind directions with the corresponding probability of exceedance percentage exceeds 20 metres/second.</p>



Assessment distance D = greater of:
 $L/2$ (Half longest width of building)
 OR
 $H/2$ (Half overall height of building)

2.12 Communal open space

Built form outcomes

Communal open space that:

- ~~Outdoor communal open space is provided within developments. Meets the needs of residents.~~
- ~~Delivers~~ significant opportunities for landscaping, including large trees, are included within the development and contribute to the visual amenity of apartments.
- ~~The design and size of the communal open space~~ Supports a range of recreational uses.
- ~~Communal open spaces~~ Can be readily accessed from within the development and provide direct pedestrian connections to the street.

Built form requirements

These requirements ~~do not~~ apply ~~only to land within a non-~~the core area.

Communal open space should be a minimum of 30 per cent of the net developable site area, except where ~~any of the following apply~~:

- An existing building is being retained and accounts for ~~greater the~~ ≥ 70 per cent of the net developable area.
- The site has a gross developable area of less than 1200 ~~square metres.sqm;~~ or
- The responsible authority is satisfied that other site constraints warrant an reduction in communal open space.

~~Communal open space should be provided on ground.~~

2.13 Active street frontages

Built form outcomes

Buildings ~~that designed to~~:

- 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 facades with windows and ~~regularly spaced and~~ legible entries.

- Consolidate services within sites and within buildings, and ensure any externally accessible services or substations are integrated into the facade design.
- ~~Buildings are designed to~~ Avoid unsafe indents with limited visibility.

Buildings with residential development at ground level ~~that designed to:~~

- Create a sense of address by providing direct individual street entries to dwellings or home offices, ~~where practicable.~~
- ~~Achieve a degree of privacy through permeable screening and level changes.~~
- ~~Buildings are designed to avoid unsafe indents with limited visibility.~~

Car parking ~~and building services~~ that ~~does~~ not detract from the public realm.

~~Service areas are consolidated and located to maximise activation of the public realm.~~

~~Any externally accessible services or substations are integrated into the facade design.~~

~~A safe and high quality interface between the public and private realm through the arrangement of uses internal to a building.~~

Built form requirements

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.
- ~~Canopies over footpaths on primary or secondary active streets where retail uses are proposed.~~

~~The area of any~~ Ground floor ~~of a building occupied by~~ building services, including waste, loading and parking should ~~be occupy~~ less than 40% ~~per cent~~ of the ground floor area of the building total site area.

Buildings fronting the Primary and Secondary active streets on Map 3 to this schedule, should:

- ~~be designed to~~ Achieve a diversity of fine-grain frontages.
- ~~Provide~~ canopies over footpaths ~~on primary or secondary active streets where~~ retail uses are proposed.
- Deliver the Clear glazing specified in Table 8.

Car parking should:

- Be sleeved with active uses so that it is not visible from the public realm or adjoining sites.
- ~~Not be located at ground floor level.~~
- ~~Not be visible from the street.~~
- ~~Be contained within a building.~~

~~The area of any ground floor of a building occupied by building services, including waste, loading and parking should be less than 40% t of the total site area.~~

Table 8: Active street frontages

Streets or areas marked on Map 3	Clear glazing
Primary active frontages	At least 80 per cent visual permeability clear glazing along the ground level frontage of the building to a height of 2.5 metres, allowing for a <u>excluding any</u> solid plinth or base. Pedestrian entries at least every 10 m. The frontage to a Residential lobby at ground level should not exceed 4m.
Secondary active frontages (Type 1)	At least 60 per cent visual permeability clear glazing along the ground level frontage of the building to a height of 2.5

Streets or areas marked on Map 3	Clear glazing
	metres, allowing for a excluding any solid plinth or base. Pedestrian entries at least every 15 m
Secondary active frontages (Type 2)	At least 20 per cent visual permeability clear glazing along the ground level frontage of the building to a height of 2.5 metres, allowing for a excluding any solid plinth or base.

2.14 Adaptable buildings

Built form outcomes

Buildings ~~that:~~

- ~~are designed to accommodate employment uses and~~ Provide for ~~the~~ future adaptation or conversion of ~~those~~ parts of a ~~the~~ building accommodating non-employment ~~generating~~ uses ~~(including car parking)~~ to employment ~~generating~~ uses ~~over time~~.

Car parking ~~is designed that:~~

- ~~So that it~~ Can be adapted to other uses over time.
- ~~To minimise its footprint within a building.~~

~~Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms.~~

~~Internal layouts and floor plates should be flexible and adaptable with minimal load bearing walls that maximise flexibility for retail or commercial refits.~~

~~Floorplate layout designed to enable one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.~~

Built form requirements

The Building elements in Table 9 should incorporate the Adaptability opportunities identified in the table.

Table 9: Adaptable buildings

Building element	Adaptability opportunity
<u>Lower levels up to the height of the street wall</u>	Buildings should be designed with minimum floor to floor heights of: At least 4.0 metres <u>floor to floor height</u> at ground level. At least 3.8 metres <u>floor to floor height</u> for other lower levels up to the height of the street wall.
<u>Car parking areas</u>	Car parking In areas not within a basement; should have <ul style="list-style-type: none"> <u>Level floors</u>, and <u>A floor-to-floor height not less than at least 3.8 metres.</u> Mechanical <u>parking</u> systems should be utilised to reduce the <u>area required for</u> footprint of car parking areas.
<u>Dwelling layout</u>	Dwellings are designed to enable the consolidation or reconfiguration over time to alter the number of bedrooms. <u>The ability for one and two bedroom dwellings to be combined or adapted into three or more bedroom dwellings.</u>
<u>Internal layout</u>	Internal layouts and floor plates should be flexible and adaptable with <u>Minimal load bearing walls that to maximise flexibility for retail or commercial refits.</u> Internal layouts should be designed and arranged to enable adaptable floorplates to accommodate change of uses over

Building element	Adaptability opportunity
	time.

2.15 Building finishes

Built form outcomes

Facade finishes that:

- Provide visual interest on all facades.
- Do not compromise road safety.

~~Buildings are not designed in a manner that creates blank facades.~~

Built form requirements

Buildings ~~are not designed in a manner that creates~~ should avoid blank facades.

~~Buildings fronting main roads should~~ use materials and finishes ~~for on buildings fronting main roads should~~ with a perpendicular reflectivity ~~not exceed less than~~ 15 per cent perpendicular reflectivity, measured at 90 degrees to the facade surface.

~~Buildings should provide different facade treatments every 10 metres.~~

Building walls facing a street or public place should be detailed to provide visual richness.

2.16 Exemption from notice and review

An application for construction of a building or to construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

3.0 Subdivision

--/20--

None specified.

Exemption from notice and review

An application to subdivide land is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

4.0 Advertising signs

--/20--

None specified.

5.0 Decision guidelines

--/20--

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The preferred Built form outcomes identified in this schedule.
- Whether the proposal delivers design excellence ~~and contributes to creating a range of built form typologies.~~
- Whether The cumulative impact of the proposed development and any existing adjoining development ~~supports achievement of a high quality pedestrian amenity in the public realm, in relation to scale, visual bulk, overshadowing and wind effects.~~
- Whether the proposed building setbacks and separation distances allow Equitable access to privacy, sunlight, daylight and outlook ~~Consideration of this issue should~~ have ing regard to the proposed internal use's within a new building and the height of any existing or proposed adjoining built form.

- The effect of the proposed ~~buildings and works~~ development on solar access to existing and proposed public spaces having regard to:
 - The area of additional shadow cast over the public space relative to the total area of public space and the area ~~which that~~ will remain sunlit.
 - Any adverse impact on soft landscaping in public spaces. ~~and~~
 - Whether allowing additional shadows to be cast on public spaces ~~other than open space~~, is reasonable having regard to the function and orientation of the space and shadows cast by adjacent buildings.
- ~~▪ Whether the proposal delivers design excellence, and contributes to creating a range of built form typologies.~~
- ~~▪ The impacts of built form and visual bulk on daylight, sunlight and sky views from within public spaces or on adjoining heritage places.~~
- ~~▪ The internal amenity of the development and the amenity and equitable development opportunities of adjoining properties.~~
- ~~▪ The impacts of wind on the amenity and usability of nearby public open spaces, streetscapes or the public realm.~~

Comment: These should not duplicate the Built form outcomes.

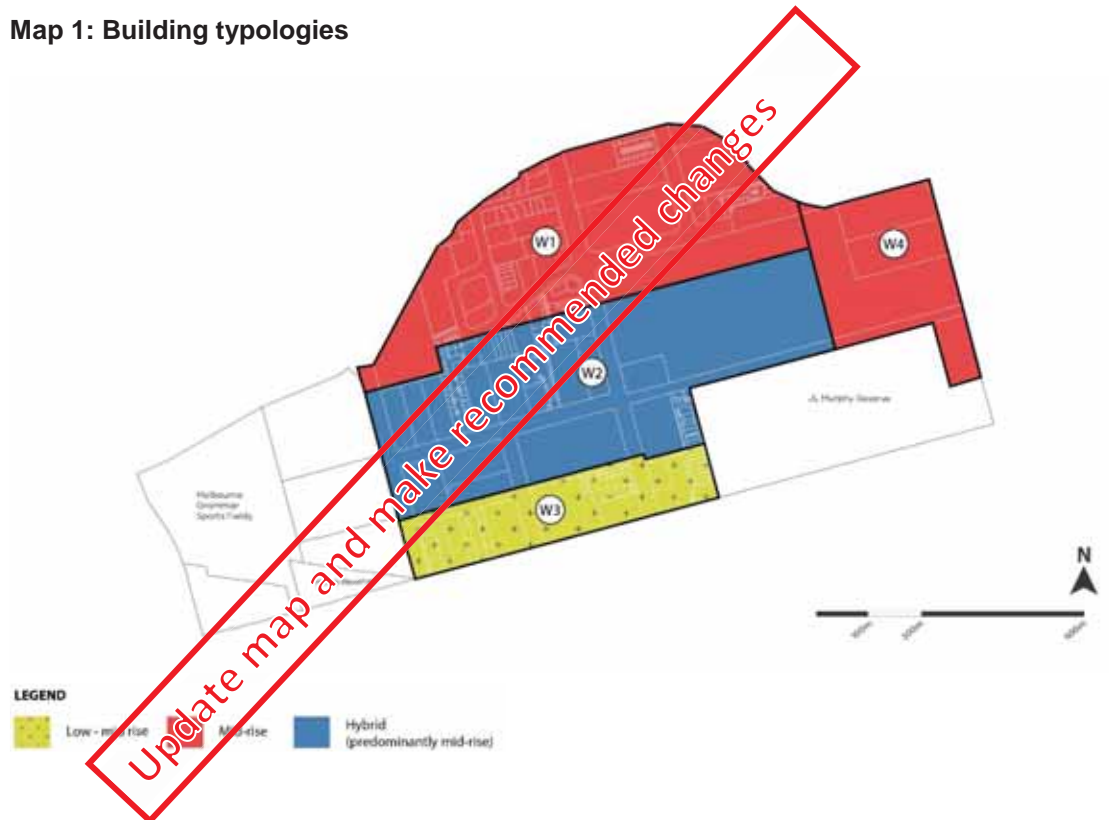
Diagrams

These diagrams are for illustrative purposes. If there is a discrepancy between these diagrams and the text of the controls the text should be used.

[Include diagrams to illustrate street wall heights and setbacks:

- indicate storeys
- combine the street wall and set back above a street wall diagrams to present the complete picture for any specific condition
- present discretionary and mandatory requirements.]

Map 1: Building typologies



Map 2: Building heights



Map 3: Active street frontages



Map 4: Overshadowing



Fishermans Bend Planning Review Panel
Lorimer Precinct – Report No. 2

19 July 2018

Planning and Environment Act 1987

Report pursuant to section 151 of the Act

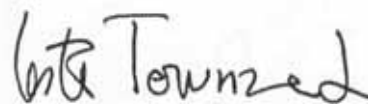
Fishermans Bend Planning Review Panel

Lorimer Precinct – Report No. 2

19 July 2018



Kathy Mitchell, Chair



Lester Townsend, Deputy Chair



Sarah Carlisle, Member



Rodger Eade, Member



Peter Edwards, Member

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Executive summary

(i) Summary

This is Report No. 2 of the Review Panel which relates to the Lorimer Precinct within Fishermans Bend.

Lorimer is located in the City of Melbourne and has a net developable area of 25 hectares. It will establish vital links with the Yarra River, Docklands, the CBD and other urban renewal areas to the north and west. It will provide interconnected open spaces for workers and residents to meet and gather and promote healthy and diverse lifestyles.

Submissions raised a wide range of issues, including concerns over:

- reductions in heights compared to the current (interim) controls
- location and quantum of open space
- the location of community hubs
- the proposed network of streets and laneways
- restrictive FAR, loss of development yield and impacts on development viability
- protection of existing industrial and commercial activity, including the two concrete batching plants operating in Lorimer
- complexity of proposed planning controls.

This report should be read in conjunction with Report No. 1, which provides the overview of the context and process of the Review Panel, and addresses common issues raised in submissions (such as the method of acquiring land for public purposes, funding infrastructure in Fishermans Bend, Floor Area Ratio, Floor Area Uplift, affordable housing, governance and other matters).

(ii) Findings

In relation to the key issues for Lorimer, the Review Panel concludes:

- The proposed built form controls, including heights for Lorimer are generally appropriate, subject to some modification of the street wall height controls.
- The proposed open space network in Lorimer is generally supported, although the Review Panel has some concerns over the location of Lorimer Central adjacent to the concrete batching plants, and the proposed displacement of the businesses in Lorimer Place.
- The community hub investigation areas in Lorimer are not appropriate and are not needed. They should be removed from the maps in the Melbourne MSS.
- The concrete batching plants are strategically and economically important to inner Melbourne, and the controls should recognise and protect the batching plants as long as they continue to operate from their current sites. The batching plants should, however, be encouraged to transition out of this part of Fishermans Bend.
- The proposed network of streets and laneways is generally supported, but there is no need for the proposed service road adjacent to the West Gate Freeway and this should be deleted.

In addition, the Review Panel has responded to a range of site specific issues raised in submissions and has recommended further changes where appropriate.

(iii) Recommendations

- 1.** Include a table of street wall heights in the Lorimer Design and Development Overlay, in accordance with Table 3 in the Review Panel's recommended version of the Lorimer Design and Development Overlay contained in Appendix B.4 of the Overview Report Volume 2.
- 2.** Include a map in the Lorimer Design and Development Overlay showing the street wall heights, based on Document D344 but modified as follows:
 - a) show street walls along all open spaces (whether with a direct interface or where separated by a road or laneway) as Type A in Table 3
 - b) show street walls along the entire length of the Turner Street linear park as Type A, with a preferred four storey street wall along the northern side, and a preferred six storey street wall along the southern side
 - c) remove the street wall heights along the interface with the West Gate Freeway and other elevated road structures.
- 3.** Allow Maximum street wall heights to be exceeded where required to deliver typologies other than tower-podium, but the maximum street wall heights should otherwise remain mandatory.
- 5.** Remove the 'no crossover' status of the Ingles Street service roads (adjacent to the Ingles Street overpass) from the relevant maps in the Capital City Zone Schedule.
- 6.** Remove the proposed Map 2D: Community Hub Investigation Areas from the Melbourne MSS, and update the text of the MSS accordingly.
- 7.** Amend the maps in the Capital City Zone and the Lorimer Design and Development Overlay to:
 - a) Remove the proposed service road along the northern side of the West Gate Freeway.
 - b) Remove all laneways other than the proposed laneway along the northern side of the proposed tram route, which provides rear access to the properties at 870, 874-876, and 880 – 884 Lorimer Street.

1 Strategic Overview

1.1 Precinct context

The Lorimer Precinct is located in the City of Melbourne and has a net developable area of 25 hectares. It is roughly triangular in shape, and bound by Lorimer Street to the north, the West Gate Freeway to the south and CityLink (the Bolte Bridge ramp) to the west. The Precinct is characterised by its proximity to the Yarra River, and the wide roads which dissect it.

Figure 1: The subject land



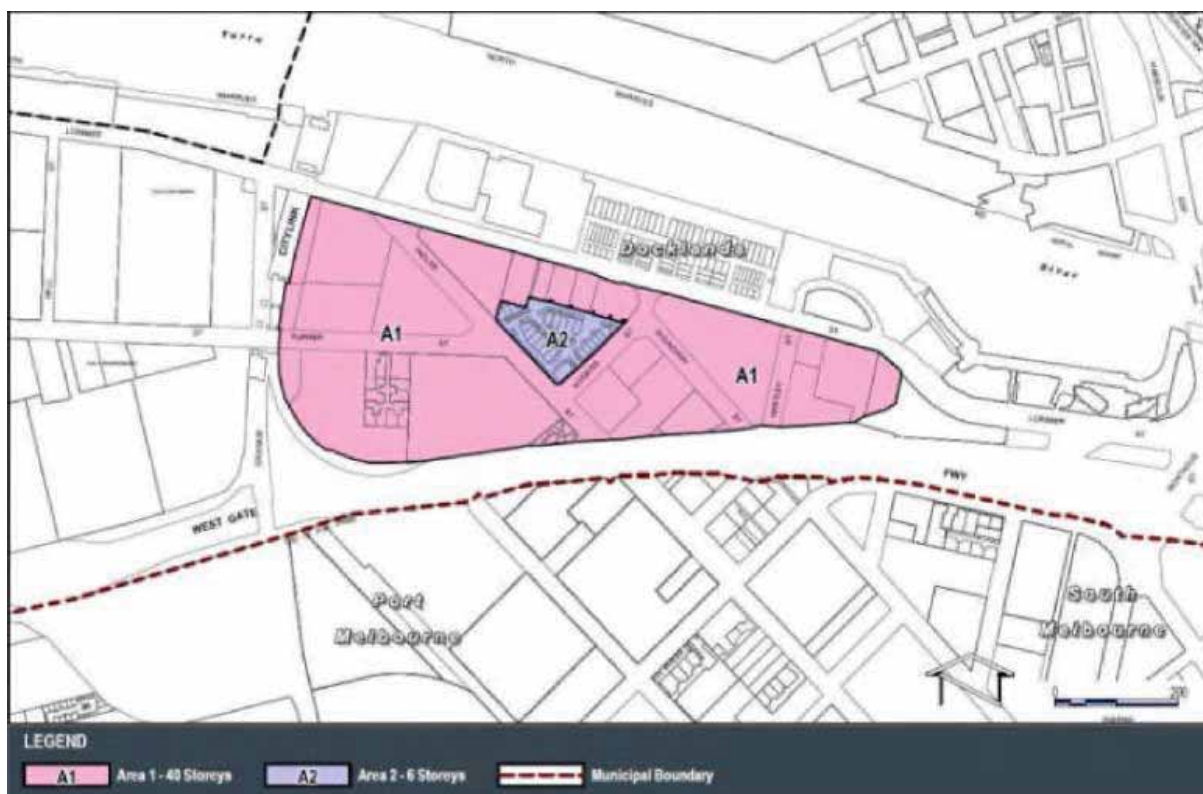
Source: Google Maps

1.2 Existing planning controls

The Lorimer Precinct is currently subject to the Capital City Zone (CCZ) Schedule 4, the Parking Overlay Schedule 13, the Design and Development Overlay (DDO) Schedule 67 and the Development Contributions Overlay Schedule 1.

Under the DDO Schedule 67, Lorimer is split into two areas (A1 and A2), with different maximum building heights (see Figure 2 below). The area currently occupied by Lorimer Place is designated A2, which allows for a maximum height of 6 storeys. The rest of the Precinct is designated as A1, which provides a maximum height of 40 storeys.

Figure 2: Current height controls in Lorimer



Source: DDO Schedule 67

The current interim built form controls are summarised in Table 1.

Table 1: Interim built form controls for the Lorimer Precinct

Built Form Element	Requirement
Building height	Mandatory maximum: A1 - 40 storeys A2 - 6 storeys
Street wall height	Mandatory maximum 5 storeys or 20 metres, whichever is lesser
Tower setback	Mandatory minimum 10 metres to the street edge Mandatory minimum 10 metres to all other boundaries Setback can be taken from centre of laneway (if applicable)
Tower separation	Mandatory minimum 20 metres

1.3 Planning permit application history

There are currently three approved permits (two issued by the Minister, and one issued by Melbourne) and four live permit applications in Lorimer.¹ All four permit applications have been called in. The majority of permits and applications have sought to utilise the 40 storey limit. One permit, granted before the interim height limits were introduced, allows two

¹ Fishermans Bend Map Book (D123), map 39.

towers of 47 and 49 storeys respectively. One application which was made before the interim height limits were introduced seeks 45 storeys. Current permits are in Table 2 and permit applications are in Table 3.

Table 2: Current Permits

Address	Submitter	Height permitted
85 –93 Lorimer St	187	47 and 49 storeys
150-160 Turner St	N/A	35 storeys
225 Boundary St & 310 – 324 Ingles St	89 & 163 (duplicate)	9 storeys

Table 3: Permit Applications

Address	Submitter	Height sought
111 Lorimer St	71	40 storeys (called in)
351 – 387 Ingles St	196	40 storeys (called in)
162-188 Turner St	104	40 storeys (called in)
850 – 868 Lorimer St	149	45 storeys (called in)

1.4 Hearing process

The Lorimer Hearing was held over seven days, generally between 9 May and 18 May 2018.

There were in the order of 66 written submissions that indicated they were related to Lorimer. Many of these submissions raised general issues, which are addressed in the Overview Report. Approximately 20 of the Lorimer based submitters appeared at the Hearing, and again a number of them raised general, rather than Lorimer specific issues.

The findings and recommendations of the Review Panel for Lorimer are based on the Minister's Part C version of the planning controls, and updated maps tabled as D307, D353 and DL47.

2 Vision and Framework

2.1 Lorimer Vision

The Vision for Lorimer is, in summary, a vibrant, mixed use precinct close to the Yarra River and connected to Melbourne's CBD, Docklands and emerging renewal areas.

The Vision is for a precinct that promotes healthy and diverse lifestyle choices through a green spine extending from the river, which provides a walkable connection between jobs, homes, community facilities, shopping and entertainment. It also provides for well-designed spaces (including public spaces) for workers and residents to meet and gather. Lorimer Central open space will be located at the heart of the Precinct, surrounded by lower scale development incorporating cafes, retail, small businesses and local start-ups.

Access to Lorimer is proposed to be provided by two high frequency tram services, and a network of new and existing roads and streets. Turner Street is proposed to be closed to create a green spine providing tram, pedestrian and cycle connections to the Employment Precinct. New east–west roads are proposed to be opened to the north and south of the Turner Street green spine. Connections to Sandridge will be via Ingles Street and Hartley Street. The Ingles Street Bridge over the West Gate Freeway is to be upgraded to provide safe vehicle, bicycle and pedestrian access.

The Vision seeks community services such as schools, libraries and medical centres incorporated within commercial and residential buildings through partnerships with developers.²

The Precinct Directions set out in the Vision are:

- *Connect to the CBD and suburbs to the north, including Docklands, North Melbourne and West Melbourne*
- *Link key public spaces with a green spine providing opportunities for recreation, active transport and biodiversity*
- *Establish a neighbourhood heart as a low scale, fine grain centre of activity*
- *Support an east–west active and public transport link to connect to the CBD and the Employment Precinct*
- *Embrace the river by improving connections across Lorimer Street and through Yarra's Edge.*³

The target population is 12,000 residents in 5,882 households, supported by a workforce of 6,000 jobs by 2050.⁴ Lorimer is expected to be one of the earlier precincts to be fully developed, with growth beginning in the early 2020s and reaching capacity (based on the 12,000 resident population target) by the early 2030s. Smaller households are expected initially, with more families with children over time.⁵ The Part A version of Clause 22.XX indicates a dwelling density of 255 dwellings per hectare (unadjusted for an assumed 75 per cent build out), with 20 per cent of dwellings being three bedroom apartments. The targets

² Fishermans Bend Vision (2016), page 22.

³ Fishermans Bend Vision (2016), page 22.

⁴ Fishermans Bend Framework (2017), page 72.

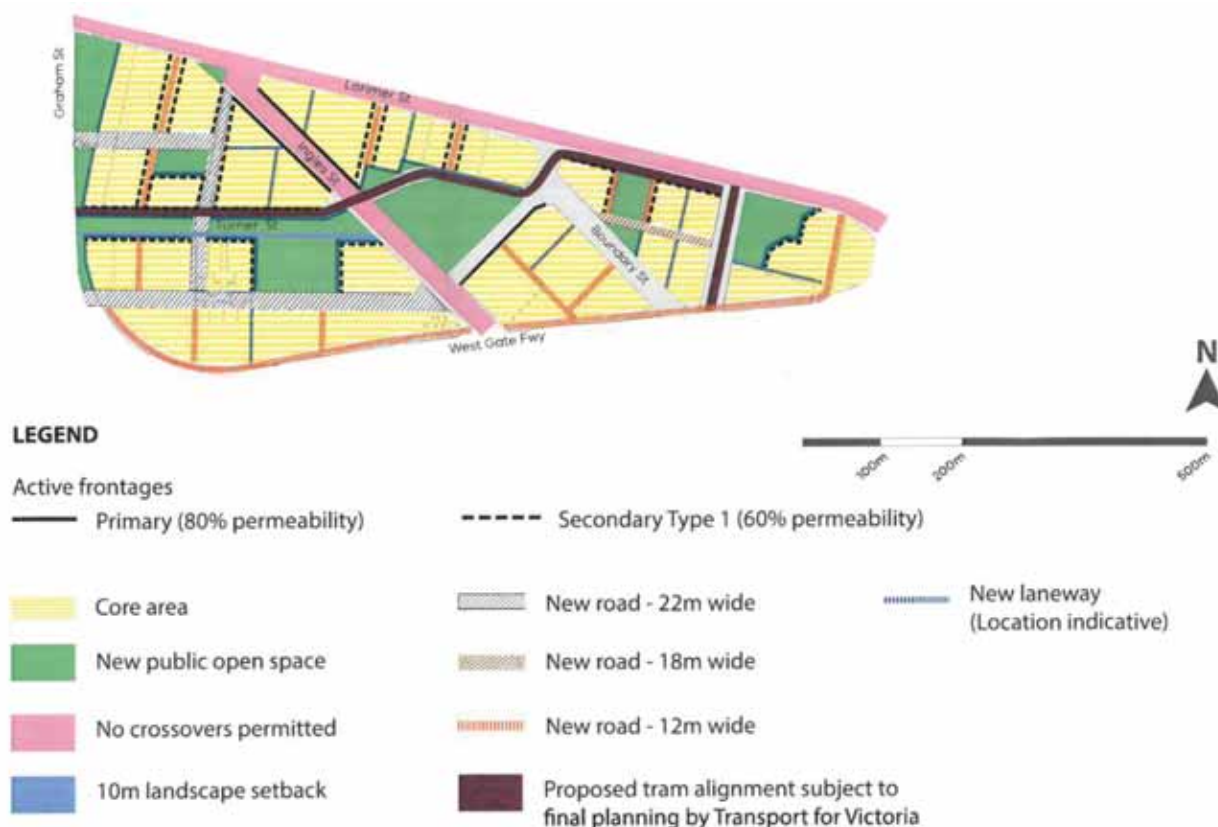
⁵ *Fishermans Bend Population and Demographic Report* April 2017 pages 11-12.

for three bedroom apartments are lower than the targets for Montague and Wirraway, and equal to the target for Sandridge.

2.2 Proposed urban structure

The proposed urban structure for the Lorimer Precinct is represented in Figure 3.

Figure 3: Proposed urban structure in Lorimer



Source: Lorimer urban structure plan (D353)

The two new tram routes will connect the Precinct to the CBD, Sandridge, Wirraway and the Employment Precinct. New streets, walkways and cycling paths are proposed to create a more interconnected and walkable precinct. A series of connected parks and linear open spaces is proposed from the eastern to the western edges of the Precinct, centred around a large open space in Lorimer Central (referred to as Lorimer Place in the Vision), and a green spine down Turner Street.

The collected open space network is referred to in the Vision and the *Urban Design Strategy* as the Lorimer Parkway. The Minister later suggested that Lorimer Parkway should be confined to the Turner Street linear park. In this report, the Review Panel uses the term Lorimer Parkway in the sense defined in the Vision and the *Urban Design Strategy*. Where it intends to confine references to the Turner Street linear park, it states so.

2.3 Proposed built form

The *Urban Design Strategy* defines the preferred building typology in Lorimer as:

Tower developments are supported in Lorimer. South of the Lorimer Parkway these have an unlimited height as amenity impacts on the freeway to the south will be minimal. North of the parkway, these are limited in height to align with the revised population targets and to maximise the amenity of the Lorimer Parkway space and the new fine grain network of laneways.⁶

Lorimer will accommodate some of the tallest built form in Fishermans Bend, with unlimited heights south of the Lorimer Parkway.⁷ Lower built form is proposed north of the Lorimer Parkway, to provide a stepping down of built form toward the river, and to limit overshadowing of the Lorimer Parkway.

2.4 Key issues

The Review Panel supports the following aspects of the planning framework and proposed controls for Lorimer. These are not repeated in this report or expanded upon:

- general support for the Vision for Lorimer and its diverse built form character
- the proposed FAR of 5.4:1 to apply across the whole Precinct (but translated to a dwelling density control of 339 dwellings per hectare)
- providing a Precinct specific DDO for Lorimer (and the other precincts)
- preparing plans for each Precinct
- a finer grained network of streets and laneways, with laneways north of the Lorimer Parkway oriented north-south, to create better connections through the Yarra's Edge development north of Lorimer Street, to the river beyond
- closing Turner Street to vehicular traffic and providing a linear park within the Turner Street road reserve
- providing new east-west roads north and south of the Turner Street linear park
- two new tram routes through the Lorimer Precinct
- proposed new pedestrian and cycle links (although there will be a need to carefully consider the cycle link along Lorimer Street, and ensure it is separated from port related freight traffic – see Chapter 10 of the Overview Report)
- deleting the small pocket park proposed at 190-206 Turner Street
- expanding the Lorimer West open space (at 212 Turner Street/329-349 Ingles Street) further toward Ingles Street
- deleting the triangular pocket park at 351-387 Ingles Street
- creating a new park on the south side of Lorimer Street, at 99 Lorimer Street
- reducing the size of the proposed park east of Boundary Street (also at 99 Lorimer Street)
- undertaking further work on the location of laneways and specifying a minimum width of 9 metres for those that provide vehicular access.

The outstanding key issues raised in submissions and evidence relate to aspects of:

⁶ *Urban Design Strategy* (D53), page 88.

⁷ *Urban Design Strategy* (D53), page 69.

- urban structure and built form (primarily building heights)
- the concrete batching plants
- location of some open space
- location of community hubs
- road and transport infrastructure
- other site specific issues.

3 Urban structure and built form

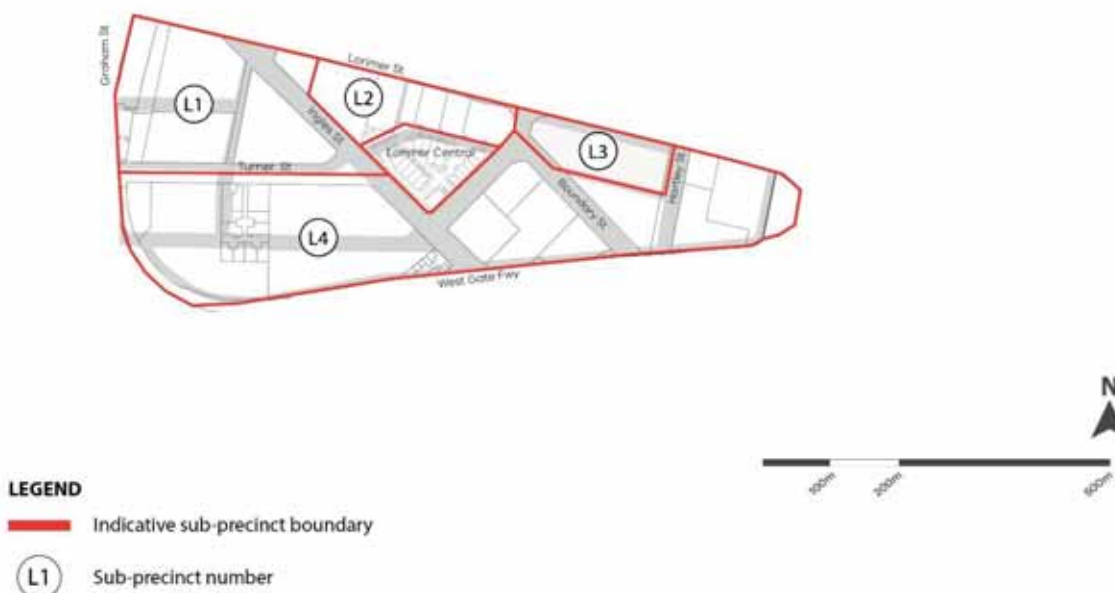
3.1 Context

(i) Building heights

Subprecinct boundaries as proposed by the Minister are set out in Figure 4. The Minister indicated that there is an error in the location of the boundary between subprecincts L1 and L2 north of Ingles Street, which needs to be corrected to accord with the boundary of the 24 storey height limit, as shown in D342. The Review Panel supports this change.

Figure 4: Lorimer subprecinct map

Lorimer MSS
Municipal Strategic Statement
Map 1D Sub-Precincts



Source: Updated planning scheme maps Lorimer (DL47)

Proposed building heights north of the Lorimer Parkway vary between 8 and 24 storeys. Heights south of the Lorimer Parkway are unlimited. These are shown on Figure 5 (below).

Figure 5: Proposed building heights in Lorimer



Source: Updated planning scheme maps Lorimer (DL47)

(ii) Street wall heights

Street wall height restrictions are proposed to ensure appropriately scaled and distinct street wall effects, street enclosure, sky views, transition to heritage places and adequate sunlight access to streets and open space. Proposed street wall heights vary depending on location.

Table 4: Lorimer street wall heights

Location	Qualification	Preferred street wall height	Maximum street wall height
Fronting the Turner Street linear park	in Sub-precinct L1 (north side of the linear park)	4 storeys	6 storeys
	in Subprecinct L4 (south side of the linear park)	6 storeys	
On the south side of the new east-west street in subprecinct L4		at least 4 storeys	8 storeys
On a street or laneway ≤22m wide		at least 4 storeys	6 storeys
On a street >22m wide	where the building height is ≤10 storeys	at least 4 storeys	8 storeys
	where the building height is >10 storeys	at least 4 storeys	6 storeys

(iii) Setbacks above street walls

There is no minimum ground level setback along street frontages, apart from along the southern side of the Turner Street linear park where a 10 metre landscape setback is required. Setbacks above the street wall are proposed to ensure comfortable wind conditions, adequate sunlight access to streets and laneways, sky views and minimise visual bulk. Setbacks above the street wall vary depending on building height and location.

Table 5: Lorimer setbacks above street wall height

Location	Qualification	Preferred Setback	Minimum Setback
Where the building has direct interface with:	if the building height is ≤ 8 storeys	5 metres	3 metres
- West Gate Freeway - City Link overpass	if the building height is > 8 storeys	10 metres	5 metres
Other locations	if the building height is ≤ 8 storeys	5 metres	3 metres
	if the building height is > 8 storeys and ≤ 20 storeys	10 metres	5 metres
	if the building height is > 20 storeys	10 metres	10 metres

(iv) Side and rear setbacks

Below street wall height, the preference is for buildings to be built to the side and rear boundaries, to create a continuous wall along all site frontages. Upper level side and rear setbacks (above street wall height) vary according to the building's ground level setback, height and location.

Table 6: Lorimer side and rear setbacks

Part of building	Building height	Qualification	Preferred setback	Minimum setback
Below the street wall height		If not within 300mm of a side or rear boundary	9 metres	6 metres
Above the street wall height	≤ 20 storeys	Where the building below the street wall is built on the boundary	10 metres	5 metres
		Other buildings	10 metres	10 metres

Part of building	Building height	Qualification	Preferred setback	Minimum setback
	>20 storeys	Where the building has direct interface with: - West Gate Freeway - City Link overpass	10 metres	5 metres
		Other buildings	10 metres	10 metres

(v) Building separation within a site

Building separation requirements are proposed to protect internal amenity, allow sunlight penetration to open space and streets, and ensure tall buildings do not appear as a continuous wall when viewed from street level or the river. Greater separation is required between tower elements above the street wall height. Building separation requirements above the street wall height vary depending on building height.

Table 7: Lorimer building separation requirements

Part of building	Qualification	Preferred building separation	Minimum building separation
Below the street wall height		12 metres	6 metres
Above the street wall height	A new building up to 20 storeys in height	20 metres	10 metres
	A new building over 20 storeys in height	20 metres	20 metres

3.2 General urban structure

(i) Submissions and evidence

The Minister submitted that the built form controls in Lorimer are designed to achieve the preferred character and built form outcomes sought in the Vision and reflected in the revised MSS (Part A version), namely:

- a mix of mid and high-rise buildings, with taller buildings located along the West Gate Freeway interface
- a mix of perimeter block apartments and tower developments, with hybrid developments on larger sites
- building heights which protect open space from overshadowing
- well-spaced tower development which provides for outlook and views through to the river, and setbacks which protect the amenity of streets and laneways

- higher buildings and street walls along the freeway interface, providing a buffer from freeway traffic.⁸

Melbourne supported the Vision for Lorimer, and almost all aspects of the urban structure as reflected in the draft Framework, but submitted that two important factors were missing – landmark or ‘special’ sites, and a core retail area (an opinion consistent with Port Phillip for its Precincts). Landmark civic buildings “*play a crucial role in defining character and a sense of place*”, and retail activity is a “*crucial ingredient to creating vibrant and viable precincts and one that needs to be planned early as part of the overall mix of land uses within the defined urban structure*”.⁹

Melbourne submitted that the controls need to be adjusted to:

- protect opportunities for anchor land uses such as supermarkets, hospitals and universities
- provide guidance for retail development including location and design
- provide a more tailored approach to primary retail frontages, to ensure core retail uses are not diluted over too large an area.

Mr Sheppard was generally supportive of the proposed urban structure for Lorimer, including the two new tram routes; the finer grained street network; the new pedestrian and cycle links; the Turner Street green spine (although he noted that the closure of the street raises issues in terms of the active frontage requirement on both sides of the Turner Street green spine); and unlimited heights south of the Lorimer Parkway. He supported flexibility for laneway alignments, but recommended that the controls encourage north-south oriented laneways to create connections to the river.

(ii) Discussion

The Review Panel generally supports the urban structure proposed for Lorimer. The general urban structure was relatively widely supported, although issues were raised in relation to the open space network, the location of community hubs, and the proposed street and laneway network. These issues are addressed in the following chapters.

The Review Panel supports the identification of landmark sites, as this contributes to place making within the overall urban structure. The Review Panel considers that it is appropriate to identify potential landmark sites through the Precinct Planning process, as proposed by the Minister in his closing submissions for Lorimer.¹⁰

The Minister supports in principle Melbourne’s submission that the controls should identify a core retail area. In his closing, he noted that the controls already identify primary and secondary active frontage streets, designate retail uses with an active frontage as section 1 uses that do not require a permit, and require visual permeability along active frontages.¹¹ Identifying opportunities for anchor land uses, and how much floor space they may require, can be done as part of the Precinct Planning process.

⁸ Melbourne MSS Review Panel Day 1 (D66b), pages 8-9.

⁹ Melbourne’s Urban Design Submission Stage 2(D192), [7].

¹⁰ Minister closing submission (DL45), [10.1].

¹¹ Minister closing submission (DL45) [10.2].

3.3 Proposed density

(i) Proposed FAR

Lorimer has no non-core area, so unlike the other Precincts it only has one maximum Floor area ratio (FAR) that applies across the whole of the Precinct. The maximum FAR is proposed to be 5.4:1, with a maximum dwelling FAR of 3.7:1, leaving an available commercial FAR of 1.7:1.

For reasons outlined in the Overview Report, the Review Panel does not support the FARs, and recommends that they be replaced with a dwelling density control. Chapter 7.8 of the Overview Report explains the starting point for the Review Panel's recommended dwelling densities in each precinct. They are based on the FARs, translated to dwelling densities. The starting point for Lorimer is a dwelling density of 339 dwellings per hectare (see Table 16 in Chapter 7.8(ii) of the Overview Report).

(ii) Is this the right density?

The Review Panel has found that:

- the target population of 80,000 for Fishermans Bend is too low, given its status as a State significant urban renewal area and its potential to provide a greater contribution to help cater for Melbourne's growth
- planning for Fishermans Bend should proceed on the basis of a target population in the range of 80,000 to 120,000 by 2050
- all of the preferred typologies can deliver residential densities of at least 4:1
- there is scope to increase the densities without compromising the building typologies and preferred characters, with the possible exception of Lorimer, Montague core and Sandridge core (where the proposed densities are already higher than 4:1).

These findings are discussed in detail in Chapters 6 and 7 of the Overview Report.

This raises the question of by how much the densities for each precinct should be increased.

For Lorimer, the Review Panel considers that a dwelling density of 339 dwellings per hectare (which is translated from the proposed FAR of 5.4:1) is appropriate, and should not be increased. This is because:

- if the live permit applications for Lorimer were approved and built, the dwelling targets for Lorimer would be exceeded (as demonstrated by the Minister's SIN 15¹²), leaving little to no room for further residential development
- unlike other precincts, Lorimer currently has no community infrastructure or public open space to serve a new residential population
- Lorimer's density (based on a floor area ratio of 5.4:1) does not need to be increased to allow full optimisation of the preferred built form typologies which, according to Mr Sheppard's evidence, can deliver residential densities of at least 4:1
- the successful renewal of the Lorimer Precinct is particularly dependent on the delivery of the proposed tram routes, and it would be inappropriate to increase the proposed densities until the tram is provided.

¹² D305, with corrections contained in D322.

The Review Panel therefore recommends that the dwelling density for Lorimer be set at 339 dwellings per hectare, although this could be reviewed as planning progresses (for the reasons discussed in Chapter 7.8 of the Overview Report).

(iii) Should a lower density apply north of the Parkway?

Submissions

Melbourne submitted that a lower density is required north of the Parkway, where lower heights and less dense built form is contemplated. It submitted that without a lower density north of the Parkway, there is a risk that all of Lorimer will be developed with tower-podium development. Melbourne submitted that it is important to maintain a distinction between the built form in the central City and that in Fishermans Bend. It submitted that the modelling prepared by Ms Hodyl, Ms Pearson and others demonstrated that even in subprecincts L1 and L3, where the MSS expects mid-rise perimeter blocks, a predominant podium-tower form will emerge as a result of the combination of the FAR, street wall heights and setbacks above the street wall.

Discussion

The Review Panel is not convinced that there needs to be differential density controls north and south of the Parkway to deliver the variation in building typology sought by the Vision, the Framework and the MSS. The Review Panel considers that the properly drafted DDO, supported by the preferred character statements, should be able to deliver varied typologies. Melbourne's suggestion of relocating the typologies and preferred characters into the DDO will assist in this regard, and is supported by the Review Panel. Like many other aspects of Fishermans Bend, the delivery of preferred character through varied building typologies will need to be monitored over time. If Melbourne's concerns are borne out, it may be appropriate to revisit the question of whether lower density controls should be applied north of the Parkway, but the Review Panel does not consider this is warranted at this stage.

(iv) Findings and recommendations

The Review Panel finds:

- The appropriate dwelling density for Lorimer is 339 dwellings per hectare (which is translated from the proposed FAR of 5.4:1). It is not appropriate to increase the proposed density at this stage, although the density could be reviewed as planning progresses.
- It does not support a lower density north of the Parkway. If it appears that the built form controls are ineffective in delivering building typologies other than tower-podium north of the Parkway, the need for a lower density can be reconsidered.

3.4 Achieving a varied building typology

(i) Submissions and evidence

Melbourne supported the proposed mix of mid-rise to high-rise development envisaged in the Vision, the draft Framework and the MSS, but (relying on evidence from Mr de Keijzer) expressed concern that the DDO would not deliver this diversity of built form. It submitted

that lessons needed to be learned from Southbank (where podiums with above ground carparking and large floorspace ground level tenancies do not create sustainable, walkable communities or housing diversity), and from Docklands (where podiums with an extreme ‘front of house’ and ‘back of house’ dichotomy are emerging). It submitted that the street wall heights and setbacks in the draft DDO largely contemplate a uniform tower–podium typology similar to the central City, and do not adequately support alternative typologies.

Mr de Keijzer’s evidence was that the controls were likely to deliver a high-rise precinct of podium tower developments south of the Parkway, and “*a more appropriate interesting scale precinct*” north of the Parkway. His evidence was that to achieve the policy objectives, there should be more definitive envelopes in much greater detail, such as those specified for the Ashmore and Green Square developments in Sydney.

(ii) Discussion

The Review Panel notes Mr de Keijzer’s evidence, but does not support the introduction of varied and detailed building envelopes into the Lorimer DDO. It has no evidence to base such envelopes on. In any event, the Review Panel is not convinced that the controls will fail to deliver the varied building typology sought by the MSS. The Review Panel has recommended many changes to the DDO to strengthen the links to the preferred typologies, and to generally improve clarity, readability and application. These changes will support the delivery of a varied typology in Lorimer without the need to provide varied and detailed building envelopes.

3.5 Building heights

(i) Submissions and evidence

The Minister submitted that gradation in building height, stepping down from the West Gate Freeway toward the river, will deliver the preferred character outcomes for Lorimer. It will provide an attractive backdrop to the Precinct, protect views towards the river and CBD beyond, and protect the Lorimer Parkway from overshadowing. This was supported by Ms Hodyl’s evidence that the lower height limits north of the Lorimer Parkway create a more varied built form character across the Precinct and improve sunlight access to proposed parks.¹³

Mr Sheppard did not support height limits north of the Lorimer Parkway, and recommended that all height limits be removed. His evidence was that the height limits were either not justified or not effective in providing overshadowing protection to the proposed open space network. His view was that the proposed street wall and tower separation controls would prevent the area from feeling “*overwhelmed*”, and that in Lorimer a density control is a preferable way of controlling the scale of development.¹⁴

(ii) Discussion

The Review Panel supports unlimited heights south of the Lorimer Parkway. It notes Mr de Keijzer’s evidence that additional height along the freeway blocks both noise and the ‘eyesore’

¹³ *Urban Design Strategy* (D53), [151].

¹⁴ Sheppard evidence for the Lorimer Precinct (DL17),[45].

created by the freeway. It will, however, be important to ensure that development along the freeway appropriately addresses measures designed to protect the amenity of future occupants. This is dealt with in Chapter 11.4 of the Overview Report.

The Review Panel is not persuaded by Mr Sheppard's recommendation that building heights north of the Parkway should be unlimited. It accepts the Minister's submission that varied building heights are needed to deliver a diversity of built form across the different subprecincts, and Ms Hodyl's and Mr de Keijzer's evidence that heights should be limited along Lorimer Street to avoid blocking sunlight into the rest of the Precinct. There is merit in the gradation of built form from the freeway down toward the river, allowing views into the Precinct with the higher built form along the freeway acting as a backdrop, and views out of the Precinct towards the river and the central City. Lower built form in subprecincts L1, L2 and L3 will result in Lorimer being more effectively knitted into the lower rise development to the north of Lorimer Street (and to the river beyond).

3.6 Street wall heights

(i) Submissions and evidence

Melbourne was not opposed to allowing maximum street wall heights to be exceeded on selected streets if it delivered something other than a tower-podium development, consistent with Professor Adams' presentation to the Review Panel. It submitted that street wall heights should be mapped to improve legibility and allow a more nuanced approach. It provided a street wall height map as Document 344.

Mr Sheppard recommended that the street wall heights be adjusted to:

- make all street wall heights discretionary rather than mandatory
- include minimum street wall heights as well as maximum street wall heights
- allow a maximum street wall height of 30 metres for any building on a street over 22 metres wide (currently only proposed for buildings that are 10 storeys or less)
- allow a maximum street wall height of 60 metres for buildings on a corner of two main streets that are at least 30 metres wide.

Melbourne responded to Mr Sheppard's recommendations in its urban design submission (D192) and its interim submission (DL11). It supported discretionary street wall heights only where they are required to deliver building typologies other than tower-podium. It did not support a 60 metre street wall height on all main road corners, as most of the existing streets in Lorimer are already 30 metres wide (a point conceded by Mr Sheppard in cross examination), although it noted that higher street wall heights on corners might be appropriate in some cases. It submitted that minimum street wall heights were unnecessary, as concerns about lower street wall heights can be dealt with through the built form outcomes in the DDO.

Melbourne's closing submission (D348) noted the differences in Melbourne's final position on street wall heights compared to that of the Minister:

- Northern edge of Lorimer Central and along the Turner Street linear park – Melbourne submitted that a mandatory (presumably maximum) street wall height of 23 metres (six storeys) should apply. It submitted that the DDO as drafted/mapped

was unclear, because the tram route would not necessarily be classified as a road less than 22 metres wide (and therefore engage the maximum six storey street wall height control – refer to Table 4).

- West Gate Freeway and other elevated road structures – Melbourne considered that there should be no preferred or mandatory maximum street wall heights along these interfaces, whereas the DDO treats these interfaces the same as any other road.
- Streets wider than 22 metres – Melbourne supported the concept of a higher (8 storey) maximum street wall height on wider streets, but submitted that a maximum 10 storey street wall height is a better way to facilitate the outcome (and deliver typologies other than tower-podium).
- The preferred 8 storey street wall heights – Melbourne submitted that a 10 storey maximum is a better way of delivering perimeter block and open block typologies.

There are some discrepancies between Melbourne’s closing submission (D348), and its street wall height map (D344), which the Review Panel presumes are errors:

- The map shows the northern edge of Lorimer Central as a mandatory 23 metre maximum, but the Turner Street linear park interfaces are marked as preferred 4 storeys on the south side, and preferred 6 storeys on the north side.
- The map shows the interfaces with the West Gate Freeway as preferred four storeys, rather than no street wall heights.
- The map shows the interfaces with other elevated road structures as preferred six or eight storeys (depending on building height), rather than no street wall heights.
- The map does not show any street walls as a 10 storey mandatory maximum. Instead, it adopts a range of preferred four storeys, preferred 6 storeys and preferred eight storeys. The thinking behind the application of the different heights on the map was not explained.

(ii) Discussion

Allowing flexibility in street wall heights

The Review Panel considers that there is merit in the suggestions of Mr Sheppard and others (including Melbourne) of allowing greater flexibility around street wall heights.

One way of allowing more flexibility is to make the controls discretionary, as recommended by Mr Sheppard. However the Review Panel does not support discretionary street wall heights. Multiple experts gave evidence to the effect that a successful ground plane is the most critical factor in achieving a liveable community. Street wall heights are a particularly important factor in delivering a successful ground plane. Drafting decision guidelines to effectively guide discretion to capture the various nuances and scenarios highlighted by Melbourne would be a difficult task.

The Review Panel prefers Melbourne’s approach of mapping street wall heights to allow for more nuance in the controls, rather than making the controls discretionary. It has included Melbourne’s suggested street wall height in its preferred version of the Lorimer DDO as Map 4: Street wall heights, but some adjustments to the map are required as a result of the Review Panel’s recommendations in this Chapter, and in Chapter 7.

The Review Panel accepts Mr de Keijzer's evidence that there is a risk that Lorimer will end up with a predominance of tower-podium development. It therefore supports Melbourne's submissions that it may be appropriate to allow maximum street wall heights to be exceeded in order to encourage alternative typologies, such as perimeter block and open block. It has included a suitable provision in its recommended version of the Lorimer DDO.

There may be opportunities for higher street wall heights on selected main road corners, or landmark sites, as Mr Sheppard suggested. These opportunities should be further explored through the Precinct Planning process, and the street wall heights (and street wall height map) in the DDO adjusted accordingly if required.

Minimum street wall heights

Although the Part C controls were not clearly drafted, the Review Panel interprets them as requiring a preferred (discretionary) minimum four storey street wall in all locations except the south side of the Turner Street linear park, where a preferred (discretionary) minimum six storey street wall is required. While the Review Panel notes Melbourne's submission that minimum street wall heights are not required, it does not consider that they should be removed from the controls. They are discretionary, so proposals to build a street wall lower than four storeys (or six along the south side of the Turner Street linear park) can be considered. The Review Panel considers that it is preferable to keep the Lorimer street wall height controls consistent with those that apply in the other precincts.

Lorimer Central and Turner Street linear park

The Minister submitted that the issue of street wall heights along the northern edge of Lorimer Central and both sides of the Turner Street linear park had been resolved by showing laneways along these interfaces on the revised CCZ map (D353). The Review Panel does not support using laneways to engage street wall height controls. Rather, street wall heights should be mapped as Melbourne suggested.

The Review Panel agrees with the Minister and Melbourne that a four storey preferred (or six, along the south side of the Turner Street linear park) and six storey maximum street wall height is appropriate along open space interfaces, to create a human scale adjacent to these pedestrian friendly recreational areas. Table 3 in the Review Panel's recommended version of the Lorimer DDO reflects this (Type A in Table 3 is intended to apply to the open space interfaces).

West Gate Freeway and elevated road structures

The Review Panel agrees with Melbourne that it is not necessary to specify preferred or maximum street wall heights along these interfaces, or indeed to mandate the provision of a street wall in these locations. They will be used less by pedestrians, and a different treatment of these interfaces is justified. These interfaces should be shown on Map 4: Street wall heights as having no street wall height controls. The Review Panel also supports the reduced setbacks for development along the freeway.

3.7 Active frontages

(i) Submissions and evidence

Melbourne expressed some concerns over the identification of primary and secondary active frontages in the Part C version of the controls (mapped on D353), including:

- primary frontage on only one side of Boundary Street (the Review Panel assumes it means Rogers Street rather than Boundary Street, as Boundary Street is not designated as a primary frontage street)
- primary frontage on both sides of Ingles Street.

It submitted that primary frontages should be specified on both sides of a street (not one side only), and that identification of primary and secondary active frontages should be deferred to the Precinct Planning process.

(ii) Discussion

The Review Panel supports the distinction between primary and secondary active frontages, and considers that limiting primary active frontages as shown on Document 353 addresses Melbourne's concerns about diluting the retail core. It notes that the extent of active frontages (particularly primary active frontages) in Lorimer is considerably less in the Part C version of the controls compared to the Part A version. The Review Panel does not agree that the identification of primary and secondary active frontages should be deferred until the Precinct Planning process. However it does consider that the extent of these can be further considered in the Precinct Planning process, and adjusted accordingly if required.

The active street frontage map in Document 353 has been translated into the Review Panel's preferred version of the Lorimer DDO as Map 3: Active street frontages. It does not require any changes.

3.8 Findings and recommendations

The Review Panel finds:

- It generally supports the proposed heights, street wall heights, setbacks and building separation controls contained in the Lorimer DDO (Part C version – D307), albeit with some minor adjustments to the street wall heights.
- Street wall heights should be mapped, based on Melbourne's Document D344 with some modifications.
- Street wall heights along all open space interfaces – whether direct or separated by a road or laneway – should be preferred four storeys and maximum six storeys, with the exception of the south side of the Turner Street linear park where a maximum six storeys should apply (only).
- Maximum street wall heights should be allowed to be exceeded where required to deliver typologies other than tower-podium, but the maximum street wall heights should otherwise remain mandatory.
- Street wall height requirements should not apply along the interface with the West Gate Freeway and other elevated road structures.
- It supports the proposed building height limits north of the Lorimer Parkway.

- It supports the proposed primary and secondary active street frontages shown on Document 353.
- The Precinct Planning process should consider:
 - opportunities for higher street wall heights on selected main road corners
 - any adjustments that might be needed to the extent of primary and secondary active frontages.

The Review Panel has made recommended changes to the street wall heights in its preferred version of the Lorimer DDO to reflect these findings.

The Review Panel recommends:

- 1. Include a table of street wall heights in the Lorimer Design and Development Overlay, in accordance with Table 3 in the Review Panel's recommended version of the Lorimer Design and Development Overlay contained in Appendix B.4 of the Overview Report Volume 2.**
- 2. Include a map in the Lorimer Design and Development Overlay showing the street wall heights, based on Document D344 but modified as follows:**
 - a) show street walls along all open spaces (whether with a direct interface or where separated by a road or laneway) as Type A in Table 3
 - b) show street walls along the entire length of the Turner Street linear park as Type A, with a preferred four storey street wall along the northern side, and a preferred six storey street wall along the southern side
 - c) remove the street wall heights along the interface with the West Gate Freeway and other elevated road structures.
- 3. Allow Maximum street wall heights to be exceeded where required to deliver typologies other than tower-podium, but the maximum street wall heights should otherwise remain mandatory.**

4 Concrete batching plants

4.1 Context

Hanson and Barro operate two concrete batching plants on the land bounded generally by Rogers Street, Boundary Road and the West Gate Freeway. The concrete batching plants are strategically and economically significant, because they supply a significant portion of the concrete needs in inner Melbourne (including for major infrastructure such as the Metro project).

The sites operate on a 24/7 basis. Barro operates a fleet of around 30 concrete trucks servicing the Melbourne metropolitan area. Materials (gravel, sand, cement) regularly arrive at the sites with delivery truck sizes up to B-Doubles.

The continued operation of the batching plants presents significant issues in terms of potential land use conflict, and achieving the Vision for Lorimer as a high density residential mixed-use precinct. The issue addressed in this Chapter is how to manage the ongoing operation of the concrete batching plants, and possibilities for supporting the batching plants to transition out of the Lorimer Precinct.

Specific issues relating to the batching plants arising from:

- the location of open space are addressed in Chapter 5 of this report
- the location of community hubs are addressed in Chapter 6 of this report.

Broader issues associated with managing impacts of existing industrial uses on new uses are addressed in Chapter 11.4 of the Overview Report.

4.2 Recognition and protection of the concrete batching plants

(i) Submissions and evidence

Relying on evidence from Mr Negri and Mr Barnes, both Barro and Hanson submitted that the controls needed to recognise the strategic importance of the concrete batching plants, and protect them from potential conflict with future sensitive land uses introduced into Lorimer. They submitted that the controls should reflect the 'agent of change' principle, and require new uses to respond to the concrete batching plants, rather than the concrete batching plants being required to modify their operations to reduce impacts on the new uses.

Mr Negri recommended that:

- an Existing Industrial Uses with Adverse Amenity Potential document be prepared and incorporated into the planning scheme which addresses the potential amenity impacts of the concrete batching plants (and other industrial uses)
- permit applications for new uses be required to respond to the Incorporated Document as the 'agent of change'
- buildings and works permits associated with an existing industrial or warehouse use be exempt from the FARs, the requirements to make provision for streets, roads and open space shown on the CCZ maps, and the crossover restrictions
- the EPA be a recommending referral authority, to assist future decision makers to determine whether an Amenity Impact Plan should be prepared in relation to a

permit application for new uses or developments in the vicinity of the concrete batching plants.

Mr Barnes recommended that:

- the draft Framework be amended to recognise the concrete batching plants (and that a separate subprecinct be created for the concrete batching plants)
- the controls be amended to support and provide guidance for decision makers considering permit applications to upgrade the concrete batching plants
- the controls include encouragement or incentives for the concrete batching plants to relocate, including by exempting future redevelopment of the batching plant sites from certain aspects of the new controls
- the arts and culture hub and community and education investigation areas be removed from the concrete batching plant sites.

The Minister and Melbourne agreed in principle that the controls should make appropriate provision for the continued operation of the concrete batching plants, although they had different approaches as to how the provisions should be drafted. The Minister did not agree that:

- the EPA should be made a referral authority in respect of permit applications within the vicinity of the concrete batching plants (or other existing industrial uses)
- the community hub investigation areas should be removed
- the controls should include incentives for the concrete batching plants to relocate.

(ii) Discussion

The Minister accepted the appropriateness of recognising the concrete batching plants in the policy and controls, given their economic and strategic importance. He accepted that potential land use conflict with the concrete batching plants should be addressed, and that the 'agent of change' principle should apply. He broadly accepted that upgrades to the concrete batching plants should be exempt from certain requirements of the CCZ.

The Part C version of the controls:

- included new references in the Port Phillip MSS and Clause 22.XX to the need for new development to consider the impact of existing industrial uses, and to Amenity Impact Plans being required for sensitive uses within the Clause 52.10 threshold distances of an existing industrial or warehouse use (which would include the concrete batching plants)
- included a new purpose in the CCZ relating to the protection of strategically important industrial uses
- strengthened the Amenity Impact Plan requirements in the CCZ, and included references to Mr Negri's suggested Existing Industrial Uses with Adverse Amenity Potential Incorporated Document
- added a permit trigger (and a requirement for an Amenity Impact Plan) for sensitive uses within 300 metres of the concrete batching plants
- added new decision guidelines relating to mitigating the amenity impacts of the concrete batching plants

- added new decision guidelines for permits associated with ongoing industrial and warehouse uses
- included exemptions for permits associated with an ongoing industrial use from the FARs, the requirements to set aside and transfer streets, roads and open space, the requirements to be 'generally in accordance with' the CCZ maps, and the requirements of the DDO.

The Review Panel accepts that the concrete batching plants are, by their nature, of significant strategic and economic importance to Melbourne. It supports the changes made in the Part C controls in response to Mr Negri's and Mr Barnes' recommendations, reflected in the Review Panel's recommended version of the controls.

The Review Panel agrees that the EPA should not be made a recommending referral authority for applications within the vicinity of the concrete batching plants (and other industrial uses), for the reasons set out in Chapter 11.4 of the Overview Report.

4.3 Transitioning the concrete batching plants out of Lorimer

(i) Submissions and evidence

Barro and Hanson submitted that they have no intention of relocating out of Fishermans Bend, given the significant and unique locational advantages of their current sites. The sites have ready access to the cement silos at the Port of Melbourne, ready access to the arterial road network, and proximity to major inner urban construction sites requiring concrete. This allows concrete (which has a short shelf life) to be delivered to where it is needed in a timely manner.

Mr Barnes recommended that the controls include encouragement or incentives for the concrete batching plants to relocate, including by exempting future redevelopment of the batching plant sites from certain aspects of the new controls.

(ii) Discussion

The Review Panel agrees that the concrete batching plants should be encouraged to transition out of the area. The Review Panel's observations on its various site inspections confirmed that the amenity impacts of the batching plants – primarily dust, noise and heavy vehicle movements – are significant constraints on the transition of Lorimer to a vibrant, mixed use precinct as envisaged in the Vision. In essence, concrete batching plants are fundamentally incompatible with the high density residential, mixed commercial and community based uses that are the Vision for Lorimer.

The Review Panel does not agree with Mr Barnes' proposed method for encouraging the concrete batching plants to transition out of the area. His incentives effectively allow new development on the concrete batching plants sites to occur without having regard to the bulk of the new controls. The concrete batching plants together represent a significant portion of land in Lorimer, and allowing them to be developed without regard to the new controls would potentially compromise the Vision for Lorimer.

The Review Panel recognises that both Barro and Hanson have indicated an intention to remain in situ for the long term. Nevertheless, the Review Panel encourages the Minister (or any governance body that might be established to take the planning and administration of

Fishermans Bend forward) to open a constructive, partnership based dialogue with Hanson and Barro about the possibility of relocating the batching plants out of Lorimer.

Any proposal to relocate the batching plants would need to be carefully negotiated. Government support would likely be required to find a suitable alternative location in the inner city area, perhaps in the Employment Precinct or perhaps on surplus government land elsewhere (for example the Dynon rail yards). Relocation would have to involve getting the replacement batching plants to a point of being close to fully operational before the existing plants were closed down, given the strategic importance of the batching plants in supplying concrete to inner Melbourne infrastructure and development projects.

4.4 Access arrangements

(i) Submissions and evidence

Barro's key traffic and access concerns were:

- access for large trucks to and from the site and surrounding network should not be compromised
- the existing Turner Street/Ingles Street intersection geometry (Ingles Street overpass reaches ground level near this location) does not accommodate all truck movements, in all directions
- the batching plants should not be subject to the restrictions in the controls relating to primary active frontages and crossovers (noting that Ingles Street has been designated as a no crossover street).

Mr Turnbull submitted traffic evidence on behalf of Hanson. His evidence was that:

- the proposed 12 metre wide road/laneway on the north west boundary of the site was not required for traffic circulation purposes, as it does not provide an access function for any other property
- if the aim is to provide a finer grained laneway network for pedestrian connectivity, a 12 metre wide reservation is not needed (and there should be flexibility as to its location)
- removing this road would not significantly compromise access or traffic circulation.

On questioning from the Review Panel, Mr Turnbull agreed that the proposed intersection configuration at the south west corner of the site was not a traditional four legged cross intersection, and was potentially unsafe. The misaligned legs of the intersection may compromise visibility and make access more difficult and awkward. Mr Turnbull recommended either:

- remove the road from the northern boundary of the site (preferred)
- relocate this road segment further north to create two T-intersections to enhance safety.

The Minister responded that the proposed 12 metre road on the north west boundary of the Hanson site should be retained, as it is essential for local access and achieving the 100 metre grid network.

Neither operator supported the proposed 12 metre service road adjacent to the West Gate Freeway. This issue is discussed in discussed in Chapter 7.3.

(ii) Discussion

Given their strategic and economic importance, it is essential that the concrete batching plants continue to have their access and transport needs met while they remain on their current sites. The proposed roads and intersection geometry servicing their sites must be capable of accommodating large trucks including B-Doubles.

The Review Panel considers that the proposed road hierarchy can provide suitable access to the concrete batching plants, including accommodating large trucks such as B-Doubles, subject to appropriate design standards being met during the Precinct Planning process. The proposed new collector road to the south of Turner Street, and Rogers Street, would both allow concrete batching plant vehicles to access the arterial road network and remove the current impediment at Turner Street/Ingles Street intersection.

In Sandridge, the Review Panel accepted Mr Walsh's suggestion that the 'no crossover' status should not apply to the Ingles Street service roads, as the presence of the bridge will separate the strategic cycling corridor along Ingles Street. The same reasoning applies in Lorimer, in that crossovers could be accommodated on the sections of the Ingles Street service road(s) alongside the bridge without significant detriment to other road users. This should address Barro's concerns about being able to access their site directly from Ingles Street.

From a traffic engineering perspective, the Review Panel agrees with Mr Turnbull's assessment that the proposed 12 metre wide road/laneway on the north west boundary of the Hanson site is not required. However the road network has been designed with other considerations in mind, including permeability and a fine more grained street network. On balance, the Review Panel considers that the road should be retained. The Part C version of the controls include a range of exemptions for buildings and works associated with continuing lawful uses. Any buildings and works permit application made in respect of the concrete batching plants, including for proposed upgrades to the plants, will benefit from these exemptions, which the Review Panel regards as an appropriate response to the Barro and Hanson concerns regarding new internal roads shown on their sites.

The Review Panel notes that the most recent maps show the north west road has been shifted further north outside of the Hanson site, presumably to address intersection geometry safety issues.

4.5 Findings and recommendations

The Review Panel finds:

- The concrete batching plants are strategically and economically important to Melbourne, and the controls should recognise and protect the batching plants as long as they continue to operate from their current sites. The Review Panel supports the changes made in the Part C controls in this regard.
- The batching plants should, however, be encouraged to transition out of the area. Concrete batching plants have significant amenity impacts, and they are fundamentally incompatible with the high density residential, mixed commercial and community based uses envisaged for this part of the Lorimer Precinct.

- The Minister (or other governance body) should commence a constructive, partnership based dialogue with Hanson and Barro about relocating the batching plants with government support.
- The proposed road hierarchy will provide satisfactory access to the concrete batching plants, subject to appropriate design standards, and removing the 'no crossover' status from the Ingles Street service road.
- The proposed roads shown within the concrete batching plant sites should remain, with the exception of the service road along the West Gate Freeway (see Chapter 7.3).

The Review Panel recommends:

- 4. Remove the 'no crossover' status of the Ingles Street service roads (adjacent to the Ingles Street overpass) from the relevant maps in the Capital City Zone Schedule.**

5 Location of open space

5.1 Context

Lorimer currently has no open space at all. The Vision for Lorimer includes a green spine extending from the river through the centre of the Precinct providing opportunities for recreation, active transport and biodiversity. Lorimer Central is seen as a neighbourhood heart, surrounded by a low scale fine grained centre of activity incorporating cafes, retail, small business and local start-ups.

Figure 6: Lorimer Parkway as represented in the Framework



Source: Fishermans Bend Framework, figure 20

5.2 Submissions and evidence

The Minister submitted that consistent with the Vision, Lorimer Central will be located in the heart of the Precinct, surrounded by core retail activity such as cafes and restaurants, providing a focal point for the Precinct. A network of open spaces, including linear open space and smaller neighbourhood and pocket parks, will run through the Precinct from east to west, with ground floor retail uses encouraged at open space interfaces.

Ms Thompson made various recommendations to reconfigure the open space layout shown in the draft Framework, essentially to consolidate some of the smaller more fragmented proposed parks into larger neighbourhood parks, enabling them to incorporate a wider range of facilities, improving their solar access and improving connections to the river. Her recommendations involved slightly expanding the total amount of open space from 3.9 hectares to 4.1 hectares.

Figure 7: Thompson recommendations for adjustments to open space in Lorimer



Source: Fishermans Bend Mapbook (D123), page 33

Ms Thompson's key recommendations are set out below. The Minister supported all of her recommendations except those which are circled in Figure 7:

- expanding the Turner Street north park (at 161-189 Turner St) down to connect with the Turner Street linear park (the Minister does not accept this recommendation)
- deleting the small pocket park on the south side of the new east-west road south of Turner Street (affecting the site at 190-206 Turner Street)
- expanding the Lorimer West open space further toward Ingles Street (affecting the Dexu site at 212 Turner Street/329-349 Ingles Street)
- deleting the triangular pocket park on Ingles Street north of Turner Street (affecting the Belsize Nominees site at 351-387 Ingles Street)
- deleting the 'left over' triangles of open space north-west of the proposed tram route through Lorimer Central (affecting the Lorimer Place site at 874-886 Lorimer Street) (the Minister does not accept this recommendation)
- creating a new park on the south side of Lorimer Street, between Boundary Street and Hartley Street (affecting the Inchcape Australia site at 99 Lorimer Street)
- reducing the size of the proposed park, east of Boundary Street (affecting the Inchcape Australia site at 99 Lorimer Street).

Melbourne supported Ms Thompson's recommendations, other than the recommendation to extend the open space proposed at 161-189 Turner St down to the Turner Street linear park.

Mr Sheppard broadly supported the quantum and distribution of open space in Lorimer, and Ms Thompson's recommendations for reconfiguring the open space network. He queried whether Lorimer Central could be re-configured to create a more open aspect to the north with a more direct connection to the river, reducing the need to limit building heights north of Lorimer Central to protect it from overshadowing. Melbourne indicated that it was open to suggestions as to how Lorimer Central could be opened up to better connect with the river.

Mr Wren's clients VCHQ2 Pty Ltd (S130) and Lorimer Place Owners Corporation including its 24 members (S162) operate businesses from Lorimer Place, all of which will be required for Lorimer Central open space. These businesses represent 22 per cent of Lorimer's existing workforce, operating in various high tech knowledge based industries that are exactly the types of industries that are sought to be encouraged in Fishermans Bend. He submitted that many had invested substantial funds in developing purpose built facilities in Lorimer Place, and submitted that the site value alone of the land set aside for Lorimer Central was in the order of \$72 million (excluding capital improvements, special value, displacement costs etc).¹⁵ He submitted that the Minister should either apply a PAO to the park, or remove it from the CCZ and DDO maps.

Mr Wren raised concerns about the proximity of Lorimer Central to the concrete batching plants. He drew the Review Panel's attention to the *Fishermans Bend Buffer Assessment October 2016* prepared by GHD, which highlighted a number of constraints associated with locating Lorimer Central open space adjacent to the batching plants. He submitted that it made no sense to locate the primary open space for the Precinct next to such incompatible uses that have indicated an intention to stay in operation for the long term.

Barro and Hanson submitted that there is significant potential for future land use conflicts between the batching plants and the proposed open space in Lorimer, particularly Lorimer Central. The batching plants are dusty and noisy and have high numbers of heavy vehicle movements two and from the sites on the roads surrounding the open space, particularly Ingles, Rogers and Boundary streets. They submitted that open space should be no exception to the reverse amenity and agent of change principle, and should be required to incorporate design measures that minimise the potential for future conflict.

5.3 Discussion

Lorimer Central

The Review Panel has some concerns about the proposed location of Lorimer Central adjacent to the concrete batching plants. Although it notes that the GHD Buffer Assessment recommended the use of open space as a buffer between industrial uses and new residential uses¹⁶, the Review Panel agrees with Mr Wren, Mr Gobbo and Mr Kane that open space is itself a sensitive use, and one which is not compatible with concrete batching plants.

¹⁵ Document L16 at paragraph 14.

¹⁶ *Fishermans Bend Buffer Assessment* October 2016 prepared by GHD, at page 81.

Lorimer Place houses a significant number of industries and workers of the types that the draft Framework actively seeks to attract to Fishermans Bend. The Review Panel notes the submissions of Mr Wren as to the likely cost to government of acquiring Lorimer Place. Taking these various factors into account, the Review Panel queries the wisdom of the proposed location of Lorimer Central – particularly in circumstances where no ‘exit plan’ has been negotiated with the concrete batching plants.

Having said that, the Review Panel notes that the location of Lorimer Central is an integral part of the Lorimer Parkway. The location connects Lorimer Central to the rest of the Lorimer Parkway, and provides protection for the park from the traffic and amenity impacts of Lorimer Street (currently a major freight route for the port). The location is supported by both Ms Thompson and Melbourne. Relocating Lorimer Central would require a major rethink of the proposed urban structure for Lorimer. This would create further uncertainty and delay, neither of which are desirable.

In the previous Chapter, the Review Panel recommended that the Minister (or other suitable body) start an open, partnership-based dialogue with Barro and Hanson to explore possible opportunities to support their relocation out of Lorimer. If this were to be successful, consideration could be given to relocating Lorimer Central to the concrete batching plant sites. This would retain the employment generating benefits currently offered by the businesses operating from Lorimer Place.

The Review Panel expresses no particular view about the ‘left over’ triangles in Lorimer Central, north west of the indicative tram route. It notes that the Minister disagreed with Ms Thompson’s recommendation that they be deleted, on the basis that they will need to be acquired in any event, and they add to the diversity of open space in Lorimer. The Review Panel has no difficulty with them being converted to open space.

The Turner Street north park

The Review Panel does not support Ms Thompson’s recommendation to extend the Turner Street north park down to the Turner Street linear park. This recommendation was not supported by either the Minister or Melbourne, as it would result in the loss of active frontage along the Turner Street linear park. It would also leave a small remnant of the site which would potentially be unviable to develop.

Ms Thompson’s remaining recommendations

The Review Panel broadly supports the remaining recommendations of Ms Thompson, and notes that they are agreed to by both the Minister and Melbourne. Ms Thompson’s recommendations provide for a sensible consolidation of open space into larger, more flexible and functional spaces that the Review Panel considers will better serve the needs of the future residents and workers of Lorimer.

5.4 Findings and recommendations

The Review Panel finds:

- It supports the proposed open space network in Lorimer as reflected in the revised CCZ and DDO maps submitted with the Part C controls (which incorporate all of Ms

Thompson's recommendations other than the expansion of the Turner Street north park, and the deletion of the left over triangles in Lorimer Central).

- If the relocation of the concrete batching plants can be successfully negotiated, consideration should be given to relocating the Lorimer Central open space to the batching plant sites.

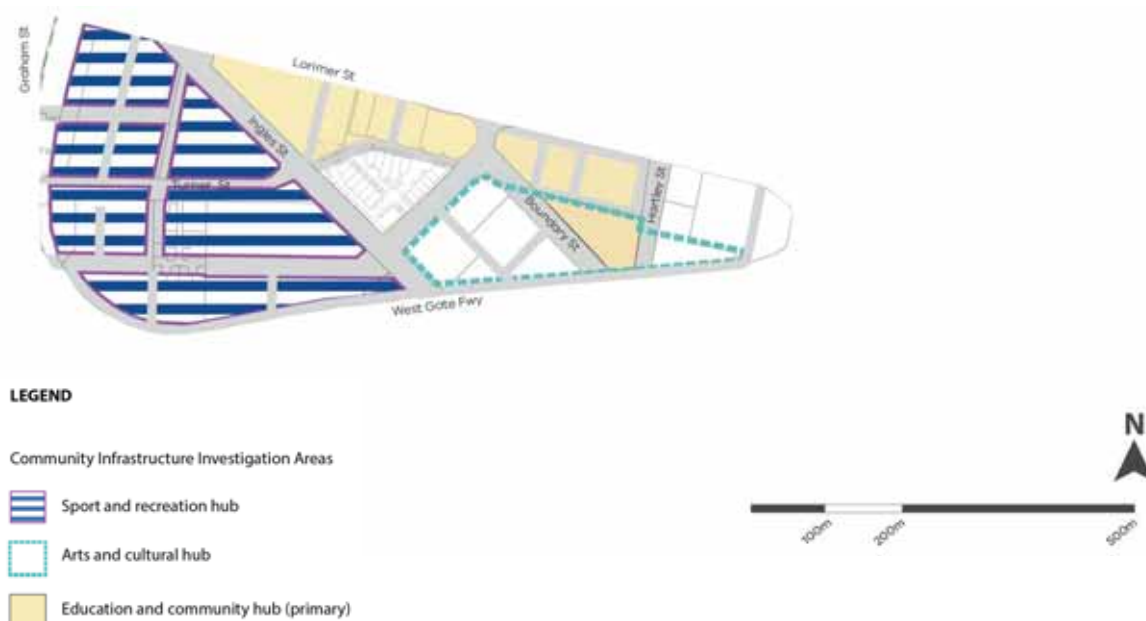
6 Location of community hubs

6.1 Context

Unlike other precincts, Lorimer has no existing community infrastructure. The draft Framework identifies the need for a number of community hubs. Medium term projects include a pop up community hub in the area to the north of Lorimer Street and to the east of the Bolte Bridge, a Health and Wellbeing Hub and an Education and Community Hub. Long term projects include a Sport and Recreation Hub and an Arts and Culture Hub.¹⁷

Large areas of Lorimer are identified as community hub investigation areas, as shown in Figure 8 below.

Figure 8: Community hub investigation areas in Lorimer



Source: Updated planning scheme maps (DL47)

6.2 Submissions and evidence

The Minister submitted that the combination of the lack of existing community infrastructure in Lorimer, and its status as one of the earlier developed precincts, means that community infrastructure will need to be delivered in Lorimer relatively early. He submitted that the Education and Community Hub and the Health and Wellbeing Hub are expected to be provided in 2022-2026, while the Sport and Recreation Hub and Arts and Culture Hub are expected to be provided in 2027-2031. Prior to the change in the FAU scheme (to restrict FAU to social housing), the Minister submitted that large investigation areas maximise opportunities for FAU to deliver the hubs.

Barro and Hanson's submissions about the proposed community hubs raised similar issues those about the open space. Their key concern is the potential for future land use conflicts between the community facilities developed in the hubs, and the ongoing operation of the

¹⁷ Fishermans Bend Framework, page 72.

concrete batching plants. The Minister's response was that the precise location of the hubs will be identified through the Precinct Planning process, and that issues about potentially incompatible land uses can be addressed at that point.

6.3 Discussion

Unlike Port Phillip, Melbourne did not identify specific preferred locations for community facilities. Rather, it offered general support for the proposed urban structure of Lorimer, and focussed on the need to ensure that community infrastructure was properly funded and delivered that aligned with the future population of Lorimer.

Lorimer has no existing facilities or uses that need to be considered in determining the possible location of future community infrastructure. Specific locations for future community infrastructure in Lorimer can (and should) be determined as part of the Precinct Planning process, and should be based on principles of co-locating compatible facilities and uses (such as sport and recreation facilities with open space, or maternal and child health facilities with kindergartens or schools) – in other words, creating true hubs.

The Review Panel does not see the utility in identifying such large investigation areas in Lorimer. Unlike other precincts, there are no obvious drivers for locating particular types of community facilities in particular areas. The size of the investigation areas creates the risk that community infrastructure could end up scattered throughout the Precinct, rather than concentrated in hubs. The Review Panel notes that no Health and Wellbeing Hub investigation area is shown, despite the draft Framework clearly indicating that such a hub is required.

The Review Panel agrees with Barro and Hanson that directing future community uses to locations proximate to the concrete batching plants creates significant risks of potential future land use conflicts. The Review Panel has concerns about whether the Arts and Culture Hub is likely to be delivered in a timely fashion, given a large portion of the investigation area is made up of the concrete batching plants sites, and given Barro and Hanson intend to remain on those sites indefinitely.

The investigation areas are only referenced in the Melbourne MSS, not in Clause 22.XX, the CCZ or the DDO. Further, now that FAU is not proposed for community hubs, the Review Panel questions the need for the Lorimer investigation areas to be identified and mapped at this stage.

For these reasons, the Review Panel concludes that the community hub investigation areas should be deleted for Lorimer.

6.4 Recommendations

The Review Panel recommends:

- 5. Remove the proposed Map 2D: Community Hub Investigation Areas from the Melbourne MSS, and update the text of the MSS accordingly.**

7 Roads and transport infrastructure

7.1 Context

The eastern end of Lorimer Street provides the gateway into the Lorimer Precinct, particularly from the CBD. The north side of Lorimer Street houses the Yarra's Edge precinct, which is a mix of high-rise residential towers at the eastern end (around Hartley Street), with lower rise townhouse developments further west toward the Bolte Bridge. A permit has issued for a multi tower residential development at 85 – 93 Lorimer Street known as South Wharf Towers.

Several submissions raised concerns in relation to traffic and safety issues, and how further traffic would be accommodated. Concerns were raised about public transport access and alignments, particularly the proposed tram bridge across the Yarra River.

Further into the Precinct, more site specific road network and local access arrangements were raised, generally focused on timing, and whether new roads should be required as part of development associated with ongoing existing uses.

Mr Kiriakidis, Mr Fooks, Ms Dunstan and Mr Walsh provided high level reviews of the Fishermans Bend transport network. Ms Dunstan and Mr Walsh then provided site specific expert traffic evidence for developers and land owners.

The key issues to be addressed are:

- the proposed road network and hierarchy
- service road adjacent to the Freeway
- site access and laneways.

Other issues, which are discussed in the Overview Report, are:

- Lorimer Street (separated bicycle lanes, freight access and other traffic safety issues)
- general tram alignment issues and the Yarra river tram bridge proposal
- parking controls.

7.2 Road network and hierarchy

(i) Submissions and evidence

The Minister's closing submission (L45) identified that the road network in Lorimer had been designed with a view to directing key vehicle movements to the Precinct's periphery:

- recognising the key movement corridors of Lorimer Street (vehicles, trucks, walking and cycling) and Ingles Street (public transport, walking, cycling and vehicles)
- creating a service road adjacent to the West Gate Freeway to principally accommodate service vehicle and car parking access.

He noted that it was envisioned that a central collector road which ties the Precinct together is formed by the new north-south road west of Ingles Street, and the new east-west road south of Turner Street, which connects to Rogers Street on the east side of Ingles Street. It is expected that cars would use this route and trucks and service vehicles would use the service road adjacent to the freeway.

The Minister noted that in terms of the road and laneway locations and road reservation widths, traffic engineering views are only one consideration. Urban design, permeability and street activation were also considered. He submitted that street closures and laneway locations can be given further consideration as part of the Precinct Planning process.

Melbourne noted that none of the submitters fundamentally challenged the proposed road network as shown in the draft Framework, although there was some concern with the location of certain streets, laneways and whether they were practical. Melbourne agreed with the Minister that as vehicle access will remain along Hartley Street (on either side of the proposed bridge over the freeway), the proposed 12 metre north south laneway to the west of Hartley Street can be removed.

Ms Dunstan's evidence for Costa Fox Developments Pty Ltd (99 – 11 Lorimer Street) identified a conundrum in that this site would have no vehicle access point without relying on the controls that allow a vehicle crossover where there is no other alternative. This is through a combination of:

- Lorimer Street being designated as a 'no crossover' street in the draft Framework due to being a secondary active frontage street
- the potential tram route in Lorimer Street along the frontage of the Costa Fox site
- Rogers Street and Boundary Street being designated as 'no crossover' streets in the draft Framework due to being primary active frontage streets.

Ms Dunstan stressed that flexibility is required when applying the proposed controls to this site given the various constraints and conflicts between the competing objectives of protecting and encouraging public transport, walking and cycling. Her evidence was that greater guidance is required to allow decision makers to resolve the competing demands of public transport, walking, cycling, urban realm issues and vehicle access. She recommended a hierarchy, or priority of needs, would be required.

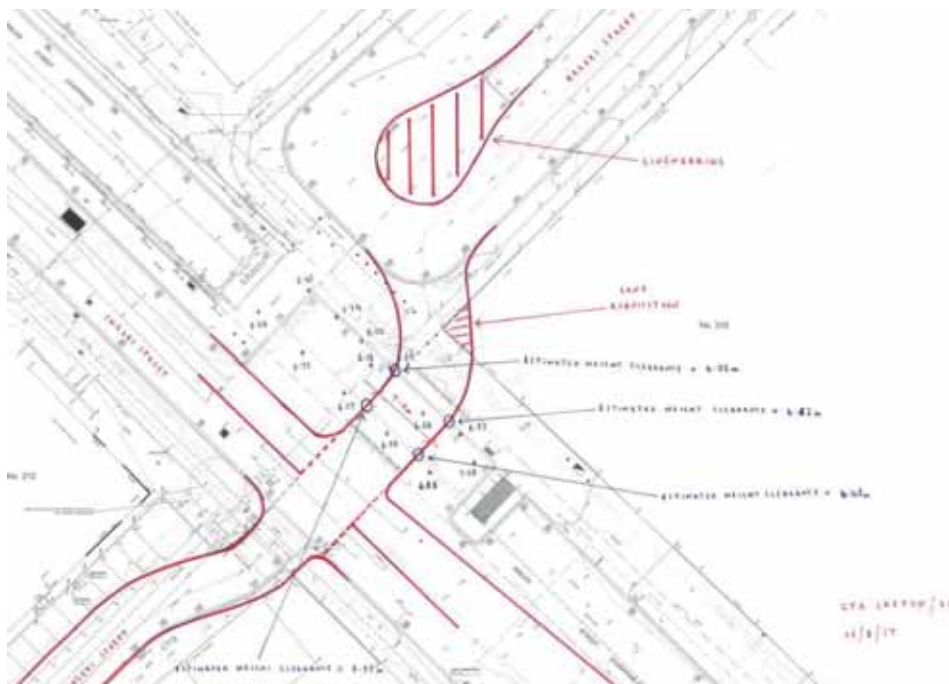
In response, the Minister agreed that the road hierarchy should be clarified, in particular 'no crossover' streets. He submitted that the road hierarchy should assign priority to public transport, walking and cycling routes, then active frontages, in that order. The maps included in the Part C controls removed the active frontage from the Rogers and Boundary Street frontages of the Costa Fox site.

Dexus owns 212 Turner Street, an irregular shaped site of 3.2 ha with frontages to Turner Street, Ingles Street and West Gate Freeway. Pre-application plans had been prepared for the site. Turner Street is proposed to be closed to vehicular traffic, and the draft Framework and Part C version of the maps show a new 22 metre road traversing the site, aligning with Rogers Street on the east side of Ingles Street.

Site access to Ingles Street and to the broader Precinct is problematic in that the existing Ingles Street overpass is low and restricts access to Rogers Street for larger vehicles. GTA Consultants prepared a concept sketch where enhanced access could be readily achieved by shifting the proposed new collector road to the south of the site (where approximately four metres of vertical clearance under the overpass would be available). However this solution requires a small corner of the Barro property to be acquired (refer to Figure 9).

Dexus believed that flexibility is required in relation to the location of the proposed collector road, or alternatively that the proposed road alignment should be reconsidered, particularly if the Ingles Street Bridge (which is to be reconstructed to provide Disability Discrimination Act compliant footpaths, and to increase the vertical clearance under the bridge) is not planned to occur for some time.

Figure 9: Alternative access under the Ingles Street overpass, GTA Consultants



Source: Urbis PowerPoint 212 Turner Street (DL25)

The Minister noted that this proposed collector road is essential for access and traffic circulation, and did not support fundamental changes to its location. However, he submitted that there was scope to review the alignment and connection to Rogers Street as part of the Precinct Planning process.

(ii) Discussion

There was general support for the principles behind the road hierarchy, including providing a fine grained network and enhancing walkability.

The proposed road hierarchy shown in Figure 6 of the draft Framework shows Ingles Street as being the only collector road within the Lorimer Precinct. The Part C version of the controls identified two additional collector roads:

- the proposed north-south road west of Ingles Street
- the new east-west road south of Turner Street, connecting into Rogers Street on the east side of Ingles Street (that traverses the Dexus site).

The Minister did not explain how those roads had been identified as collector roads, or why they were not identified as collector roads in the draft Framework. Similarly, there was no evidence or substantive submissions explaining why cars will use these new collector roads, and trucks and service vehicles will select the proposed service road running along the north side of the Freeway.

The Review Panel notes that traditionally, the function of a collector road as a higher order road is to distribute traffic to and from the local road network. The Review Panel considers that practically, trucks and service vehicles are likely to use the arterial and collector road network in the first instance, prior to using the proposed service road to access a particular property. This was borne out by the submissions of Barro.

The Review Panel considers that the new east–west collector road and its higher order traffic function should be modelled to confirm the Minister’s assumptions. The Review Panel refers back to Mr Kiriakidis’ evidence that the traffic modelling needs to be refreshed, including incorporating the updated proposed road hierarchy, as discussed in the Overview Report.

The Review Panel supports the Minister’s approach to Ms Dunstan’s evidence relating to site access and prioritising different ‘co crossover’ roads. It agrees that public transport, walking and cycling, and active frontages should be prioritised in that order.

In relation to the Dexus site, the Review Panel agrees with the Minister that further exploration of the alignment and location of the proposed east–west collector through the site is appropriate, including its connection into Rogers Street under the Ingles Street overpass.

More generally, the road network can be further refined as part of the Precinct Planning process.

7.3 Service road adjacent to the Freeway

A 12 metre wide service is shown along the northern side of the West Gate Freeway, connecting the proposed north-south road east of Hartley Street, and the proposed east–west road south of Turner Street. A number of property owners whose land is directly affected submitted that the service road is not required and should be removed.

(i) Submissions and evidence

Mr Turnbull presented traffic evidence on behalf of Hanson. He found that the proposed service road is not required as it does not appear to be justified or supported in the draft Framework. Hanson’s concrete batching plant site is not located within an activity core, dedicated public transport route or bicycle corridor, and property access could readily be achieved from Boundary Street.

Mr Gobbo on behalf of Barro did not support the proposed 12 metre service road as it would compromise Barro’s future plans to upgrade its concrete batching plant.

Claric Ninety Nine (which owns 13 – 33 Hartley Street and would be substantially affected by the service road) did not believe that there is any justification shown in the exhibited documents for the service road. Further, it was concerned that there was a lack of detail in the exhibited documents how Hartley Street would operate in the future with the proposed elevated tram bridge, and whether vehicle access to (and off) Hartley Street would remain open. The Minister confirmed that Hartley Street vehicle access would remain open (see the Part C version of Lorimer CCZ map, which is Figure 3 on page 5).

The Minister submitted that the 12 metre wide service road should remain, as it is essential for access and traffic circulation. He submitted that the road network has been designed to

direct truck and service vehicle movements to the periphery of the Precinct (and off the main internal road network).

Melbourne supported the service road as it can accommodate two-way traffic and large trucks, and would allow the main frontages of multiple sites to be away from the Freeway, enhancing public realm outcomes and pedestrian amenity. Melbourne submitted that this service road would generally not be used by pedestrians, as its primary purpose was to provide for servicing and 'back of house' functions.

(ii) Discussion

The only traffic evidence presented in relation to the service road along the freeway was that of Mr Turnbull, on behalf of Hanson. The Review Panel accepts Mr Turnbull's evidence that the service road is not needed for site access and traffic circulation purposes for the Barro site.

However, the Review Panel recognises the submissions of Melbourne and the Minister that the service road seeks to provide other benefits, including directing heavy vehicles away from the main internal road network in Lorimer, and allowing nearby properties to activate their street frontages which face away from the Freeway, enhancing pedestrian amenity and the public realm within the Precinct.

The Review Panel has doubts about whether trucks and service vehicles are likely to use the service road in preference to (in particular) the proposed east-west collector road south of Turner Street. It considers that trucks and service vehicles are more likely to use the arterial and collector road network in the first instance, as these provide the most convenient direct route, particularly to the concrete batching plants.

Hartley Street remaining open has a material impact on access for 13 – 33 Hartley Street, Docklands (Claric Ninety Nine). This site (and the South Wharf Towers site at 85 – 93 Lorimer Street) will have ongoing access via Hartley Street, and circulation will be facilitated via Hartley Street, the proposed east-west road through the Claric Ninety Nine site and along the southern boundary of the South Wharf Towers site, and the proposed north-south road along the eastern boundary of the South Wharf Towers site. The proposed service road is not needed to provide access or circulation to these sites.

The proposed service road has a significant impact on sites abutting the freeway, particularly the concrete batching plants sites and the Claric Ninety Nine site. The Review Panel accepts Mr Turnbull's evidence that it is not needed for access or circulation purposes. The benefits to be obtained by the service road, primarily directing trucks and service vehicles away from the main internal road network, are questionable and unsupported by evidence. In light of the above, the Review Panel believes that the service road does not need to be provided, and should be removed from the Part C maps.

7.4 Site access and laneways

(i) Submissions and evidence

Mr Wren submitted on behalf of 870, 874 – 876, and 880 – 884 Lorimer Street, Port Melbourne. The main frontage of these sites is to Lorimer Street, but they also have rear access off Rogers Street along what is proposed to be the new tram route that runs along Lorimer Street through to the Turner Street linear park. Lorimer Street is proposed to be a ‘no crossover’ street and the proposed tramline will remove rear access, leaving these properties essentially landlocked.

The Minister acknowledged this anomaly, and the Part C maps proposed a laneway on the north side of the proposed tram route to provide vehicle access to the rear of these properties. Melbourne endorsed this proposal.

Relying on evidence from Ms Dunstan, Mr Canavan submitted on behalf of Costa Fox that the CCZ maps showed a proposed north-south street or laneway (it was unclear which) through the middle of its site at 111 Lorimer Street, and that it should be shifted a small distance to the east to align with the property boundary. This was addressed in the Part C maps.

Claric Ninety Nine noted that the proposed east-west street or laneway through its site and along the southern boundary of the South Wharf Towers site should be shared between the two properties, to facilitate activated street frontages and provide vehicle access. The Minister noted that further work on its precise location and dimensions can be undertaken during the Precinct Planning process.

(ii) Discussion

The Review Panel endorses the proposed laneway along the northern side of the proposed tram route, to provide rear access to 870, 874 – 876, and 880 – 884 Lorimer Street, Port Melbourne. This laneway is critical for site access, and it should be included on the relevant maps. The updating of the maps to show the road or laneway along the eastern boundary of 111 Lorimer Street provides clarity for abutting land owners, and is supported by the Review Panel.

7.5 Findings and recommendations

The Review Panel finds:

- Updated traffic modelling should be undertaken to validate the Minister’s assumptions that the new north-south road west of Ingles Street, and the new east-west road south of Turner Street, will function as collector roads.
- The road hierarchy in Lorimer should be clarified, in particular site access on ‘no crossover’ streets should prioritise public transport, walking and cycling, then active frontages in that order.
- This clarification and further refinement of the road network and hierarchy can occur as part of the Precinct Planning process.
- The service road along the West Gate Freeway should be deleted from the Part C maps.

- The proposed laneway along the northern side of the proposed tram route, to provide rear access to 870, 874-876, and 880-884 Lorimer Street, is essential for access and should be shown on the relevant maps.
- The Review Panel supports the relocation of the proposed north-south road or laneway along the eastern boundary of 111 Lorimer Street.

The Review Panel recommends:

- 6. Amend the maps in the Capital City Zone and the Lorimer Design and Development Overlay to:**
 - a) Remove the proposed service road along the northern side of the West Gate Freeway.
 - b) Remove all laneways other than the proposed laneway along the northern side of the proposed tram route, which provides rear access to the properties at 870, 874-876, and 880 – 884 Lorimer Street.

8 Site specific issues

A number of the issues raised by submitters in Lorimer are common to all precincts and addressed in the Overview Report. If they are Lorimer specific and have broader implications beyond the particular site, they are addressed in earlier chapters of this report.

Lorimer submissions have in the first instance been identified where the submitter has indicated the submission relates to this Precinct. In addition every effort has been made to identify Lorimer related issues raised in other submissions.

8.1 351 – 387 Ingles Street (\$196)

351 – 353 Ingles Street is a large triangular site on the corner of Ingles and Turner streets. It is currently occupied by a Volvo/Jaguar dealership. The site is subject to a live permit application for five towers of 11, 16, 30, 34 and 34 storeys.

Relying on evidence from Mr Sheppard and Mr McGurn, Belsize Nominees submitted that the yield under the proposed controls is significantly less than that reflected in the current permit application. It submitted that 28 per cent of its site is required for new roads, lanes and open space (although the Minister has now removed the open space from the land on the basis of Ms Thompson's recommendations). It submitted that the requirement to set aside land for these public purposes, plus the overshadowing controls, would make it difficult to achieve the FAR on the site, and that there is little scope for FAU.

It submitted that the proposed east–west road through the site would benefit many other properties, and that it should be credited for the road. It submitted that internal roads should not be required to be transferred to the relevant road management authority, as this could prevent innovative design outcomes such as landscaped or weather protected links (which Melbourne as the road management authority may not wish to maintain). Flexibility in the location of laneways is important to allow for the careful location of built form to prevent overshadowing of the open space to the south and west of the site.

The Review Panel recognises that this site, like many others, will have substantially less yield under the proposed controls than the existing (interim) controls. That is somewhat inevitable, given one of the key drivers of the draft Amendment is to *“reorient the trajectory”* of Fishermans Bend and align development with the preferred character set out in the Vision, and the population targets set out in the draft Framework.

For the reasons set out in Chapter 7 of the Overview Report, the Review Panel does not support the FARs. The yield on the site should not be limited by the FAR – it should be limited by the built form controls, and appropriate dwelling density controls that are applied in place of the FAR.

If the east–west road benefits other sites, it should form part of the future ICP (or DCP). Belsize Nominees would then be credited for the provision of the road. This is discussed in Chapters 13 and 14 of the Overview Report.

The Review Panel agrees that there needs to be some flexibility in the location of laneways, and has recommended in Chapter 10 of the Overview Report that laneways not be shown on the CCZ maps until the Precinct Planning process is complete.

The Review Panel does not support the submission that roads which are intended to be open to the public should remain in private ownership. As a general principle, public roads should be in public ownership, and managed and maintained by the relevant road management authority, as opposed to internal roads developed for the benefit of the site owners and occupiers.

8.2 99 – 111 Lorimer Street

99 – 111 Lorimer Street is located on the corner of Lorimer Street and Boundary Street. Inchcape recently sold part of the site to Costa Fox (see above). It is currently occupied by a large Subaru dealership, part of which is owned by Costa Fox.

Costa Fox (S71)

The Amendment proposes an 18 storey discretionary height limit on the site, compared to the current mandatory 40 storey limit. Part of the site has recently been subdivided, resulting in the proposed north-south road shown on the site bisecting the site, rather than travelling along the site boundary. This was rectified in the Part C version of the controls, although Melbourne pointed out that the realigned road no longer aligns with the existing connections north of Lorimer Street, through Yarra's Edge to the river.

Relying on evidence from Mr Sheppard and Mr McGurn, Costa Fox submitted that the reduction in the height by more than half (and the consequent reduction in yield on the site) is not reasonable and cannot be justified for urban design or amenity reasons.

The site is a short distance to the west of the proposed open space recommended by Ms Thompson, fronting onto Lorimer Street west of Hartley Street. Costa Fox strenuously opposed Ms Thompson's recommendation, submitting that it would severely and unreasonably constrain development of the site due to overshadowing. It submitted that the reasons for the park put forward by Ms Thompson do not provide sufficient justification for including a park at this location, given the constraints it would place on the development of the site.

Costa Fox raised concerns about the proposed tram corridor which runs along the northern boundary of its site, and was originally shown on the CCZ maps as a '10 metre landscape setback'. Relying on evidence from Ms Dunstan, Costa Fox submitted that the tram route should be designated on the plans, and greater certainty should be provided in relation to how the tram route transitions between the river and Turner Street. This was addressed by the Minister in the Part C version of the CCZ maps (D353), and is dealt with in Chapter 10 of the Overview Report.

The other issues raised by Costa Fox dealt with elsewhere in this report include:

- building heights in Chapter 3.5
- the open space issue in Chapter 5.

Inchcape (S254)

Inchcape has retained the balance of 99 – 111 Lorimer Street, and operates the Subaru dealership. Part of its site is required for open space – originally 2,500 square metres, which increases to 4,200 square metres with Ms Thompson's recommendations. Inchcape, like

Costa Fox, opposed the location of the open space, submitting that it does nothing to improve connections to the river. It questioned the lack of a PAO.

For the reasons set out in Chapter 5, the Review Panel supports the proposed open space on the Inchcape site. Issues of PAOs and compensation are addressed in Chapter 14 of the Overview Report.

Inchcape raised concerns over the requirement for permit applications to be 'generally in accordance with' the CCZ maps, submitting that this would restrict its ability to develop the site in connection with the existing use. It submitted that the Part C controls, notwithstanding the addition of some exemptions for existing uses, did not go far enough, and that the controls should be amended to encourage Inchcape's continuing operations. The Part C version of the controls contain provisions exempting applications for subdivision or buildings and works associated with a continuing lawful industrial or warehouse use from all of the requirements of Clauses 3.0 and 4.0 of the CCZ, and all of the requirements of the DDOs. As noted in Chapter 15.1 of the Overview Report, the Review Panel considers that this should be expanded to all continuing lawful uses, which will address Inchcape's concerns.

Inchcape raised concerns about the development viability of its land, given the high proportion of the site required for open space and proposed roads. The Review Panel considers that the issue is not so much whether the site can be viably developed, but rather whether the landowner is adequately compensated for the loss arising from not being able to develop the site. These issues are dealt with in Chapter 14 of the Overview Report.

8.3 81 Lorimer Street (S253)

81 Lorimer Street is located to the east of Hartley Street, in the unlimited height area. It is not subject to an existing permit or live application.

Lorimer Properties submitted that the physical and strategic context of the site provides strong justification for greater density than the proposed FAR of 5.4:1. It submitted that the site should benefit from controls that would allow a similar yield to the adjacent South Wharf Towers site at 85-93 Lorimer Street, which has a permit for two towers of 47 and 49 storeys. It provided massing studies by Fender Katsalidis (DL27) which it said demonstrated that the FAR would limit built form in such a way that any proposed development on the site would appear as squat mid-rise development that would be out of proportion with the surrounding towers, including those approved on the South Wharf Towers site and those that have been built at the eastern end of the Yarra's Edge development.

Lorimer Properties submitted that more density should be available on the site given its 'gateway' status and its capacity to make a positive contribution to the public realm with excellent design. Further, commercial floorspace should be raised or uncapped to increase employment opportunities in Fishermans Bend.

The Minister responded by submitting that the current permit for 85 – 93 Lorimer Street represents a FAR of approximately 16.7:1 (D245), a yield which is totally disproportionate to what is sought to be achieved for Lorimer. He submitted that there is no need, or intent, to revisit the FARs. Allowing similar built form or yield as that permitted on 85-93 Lorimer Street would be inappropriate, as the intention is to achieve a different built form and density outcome than those represented by current permits.

The Review Panel addresses the issues of the appropriate density in Lorimer in Chapter 3.3. Density more broadly is addressed in Chapter 7 of the Overview Report.

8.4 870 Lorimer Street and 880 – 884 Lorimer Street (S79)

870 Lorimer Street and 880-884 Lorimer Street are located between Ingles Street and Boundary Street. They front onto Lorimer Street, and back onto Lorimer Place. The proposed height limits are 10 storeys fronting Lorimer Street, and eight storeys fronting Lorimer Central. Parts of 880-884 Lorimer Street are required for the Lorimer Central open space.

WW Sidwell submitted that the open space requirement should be removed from the relevant parts of 880 – 884 Lorimer Street, and that the heights should be 10 storeys for the lots fronting Lorimer Street and unlimited for the rest of the site. It raised concerns over the location of the Education and Community Hub opposite the concrete batching plants, and submitted that the CCZ controls will effectively prohibit buildings and works on the site other than authorised alterations and additions.

The Minister responded that WW Sidwell’s submissions on built form, if accepted, would undermine the liveability and amenity of Lorimer, including by shadowing Lorimer Central, the heart of the open space network in Lorimer. He pointed out that exemptions have been included in the Part C controls for buildings and works associated with existing uses. The issues raised by WW Sidwell are otherwise dealt with elsewhere in this report:

- building heights in Chapter 3.5
- Lorimer Central open space in Chapter 5
- the location of the community hub in Chapter 6.

8.5 13 – 33 Hartley Street (S36)

13 – 33 Hartley Street is an L-shaped site, with frontage to Hartley Street and the West Gate Freeway. The site is subject to a live permit application which has been called in by the Minister. A substantial portion of the site (1,800 square metres, or 27 per cent of the total site area) is identified for open space. Substantial portions are required for the proposed service road abutting the West Gate Freeway, and an east–west road between the proposed open space and the developable area of the site (that also provides access to the rear of the South Wharf Towers site).

Claric Ninety Nine submitted that the siting of the open space, in combination with the proposed roads, results in the remaining portion of the site being inefficient and costly to develop, and with no sense of address. It submitted the proposed development will be unviable, effectively delaying the delivery of public benefit via the open space. The Minister responded by tabling modelling that demonstrated that the site could still achieve its proposed FAR.

The issues raised by Claric Ninety Nine are dealt with elsewhere in either this report or the Overview Report:

- Chapter 7 of this report addresses:
 - the service road adjacent to the West Gate Freeway
 - the east–west road between the proposed open space and the developable area of the site

- access to the site via Hartley Street (and the closure of Hartley Street for the elevated tram bridge)
- Chapter 11 of the Overview Report addresses:
 - whether the EPA should be a referral authority is addressed in
 - Amenity Impact Plans
- Chapters 13 and 14 of the Overview Report address:
 - whether the FAR mechanism is appropriate to acquire private land for public purposes
 - whether landowners should be compensated for planning blight as a result of their land being identified as required for public purposes
- Chapter 17.5 of the Overview Report addresses:
 - the impact of the controls on development viability.

8.6 95 – 97 Lorimer Street (S37)

The site is wholly required for open space. Claric 178 submitted that this leaves no opportunity to pursue built form on the site, and submitted that the government should *“demonstrate its commitment to the Fishermans Bend vision by acquiring the land concurrently with approving the proposed development [on the neighbouring site at 13 – 33 Hartley Street]”*. These issues are dealt with in Chapter 14 of the Overview Report.

8.7 212 Turner Street (S184)

Dexus objected to the proposed open space on its site at 212 Turner Street, and to the proposed east–west road south of Turner Street. Dexus raised concerns about the minimum commercial FAR, submitting that it is too high and commercially unviable. The issues raised by Dexus are dealt with elsewhere in this report, or the Overview Report:

- the open space issue in Chapter 5
- the proposed east–west road, and its connection to Rogers Street under the Ingles Street overpass in Chapter 7
- commercial floorspace requirements in Chapter 7.6 of the Overview Report.

8.8 150 – 160 Turner Street (S104)

150 – 160 Turner Street is a large site at the south west end of the Lorimer Precinct, where heights are unlimited. It has a current permit for a 30 storey building which is sought to be extended. The site is subject to a permit application for five towers of 31, 39, 40, 35 and 40 storeys. The permit application has been called in from VCAT. Part of the land is required for a 10 metre landscape setback along the Turner Street linear park. New roads are required.

Modelling undertaken by Ms Hodyl and Mr Sheppard demonstrated that the FAR can be achieved on the site, and that there is a significant amount of room left in the building envelope for potential FAU. Relying on evidence of Mr Sheppard and Mr McGurn, Springbank Properties submitted that the proposed yield (limited by the FAR) is significantly less than what could be achieved under the current controls (and is reflected in the permit application), and that this is not justifiable on urban design of amenity grounds.

Springbank Properties submitted that if the landscape strip is required for road widening or open space, it should be lawfully acquired by government, with proper compensation. It submitted that the new east–west road through the site, and indicative lanes connecting through the site to the Turner Street linear park, all serve a broader function than simply providing access to the site. It submitted that it should not be required to ‘gift’ this road and these laneways to government, and there is no evidence before the Review Panel that this issue will be appropriately or fairly addressed by the future ICP.

There is no evidence before the Review Panel that the landscape strip along the Turner Street linear park is required for anything other than a suitable setback and interface with the linear park. Nothing in the controls requires the landscape strip to be transferred or gifted to any public authority. In relation to the roads and laneways, if these serve a broader function, they should be dealt with by a mechanism such as a DCP or ICP (as discussed in Chapter 13 of the Overview Report). Issues of acquisition of public land and compensation are dealt with in Chapter 14 of the Overview Report. The issue of reduction in yield is dealt with in relation to other site specific submissions discussed in this chapter, including that of Belsize Nominees (Chapter 8.1).

8.9 833 Collins Street Docklands (S216)

833 Collins Street is located outside Lorimer on the other side of the river. ANZ’s submission raised concerns about the impact of the proposed tram bridge crossing the Yarra on its new headquarters. The issues are addressed in Chapter 10 of the Overview Report.

8.10 Yarra’s Edge submitters

The Review Panel heard submissions related to the proposed tram bridge crossing the Yarra from the Yarra’s Edge Class Action Committee (S41), Mr Sutherland, Mr Hirst (S46) and Ms Hirst (S47) during the Lorimer hearings. Several other Yarra’s Edge residents made similar submissions, but did not appear at the Hearings. The tram bridge is addressed in Chapter 10 of the Overview Report.

8.11 Other submitters

There were many other submissions in relation to the Lorimer Precinct, including from submitters who did not appear at the Hearing. Those submissions raise similar issues to those which are addressed elsewhere in this report and in the Overview Report. Accordingly, the Review Panel has considered the issues raised in all submissions referred to it.

Appendix A Document list

No.	Date	Description	Presented by
L1	03/05/18	Bundle of maps and diagrams related to the Barro site	Mr Gobbo
L2	"	Concrete, cement and aggregates Australia video	"
L3	"	Extracts from GHD buffer assessments	Ms Brennen
L4	"	Extracts from Barro 2017 permit	"
L5	"	Written submission on behalf of Barro Group	Mr Gobbo
L6	"	Age article Hoddle street works cost blow out	"
L7	09/03/18	Opening submission – Lorimer Precinct	Ms Brennan
L8	"	Lorimer maps for DDO and CC2	"
L9	"	Table summarising proposed changes/corrections to planning scheme maps	"
L10	"	Plan showing existing permits and live applications in Lorimer	"
L11	"	Written submission, COM	Ms Forsyth
L12	"	Attachments to Document L11 <ul style="list-style-type: none"> a. Replacement document 2 in L12 b. Replacement document 7 in L12 	"
L13	"	Plans for permit application for 111 Lorimer St	"
L14	"	Revised FAR modelling for Lorimer Precinct	Mr Sheppard
L15	10/05/18	Table of Lorimer permit applications, heights etc.	Ms Brennan
L16	"	Written submission, WW Sidwell, VCHQ2 3 Lorimer Place	Mr Wren
L17	"	Presentation – Urban Design evidence for Lorimer (Mr Sheppard)	"
L18	"	Screenshot from Ms Hodyl modelling for Lorimer	Ms Brennan
L19	"	Press article regarding Waterloo Estate redevelopment	"
L20	14/05/18	Written submission, Claric Ninety Nine Pty Ltd	Mr Msonda-Johnson
L21	"	Plans 13-33 Hartley St and schedules re: development scenarios	"
L22	"	Written submission Claric 178 Pty Ltd	"
L23	15/05/18	Written submission Yarra's Edge Class Action Committee	Ms Dawson

L24	“	Written submission Dexus (212 Turner St, Port Melbourne)	Mr Pagliaro, Urbis
L25	“	Dexus PowerPoint presentation	“
L26	“	Written submission, Lorimer Properties Trust	Mr Dunn
L27	“	Massing studies for 81 Lorimer St prepared by Fender Katsalidis	Mr Pearce, Fender Katsalidis
L28		Bundle of materials submitted by Peter Hirst	Mr Hirst
L29	“	Original submission S47, Irene Hirst	Ms Hirst
L30	“	Plans for permit application for 111 Lorimer St	Ms Sharp
L31	16/05/18	a. Amended shadow diagrams for 111 Lorimer St b. Dimensioned McGurn modelling for 162+188 Turner St	Mr McGurn, Urbis
L32	“	Written submissions Springbank properties Pty Ltd including 2 attachments	Mr Canavan
L33	“	PowerPoint presentation, Ms Dunstan	Ms Dunstan
L34	“	Extract from Jacobs Public Transport, Active Mode Line Connectivity Study	“
L35	“	Written submission for Costa Fox	Mr Canavan
L36	17/05/18	Written submission for Hanson Constructions	Mr Kane
L37	“	Concept drawings for possible future plant upgrade, Hanson	“
L38	“	Barnes suggested changes to CCZ	Mr Barnes
L39	“	Written submission Belsize Nominees Pty Ltd	Mr Canavan
L40	“	Application plans for 351 Ingles St a. 2013 version b. 2016 version	“
L41	18/05/18	Written submission for ANZ	Ms Collingwood
L42	“	Attachments for Doc L42	“
L43	“	PowerPoint presentation, David Barnes	“
L44	21/05/18	Written submission for Inchcape Australia Ltd	Mr Canavan
L45	“	Closing submission – Lorimer Precinct	Ms Brennan
L46	“	Updated DDO – Lorimer Precinct	“
L47	“	Updated maps – Lorimer Precinct	“
L48	“	Updated MSS – Melbourne Planning Scheme	“

Fishermans Bend Planning Review Panel Montague Precinct - Report No. 3

19 July 2018

Planning and Environment Act 1987

Report pursuant to section 151 of the Act

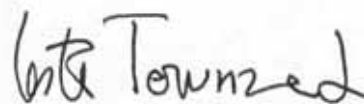
Fishermans Bend Planning Review Panel

Montague Precinct - Report No. 3

19 July 2018



Kathy Mitchell, Chair



Lester Townsend, Deputy Chair



Sarah Carlisle, Member



Rodger Eade, Member



Peter Edwards, Member

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List of Abbreviations (as per Report No. 1)

Executive summary

(i) Summary

This is Report No. 3 of the Review Panel which relates to the Montague Precinct. This report must be read in conjunction with Report No. 1 Volume 1 - Overview, and Volume 2 - Amended planning controls. These reports provide the primary findings and recommendations of the Review Panel, in particular, its position on the key components of the draft Amendment and its recommendations for the planning controls. One recommendation includes a revised Design and Development Overlay for Montague.

In this report, the Review Panel responds to a range of site specific issues raised in submissions and recommends further changes where appropriate.

Montague is a diverse area of Fishermans Bend. Its proximity to the CBD makes it a key Precinct, and it will have the greatest density of built form. Montague North will take the higher levels of built form and this will graduate down to four and six storeys on the southern and western boundaries of Montague South. Much of Montague is likely to be punctuated by taller buildings due to permits already granted, and some applications yet to be considered. If done well, this could add diversity and interest to parts of the Precinct.

(ii) Findings

In relation to the key issues for the Montague Precinct, the Review Panel finds:

- The built form of Montague will comprise diverse outcomes in the form of high-rise, 'tooth and gap' and mid-rise typologies, with taller buildings in the inner core and to its north and north east.
- The key spines of Montague and Buckhurst Streets, and City and Normandy Roads, while being major transit corridors, have the potential to be significant boulevards that cater for pedestrians and cyclists.
- The 'tooth and gap' typology for Buckhurst Street is supported, but not the reduced heights sought by Council.
- The gritty urban built form of areas within Montague South should be celebrated as defining features to enhance its overall urban context.
- The discretionary and mandatory building heights for Montague are supported as shown in the revised Map 3 to the Montague Design and Development Overlay.
- The Review Panel supports the deletion of the secondary active frontages designations for Johnson Street and the northern part of Montague Street from Map 3 in the revised Montague Design and Development Overlay.
- The allocation of the public open spaces as shown in DM1A in Montague is generally sound. Open spaces are well spaced and located. Key open spaces include:
 - Montague Park and its extension to the north of the tram line
 - Montague North Park
 - the central spine along the tram line between Woodgate and Gladstone Streets
 - smaller parks north and south along Thistlethwaite Street
 - linear parks along Johnson Street and Ferrars Street

- the through block park from Gladstone to Buckhurst Street, west of Montague Street.
- The removal of the public open space from 87 Gladstone Street is supported.
- There is merit expanding the major area of public open space in the triangle of the West Gate Freeway, Montague Street and Munro Street, supported by a Precinct wide Sport and Recreation Hub.
- The designation of open space on the Wadhawan Holdings site at 400 – 430 City Road should be retained, but a note added to show that it is in an indicative location only, subject to site design. It should not be required to be handed over as public open space (and therefore should not be counted as public open space), but it should be designed to provide a link from City Road though to the tram stop next to the school in Railway Place.
- There is merit in the Arts and Culture Hub being located on the site of the existing school at Montague Street as per Port Phillip’s proposed urban structure, however no change to the draft Amendment or draft Framework is required.
- The exhibited heights for 400 – 430 City Road are supported, but any future development should be designed to ensure that it does not overshadow the footpaths at the South Melbourne Market.
- Further site access investigations can be undertaken as part of a planning permit application for 187 – 198 Normanby Road.
- The final location of laneways will be resolved and clarified during the Precinct plan and/or permit application stage. Critical laneways, namely at the rear of 562 and 600 City Road, and between Arthur and Alfred Streets should be so designated on Map 1.

(iii) Recommendations

Based on the reasons set out in this Report, the Review Panel recommends that the Minister for Planning progress draft Amendment GC81, subject to the following changes:

- 1. Amend Map 2 to the Montague Design and Development Overlay to show the whole of the Montague North site as public open space.**
- 2. Amend Map 2 to the Montague Design and Development Overlay to show the open space designation on the site at 400 – 430 City Road as ‘communal open space – location indicative, subject to site design’.**

1 Strategic Overview

1.1 Precinct context

The Montague precinct is located in the City of Port Phillip and is 43 hectares in size, with a net developable area of 25 hectares (Refer to Figure 1).

It is bound by the West Gate Freeway to the north, City Road to the east, Boundary Street to the south and Johnson Street to the west. The Precinct is supported by the 109 and 96 trams. Montague has two distinct neighbourhoods (North and South), and is characterised by its wide streets and 'gritty' urban form of laneways with some heritage buildings.

The Precinct has benefited from the construction and opening of the new Ferrars Street Primary School and a 0.8 hectare area of open space to be known as Montague Park located diagonally opposite the school.

Montague is an area vulnerable to flooding.¹

Figure 1: The subject land



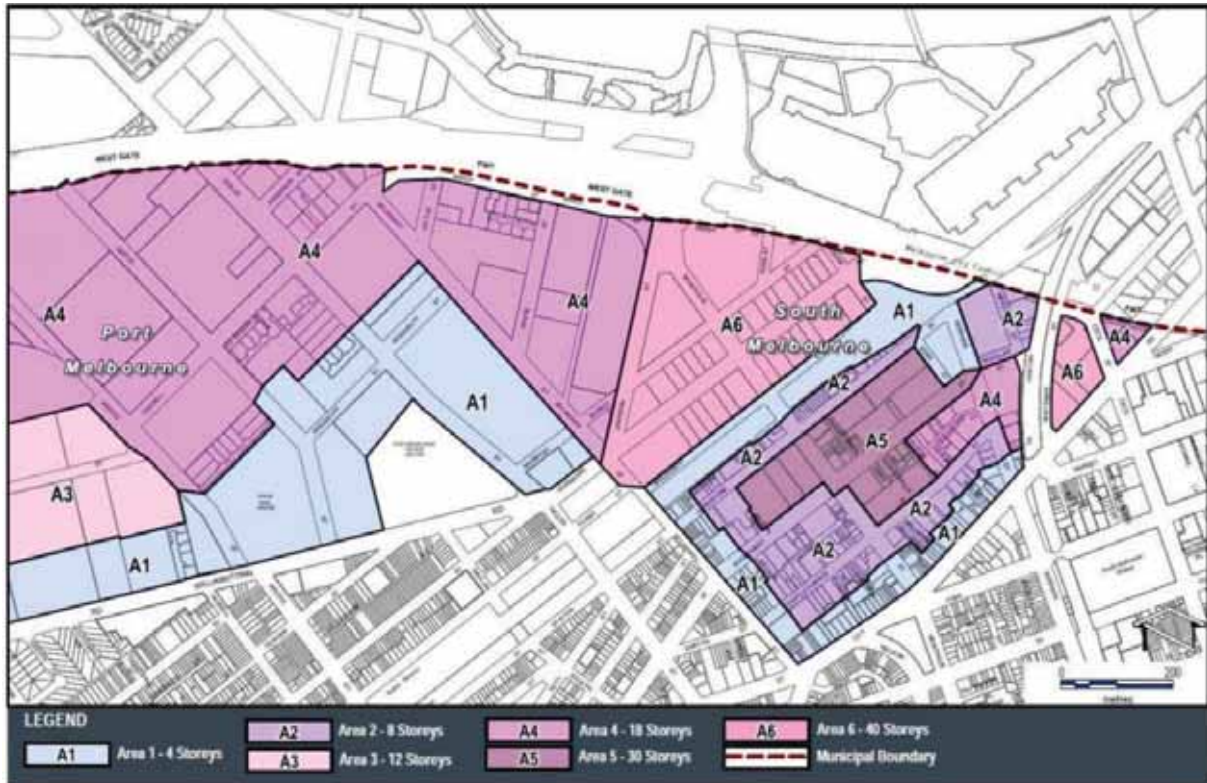
Source: Google Maps

¹ Fishermans Bend Framework, page 17.

1.2 Existing planning controls

Schedule 1 to the Capital City Zone (CCZZ) and Schedule 30 to the Design and Development Overlay (DDO) currently apply to Montague, through Amendment GC50 (Refer to Figure 2).

Figure 2: Design and Development Overlay, Schedule 30



Under Schedule 30, Montague is split into six areas (A1-A6) with varied maximum building heights. A6 is predominantly located in the northwest of the precinct, with a small section in the northeast also designated. A6 has a maximum height of 40 storeys, which contrasts with the proposed maximum heights of 24 storeys under the draft Amendment.

A significant proportion of permit activity in the area has sought to utilise these existing maximum building heights in North Montague, with 13 permits and permit applications for 40 storeys or higher.

The current interim built form controls are shown in Table 1.

Table 1: Interim built form controls (GC50)

Built Form Element	Requirement
Building height	Mandatory maximum: A1 - 4 Storeys A2 - 8 Storeys A3 - 12 Storeys A4 - 18 Storeys A5 - 30 Storeys A6 - 40 Storeys

Street wall height	Mandatory maximum 5 storeys or 20 metres, whichever is lesser
Tower setback	Mandatory minimum 10 metres to the street edge Mandatory minimum 10 metres to all other boundaries Setback can be taken from centre of laneway (if applicable)
Tower separation	Mandatory minimum 20 metres

1.3 Planning permit application history

Montague is the most active of the Fishermans Bend precincts and has had a significant number of planning permit approvals and applications. Consequently, Montague is under the most pressure regarding potential development opportunities.

There are currently 16 existing permits as detailed in Table 2.

Table 2: Existing Permits

Address	Submitter	Permit	Proposed FAR
199-201 Normanby Rd	186	40 storeys/125.4m	6.3:1 (core)
202-214 Normanby Rd	137	40 storeys/140.8m	6.3:1 (core)
228-238 Normanby Rd	120	40-50 storeys/165.1m	6.3:1 (core)
245-251 Normanby Rd	135	40 storeys/134.1m	6.3:1 (core)
253-273 Normanby Rd	185	36-40 storeys/135.9m	6.3:1 (core)
134-142 Ferrars St	No sub	18 storeys/66.4m	6.3:1 (core)
171-183 Ferrars St	93	20 storeys/88.7m	6.3:1 (core)
51-59 Thistlethwaite St	No sub	8 storeys/26.9m	3.6:1 (non-core)
6-78 Buckhurst St	63	30 storeys/102.1m	6.3:1 (core)
134 – 150 Buckhurst St	131.1	30 storeys/96.5m	6.3:1 (core)
15-85 Gladstone St	No sub	27-30 storeys/99m	6.3:1 (core)
89 Gladstone St	No sub	30 storeys/99m (constructed)	6.3:1 (core)
179 Gladstone St	No sub	7 storeys/23.7m (expired)	3.6:1 (non-core)
165-167 Gladstone St	No sub	8 storeys/27.5m	6.3:1 (core)
10-16 Boundary St	No sub	4 storeys/13.3m	3.6:1 (non-core)
15-35 Thistlethwaite St	No sub	8 storeys/27.8m	6.3:1 (core)

There are currently 20 'live' planning permit applications (Table 3). Of those permit applications, 14 have been 'called in' by the Minister.

Table 3: Permit Applications

Address	Submitter	Permit application	Proposed FAR
179-185 Normanby Rd	200	25 storeys/107.8m (called in)	6.3:1 (core)
187-197 Normanby Rd	87	40 storeys/163.7m (called in)	6.3:1 (core)
203-205 Normanby Rd	95	40 storeys/128.9m (called in)	6.3:1 (core)

Address	Submitter	Permit application	Proposed FAR
207-217 Normanby Rd	No sub	39 storeys/128.1m (called in)	6.3:1 (core)
235-243 Normanby Rd	207	40 storeys/138.5m (called in)	6.3:1 (core)
240-246 Normanby Rd	230	40 storeys/136.8m (called in)	6.3:1 (core)
248-254 Normanby Rd	96.1	39 storeys/129.2m (called in)	6.3:1 (core)
256-262 Normanby Rd	96.2	38 storeys/126.6m (called in)	6.3:1 (core)
264-270 Normanby Rd	96.3	40 storeys/135.9m (called in)	6.3:1 (core)
272-280 Normanby Rd	202	40 storeys/131.8m (called in)	6.3:1 (core)
2-28 Montague St	90	37-40 storeys/158m (called in)	6.3:1 (core)
91-95 Montague St	94	30 storeys/97.5m (called in)	6.3:1 (core)
123 Montague St	173	Application lapsed on 8 November 2013	6.3:1 (core)
144-148 Ferrars St	57	5 storeys/21.2m	3.6:1 (non-core)
163-169 Ferrars St	No sub	18 storeys/68.5m (called in)	3.0:1 (non-core)
400-430 City Rd	143	39-40 storeys/142.2m (called in)	6.3:1 (core)
37-47 Thistlethwaite St	156	8 storeys/28.2m	3.6:1 (non-core)
156-162 Thistlethwaite St	115	4 storeys/13.3m	3.6:1 (non-core)
31-41 Buckhurst St	146	Application refused	6.3:1 (core)
166-168 Buckhurst St	131.2	20 storeys/60.1m	3.6:1 (non-core)

The only residential development of note that has been constructed so far in Montague is the 30 storey 'Gravity' building on the corner of Montague and Gladstone Streets. The Review Panel does not regard this building as exemplary built form, nor should it be considered as the model going forward, particularly in relation to the way in which it has attempted to resolve the flooding constraints.

The Review Panel notes a report in the Herald Sun of 12 July 2018 that an amended permit has been granted by the Minister for a 40 storey development at 199 – 201 Normanby Road. This site is located in the core of Montague North in an area now subject to a 20 storey discretionary height limit under the proposed planning controls.

1.4 Hearing process

The Montague Hearing was held over 13 days, generally between 18 April and 8 May 2018.

There were in the order of 38 written submissions in relation to Montague, of which approximately 26 submitters spoke to and/or called evidence in support of their submission at the Hearing.

Ms Collingwood, Mr Canavan and Mr Tweedie, and Mr Wren each represented multiple submitters at the Montague hearings.

The findings and recommendations of the Review Panel for Montague are based on the Minister's Part C planning controls as tabled on 14 May 2018.

The Review Panel has not analysed and responded to every issue raised in every submission in detail, rather it has focussed on the higher order issues that impact on the planning controls proposed by the Minister and as amended by the Review Panel through Report No.1, Volumes 1 and 2.

Many of the issues raised in submissions and evidence in relation to Montague have been discussed in the Overview Report. The findings and recommendations of the Overview and Amended planning controls reports are relevant to Montague.

2 Vision and Framework

2.1 Montague Vision

The Vision for Montague in summary, 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 Precinct will comprise two neighbourhoods, each with their own distinct characteristics.

The northern neighbourhood will be strongly focused on mix-use and will include a vibrant boulevard along Normanby Road and cycling connections which link the Precinct to the CBD. It is this part of the Precinct that will accommodate the highest built form.

The southern neighbourhood will comprise a network of gritty streets and laneways that will support an array of local businesses such as cafes, shops and creative industries. The area is proposed to be diverse and lively which will contribute to its eclectic and vibrant character.

Montague will be well linked to the surrounding precincts and the CBD. It will feature several walking and cycling connections as well as a high frequency light rail and buses to connect with business, retail and employment destinations. The proposed Arts and Cultural, and Education and community hubs on Ferrars Street will provide focal points for the local community. They will be connected by the Buckhurst Street green spine, which will be at the heart of the Precinct and which will provide a *“cosmopolitan destination for retail and dining while fostering community interaction”*.²

The Precinct Directions from the Vision are³:

- *celebrate heritage buildings and urban form, including fine-grain built form and laneways*
- *strengthen links to surrounding places, including South Melbourne, Albert Park, Bay Street, South Wharf and Docklands*
- *support a vibrant Buckhurst Street anchored by community hubs through mixed-use developments, active street edges and high quality public realm*
- *establish a green spine through the precinct along Buckhurst Street*
- *support two distinctive neighbourhoods to the north and south of the 109 tram line.*

The target population is for 20,800 residents in 9,244 households, and a workforce of 4,000 jobs by 2050⁴.

2.2 Proposed Urban Structure

The proposed urban structure for the Montague Precinct is shown in Figure 3.

² Fishermans Bend Vision, page 16

³ Fishermans Bend Framework, page 70

⁴ Fishermans Bend Framework, page 70

Figure 3: Urban structure Montague



Source: Minister Part C, Map 1a (D317)

Normanby Road and Buckhurst Street are nominated as key active civic spines where a high quality pedestrian environment is sought. The core retail area is proposed along Buckhurst Street which will be complemented by the street's green spine.

Heavy rail is no longer anticipated in the Montague Precinct. Instead, the Precinct is intended to be serviced by light rail.

Existing laneways are proposed to be connected and completed as through-block links (Montague South), and creation of new north-south links (Montague North) are proposed to improve connectivity to the Normanby Road boulevard.

Port Phillip helpfully prepared and provided an Urban Design Report for Montague (DM3B) which set out its Vision, preferred character and proposed changes for the Precinct, as well as its proposed Urban Structure. This report was well considered and articulated and provided the Review Panel with clear guidance and Port Phillip's intent on how it saw Montague developing. This is not to say that the Review Panel agreed with all that Council put forward, but it appreciates the work that went into the Urban Design report, particularly in setting out the Montague Urban Structure. As Mr Montebello noted:

So far as Montague is concerned, Council's Montague Urban Design Report (Montague Report) is a comprehensive document that builds on the Council's endorsed submission of 13 December 2017. The Montague Report critically

assesses Amendment GC81 against the Vision and further develops the ideas within the Framework. It is a refinement of work that the Taskforce has done. It represented work completed over the last 6 months by highly experienced urban designers, place makers and strategic planners.⁵

Some parties questioned the work undertaken by Port Phillip in that they saw it representing new work that was not able to be tested. However, as Mr Montebello noted, it was consistent with its written submission and sought to provide its response in plan form through the Urban Structure Plan.

The Review Panel makes the point that it would have been useful had this level of detail been prepared by the Minister for all Precincts as part of the exhibition material. This was a matter that the Minister did pick up on later in the hearing process. Such plans as prepared by Port Phillip (and for the Sandridge and Wirraway Precincts) go a long way towards highlighting how the Precinct Plans could be developed.

2.3 Proposed built form

The *Urban Design Strategy* defines the preferred building typology in Montague as:

Tower developments are still supported in Montague North, however the overall heights have been reduced to align with revised density targets and to increase the amount of sunlight reaching the southern side of streets, particularly Normanby Road, to support the creation of a high-quality civic spine. In Montague South, height limits are set to maximise the amenity of the Buckhurst St local centres and to transition overall height limits towards the lower scale precincts of South Melbourne. Generally 8 storey height limit in the non-core areas is proposed, reducing to 4 storeys at the interface.⁶

The tallest built form for Fishermans Bend is anticipated in Montague North and parts of Montague South. Tower form is not supported in the non-core areas of Montague.⁷

The proposed DDO schedule provides for maximum discretionary building heights in the Montague core of 12-24 storeys (42.2 - 80.6 metres), with smaller areas with maximum discretionary heights of:

- 23 metres (6 storeys) on the north side of Montague North Park
- 29.4 metres (8 storeys) on the east side of Ferrars Street
- 29.4 metres and 35.8 metres (8 and 10 storeys) at the southern edge of the core
- 15.4 metres (4 storeys) to the northwest and northeast of the proposed park on Thistlethwaite Street.

2.4 Key issues

In essence, the Review Panel supports the following key changes made by the Minister during the course of the Hearing and these are not repeated in this report or expanded upon:

⁵ CoPP Closing Submissions – Montague (DM42), para 3.

⁶ Hodyl + Co, *Fishermans Bend Urban Design Strategy* (D53), page 88.

⁷ Hodyl + Co, *Fishermans Bend Urban Design Strategy* (D53), page 69.

- general support for the Vision for Montague and its diverse built form character
- general support for the discretionary and mandatory heights for Montague as expressed through the Part C revisions by the Minister
- subject to the Review Panel's detailed recommendations about the form of density controls in this report and the Overview Report, it supports expanding the Montague core and revising the core density to a FAR of 6.3:1, however, the Review Panel does not support the Port Phillip position to change 134 and 95 to 117 Buckhurst Street from core to non-core
- include the Elmar (S17), Surveyors Place (S249), Carri Nominees (S123), Marlton Investments (S164) (and relevant surrounding sites) within the Montague core
- provide a Precinct specific DDO for Montague (and the other precincts)
- prepare plans for each Precinct (and the Review Panel considers the Montague Precinct Plan should be largely based on the Urban Structure Plan prepared by Port Phillip)
- delete the open space and overshadowing controls at 87 Gladstone Street
- provide for a new public open space at 101-109 Thistlethwaite Street
- provide a 12 metre wide linear park within the Johnson Street road reserve
- undertake further work on the location of laneways and specify a minimum width of 9 metres for those that provide vehicular access
- promote a 'tooth and gap' typology approach to any site with a frontage over 50 metres on the north side of Buckhurst Street (between Montague and Ferrars Streets)
- minimise the risk of overshadowing at the footpaths of South Melbourne Market through the DDO
- increase the height of 123 Montague Street from 12 to 18 storeys.

The remaining key issues to be addressed are:

- urban structure and built form
- location of open space
- location of hubs
- overshadowing of Buckhurst Street and the South Melbourne Market Precinct
- roads and transport infrastructure.

3 Urban structure and built form

3.1 Context

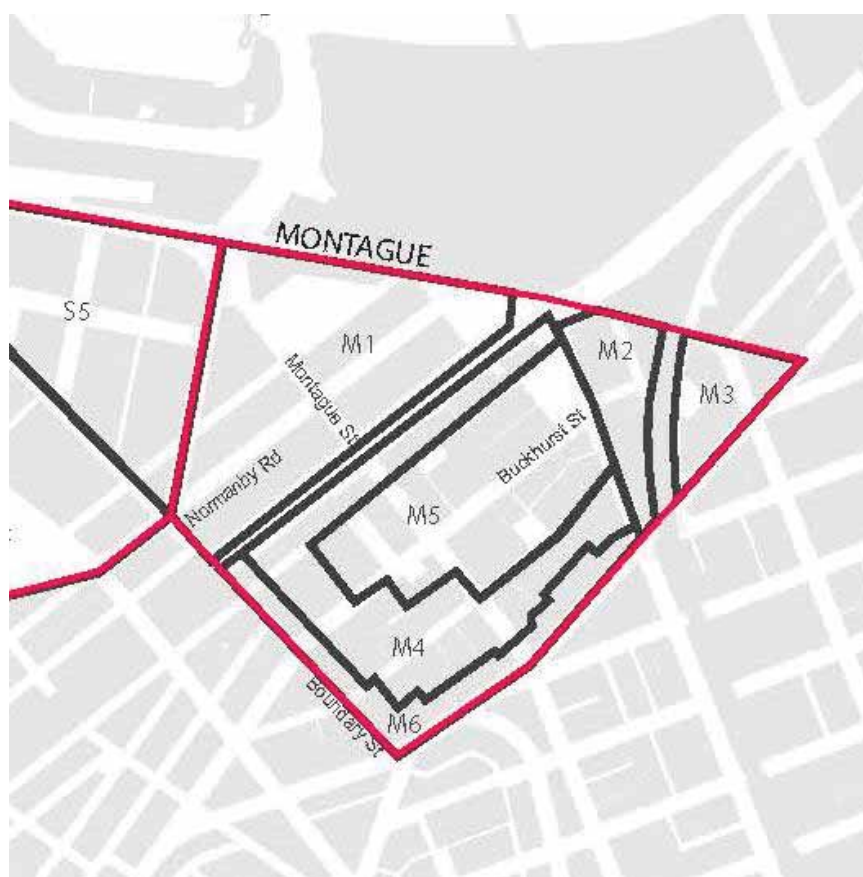
(i) Building heights

The core area of Montague includes all of Montague North, the area bound by Montague, Thistlethwaite, Kerr and Gladstone Streets, and two smaller parcels south of Montague Street on either side of Buckhurst Street.

Through Clause 21.06-8 and the DDO, six subprecincts are identified in Montague. These are shown in Figure 4.

Building heights vary by location, but these are not directly correlated with the subprecinct boundaries, or the core and non-core area boundaries.

Figure 4: Montague subprecinct map



Source: Submission of the Minister for Planning for Montague Precinct (DM2)

M1 is Montague North, which is seen as the gateway to Fishermans Bend from the CBD, and is the area proposed for the highest building heights. The building typology is for mid-rise to high-rise hybrid developments and tower built forms. Montague North is proposed to have active frontages and provide good levels of amenity through access to sunlight. Under the existing planning controls, building heights of up to 40 storeys (mandatory) currently apply, and the Review Panel notes there is significant permit activity in M1 through existing permits

and current applications. The proposed preferred discretionary height for M1 range from 20 to 23 storeys, except for an area north of the proposed Montague North Park which is proposed to be 6 storeys.

The M2 subprecinct includes a new vertical primary school which is now operational, diagonally opposite Montague Park, which is under construction. M2 has a preferred discretionary height of eight storeys which will provide for a mid-rise scale of development that allows for some upper levels.

M3 is located in the north east corner of Montague, east of the tram easement and City Road. It will provide for hybrid developments of mid to high-rise developments, with preferred heights ranging from 24 storeys to unlimited. It has few sensitive interfaces.

M4 provides a transition from the central core of M5 to a lower built form typology with preferred maximums of eight storeys. It includes and abuts some sensitive residential areas and interfaces to the M6 area.

M5 is the central area of Montague South, with the key focus on the Buckhurst Street civic spine. It will provide for a range of mid-rise to high-rise tower buildings, including hybrid developments on larger sites, punctuated by well-placed laneways and green spaces. Port Phillip sought to introduce the tooth and gap typology to this area. The preferred discretionary height for M5 ranges from 12 to 20 storeys.

M6 is the transition of the Precinct to South Melbourne through its interface with City Road to South Melbourne, and Boundary Street to Port Melbourne. The mandatory height for M6 is 4 storeys.

The exhibited building heights presented at the opening of the Montague Hearing⁸ are shown in Figure 3.

⁸ Minister opening submission, DM1A.

Figure 3 Building heights in Montague



Source: Montague (DM1A), page 1

(ii) Street wall heights

Street wall height restrictions are proposed to ensure appropriately scaled and distinct street wall effects, street enclosure, sky views, transition to heritage places and adequate sunlight access to streets and open space. Proposed street wall heights vary depending on location.

Table 3: Street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
on City Road		at least 4 storeys, except where a lower height is necessary to respond to adjoining heritage places	4 storeys
At 30-38 Thistlethwaite Street, Port Melbourne			6 storeys
Normanby Road or Buckhurst Street		4 storeys	General provisions apply
Laneways (street \leq 9 m)		4 storeys	6 storeys
On a street $>$ 9m and \leq 22m wide		at least 4 storeys in height, except where a lower height is necessary to respond to adjoining heritage places	6 storeys
On a street $>$ 22m wide	where the building height is \leq 10 storeys		8 storeys
	where the building height is $>$ 10 storeys		6 storeys

(iii) Setbacks above street walls

There are a number of requirements for setbacks above the street wall which are proposed to ensure comfortable wind conditions, adequate sunlight access to streets and laneways, sky views and minimise visual bulk. Setbacks above the street wall vary depending on building height and location.

Table 4: Setbacks above the street wall

Location	Qualification	Preferred Setback	Minimum Setback
where the building has direct interface with:	if the building height is \leq 8 storeys	5 metres	3 metres
- West Gate Freeway; - CityLink overpass; - Route 96 tram corridor, Route 109 tram corridor.	if the building height is $>$ 8 storeys	10 metres	5 metres
on City Road.		None specified	10 metres
If the building fronts City Road		As specified for other locations	10 metres
Other locations	if the building height is \leq 8 storeys	5 metres	3 metres
	if the building height is $>$ 8 storeys and \leq 20 storeys	10 metres	5 metres
	if the overall building height is $>$ 20 storeys	10 metres	10 metres

(iv) Side and rear setbacks

Below street wall height, the preference is for buildings to be built to the side and rear boundaries, to create a continuous wall along all site frontages. Upper level side and rear setbacks (above street wall height) vary according to the building's ground level setback, height and location.

Table 5: Side and rear setbacks

Part of building	Building height	Qualification	Preferred setback	Minimum setback
Below the street wall height		if not within 300 mm of a side or rear boundary	9 metres	6 metres
Above the street wall height	≤ 20 storeys	where the building below the street wall is built on the boundary	10 metres	5 metres
		Other buildings	10 metres	10 metres
	> 20 storeys	where the building has direct interface with: <ul style="list-style-type: none"> - West Gate Freeway - City Link overpass 	10 metres	5 metres
		Other buildings	10 metres	10 metres

(v) Building separation within a site

Building separation requirements are proposed to protect internal amenity, allow sunlight penetration to open space and streets, and ensure tall buildings do not appear as a continuous wall when viewed from street level or the Yarra River. Greater separation is required between tower elements above the street wall height. Building separation requirements above the street wall height vary depending on building height.

Table 6: Minimum building separation within a site

Part of building	Qualification	Preferred separation	building	Minimum separation	building
Below the street wall		12 metres		6 metres	
Above the street wall	A new building up to 20 storeys in height	20 metres		10 metres	
	A new building over 20 storeys in height	20 metres		20 metres	

3.2 General urban structure

(i) Submissions and evidence

The Minister submitted that the built form and urban structure as exhibited in the controls expressed the built form outcomes and preferred character sought through the Vision and the draft Framework.

Port Phillip preferred a refinement of the building heights and in the main, a reduction in the overall heights to reflect its proposed urban structure. Much of this was driven by the avoidance of overshadowing on key civic spines and the South Melbourne Market area. Port Phillip relied on its Urban Structure Report to define the overall heights and submitted⁹:

The character area/neighbourhood breakdown that is currently proposed for Montague in the MSS [should] be modified to allow for more refined guidance to be provided about the built form outcomes and architectural typologies that are anticipated for Montague.

Both the Minister and Port Phillip supported the distinction between Montague North and South, and the lower built form edge along City Road (to Ferrars Street) and Boundary Road. Port Phillip preferred that subprecincts M2 and M4 be combined, and include the area to the south of Montague Street.

Port Phillip proposed that Buckhurst Street, which it regarded as the most important street in Montague, *“be reimagined as a “high street” anchored by community facilities, characterised with a very high landscape quality and a range of fine grain retail, convenience shopping, local services, cafes and restaurants”*. It supported mid-rise development in Montague South, higher rise in Montague North and lower heights at the edges of Montague South to assist its integration into the adjacent areas of South Melbourne and Port Melbourne. Further, Port Phillip sought the creation of a ‘high line’ style elevated park above the route 109 tram line.

Submitters preferred a higher built form, especially in the core area and in Montague North. Many, including Mr Sheppard, noted that the character of Montague has already emerged and is defined due to the extent of planning permits already issued that, if acted upon, would have a 30 to 40 storey high-rise typology. Mr Sheppard argued that *“the horse has already bolted”*, and the general urban structure should be based upon what he considered will be the emerging character of Montague.

Mr Tweedie in opening noted that in relation to the existing permits and current applications, these must form part of the context and structure of Fishermans Bend. He and other landholders noted the existing permits and their potential to influence built form should not be ignored. Mr Montebello challenged the notion that permits that have not been acted on can define an emerging character.

⁹ Port Phillip, DM3A, [10].

(ii) Discussion

The Review Panel considers that in the main, the general urban structure of Montague is reasonable and can be achieved. It has a variety of building heights and typologies that will provide for an interesting and diverse built form outcome. There is little doubt that Montague will provide the majority of higher built form in Fishermans Bend, but given its abuttal with Southbank and the CBD of Melbourne, it will provide for an appropriate transition to the lower built form of Sandridge and other adjacent areas.

The Review Panel considers that even if *"the horse has already bolted"* in Montague and some of the current permits are acted upon, and others approved, Montague will have a varied built form outcome, albeit somewhat taller than proposed by this draft Amendment. However, it does not mean that all building heights should revert back to those currently in place under Amendment GC50.

3.3 Proposed density

The proposed Floor Area Ratio (FAR) controls for the Montague core area are 6.1:1 with a minimum commercial FAR of 1.6:1. The Montague non-core FAR controls are proposed at 3.6:1.

For reasons outlined in the Overview Report, the Review Panel does not support the FARs, and recommends that they be replaced with a dwelling density control. Chapter 7.8 of the Overview Report explains the rationale for the Review Panel's recommended dwelling densities in each precinct. They are based on the FARs, translated to dwelling densities. The starting point for Montague is a dwelling density of 400 dwellings per hectare in the core area and 263 dwellings per hectares in the non-core (see Table 16 in Chapter 7.8(ii) of the Overview Report).

The Review Panel found that:

- the target population of 80,000 for Fishermans Bend is too low, given its status as a State significant urban renewal area and its potential to provide a greater contribution to help cater for Melbourne's growth
- planning for Fishermans Bend should proceed on the basis of a target population in the range of 80,000 to 120,000 by 2050
- all of the preferred typologies can deliver residential densities of at least 4:1
- there is scope to increase the densities without compromising the building typologies and preferred characters, with the possible exception of Lorimer, Montague core and Sandridge core (where the proposed densities are already higher than 4:1).

These findings are discussed in detail in Chapters 6 and 7 of the Overview Report.

This raises the question of by how much the densities for each precinct should be increased.

For Montague, the Review Panel considers that a dwelling density of 440 dwellings per hectare in the core area and 290 dwellings per hectare in the non-core is appropriate. This represents a modest 10 per cent increase in the densities proposed by the Minister in the Part C controls. This is because:

- Montague provides a natural transition from the built form of the Melbourne CBD and Southbank, and has a number of areas where a taller built form typology is encouraged due to few amenity impacts
- the successful renewal of Montague is not particularly dependent on public transport, as it is the only Precinct that is currently well served. It can therefore accommodate higher densities than some other Precincts (including a modest 10 per cent increase)
- a more substantial increase in density is not considered appropriate, because the densities in Montague are already relatively high, and if the live permit applications for Montague were approved and built, the dwelling targets for Montague would be significantly taken up (as demonstrated by the Minister's SIN 15¹⁰), although there is room for some further residential development.

The Review Panel therefore recommends that the dwelling density for Montague be set at 440 dwellings per hectare in the core area and 290 dwellings per hectares in the non-core.

3.4 Achieving a varied building typology

(i) Submissions and evidence

Port Phillip argued that Montague could be enhanced by having a precinct specific DDO (which the Review Panel has already agreed to in the Overview Report) that includes statements relating to the preferred built form outcome and architectural typologies for each neighbourhood within the Precinct¹¹ (DM3A, Figure 3). Further, Port Phillip strongly advocated for a 'tooth and gap' typology for the north side of Buckhurst Street. It said:

Consideration should be given to a different approach to the traditional street wall and tower setback approach for Buckhurst Street between Montague Street and Ferrars Street to create a diversity of heights at the street interface and maximises sunlight penetration.

Landowner submissions predominantly argued that the controls were overly prescriptive and contrary to performance based planning, and would act to stifle architectural expression, innovation and site responsive design. Submitters generally argued in favour of discretionary planning controls with a higher built form typology. There was some support for tower forms in Montague North and lower forms to the south, however landowners submitted that the proposed heights in the draft Amendment were too low.

Mr McGurn gave evidence that it is imperative that opportunities in Montague be maximised due to its proximity to the CBD and that the planning controls should assist to deliver optimal opportunity for delivering on Government outcomes, including playing a greater role in accommodating Melbourne's growth.

Port Phillip disagreed entirely with that proposition and argued it would be a 'lost' opportunity if the existing controls were allowed to continue.

¹⁰ D305, with corrections contained in D322.

¹¹ Montague submission (M3A), figure 3.

(ii) Discussion

The Review Panel generally supports the built form controls for Montague, and considers that they will deliver building typologies and diverse built form outcomes sought through the Vision and the draft Framework. Through its Overview Report, the Review Panel has made significant changes to the DDOs to better articulate the built form outcomes, preferred typologies and preferred character sought for each precinct. The Review Panel is confident that these changes will assist in delivering the varied building typology sought in Montague.

One of the features of Montague is its gritty urban built form, with bluestone lanes and heritage buildings. These should be celebrated as being key characteristics and defining features of Montague. New development should work to support this character to ensure and enhance a diverse and interesting built form outcome.

The Review Panel notes that the revised building typology (Map 1 in revised DDO, D307) shows some changes, which it supports.

3.5 Building heights

(i) Submissions and evidence

The Minister submitted that the varied building heights proposed for Montague were necessary to maintain a clear distinction between the higher built form in Montague North and the lower built form in Montague South, as well as the varied building typologies and preferred character envisaged for Montague through the Vision and the draft Framework.

Port Phillip argued for lower heights in the following areas:

- scaling down from 30 to 12 storeys on the south side of Gladstone Street, from Montague to Kerr Streets (to create a transition through to Montague Park)
- from 20 to 12 to 8 storeys on the north side of the Buckhurst Street spine (to prevent shadow along the open space spine)
- from 24 and unlimited to 12 to 20 storeys at 400 – 430 City Road (to prevent overshadowing of the adjacent South Melbourne area).

Many of the existing permits along Buckhurst Street allow 30 storeys. When asked by the Review Panel about the extent of change proposed by Port Phillip in relation to the Buckhurst Street spine, and whether this could be achieved given the existing permits, Mr Montebello responded that there would need to be good landholder collaboration. He noted that *“permits do not last forever”*. He argued this spine is the critical area of Montague South and it provides the opportunity to exploit the FAU to achieve greater heights in some areas, with lower built form in others (the ‘tooth and gap’ approach). He observed Port Phillip was putting its efforts into place making in this area, and was not seeking any substantial changes in Montague North in terms of height.

Building heights were the focus of many submissions in Montague. The majority of these submitted that heights should be as they currently stand under Amendment GC50, but expressed in discretionary terms. It was argued that changes in heights from the interim controls have not been justified and do not appear to be able to achieve projected population and job targets, creating a risk of underdevelopment. Many argued strongly that

existing permits should be recognised under provisional arrangements, and should influence the proposed heights in Montague.

(ii) Discussion

The Review Panel supports the revised building heights (Map 2 in revised DDO, D307) that indicate some changes, including:

- Increase in height in Area M6 along City Road up to Ferrars Street (from four storey mandatory to six storey mandatory). The six storey mandatory is appropriate given the role and function of City Road and the transition down from the eight storey M4 area.
- Increase in height on the extended corner of Thistlethwaite and Montague Streets (from 12 to 18 storeys) given its prominent position and landholdings and that it enables a range of outcomes, including laneways.

As the Review Panel supports the whole of the Montague North Park site to be set aside for public open space, it does not support any heights in this area. However, if this recommendation is not supported, then the revised the six storey height along the northern part of the proposed Montague North Park (no change) but 'none specified' in the top north west corner (previously 24 storeys) is supported.

Montague is the area that will develop early in the evolution of Fishermans Bend and will, together with the southern part of Lorimer, have the highest and most likely, densest built form (through the existing permits, any live applications approved and the revised planning controls). This may result in a dense urban area, but this will not be inappropriate given its context in relation to the Melbourne CBD, Southbank and to a lesser extent, Docklands. However, it should not maintain unlimited or 30 to 40 storey heights, nor should the more sensitive areas of Montague be compromised.

Modelling undertaken by Ms Hodyl and others demonstrates that the proposed heights are capable of accommodating the modest increase in densities in Montague recommended by the Review Panel, with some room left for social housing uplift. The heights provide for an appropriate transition from the CBD and Southbank to the lower density areas of South Melbourne and Port Melbourne, and the variation in heights across the Precinct will assist to deliver a well-considered variation in built form.

3.6 Street wall heights

(i) Submissions and evidence

Submissions relating to street wall heights generally expressed confusion about the drafting or requested a more contextual, site specific approach in determining the heights.

Through his evidence, Mr Sheppard supported the street wall heights at 11 Montague Street (Montague North Park) to be 8 storeys, a position that the Minister did not support.

(ii) Discussion

As the Review Panel is supporting the position of Port Phillip with regard to the Montague North Park area (see Chapter 4.3), the issue of the appropriate street wall height at 11 Montague Street is a moot point.

The Review Panel is satisfied that the street wall heights as proposed by the Minister in the Part C controls are appropriate.

In its Overview Report, the Review Panel has undertaken a significant review of how the street wall heights are expressed. This is reflected in the Review Panel's preferred version of the Montague DDO, contained in Appendix B.5 of Volume 2 of Report No. 1.

3.7 Designation of a core retail area and active frontages

(i) Submissions and evidence

Port Phillip submitted that the core area is too large to create vibrant activity centres in Montague, and it should be confined to the block contained within Gladstone, Kerr, Ferrars and Thistlethwaite Streets, with Montague and Buckhurst Streets as 'main' streets. Port Phillip supported the application of a DPO over this area to ensure key anchor uses can be properly master planned.

Port Phillip sought several changes to the designation of active frontages in Montague, the key ones including:

- Normanby Road and Montague Street change from 'primary' to 'secondary' due to the overall width of the roads and the amount of traffic carried
- deletion of the 'secondary' designation along the northern edge of Montague North Park
- Deletion of the 'secondary' designation along Johnson Street.

In his response, the Minister noted that the extent of the active frontages was being considered in light of the findings of the retail assessment. The Minister provided a revised DDO for Montague the Minister (D307) which showed no change to Normanby Road, but what appears to be a change from 'primary' to 'secondary' along Montague Street. Further, it appeared to delete the designation along Johnson Street.

(ii) Discussion

The Review Panel has already commented on the use of a DPO to assist in master planning of key sites and areas on an opt in basis. Once the Montague Precinct Plan is prepared and the extent of the core retail activity area is resolved, this might result in the opportunity to apply a DPO. Further, the appropriate designation of a core retail area could then be designated on the Precinct Plan.

The Review Panel agrees with Port Phillip that finding and identifying an appropriate site for a full sized supermarket and supporting retail will be critical in the first instance as part of the precinct planning process, particularly given the fragmented nature of the landholdings in Montague South.

The Review Panel supports the distinction between primary and secondary active frontages. While it does not agree that the identification of primary and secondary active frontages should be deferred until the precinct planning process, it considers that the extent of primary and secondary active frontages can be further considered in the Precinct Plans and adjusted accordingly if required.

For these reasons, it accepts the designations as shown in the revised DDO for Montague, with the exception of the secondary active frontage designation along Johnson Street, which it considers to be superfluous to its role and function. Given that the Review Panel supports the designation of the whole of the northern area for Montague North Park, it considers the secondary active frontage along its northern edge is not warranted and the Review Panel supports its removal.

3.8 Findings

The Review Panel finds:

- The built form of Montague will comprise diverse outcomes in the form of high rise, hybrid and mid-rise typologies. The Review Panel supports Port Phillip's proposed 'tooth and gap' approach along the northern side of Buckhurst Street between Montague and Ferrars Streets.
- Montague lends itself to taller buildings in the inner core and to its north and north east.
- The key spines of Montague and Buckhurst Streets and the further spines of City and Normandy Roads, while being major transit corridors, have the potential to be significant civic spines that provide good connectivity between various uses.
- The gritty urban built form of areas within Montague South should be celebrated as defining features to enhance its overall urban context.
- The discretionary and mandatory building heights for Montague are supported as shown in the revised Map 3 to the Montague Design and Development Overlay.
- The deletion of the secondary access designations for Johnson and the northern part of Montague Street is supported.

4 Location of open space

4.1 Context

The draft Framework provides for a number of sites for 'Future open space'. These include larger regional open space and a number of linear or connected spines. The key spaces include:

- Montague Park (under construction)
- Montague North Park
- Buckhurst Linear Park
- other smaller spaces located throughout the Precinct.

4.2 Submissions and evidence

Port Phillip made a number of submissions about the location of open space in Montague.

In relation to Montague North Park, Port Phillip submitted that:

The Montague North Park is proposed on existing Crown land, part of which is proposed to be sold for private development. Council submits that the whole of that Crown land should be retained in public ownership and used for the purposes of a park and a Sport and Recreation Hub.¹²

Port Phillip noted that the site is approximately 20,000 square metres, of which 11,000 square metres is proposed for open space, and 9,000 for development purposes.

The Minister did not support this position and noted that the land could provide a significant housing opportunity that would assist in meeting affordable housing objectives.

For the other public open spaces, Port Phillip submitted that it generally supported the proposals provided in the draft Framework and the changes sought by Ms Thompson. Notwithstanding, Port Phillip considered the space proposed for 87 Gladstone Street should be relocated to 34-47 Thistlethwaite Street, opposite a designated space north of the street. The Minister agreed to the deletion of the open space at 87 Gladstone Street, but not the addition of the Port Phillip preferred parcel at 34-47 Thistlethwaite Street. (The Review Panel notes the overshadowing controls that previously applied to 87 Gladstone Street have been amended).

Both the Minister and Port Phillip endorsed the recommendations of Ms Thompson for location of a new space at 101-109 Thistlethwaite Street.

Part of Johnson Street is proposed to be closed with a 12 metre width to be used as linear open space.

There is proposed to be a small increase of 1,333 square metres in public open space as a result of Ms Thompsons recommendations, going from 63,627 to 64, 960 square metres.

¹² Montague submission for CoPP (M3a), [12].

Other submissions on open space were generally focused on the unclear justifications for the sites proposed. Many submissions requested clarity on how this open space would be acquired and delivered. These issues are dealt with in the Overview Report.

Wadhawan Holdings Pty Ltd owns the land in the triangle of Railway Parade, City Road and Cecil Street. There is unlimited height to the north of that site and 24 storeys along City Road. One of the issues raised in submission by Ms Collingwood was that the area allocated for public open space (1,835 square metres) is unnecessary, in that it is a poor location for open space. She submitted that, if it is to be provided, it should be in a different location to that shown on the draft Framework.

4.3 Discussion

The Review Panel is generally satisfied with the overall allocation and location of public open space in Montague. Recognising that Montague will be the most densely populated part of Fishermans Bend, there is a good mix of large parks and spaces, with smaller parks and two linear green spines.

Montague North Park

The Review Panel considers that the opportunity to provide a larger area of public open space, encompassing the whole of the Montague North Park site, is a good idea. It is land that is publicly owned (currently used for an open lot car park) and unencumbered by development interests. It can be progressed at an early stage in the life of Fishermans Bend without any amenity impact or significant cost, and is large enough to support the Sport and Recreation Hub identified for Montague North.

The Review Panel considers development of the land in this way will provide a green break between the dense development and intrusive built form of the West Gate Freeway and Southbank, and will allow for a gentler entrance into Fishermans Bend from Montague Street. Further, it could be designed to enhance pedestrian and cycle connectivity to the City. The Review Panel questioned Port Phillip on whether the area of 9,000 square metres, if removed as development potential, could be substituted elsewhere, a position which Mr Montebello advised, Port Phillip did not support.

The Review Panel does not consider the remaining development parcel is a good location for housing given its immediate proximity hard up against the West Gate Freeway.

The Review Panel considers that the whole of the Montague North site should be used for public open space purposes. Montague has the lowest amount of open space per resident and worker (see Chapter 9.2 on the Overview Report), and increasing the amount of public open space by expanding Montague North Park will be a good outcome. It agrees with Port Phillip that the expanded park:

- would assist to ameliorate the impacts of the West Gate Freeway
- would create a major civic spine as an entry to Fishermans Bend from Docklands and Southbank
- frees up land for the location of a major Sport and Recreation hub, which will create excellent synergies.

Wadhawan Holdings site (400 – 430 City Road)

After further inspecting the Wadhawan site and its surrounds, the Review Panel agrees with the submission of Ms Collingwood. It does not meet the tests of accessibility and usability proposed by Ms Thompson, as it will not be easy to access and use by others external to that site. It therefore considers that public open space at this location is not appropriate.

This is not to say that the site should not provide open space. The Review Panel considers the site is large enough to ensure a superior built form outcome that uses the site well, makes the most of its island nature and provides a large area, equivalent to that designated for public open space, to provide walkways, links and communal open spaces, all of which can be publicly accessible to others accessing the tram stop next to the school in Railway Place, as well as passing through to the school and other community facilities, and the Buckhurst Street spine.

Other open spaces

The Review Panel supports the revised open spaces as shown in Figure (vi) of M1A (refer to Figure 3), except for the Montague North site and the specific location for the 400 – 430 City Road site.

The Review Panel observes that if the whole of Montague North is to be designated as public open space, it will add 9,000 square metres to that total of 64,960 as calculated by Ms Thompson. The Review Panel considers that this is appropriate, given the low provision rate of open space in Montague. It will also offset some of the proposed increase in dwelling density for Montague.

4.4 Findings and recommendations

The Review Panel finds:

- The allocation of the public open spaces as shown in DM1a in Montague is generally sound. Open spaces are well spaced and located.
- There is merit in the Port Phillip position of providing the major area of public open space in the triangle of the West Gate Freeway, Montague Street and Munro Street, by expanding the proposed open space to the freeway, supported by a Precinct wide Sport and Recreation Hub.
- The central spine of open space along the tram line between Woodgate and Gladstone Streets is supported.
- The location of Montague Park (diagonally opposite the school) and its extension to the north of the tram line is supported.
- The designation of open space on the Wadhawan Holdings site at 400 – 430 City Road should be retained, but a note added to show that it is communal open space to be accessible to the public, and in an indicative location only, subject to site design. It should not be counted as being public open space, but it should provide a link from City Road though to the tram stop.
- Any future update of the draft Framework should make the public open space changes accordingly.

The Review Panel recommends:

- 1. Amend Map 2 to the Montague Design and Development Overlay to show the whole of the Montague North site as public open space.**
- 2. Amend Map 2 to the Montague Design and Development Overlay to show the open space designation on the site at 400 – 430 City Road as 'communal open space – location indicative, subject to site design'.**

5 Location of hubs

5.1 Context

The draft Framework provides for three ‘Investigation areas – Montague Arts and Cultural Hub’ centred around Montague, Buckhurst and Gladstone Streets.

A further ‘Investigation area - Sports and Recreation Hub’ is centred north-west of Normanby Road to the West Gate Freeway and Johnson Street. Part of this Hub includes the Montague North Park.

The Ferrars Street Education and Community Hub is now operational to the extent that the primary school was opened early 2018. The location of the Investigation Area for this Hub is therefore appropriate, and the Review Panel finds there is no reason to further discuss this hub investigation area.

The key issues to be addressed are the locations of the:

- Arts and Cultural Hub
- Sports and Recreation Hub.

5.2 Submissions and evidence

Arts and Cultural Hub

Port Phillip submitted that:

*The existing Continuing Education School (a heritage building) on the north-west corner of Montague Street and Buckhurst Street should be specifically shown as a proposed Art and Cultural Hub. The Hub should be co-located with the existing school, or located on the site as a stand-alone facility if the school relocates.*¹³

Mr Montebello argued that the site did not need to be shown as an investigation area as the State already owns it.

In closing for Montague, the Minister noted he wished “... to preserve the opportunity for the arts and community hub to be provided within the investigation area as part of the FAU scheme”. The situation regarding the FAU scheme and the potential for FAU and what it might include has changed since this closing statement.

Sports and Recreation Hub

While seeking to nominate the whole of the Montague North Park site for public open space, Port Phillip further sought to amend the building heights of 24 and 6 storeys from the northern edge in the DDO. Port Phillip sought a maximum 6 storey height to allow a recreation building that did not overshadow the public open space component.

¹³ Montague submission (DM3A), para 14.

5.3 Discussion

Arts and Cultural Hub

The Review Panel considers that where existing infrastructure can be used to provide community facilities, it should be pursued in the first instance to determine whether it is feasible and practical. Issues to be taken into account (include but are not limited to) include the land ownership (public or private), current uses on the site, opportunities for bringing forward its ultimate use, synergies with other uses and cost of acquisition.

The Montague Continuing Education School site is well located within the Precinct and is currently used for public purposes. It abuts a proposed area of open space linking Gladstone and Buckhurst Streets. Port Phillip submitted it is an ideal site for a community hub and the Review Panel agrees.

Sports and Recreation Hub

The Minister supported Port Phillip's proposal in part, in that the overall height should be reduced from 24 to 12 storeys to prevent overshadowing. While not accepting that 6 storeys is warranted, the Minister agreed to the designation of the land as a potential community hub or for it to be used as affordable housing. He did not agree to expand the totality of the open space over the whole site and noted he wishes to:

... preserve the opportunity to deliver social housing or other community infrastructure on this parcel of Government owned land in addition to open space.¹⁴

There was no dispute amongst submitters that Montague North Park should be located as designated in the draft Framework. The key issues to be resolved is the extent of that Park and whether it should be co-located with the Sports and Recreation Hub, as proposed by Port Phillip. The Review Panel agrees with Port Phillip that it should.

The site is large enough to be a well-planned precinct with considerable opportunity to be the precinct wide large open space, complemented by a 'high ball' recreation and sports activity area to serve Montague. It does not impose any amenity constraints as it abuts the West Gate Freeway and Montague Street. It has the significant advantage that it is located wholly on Government owned land and that it can be development ready as the population increases in Montague. It will complement the developing Montague Park south of the tram line and will ensure the opportunity for significant open space and recreation facilities. In short it makes use of an area that can take advantage of a large space encumbered by its abuttal against a freeway. The Review Panel is less enamoured to support the site for social or affordable housing abutting a freeway.

¹⁴ Minister closing submission, DM41, para 9.4.

5.4 Findings

The Review Panel finds:

- There is merit in the Arts and Cultural Hub being located on the site of the existing school at Montague Street as per Council's proposed urban structure, however no change to the draft Amendment or draft Framework is required.
- The Review Panel supports Port Phillip's proposal to provide for the Sport and Recreation Hub in the Montague North open space area.

6 Overshadowing

6.1 Context

Two specific issues were raised regarding overshadowing. The first relates to the potential for taller building forms to overshadow Buckhurst Street and the second for the proposed buildings on the corner of City Road and Cecil Street to overshadow areas to the south, including the South Melbourne Market. These areas are protected from overshadowing by DDO8 to the Port Phillip Planning Scheme.

6.2 Submissions and evidence

Buckhurst Street

Port Phillip submitted that in the Montague retail core, *“Consideration be given to a different approach to the traditional street wall and tower setback approach for Buckhurst Street between Montague Street and Ferrars Street to create a diversity of heights at the street interface and maximise sunlight penetration.”* It argued that the heights should be lowered from 20 to 12 storeys on the north side of Buckhurst Street and to apply the ‘tooth and gap’ building typology. Figure 4 shows the tooth and gap typology and preferred heights sought by Port Phillip.

Figure 4: Tooth and gap typology, with preferred heights

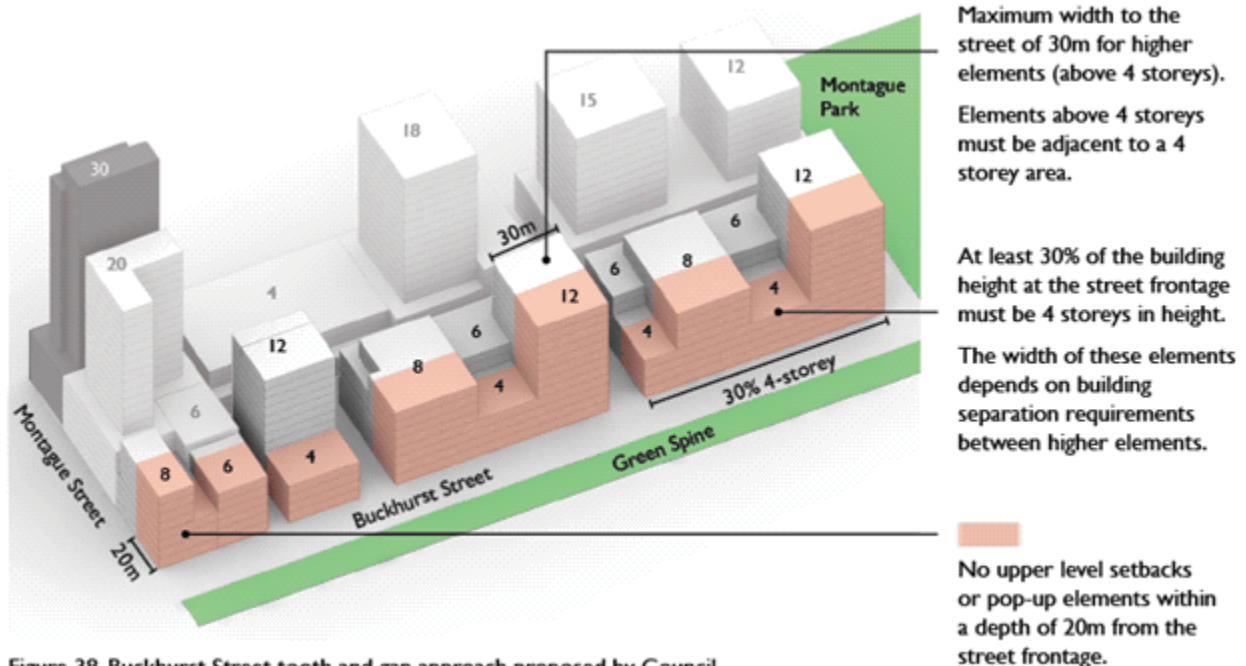


Figure 38. Buckhurst Street tooth and gap approach proposed by Council

Source Port Phillip submission: DM3a

Port Phillip noted that the key outcomes of the 'tooth and gap' approach include:

- *Variations in height allowing daylight and sunlight into the centre of the block*
- *Individual buildings providing opportunities for greater variation in volume, appearance and material; and*
- *Opportunities for small; setbacks to provide pocket parks along the street and or a variety of communal open spaces.*

The Minister did not support these recommendations, particularly in the context of the heights proposed. Neither did the landholders.

Design and Development Overlay 8

Port Phillip submitted that building heights at 400 – 430 City Road “... *have the potential to cast shadow over areas that are currently protected from overshadowing by mandatory overshadowing controls in the adjoining part of South Melbourne contained within DDO8*”.

It sought to amend the overshadowing requirements in DDO30 to include overshadowing controls for the entire width of the southern footpath on property frontages on York and Market Streets South Melbourne to prevent overshadowing on and around the South Melbourne Market between 11am and 2pm on 21 June. Mr Montebello noted it would be a “*curious outcome*” should this not be rectified.

Further, Port Phillip sought to reduce the building heights in the area bound by City Road, Whiteman and Cecil Streets from 24 to 12-15, and 20 storeys.

The Minister supported this in part and proposed a decision guidelines to ‘minimise’ overshadowing to the Market. However the Minister did not accept the reduction in building heights.

Wadhawan argued strongly against this. It noted that the land is large (1.2 hectares), it is an island site with strong physical barriers, it is well located to access public transport and it is “*Ripe for substantial redevelopment that optimises the amenity benefits of its co-location with the CBD and South Melbourne central*”. Ms Collingwood noted that the site has long been identified for intensive development and through a Priority Development Panel process in 2009, Amendment C83 to the Port Phillip Planning Scheme was gazetted in April 2010 which introduced an Incorporated Plan to facilitate development of the site. A planning permit was granted for a mixed use scheme comprising four towers ranging between 96 and 135 metres for apartments, a hotel, serviced apartments and retail uses.

Ms Collingwood advised that when the former Minister rezoned Fishermans Bend to CCZ, her client’s site was included in that area, even though the land had previously been considered as being part of Southbank. Importantly, DDO8, which applied to the site, was removed. Port Phillip advised that it did not support removal of the overlay.

6.3 Discussion

Buckhurst Street

The Review Panel observes that the decrease in height along Buckhurst Street proposed by Port Phillip is a major departure from what currently exists and what is proposed by the

draft Amendment, reducing from 30 storey (GC50), 20 storeys (GC81) to 12 (Port Phillip). Additionally, there is currently a live permit approval for four buildings, each at 30 storeys at 6 to 78 Buckhurst Street (Little Lane, S63). This site commences at Kerr Street and takes up half a block. Further along, there is another granted permit, also of 30 storeys at 134 to 150 Buckhurst Street.

The Review Panel notes the Minister did not support the proposed reduced heights, although no reasons were provided for this opinion (DM41).

The Review Panel acknowledges the dilemma that this provides. Port Phillip urged the Review Panel to think about the ultimate Vision it proposed for this part of Fishermans Bend and to not be persuaded by the Minister or the submitters. It saw its proposal as an opportunity to provide for an urban built form that would be a legacy of good planning for an urban renewal area. On balance, the Review Panel supports the exhibited heights.

Design and Development Overlay 8

Again, the Review Panel understands the position of Port Phillip but considers that this site has long been designated for a taller built form. It is a site unencumbered by adjacent amenity impacts and the Review Panel agrees with Ms Collingwood, that when viewing it, the site is more aligned to Southbank than Fishermans Bend. The adjacent tram line is an appropriate built form buffer to the areas further south.

The Review Panel supports the position of Wadhawan Holdings in this regard and considers the heights should remain as exhibited, but any final plans for its ultimate development should ensure that there is no overshadowing of the South Melbourne market or its (immediate) adjacent footpath. This specific provision has been included in the DDO for Montague.

6.4 Findings

The Review Panel finds:

- It supports the 'tooth and gap' typology for the north side of Buckhurst Street, but not the reduced heights sought by Council. This typology has been included in the revised Montague Design and Development Overlay at Clause 1.0, Table 1 and Table 3.
- It supports the exhibited heights for the Wadhawan site at 400 – 430 City Road, but considers that any future development be designed to ensure that it does not overshadow the footpaths at the South Melbourne Market. This provision has been included in the revised Montague Design and Development Overlay at Clauses 2.5 and 2.8.

7 Roads and transport infrastructure

Montague Precinct is envisaged to be a diverse and well-connected mixed use precinct complemented by a network of “gritty streets and laneways”.

The area is currently well served by public transport with the No. 109 tram route bisecting precinct and the No. 96 tram route located towards the eastern edge, bus services operate along City Road and at the northern end of Normanby Road and Montague Street.

Due to the generally smaller block sizes and existing road network, there is only one proposed road (to connect Woodgate Street (south side of South Melbourne Toyota to Normanby Road)) and series of new laneways, some which provide ‘missing links’ by connecting disjointed laneways to enhance permeability.

Mr Kiriakidis, Mr Fooks, Ms Dunstan and Mr Walsh provided a high level review of Fishermans Bend transport network. Ms Dunstan and Mr Walsh then provided site specific expert traffic evidence for developers and land owners.

The majority of roads and transport infrastructure issues centred around laneway locations and their attributes. Laneway attributes, such as location, alignment and function are discussed in the Overview Report, however it is appropriate to briefly discuss site specific issues raised in the Montague Precinct.

The key issues to be addressed are:

- Normanby Road’s ‘no crossover’ status
- laneways.

Other issues raised which are discussed in the Overview Report are:

- parking, land acquisition and compensation mechanisms
- proposed laneways and their attributes (i.e. width, function).

7.1 187 – 197 Normanby Road ‘no crossovers’ status

Normanby Road is in the Montague core area with primary active frontages and as such, no crossovers are proposed to apply to this road.

(i) Submissions and evidence

Mr Tweedie made submissions (DM8) on behalf of Lie Property Group which own 187 – 197 Normanby Road, Southbank – Lie Property Pty Ltd (currently Total Tools South Melbourne) which sits between Normanby Road and Woodgate Street. In particular he argued “*it is unreasonable for no crossovers to occur on Normanby Road given the large street frontage and difficulty in solely relying on Woodgate Street considering the existing conditions and likely time required to evolve into a roadway suitable for access*”.

The Minister did not specifically respond to this issue.

Port Phillip referred to its Montague Urban Design Report that showed Normanby Road in the core area with its support for the ‘no crossovers’ status for this road.

(ii) Discussion

The draft Framework and maps identify Normanby Road as a core area and consequently crossovers are discouraged unless there are no other alternatives. Lie Property Group argued that vehicle access should remain on Normanby Road as Woodgate Street access is more difficult, in particular until road widening and connection to Normanby Road occurs.

This site highlights the tension which occurs when developing sites within an area which is transforming. The Review Panel accepts the principles for Normanby Road to be 'no crossovers' status are appropriate and as such, this site should provide vehicle access from Woodgate Street. Site inspections confirm that access at the south east corner of the site would be feasible but modifications to existing parking and other works may be required in the short term. Further investigations to determine vehicle access arrangements can be undertaken as part of a planning permit application or during the precinct planning phase.

(iii) Findings

The Review Panel finds:

- 187 - 197 Normanby Road should utilise Woodgate Street for vehicle access. Further site access investigations can be undertaken as part of a planning permit application.

7.2 Laneways

(i) Submissions and evidence

The Minister's opening submission for Montague (DM2) identified the fine grade laneways and through block links are to provide permeability and connectivity. New laneways are proposed to:

- complete 'missing links' between primary and secondary streets
- provide rear/side lane access to buildings
- facilitate connection to the tram and neighbourhood precincts.

Port Phillip referred to its Montague Urban Design Report and suggested additional laneways, modifications to the location and width of a number of other laneways.

The Minister accepted that further work is required, including using GIS software to provide accurate information to be incorporated into the maps. He contended that the precise location of laneways, width, function and character should continue to be shown as 'indicative' but would be finalised as part of the Precinct plan phase.

6 - 78 Buckhurst Street, South Melbourne – Little Lane Early Learning Pty Ltd

The endorsed masterplan (DM19) for 6 - 78 Buckhurst Street, South Melbourne – Little Lane Early Learning Pty Ltd consists of a four tower-podium development. The draft Amendment's requirement for vehicular access from a central laneway onto Buckhurst Street is reasonable, however the rear laneway is not required (and was originally not required with the approved plans).

400 – 430 City Road, Southbank - Wadhawan Holdings Pty Ltd

Mr Walsh submitted traffic evidence on behalf of Wadhawan Holdings Pty Ltd regarding the draft Amendment's impact on 400 – 430 City Road, Southbank. It is an island site bounded by City Road (arterial road, 'no crossovers', nominated with future on-road bicycle lanes), Cecil Street (strategic cycling corridor) and Whiteman Street.

Mr Walsh's evidence was that the proposed indicative laneway bisecting the site between City Road and Whiteman Street provides relatively limited benefit to site access considering current spacing of the surrounding road network. The laneway does not benefit access to the light rail stop on Railway Place (next to the school) as the access ramp commences near Whiteman Street/City Road intersection.

From a traffic engineering perspective, Mr Walsh was of the view that this site is isolated from the larger precinct and should be considered separately.

In response, the Minister noted that the laneway can be resolved as part of the precinct plan phase though it is considered that this laneway would provide convenient access to the proposed open space for residents on the east side of Cecil Street.

(ii) Discussion

The principal issue in the Montague Precinct centred around the additional laneways and their attributes or whether particular laneways were needed.

The Montague Precinct is challenging in relation to providing laneways due the smaller sites, and the range and location of the existing laneway network.

As discussed in the Overview report, the Review Panel recommends that laneways should be shown if they are essential for vehicle access, such as land locked sites or where a road is classified as 'no crossovers' and all other laneways should be resolved during the precinct planning phase.

The Review Panel's assessment of the Montague CCZ Map 1 suggests a number of properties toward the southern end of the precinct would require laneways, essential for traffic access, to support the 'no crossover' status of City Road and Buckhurst Street. These are highlighted on Figure 4.

Figure 4 Essential laneways for traffic access and typical restricted access sites



During the course of the Hearing, the Minister agreed to show laneways in the Maps to the DDO as 'indicative'. The Review Panel supports that position and believes that optimal outcomes, and potentially superior solutions can be realised where flexibility is provided to designers and architects. In the Overview Report, the Review Panel found that non-essential laneways should not be shown on the maps until precinct planning was undertaken. Accordingly, only the two laneways indicated on Figure 4 above should be shown on the maps at this stage.

As such, the laneway issues associated with 6 – 78 Buckhurst Street and 400 – 430 City Road should be resolved during the Precinct plan phase where a finer level of detail will be available.

Figure 5 of the Port Phillip submission shows the existing laneway widths in Montague. The Review Panel considers these contribute considerably to the fine grained character of Montague and as many should be retained as possible in the future planning of Montague. Noting that some of the smaller laneways will need to be widened to fulfil a vehicular access function, retention of these and/or building upon the laneway structure already evident, should be taken into account going forward. The Review Panel agrees with Port Phillip that where there is a more diverse laneway network, a more diverse and modular outcome can be achieved that provides good breaks, and creates pedestrian and vehicular access and permeability.

Further, Port Phillip noted that in the case of George Street, "... an emerging character of laneway activation has already started to occur. Council considers there is an opportunity to make these laneways the key feature of Montague South", a position with which the Review Panel agrees, particularly to ensure they do not evolve into access streets.

(iii) Findings

The Review Panel finds:

- Only the two laneways indicated on Figure 4 above should be included on the maps. The final location of laneways will be resolved and clarified during the Precinct plan and/or permit application stage.

7.3 Other traffic issues

Ms Dunstan submitted traffic evidence on behalf of Samma Group and Spec Property Development Pty Ltd (S202) regarding the draft Amendment's impact on 272 – 280 Normanby Road, South Melbourne.

The application was for a mixed use development with 5 levels of car parking (one basement level and four podium levels) and vehicle access from Munro Street (generally in the same position as the existing vehicle crossing).

She noted that the proposed road closure of Johnson Street should be clarified as Map 2 shows the road closure finishing short of Munro Street, while the draft Framework shows the road closure finishing in line with Munro Street. The Review Panel notes that the maps have now been updated and show the road closure consistently in line with Munro Street.

Much of Ms Dunstan's evidence explored car parking rates and requirements, adaptable car parking areas and these issues are discussed in the Overview report.

8 Site specific issues

This chapter highlights the key issues raised in the submissions for Montague. The Review Panel's findings in relation to these issues are dealt with the previous Chapters, and in the Overview Report.

8.1 Bay Street (S9)

This submission raised concerns about traffic congestion, safety and local traffic for proposed cycle paths and the impacts of flooding on Montague Street.

8.2 70 – 104 Gladstone Street (S17)

Elmarn Pty Ltd was represented by Mr Kalder who contended that the exhibited core FAR of 6.1 would be more appropriate for their site as he considered that the site could support higher density. He argued that the site's location between two core activity areas justifies a higher FAR and that any greater development would not adversely impact Montague's population density. Mr Kalder further argued that a discretionary height limit of eight storeys is inconsistent with the emerging character of Montague.

Mr Kalder submitted that the park identified for 87 Gladstone Street is compromised due to the existing strata-subdivision layout of the site and the redevelopment of the site for public open space would be an ineffective use of public money.

This site has now been included in the core area of Montague.

8.3 144 Ferrars Street (S57)

This submission argued that there is insufficient justification for the land at 144 Ferrars Street to be subject to heritage protection. The submission opposed the use of mandatory controls and contended that existing permits and current applications be considered under transitional provisions.

8.4 6 – 78 Buckhurst Street (S63)

Mr Pearce of Human Habitats spoke to this submission for Little Lane Child Care, which opposed the draft Framework and planning controls. Mr Pearce noted that the limitations the draft Amendment would impose on development in locations such as Montague *"would not serve the community well"*.

Specifically he argued that a FAR of 6.1:1 is too low for this site, noting that it already had a planning permit granted for four 30 storey mixed use development towers in late 2017. It was contended that the proposed 20 storey limit was inconsistent with surrounding existing and approved built form. Mr Pearce contended that setbacks and building separation should not be subject to mandatory controls, instead preferring that a performance based approach be considered.

Mr Pearce argued that heritage controls were not appropriate for this site, given a permit has been issued for the demolition of the existing building at 6 Buckhurst Street. Finally, Mr

Pearce maintained that existing planning permits should be subject to transitional provisions.

The Review Panel observes this is a significant site that will be critically important in defining how Buckhurst Street and the Montague South core will develop.

8.5 36 – 44 Gladstone Street (S67)

CBQ Corp was represented by Mr Riordan, who submitted that the FAR for their site is too low and that it does not align with the built form and character sought for Montague. It recognised that while narrow, their site was capable of being developed into a mid-rise, eight storey building.

The submission contended the FAU mechanism should be revisited and that the draft Amendment lacked detail around the amount of FAU permissible and transparency in the cost associated with calculating FAU. The submission recommended a similar transparent process such as that of *Clause 22.03 - Floor Area Uplift and Delivery of Public Benefits* of the Melbourne Planning Scheme.

Mr Riordan argued that the building heights and setback requirements should be expressed in discretionary terms to provide flexibility to landowners. Mr Riordan sought that the Parking Overlay be reconsidered to provide a minimum of one parking space for three bedroom dwellings.

8.6 43 - 49, 51 – 65 Buckhurst Street et al (S83)

Whilst the public transport and open space initiatives were supported, the proposed mandatory built form controls, including setbacks and FAUs were opposed as they were considered unfeasible in Montague.

The submission contrasted the proposed controls with existing development in Cremorne, North and West Melbourne and Preston, arguing that these areas have a greater density than that proposed in Montague.

The submission argued that the proposed FAUs in Montague were inappropriate due to the small size of the lots. It contended that Montague should not be included within the Fishermans Bend renewal precinct as it is more akin to South Melbourne.

Issues of land contamination were raised and it was contended that this be addressed on a Precinct wide basis, as opposed to site by site. Mitigation responses to flooding were discussed and it was contended that raised floor levels are inappropriate as they could be used for café and retail uses. Left undeveloped, they are visually unappealing.

8.7 187 – 197 Normanby Road (S87) and others

Mr Tweedie spoke to:

- 187 – 197 Normanby Road (S87 - Lie Property) Pty Ltd
- 228 – 238 Normanby Road (S120 - Perpetual Normanby Pty Ltd)
- 235-243 Normanby Road (S207 - Normanby Road Developments Pty Ltd)

He relied on the evidence from Mr Sheppard, Mr McGurn and Ms Dunstan. The site specific submissions made by Mr Tweedie supplemented his clients primary submission made on behalf of various clients across all Precincts.

Lie Property has land at 187-197 Normanby Road and has submitted a planning permit application for a 40 storey podium tower that has been called in by the Minister.

Normanby Road Developments has a current planning permit application for a 40 storey complex at 235-239 and 241-243 Normanby Road, and the site is now subject to a proposed 20 storey discretionary height.

Perpetual Normanby has an existing planning permit for two mixed use towers at 39 and 49 storeys at 228-238 Normanby Road.

Mr Tweedie's submissions raised general concerns as well as site specific concerns for each of his clients. The general concerns related to building heights and FAR, mandatory requirements, proposed laneways, parking rates, population targets, transitional provisions, drafting errors in the planning controls. These matters have been considered in the Overview report

Mr Tweedie submitted that higher heights are warranted in Montague for his clients sites due to proximity to the CBD and tram routes, the emerging character of the area, lack of sensitive abuttals, few impacts on heritage, flooding or environmental issues.

The Review Panel has dealt with many of the issues raised by Mr Tweedie in its Overview report. In this Montague report, the Review Panel has noted that it generally supports the heights as exhibited coupled with a dwelling density control. The Review Panel makes the observation that the built form for Montague will be of taller building elements, especially in Montague North. It further observes that this built form character will no doubt be punctuated with even taller built form elements should existing permits be realised, and some current applications being granted, as is the case with the recent approval of 199-201 Normanby Road.

8.8 2 – 28 Montague Street and 80 Munro Street (S90) and others

Mr Wren spoke to:

- 2 – 28 Montague Street and 80 Munro Street (S90 – Gurner)
- 30 – 38 Thistlethwaite Street (S91 – E133 Property Development Pty Ltd)
- 91 – 93 Montague Street (S94 – Thousand Degree Pty Ltd)
- 203 – 205 Normanby Road (S95 – Lutkas Pty Ltd)
- 248 – 254, 256 – 262, 264 – 270 Normanby Road (S96 – Gladyslake Pty Ltd, Ausun Property CBD Pty Ltd, DW Keira Pty Ltd)
- 123 Montague Street (S173 – EPC Pacific Pty Ltd)
- 166 and 134-150 Buckhurst Street (S131 – the Jane Property Group).

Mr Wren supplemented his primary submissions and relied on the evidence of Mr Sheppard. He contended that the population and employment targets lack sufficient justification and questioned the scope of review of the Review Panel. In considering the longer term viability of the redevelopment of Montague, Mr Wren questioned the ability for the additional targeted commercial land use to be realistically delivered, marketed and tenanted.

In relation to built form controls, Mr Wren submitted that the proposed FAR is low, meaning that in many cases the FAU mechanism will need to be utilised to ensure the development is viable. Mr Wren argued that the controls should not be expressed as mandatory in order to allow for architectural expression and site responsive design. He considered that the Parking Overlay provisions required reconsideration for both office and dwelling.

In discussing the FAU, Mr Wren held that the ability to achieve the FAU is limited to specific terms and does not clearly establish a nexus or need method, with limited transparency to the securing of the benefit. Mr Wren argued that the lack of transitional provisions would have a significant impact on existing planning permit applications and threatened the confidence of investment within Fishermans Bend.

Mr Wren relied on his opening submissions (D263), as well as D48 which was a book of plans provided at the second site inspection that detailed his clients sites within Montague and other precincts. Further, he submitted DM11 and DM12, which included an addenda from Mr Sheppard.

Mr Wren raised concern with the nomination of the Montague Arts and Cultural Hub on land at 134-150 Buckhurst Street. Additionally, it was argued that the application of the DPO, combined with the other planning provisions would result in an overly prescriptive approach.

As with the clients of Mr Tweedie in Chapter 8.7, these matters have been dealt with in the Overview report.

Most specifically, the Review Panel agrees with the recommendation that 123 Montague Street be increased in height to 18 storeys.

8.9 171 – 183 Ferrars Street (S93)

One Eight One Pty Ltd argued through its written submission that the shift from 18 storey to 8 storey heights is unjustified and will not enable population targets to be met. Further it noted there is a lack of government commitment to delivering public transport proposals. Transitional provisions that protect existing permits and application should be introduced.

8.10 156 – 162 Thistlethwaite Street (S115)

Thistlethwaite Street Pty Ltd was represented by Ms Collingwood and submitted that the application for the standard Clause 52.06 requirements should be maintained and the Parking Overlay be reconsidered. The submission supported the evidence of Mr Barnes and concerns expressed by Ms Dunstan and Mr Walsh in relation to the application of a 0.5 car parking rate per dwelling, prior to the provision of public transport.

8.11 176 – 188 Gladstone Street (S123)

Carri Nominees Pty Ltd were represented by Ms Collingwood and its principle issue was that the eight storey height limit is unjustified and should be revised to 12 storeys.

It was submitted that proposed non-core FAR of 3.6:1 in this part of Montague created a mismatch with the proposed height limit, generating a maximum building height substantially lower than the discretionary building height of eight storeys.

The Review Panel accepts that the site should be in the core of Montague but it does not accept that the height should be increased from 8 to 12 storeys.

8.12 245 – 251 Normanby Road (S135), 202-214 Normanby Road (S137)

BEG Properties Pty Ltd (S135) and 202N Pty Ltd (S137) provided written submissions, prepared by HWL Ebsworth Lawyers. The submissions contended that detailed design is premature due to uncertainty around the projected population densities, that the proposed FAR for the site would represent a poor planning outcome and that the proposed height limit will result in undercapitalisation of the Precinct.

202N Pty Ltd was represented by Mr Gelber who detailed the significant costs incurred since the commencement of a planning process for the development of the site. Mr Gelber raised concerns about the Parking Overlay, the need for further detail in relation to the FAU mechanisms and the need for transitional provisions.

8.13 400 – 430 City Road (S143)

Wadhawan Holdings Pty Ltd was represented by Ms Collingwood and relied on the evidence of Mr Song and Mr Walsh.

Ms Collingwood raised a number of matters, primarily arguing that there was a lack of strategic justification for the proposed provision of open space at 400-430 City Road. Ms Collingwood noted the strategic location of the site, highlighting that former planning processes had identified the site as the 'City Road Wedge' appropriate for intensive development. The process proposed for acquiring and delivering new open space was addressed.

Ms Collingwood argued that the site is subject to setback requirements and mandatory open space provisions which will significantly restrict the site's development potential. She contended that transitional provisions should be applied to ensure fairness is afforded to all landowners.

8.14 11 – 27, 31 – 41 Buckhurst Street (S146)

Tract Consultants made a written submission on behalf of Alpha 14 Pty Ltd, which contended that the proposed height and FAR is too low for Montague and may result in an underdevelopment of the area.

Specifically, it sought that the proposed discretionary height of 12 storeys be increased to 18 storeys. Further, it contended that the drafting of the FAR and FAU was confusing and lacked sufficient detail as to how the FAU is to be calculated. It argued that the FAR needed clarification to note the inclusion of commercial floor space and that Clause 22.15 should be amended to read as a 'dwelling target' policy instead of a mandatory density cap.

It was contended that setbacks and street walls in DDOs are confusing and require clarification. The submission strongly opposed the application of the DPO to part of Montague, citing concerns of the need for a further planning process and the associated delay and holding costs.

The submission maintained that the Parking Overlay be reviewed to adopt a maximum rate of one space per dwelling to provide consistency with the provisions of other parking overlays with the City of Melbourne.

8.15 37 – 47 Thistlethwaite Street (\$156)

This submitter was represented by Mr Calabro of SAC Building Workshop, who contended primarily that the proposed controls would significantly limit the development potential of the site. Specifically Mr Calabro submitted that the height, setback controls and FAR should be discretionary to provide for appropriate flexibility. He contended that the proposed height of eight storeys is not sufficiently justified.

The submission argued that public transport infrastructure has not been appropriately prioritised as a component into the planning for Fishermans Bend.

8.16 189 – 191 Ferrars Street (\$164)

Mr De Silva of Mesh represented Marlton Investments, whose submission queried the feasibility of compliance with the proposed requirements for car parking, particularly on smaller parcels of land. The submission argued that the Environmental Audit Overlay requirements required more clarity regarding the conditions under which an audit will not be required. The submission contended that further information is required on design standards for the utilisation of the affordable housing uplift incentive and the handover process.

8.17 253 – 273 Normanby Road (\$185)

SM253 Pty Ltd was represented by Mr Finanzio who primarily noted their outstanding issues had been resolved. SM253 had a planning permit to develop its site (issued in December 2017). The submission raised transitional issues.

The submission outlined broad concerns with the planning controls, including that the building heights are arbitrary and do not take the context of the land into account, that mandatory controls and overshadowing requirements are unnecessarily restrictive and that car parking requirements are inadequate. SM253 supported the provision of affordable housing but submitted that the mechanism proposed is vague, unnecessarily onerous and is based on an arbitrary percentage.

8.18 199 – 201 Normanby Road (\$186)

Capital Alliance Investment initially requested make a presentation at the Hearing and was allocated time, however withdrew that request during the course of the Hearing. A planning permit for the use and development of the land of a multi-storey, mixed use building comprising residential apartments was issued on 1 September 2013, and amended on 23 February 2014.

The Review Panel has already noted that the Minister for Planning approved an amendment to the existing planning permit to allow for the use of the land for a hotel and apartments, amongst associated amendments to the plans at a height of 30 storeys.

8.19 179 – 185 Normanby Road (S200)

Normanby Group Holdings provided a written submission, prepared by Hansen Partnership. The submission advised that a live planning permit application existed for the site, which was lodged in May 2016.

Specifically in relation to its site, it was submitted that there was a discrepancy between the height control and FAR, that the 20 storey height limit proposed for the site was conservative and that the location of reserve adjacent to the site was inappropriate.

8.20 168 – 172 Gladstone Street (S201)

Osten Pty Ltd through its written submission, argued that the mandatory nature of the controls were onerous and not strategically justified. The submission supported the approach taken to street wall height and side setback, however contended that the mandatory nature of the controls may limit the potential to accommodate significant growth. Further, the controls do not allow for the varying size and shape of lots in Fishermans Bend.

8.21 272 Normanby Road (S202)

The Samma Group and Spec Property Development was represented by Mr Morris and referred to evidence called from Mr Czarny, Ms Bell and Ms Dunstan. The Samma Group and Spec Property purchased this site in January 2018 which was subject to a live planning permit application, lodged by the previous owner of the site. The proposed development would be prohibited under the draft Amendment as it significantly exceeds the site's proposed FAR.

Mr Morris addressed broader issues such as the lack of justification to underpin the population target and the maximum building heights derived from such target, the lack of justification of the FAR, the inappropriate use of the FAR as a density control and the onerous nature of the car parking controls. He submitted that the draft Amendment was premature due to the lack of funding towards key infrastructure and lack of identification on the Metro rail alignment. Mr Morris recommended that transitional provisions be applied to protect existing permit applicants from the retrospective operation of the draft Amendment.

8.22 28 Thistlethwaite Street (S237)

Diger Nominees Pty Ltd opposed the draft Amendment due to the proposed change of the current 18 storey mandatory height to a 12 storey discretionary height. The submission opposed the use of the FAR and FAU.

8.23 121 – 123 Ferrars Street (S244), 111 Ferrars Street (S249)

Mr Murphy represented Kembla No 16 Pty Ltd (S244) and Surveyors Place Owners Corporation (S249). He submitted the proposed population forecasts and housing delivery would not contribute to the 8 million people forecast in *Plan Melbourne*.

He noted an inconsistency with how these sites were designated between the draft Framework and draft Amendment, and that their sites should be nominated 'core activity'

due to neighbouring sites being nominated 'core', the location of the site in relation to the Buckhurst Street activity spine, tram corridors and strategic cycling corridor, and potential as a pedestrian thoroughfare. He submitted that the height should be increased from a discretionary height of eight storeys to 20 storeys to reflect the core area location.

He submitted that the FAU was too complex and required more clarity, and that setbacks should not be mandatory. With regard to implementation, he submitted that parties should have an opportunity to revise and provide further comment on the Review Panel's findings.

8.24 87 Gladstone Street (S252)

Mr Pitt represented Industry Business Hub PS607275B and outlined the nature of the site which comprises 77 primary lots and is occupied by 70 businesses.

Mr Pitt supported the evidence of Ms Thompson, that the draft Amendment be changed so that the proposed public open space in Gladstone Street is relocated further south opposite the proposed open space on Thistlethwaite Street. Mr Pitt submitted that Ms Thompson's evidence was fully justified based on a number of factors, including that the existing land use at 87 Gladstone Street is strata-titled and contains a contemporary development that contributes to employment within the Precinct.

8.25 Conclusion of site specific issues

The Review Panel has considered all matter raised in submissions. The Review Panel has found that most of the issues raised with regard to Montague have been considered and addresses in the Overview Report, and where appropriate, resolved through the amended planning controls in Volume 2 of Report No. 1. General issues raised by the submitters listed have been addressed in:

- the population and employment targets in Chapter 6
- the FAR and FAU, including mandatory heights in Chapter 7
- the provision of affordable housing contribution in Chapter 8
- car parking requirements in Chapter 10.5
- funding of open space in Chapter 9.5
- transitional provisions in Chapter 15.

The remaining matters raised in relation to the Montague Precinct, including building heights, designation of core areas, location of open space and hubs, and overshadowing are discussed in this report.

The Review Panel noted in Chapter 17.1(ii) of the Overview Report that if its recommendations in relation to the draft Amendment are accepted, there will be a significant disjunct between the draft Framework and the draft Amendment. Given the Review Panel recommends that the draft Framework be retained as a Reference Document, it may be appropriate to update the draft Framework to make it consistent with the Amendment. The Review Panel considered whether to make changes to the draft Framework and resolved that any changes should be made once the Precinct plans are prepared and in place. The Review Panel's findings and recommendations should be taken into account as this matter progresses.

Appendix A Document list

No.	Date	Description	Presented by
M1	18/04/18	Changes to document 156B a. Mapping changes b. Explanatory table	Ms Brennan
M2	“	Written submission, Montague	“
M3	“	a. Written submission b. Montague Precinct Urban Design Report c. Plans from the Urban Design Report	Mr Montebello
M4	“	DDO8 to the Port Phillip Policy Scheme	“
M5	19/04/18	PowerPoint presentation, Mr Sheppard	Ms Sharp
M6	20/04/18	Modelling of sunlight on Normanby Road prepared by Ms Hodyl	Ms Brennan
M7	“	Extract from Plan Melbourne	“
M8	“	Written submission, Lie Property P/L	Mr Tweedie
M9	“	Written submission, Normanby Road Developments	“
M10	“	Written submission, Perpetual Normanby P/L	“
M11	23/04/18	PowerPoint presentation, Montague – Part 2, Mr Sheppard	Mr Wren
M12	“	Connecting a new neighbourhood images – extracts from permit application for 2-28 Montague Street and 80 Munro Street	“
M13	“	MAC report No 1	“
M14	“	Montague precinct – urban growth extracts, Hodyl & Co	“
M15	“	Endorsed plans for permit at 228 – 238 Normanby Road	Ms Choi
M16	26/04/18	Montague building heights applications issued permits	Ms Brennan
M17	30/04/18	Submission for Surveyors Place, including appendices	Mr Walsh
M18	“	Written submissions, Carri Nominees Pty Ltd	Ms Collingwood

M19	“	PowerPoint presentation for Little Lane Child Care	Mr Pearce, Human Habitats
M20	“	PowerPoint presentation for Salta Properties	“
M21	“	Written submission from Salta Properties	“
M22	1/05/18	Written submission 189 – 193 Ferrars Street	Mr de Silva, Mesh Planning
M23	“	Plan of 189 – 193 Ferrars Street	“
M24	“	Letter from Mesh Planning dated 7 July 2016	“
M25	“	Written submission – Wadhawan Holdings including attachments	Ms Collingwood
M26	“	Clause 56.06 - Car Parking	Mr Watters
M27	“	Incorporated Document for the City Road wedge	Ms Collingwood
M28	“	Extracts from plans for permit applications for 400-430 City Road	“
M29	“	Summary of costs for planning at 400-430 City Road – 3 tower scheme	“
M30	“	Summary of costs for planning at 400-430 City Road – 4 tower scheme	“
M31	02/05/18	Table of Montague submitters with permits applications, recommended heights, FAR	Ms Brennan
M32	“	PowerPoint, Sheppard modelling for joint Properties sites	Mr Wren
M33	04/05/18	Planning Permit PA170223, 253-273 Normanby Road	Mr Finanzio
M34	“	Perspectives, 253-773 Normanby Road	“
M35	“	Permit 1146/2017, 253-273 Normanby Road	“
M36	“	Chronology of SM253's permit applications	“

M37	“	Table of how existing permissions for 253-273 Normanby Road are affected by GC81 (Doc 156A version)	“
M38	07/05/18	A. Written Submission for Elmar Pty Ltd B. Attachments C. Markup of the DDO	Mr Riordon, Tract Consultants
M39	“	SM253 Pty Ltd Response to matters taken on notice	Ms Somerville, Herbert Smith Freehills
M40	08/05/18	202N Pty Ltd Submission	Mr Gelber, HWL Ebsworth
M41	“	Minister for Planning’s closing submissions – Montague	Ms Brennan
M42	“	CoPP closing submissions – Montague	Mr Montebello
M43	15/05/18	Addenda 1 to the evidence of Ms Bell	Mr Morris
M44	18/05/18	Written submission for Samma Group and Spec Properties	“
M45	“	Extract from Victoria Planning Appeal decisions	“
M46	“	Reasons for Intervention for VC136	“
M47	“	Gazette notice for approval of VC136	“
M48	“	PowerPoint presentation, Julia Bell	Ms Porter
M49	“	Extract from Plan Melbourne Implementation Plan a. Overshadowing review for 272-280 Normanby Road	Ms Brennan
M50	21/05/18	Written submission for Industry Business Hub	Mr Pitt
M51	“	Letter from Industry Business Hub to Fishermans Bend Taskforce dated 5/2/18	“
M52	“	Extract from Fitzwood Pty Ltd v Whittlesea Shire Council	“
M53	“	Extract from Eddie Barron Construction Pty Ltd v Pakenham City Council	“

Fishermans Bend Planning Review Panel Sandridge Precinct – Report No. 4

19 July 2018

Planning and Environment Act 1987

Report pursuant to section 151 of the Act

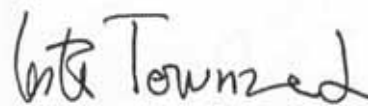
Fishermans Bend Planning Review Panel

Sandridge Precinct – Report No. 4

19 July 2018



Kathy Mitchell, Chair



Lester Townsend, Deputy Chair



Sarah Carlisle, Member



Rodger Eade, Member



Peter Edwards, Member

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Executive summary

(i) Summary

This is Report No. 4 of the Review Panel which relates to the Sandridge Precinct within Fishermans Bend.

Sandridge is located in the City of Port Phillip and covers an area of 86 hectares. Sandridge will be a key commercial area, extending the city centre from the CBD and Docklands, while also providing community hubs and public spaces supported by a range of convenient transport options.

Submissions raised a wide range of issues including:

- the impact of the proposed controls on existing businesses
- the impact of the proposed controls on the ability to develop some sites
- the proposed FAR was too restrictive to achieve precinct development goals
- requests for clarification and details on site acquisition for public space and infrastructure
- reconsidering the Parking Overlay
- the proposed controls should be discretionary rather than mandatory.

This report should be read in conjunction with the Overview Report, which provides the overview of the context and process of the Review Panel, and addresses common issues raised in submissions (such as the method of acquiring land for public purposes, funding infrastructure in Fishermans Bend, Floor Area Ratio, Floor Area Uplift, affordable housing, governance and other matters).

(ii) Findings

In relation to the key issues for the Sandridge Precinct, the Review Panel concludes:

- The built form of Sandridge is consistent with its intended future role as a key commercial centre (in the core area) and the need to transition to lower scale areas.
- Sandridge lends itself to taller buildings in the core area to support its employment role and to capitalise on the planned Metro Station.
- The Plummer–Fennel Street boulevard will be a key feature of the future development of the Precinct.
- The proposed open space network in Sandridge as reflected in the revised (Part C) CCZ and DDO maps is appropriate.
- There is no compelling design reason to relocate the open space at the Plummer/Bridge Street intersection to the north side of the intersection.
- The open space on the corner of Fennel and Bertie Streets should be revisited when preparing the Precinct Plan.
- The proposed locations of the community hubs are appropriate.
- The three proposed road segments south of Fennell Street between Bridge Street and Boundary Street are required to break up the large allotments.
- The road and laneway network can be further refined as part of the Precinct Plan process to resolve the exact location, alignment, width and function of each road and laneway.

In addition, the Review Panel has responded to a range of site specific issues raised in submissions and has recommended further changes where appropriate.

(iii) Recommendations

Based on the reasons set out in this Report, the Review Panel recommends that the Minister for Planning progress draft Amendment GC81, subject to the following changes:

- 1.** Remove the specific requirement for the Maximum street wall height for the northeast corner of Fennel and Bridge Streets.
- 2.** Include the need for three proposed road segments south of Fennel Street between Bridge Street and Boundary Street in the Capital City Zone maps as an indicative link.
- 3.** Remove the 'no crossover' designation from the Ingles Street service road in those locations where the Ingles Street bridge will deliver the strategic cycling corridor.
- 4.** Show the proposed road through the Toyota site at 155 Bertie Street, Port Melbourne as 'indicative'.

1 Strategic Overview

1.1 Precinct context

The Sandridge Precinct is located in the City of Port Phillip and is 86 hectares in size, with a net developable area of 63 hectares.

It is bound by the Westgate Freeway to the north, Johnson Street to the east, Williamstown Road to the south and Graham Street to the west (refer to Figure 1). Sandridge is characterised by its wide main and secondary roads and large lots. It also contains a large playing field at North Port Oval. Public transport options are somewhat limited within the Precinct.

Figure 1: The subject land

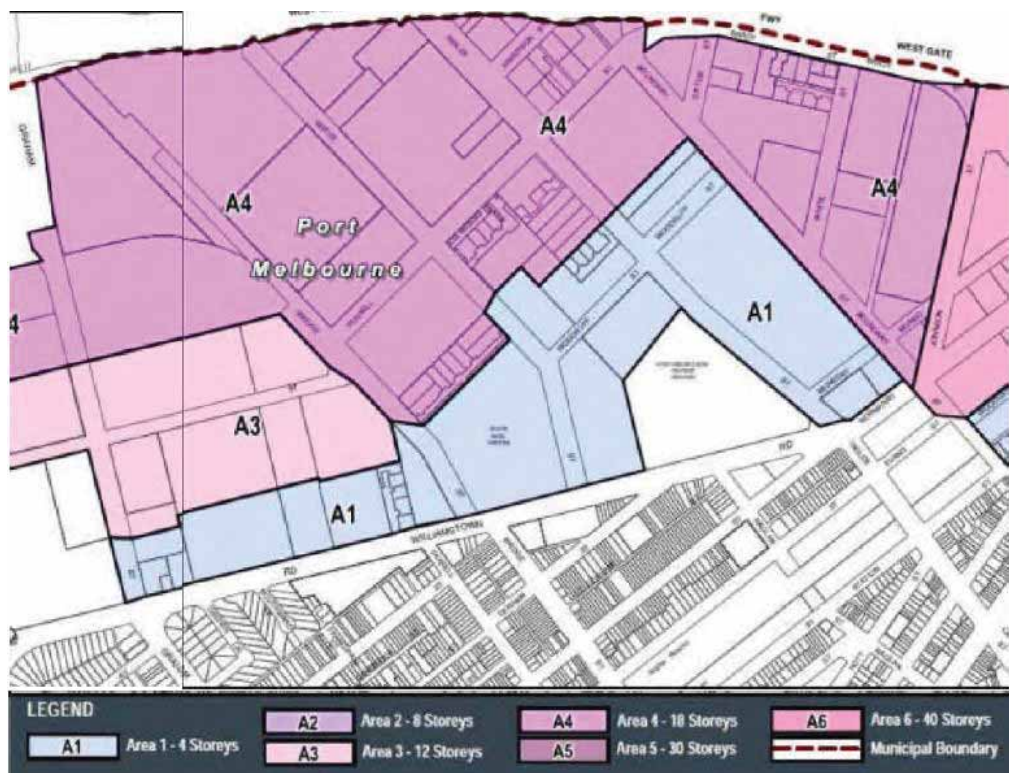


Source: Google Maps

1.2 Existing planning controls

The Capital City Zone, Schedule 1 and Design and Development Overlay, Schedule 30 currently apply to the Sandridge Precinct. DDO30 applies as illustrated in Figure 2.

Figure 2: Design and Development Overlay, Schedule 30



Under DDO30, Sandridge is split into three areas (A1, A3 and A4) with varied maximum building heights. North Sandridge is designated A4, which allows 18 storeys. The south of Sandridge, and the area around North Port Oval, is designated A1, which allows heights of 1-4 storeys. A section in the western part of the precinct is designated A3, which allows 12 storeys. Two of the current permits are for low rise (up to 4 storey) townhouse developments, and the third is for two towers that exceed the current height limits by a significant amount. The two applications are for buildings of 18 and 19 storeys which are generally consistent with DDO30.

The current interim built form controls are shown in Table 1.

Table 1: Interim built form controls (GC50)

Built Form Element	Requirement
Building height	Mandatory maximum: A1 – 4 Storeys A3 – 12 Storeys A4 – 18 Storeys
Street wall height	Mandatory maximum 5 storeys or 20 metres, whichever is lesser
Tower setback	Mandatory minimum 10 metres to the street edge Mandatory minimum 10 metres to all other boundaries Setback can be taken from centre of laneway (if applicable)
Tower separation	Mandatory minimum 20 metres

1.3 Planning permit application history

There are currently three permits and two permit applications, of which both have been called in.

Table 2: Current Permits

Address	Submitter	Permit	Proposed FAR
60-82 Johnston St	250	23 & 47 storeys	3.3:1 (non-core)
164-220 Ingles St	N/A	3 storey townhouses – constructed	3.3:1 (non-core)
14 Woodruff St	109	4 storey /20 metre	3.3:1 (non-core)

Table 3: Permit Applications

Address	Submitter	Permit application	Proposed FAR
277-281 Ingles St	157	18 storeys (called in)	7.4:1 (core)
118 Bertie St	182	19 storeys (called in)	7.4:1 (core)

The town house development at 164-220 Ingles Street is largely constructed. The development features a number of mews like streets that have no landscaping and no obvious location for future landscaping.

1.4 Hearing process

The Sandridge Hearing was held over 7 days, generally between 20 April and 8 May 2018.

There were in the order of 17 written submissions in relation to sites in Sandridge, of which approximately 10 submitters spoke to or called evidence in support of their submission at the Hearing.

2 Vision and Framework

2.1 Sandridge Vision

The Vision for the Sandridge Precinct, in summary, is:

Sandridge is one of Melbourne's premium office and commercial centres, balanced with diverse housing and retail.

Professional services and creative industries are attracted to Sandridge due to the commercial sized floorplates and the easy connections it provides to the CBD and other precincts – allowing access to a wide range of clients and services.

The Melbourne skyline extends down the Fennel–Plummer Street boulevard, the diverse towers providing attractive street level experiences and protecting public open space from overshadowing.

Community hubs and mixed use development provide community services for residents and workers, supported by a transport network which includes a light rail corridor (proposed Metro Station subject to further investigations) and enhanced bus routes.

A network of boulevards, laneways, shared paths and living streets link a variety of public spaces together. North Port Oval provides a key anchor for the local community and supports many civic and recreational uses through its improved facilities.¹

The Precinct Directions from the Vision are:²

- *Develop multi-modal transport corridors to connect with surrounding suburbs*
- *Focus density around public transport nodes to encourage public transport use and promote commercial activity*
- *Celebrate North Port Oval as an anchor for the community*
- *Encourage master planning of large sites to promote through block links and development of privately owned public spaces*
- *Support commercial development to grow jobs and take advantage of large land parcels.³*

The target population is for 29,600 residents in 14,949 households, with a workforce of 26,000 jobs by 2050.⁴

¹ Fishermans Bend Vision 2016, page 24.

² Ibid, page 24.

³ Ibid, page 24.

⁴ Fishermans Bend Framework 2017, p 74.

2.2 Proposed urban structure

The proposed urban structure for the Sandridge Precinct is set out in Figure 3 and is proposed by the Minister to be included in the CCZ Schedule.

Figure 3: Proposed urban structure – Sandridge Precinct



Source: Replacement Part C Control maps (D317)

The Fennel–Plummer Street boulevard is intended to provide a key focal point for the Precinct, with diverse tower forms for residents and workers, and the potential for a future Metro Station.

Connectivity within Sandridge and to other precincts is proposed to be achieved through the completion of a network of boulevards, laneways, and shared paths linking open spaces and connecting with Lorimer to the north.

2.3 Proposed built form

The *Urban Design Strategy* defines the preferred building typology in Sandridge as follows:

Tower developments are supported within the activity cores to create a high-density mixed use precinct with significant job growth. These heights are reduced on specific sites to protect existing and proposed open spaces from being overshadowed. Outside of the core area a range of 6–24 storey development is supported to encourage a diversity of housing and create variety of character areas throughout this large precinct. A 4 storey

*mandatory height limit is retained along Williamstown Road, although the depth of this transition zone has been reduced.*⁵

A large portion of Sandridge (both core and non-core areas) is identified for high-rise development, consistent with its role as an employment centre. The proposed DDO schedule provides for maximum building heights ranging from six storeys along Williamstown Road to unlimited in the northern area near the West Gate Freeway (matched to the unlimited heights in Lorimer to the north of the Freeway).

2.4 Key issues

During the course of the Sandridge hearings, the key issues raised related to:

- urban structure and built form
- location of open space
- location of community hubs
- roads and transport infrastructure
- site specific issues

The Review Panel notes that most submissions raised general as well as site specific issues. General issues are dealt with in the Overview Report.

⁵ *Urban Design Strategy (D53), page 88.*

3 Urban structure and built form

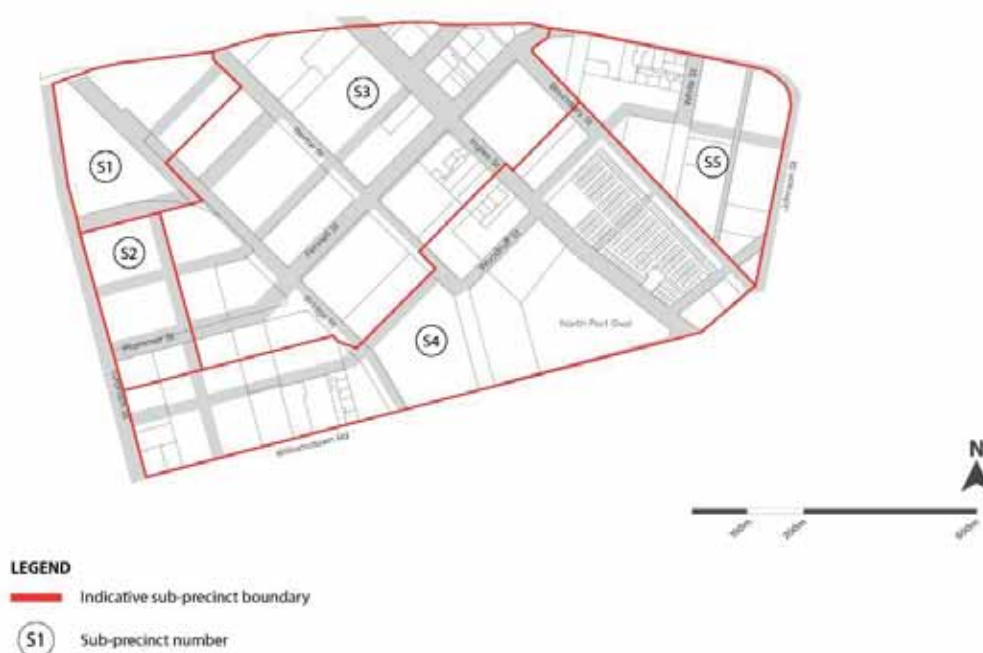
3.1 Context

The Sandridge Precinct will be served by a proposed Metro Station and trams along the Fennel–Plummer Street boulevard. It is envisaged that Sandridge will develop as one of Melbourne’s premium office and commercial centres, balanced with diverse housing and retail. The existing North Port Oval will be expanded and serve as an anchor for community activities.

(i) Building heights

Five subprecincts are identified in Sandridge. These are shown in Figure 4:

Figure 4: Sandridge subprecinct map



Source: Replacement Part C Maps (D307)

Proposed heights are set out in Figure 5. Building heights in the core are proposed to vary from 12 to an unlimited number of storeys and in the non-core are predominantly 24 storeys but transitioning to the lower built form at Williamstown Road and the North Port Oval.

Figure 5: Proposed building heights in Sandridge



Source: Replacement Part C Maps (D307)

(ii) Street wall heights

There is no minimum ground level setback along street frontages for most of the Precinct. The draft Amendment requires ground floor residential uses in non-core areas that are not on secondary active frontages to be set back 3 metres from the street to facilitate a landscaped transition from the street to ground floor apartments.

For corner sites, if both streets are wider than 22 metres a Maximum street wall height of 18 storeys applies for 25 metres along each street frontage.

The controls require the street wall to respond to any adjoining heritage places

Street wall height restrictions are proposed to ensure appropriately scaled and distinct street wall effects, street enclosure, sky views, transition to heritage places and adequate sunlight access to streets and open space. Proposed street wall heights vary depending on location.

Table 3: Sandridge street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
Along City Road and Williamstown Road		At least 4 storeys	4 storeys
On Fennell and Plummer Streets (between Ingles and Graham Streets)		At least 6 storeys	8 storeys except on land on the north east corner of Fennell and Bridge Streets where the General provisions apply
On a street or laneway ≤22m wide		At least 4 storeys	6 storeys
On a street >22m wide	where the building height is ≤10 storeys	At least 4 storeys	8 storeys
	where the building height is >10 storeys	At least 4 storeys	6 storeys

(iii) Setbacks above street walls

Setbacks above the street wall are proposed to ensure comfortable wind conditions, adequate sunlight access to streets and laneways, sky views and minimise visual bulk. Setbacks above the street wall vary depending building height and location.

Table 4: Sandridge setbacks above the street wall from new and existing streets and laneways

Location	Qualification	Preferred Setback	Minimum Setback
where the building has direct interface with:	If the building height is ≤ 8 storeys	5 metres	3 metres
- Westgate Freeway	If the building height is > 8 storeys	10 metres	5 metres
Williamstown Road		As specified for other locations	10 metres (≤15.4 m in diagram)
Other locations	If the building height is ≤ 8 storeys	5 metres	3 metres
	If the building height is > 8 storeys and ≤ 20 storeys	10 metres	5 metres
	If the overall building height is > 20 storeys	10 metres	10 metres

(iv) Side and rear setbacks

Below street wall height, the preference is for buildings to be built to the side and rear boundaries, to create a continuous wall along all site frontages. Upper level side and rear setbacks (above street wall height) vary according to the building's ground level setback, height and location.

Table 5: Sandridge side and rear setbacks

Part of building	Qualification	Qualification	Preferred setback	Minimum setback
Below the street wall height	If not within 300 mm of a side or rear boundary	Within core areas	6 metres	6 metres
		Within non-core	9 metres	6 metres
Above the street wall height	Building height ≤ 20 storeys		10 metres	5 metres
	Building height > 20 storeys		10 metres	10 metres

(v) Building separation within a site

Building separation requirements are proposed to protect internal amenity, allow sunlight penetration to open space and streets, and ensure tall buildings do not appear as a continuous wall when viewed from street level. Greater separation is required between tower elements above the street wall height. Building separation requirements above the street wall height vary depending on building height.

Table 6: Sandridge minimum building separation within a site

Part of building	Qualification	Preferred building separation	Minimum building separation
Below the street wall	In non-core areas	9 metres	6 metres
	In core areas	12 metres	6 metres
Above the street wall	A new building up to 20 storeys in height	20 metres	10 metres
	A new building over 20 storeys in height	20 metres	20 metres

3.2 General urban structure**(i) Submissions and evidence**

The Minister submitted that the built form controls in Sandridge are designed to achieve the preferred character and built form outcomes sought in the Vision and reflected in the revised draft Amendment, namely:

- predominantly tower developments in the core area with some mid-rise buildings
- mid-high-rise developments including hybrid of mid-rise perimeter blocks and slender towers in areas around the core

- low-mid-rise scale of development that incorporates communal open space and responds to the context and character of adjacent low-rise neighbourhoods in areas with an interface to existing development and North Port Oval.

It is intended that a variety of street wall heights between 4 and 8 storeys will contribute to architectural diversity within the street and provide opportunities for portions of the street to receive greater levels of sunlight access throughout the day.

Port Phillip submitted that the cumulative effect of its proposed parks, community hubs and heights, along with the clustering of retail and commercial activity, provide some of the ‘meat’ to fit the ‘bones’ of the urban structure that is required for Sandridge to reach the potential outlined for it within the Vision.

Port Phillip presented a more detailed urban structure plan presented at Figure 6.

Figure 6: Port Phillip’s proposed urban structure



Figure 43. Sandridge Urban Structure proposed by Council

Source: Enlarged plan from DS1 (DS4)

The Minister accepted the need for a plan depicting the urban structure, and these were presented in the Part C controls.

Port Phillip submitted that the core and non-core areas should be adjusted to:

- Change the block bound by Bertie Street, Bridge Street, the West Gate Freeway and the new east–west street (the northern street block within 155 Bertie Street; (Toyota site)) to non-core area.
- Change the block bound by Bertie Street, Bridge Street, Woolboard Road extension and the new east–west street (the southern street block within 155 Bertie Street) to core area.

The Minister accepted this recommendation in part. The Minister accepted the designation of all land in 155 Bertie Street south of the proposed new road within the core area. He submitted that the area to the north of the proposed new road should remain in the non-core area.

Mr Sheppard was in broad agreement with many of Port Phillip's propositions in relation to Sandridge.

(ii) Discussion

The Review Panel is broadly supportive of the urban structure proposed by the Minister and believes that the preferred character is reasonable and can be achieved. The character in Sandridge will be partly achieved by the high-rise forms in the core. The Review Panel supports this scale of development given its proposed role as a metropolitan significant employment centre.

It will be important to attract commercial development to Sandridge if the Vision is to be achieved. The built form envelopes allow for this but the restriction on non-dwelling FAR in the Part C controls appears contrary to that Vision.

3.3 Achieving a varied building typology

(i) Submissions and evidence

Port Phillip relied on the evidence of Ms Hodyl⁶ and Mr McPherson in relation to the appropriateness of the FARs, noting that they have been compared to other similar redevelopment areas around the world and found to be in a similar range.

Mr Sheppard recommended that detailed Precinct Plans be prepared, in conjunction with landowners, to resolve the optimum built form model, density and open space pattern for each part of Sandridge.

The Minister accepted that the Precinct Plans are of significant importance, and that the preparation of the detailed Precinct Plans would greatly assist with the implementation of the draft Framework and built form outcomes envisaged for each distinct Precinct. However, the Minister submitted that it is not proposed to revisit FARs or heights as part of the Precinct Plan process.

(ii) Discussion

The Review Panel is broadly comfortable with the typologies and character statements proposed for Sandridge, given the ultimate role for the Precinct. This is a Precinct that will have a metropolitan role as an employment centre and the Review Panel considers that the typologies and character statements in the draft Amendment are consistent with this Vision.

The Review Panel has recommended many changes to the DDOs to strengthen the links to the preferred typologies, and to generally improve their clarity, readability and application. These changes will support the delivery the proposed building typologies and preferred characters.

3.4 Proposed density

The proposed FAR controls for the Sandridge core area are 8.1:1 with a minimum commercial FAR of 3.7:1. The Sandridge non-core FAR controls are proposed at 3.3:1.

⁶ Who appeared on behalf of the Minister and not Council.

The Overview Report discussed the issues of the FARs in Chapter 7.

For reasons outlined in the Overview Report, the Review Panel does not support the FARs, and recommends that they be replaced with a dwelling density control. Chapter 7.8 of the Overview Report explains the starting point for the Review Panel's recommended dwelling densities in each precinct. They are based on the FARs, translated to dwelling densities. The starting point for Sandridge is a dwelling density of 414 dwellings per hectare in the core and 205 dwellings per hectare in the non-core (see Table 16 in Chapter 7.8(ii) of the Overview Report).

(i) Is this the right density?

As discussed in the Overview Report, the Review Panel shares the broad concerns that the restrictions on residential development have been set too low, given the potential for Fishermans Bend to help house Melbourne's growth. The Review Panel has concluded for Sandridge non-core that a modest increase of 10 per cent in residential development potential is appropriate.

The Review Panel has found that:

- the target population of 80,000 for Fishermans Bend is too low, given its status as a State significant urban renewal area and its potential to provide a greater contribution to help cater for Melbourne's growth
- planning for Fishermans Bend should proceed on the basis of a target population in the range of 80,000 to 120,000 by 2050
- all of the preferred typologies can deliver residential densities of at least 4:1
- there is scope to increase the densities without compromising the building typologies and preferred characters, with the possible exception of Lorimer, Montague core and Sandridge core (where the proposed densities are already higher than 4:1).

These findings are discussed in detail in Chapters 6 and 7 of the Overview Report.

This raises the question of by how much the densities for each precinct should be increased.

For Sandridge, the Review Panel considers that a dwelling density of 414 dwellings per hectare is appropriate in the core, and 225 dwellings per hectare in the non-core. This represents no change in the core area, and a modest 10 per cent increase in the non-core area. The Review Panel regards these as appropriate because:

- The dwelling density for Sandridge core is already high, particularly considering that the area is anticipated to accommodate substantial employment. The Review Panel does not consider that there is significant scope to increase the residential density in this area.
- The Sandridge core has been identified for significant development potential commensurate with its future role as an employment centre. This is reflected in the already high densities proposed for Sandridge.
- There is capacity for a modest 10 per cent increase in residential density in the non-core area in Sandridge. Modelling undertaken by Ms Hodyl and others for Sandridge demonstrates that there is sufficient room in the built form envelopes to accommodate some additional density, and still leave room for social housing uplift.

The issue of density was raised by a number of experts and in submissions. Port Phillip noted that so far as the densities that the FARs create, the tabled Infrastructure Australia Report, which mapped population densities at 2046, proposes a range of densities across Fishermans Bend, primarily in the range of 100 to 500 persons per hectare. Sandridge is in that range. The Review Panel has recommended 414 for the core, and 225 for the non-core area, noting that these figures may not be directly equivalent to the Infrastructure Australia figures.

(ii) Findings

The Review Panel finds:

- The appropriate dwelling density for Sandridge is 414 dwellings per hectare in the core area, and 225 dwellings per hectare in the non-core area.

3.5 Building heights

(i) Submissions and evidence

Port Phillip proposed a slightly different regime of maximum discretionary building heights. Some heights are taller, while other areas are lower.

Port Phillip explained that the rationale for the changes is set out in its Urban Design Report for Sandridge⁷ but in short, it consolidates the tallest forms in a 'retail core' area and provides for a transition to the west towards Wirraway, where the Vision explicitly called for an urban outcome which is different to the central area. The changes to the building heights (not the FAR) were said to respond directly to that part of the Vision which calls for a scale of buildings outside the commercial centre which are lower and transition to low scale developments adjacent to Port Melbourne and Garden City.

Further to the north, Port Phillip proposed a reorganisation of heights and core and non-core designations. The purpose of this is to ensure that taller buildings are reorientated towards the centre of Sandridge, rather than the West Gate Freeway, and that campus style large format uses – suitable for office, tertiary education and health related uses – can establish in locations that are still close to public transport without disrupting the intensity of activity and fine grain outcomes sought for the blocks immediately surrounding the future Metro Station.

Port Phillip submitted that the building heights in the draft Amendment should be changed to:

- reduce the maximum building heights in Sandridge North non-core from unlimited height to 12 storeys
- reduce maximum building heights on the properties bound by Ingles Street, Fennell Street and the West Gate Freeway from unlimited to 40 storeys
- reduce maximum building heights on the southwest corner of Fennell and Boundary Street from unlimited to 30 storeys.

⁷ Document (W1).

The Minister did not accept these recommendations. The Minister supported the opportunity for unlimited height in proximity to the Freeway as a non-sensitive interface where a podium–tower typology should be supported. He submitted that the height limits identified for the Sandridge core were selected to facilitate a transition down towards the non-core areas and towards the Wirraway Precinct.

(ii) Discussion

The Review Panel generally supports the heights in Sandridge. The Precinct can absorb significant height in its northern portion, but the transition to lower scale existing neighbourhoods is important. The Review Panel notes that height limits respond to the overshadowing requirements, making it easier for the community to understand the scale of buildings that will be developed, than if the heights did not reflect the overshadowing controls.

3.6 Street wall heights

(i) Submissions and evidence

Port Phillip submitted that the Maximum street wall height along Fennell–Plummer Street (between Ingles and Graham Streets) and Bertie Street from should be increased from 6 storeys to 8 storeys, excepting where lower overall building heights apply and on the northeast corner of Fennell and Bridge Streets where retention of the Globe building, a key character building, is sought.

The Minister accepted this recommendation in part with the exception of the increased street wall heights on Bertie Street. The changes to street wall heights on Fennell Street–Plummer Street (between Graham and Ingles Street) were accepted because a higher street wall reinforces the pre-eminence of the boulevard.

A green linear park is proposed along the western side of Bertie Street. Lower street wall heights on the eastern side will support sunlight reaching the park. The Minister submitted that street wall height on both sides of the street should be the same to create a cohesive street design.

Mr Sheppard recommended the replacement of the mandatory 4 storey height limit on Williamstown Road and Normanby Road with a discretionary maximum 4 storey street wall height, and a discretionary minimum 10 metre setback above.

This recommendation was accepted in part by the Minister. The rationale for the 4-storey height limit on Williamston Road and Normanby Road is to ensure that the Precinct is well integrated with its neighbours.

(ii) Discussion

The introduction of a 4 storey street wall with a maximum height of 6 storeys with the upper two floors setback a mandatory minimum of 10 metres behind the street wall on Williamstown Road is supported. This will create an appropriate interface with the existing residential area.

Sandridge will be a dense area and the street wall heights proposed will help create a human scale along the street. The Review Panel generally supports the heights proposed.

The Review Panel does not support the lower height for the northeast corner of Fennel and Bridge Streets. It may well be that a lower height is appropriate given the heritage building, but a design solution may deliver an acceptable outcome with a taller street wall. There are a number of buildings in Melbourne that have successfully retained lower level heritage fabric with a new development on top.

3.7 Communal open space

(i) Submissions and evidence

The draft Amendment proposes that communal open space is provided at a minimum of 30 per cent of the net developable site area in non-core areas.

Mr Sheppard recommended the replacement of this requirement with a requirement for any development incorporating dwellings to provide communal open space at any level up to the height of the street wall.

The Minister submitted:

... the provision of communal open space at any level up to the height of the street wall may be appropriate in some circumstances. However, the preferred outcomes remains the location of communal open space at ground level.⁸

(ii) Discussion

The Review Panel cannot see the need to provide communal open space at ground level, provided the communal area can support significant planting with deep soil. The Clause 22.XX policy on landscaping addresses these issues.

For a perimeter block or hybrid typology it may be desirable to have ground level car parking with communal open space above it. The Review Panel was shown images of these types of development and agreed that this approach could be an efficient use of space that delivered a good outcome.

3.8 Active frontages

(i) Core and non-core

Port Phillip submitted that that the core and non-core areas and active street frontages in the draft Amendment should be changed to:

- reduce the extent of Primary active frontages along Fennell Street to between Ingles Street and Bridge Street
- extend the Primary active frontage on Bertie Street between North Port Oval and Woolboard Road extension

⁸ Closing Submission Minister for Planning (DS37), [36.1].

- nominate a 'core retail area' in Sandridge as the blocks bounded by Bridge Street, Woolboard Road extension, Ingles Street and Woodruff Street (and extension)
- identify one north–south lane per block as a secondary active frontage
- remove secondary active frontages from the area bound by Johnson Street, Boundary Street and new east–west street.

Identification of core retail area

Port Phillip's Urban Design Report for Sandridge identified a core area for retail with an accompanying rearrangement of primary active frontages along Fennell Street and Bertie Street. Council has elsewhere commented on the need for a planning tool such as the DPO to ensure that large format uses can be accommodated at ground level within these areas. Council repeated the need for such a planning tool.

Larger floor plate uses

Port Phillip submitted that the DPO should be used to protect long-term large floorplate anchor land use opportunities for the core retail areas in Sandridge, and ensure the integration of transport interchanges or nodes. It was submitted that this should be applied to a new area shown as 'core retail area' in the controls.

The Minister agreed that core retail areas can be identified in the Precinct Plan process but does not accept that a DPO is required to protect land for retail anchors, noting that revised laneway locations will support large floorplates. The Minister is not pursuing a DPO to support integration of transport interchanges or nodes at this time. The potential future use of the DPO can be explored further in the Precinct Plan process. Refer to the discussion in Chapter 17.5 of the Overview Report.

Primacy of the Sandridge retail and commercial core

Port Phillip submitted that Clause 21.06-8 should include a policy which emphasises the primacy of the Sandridge retail and commercial core by ensuring the tallest buildings are located there and ensure a transition in building heights in non-core areas.

(ii) Discussion

The Part C controls do not propose to distinguish between the retail core and the Sandridge core as a whole in terms of height limits.

The Precinct specific DDO for Sandridge includes wording which emphasises the primacy of the Sandridge core by ensuring the tallest buildings are located there, and seeks a transition in building heights to non-core areas.

The Review Panel supports the distinction between primary and secondary active frontages, and considers that limiting primary active frontages to Fennell Street and Bertie Street is likely to address Port Phillip's concerns about diluting the retail core. It notes that the extent of active frontages (particularly primary active frontages) in Sandridge is considerably less in the Part C version of the controls compared to the Part A version. The Review Panel considers that the extent of primary and secondary active frontages can be further considered in the Precinct planning process, and adjusted accordingly if required.

The Review Panel has already commented on the use of a DPO to assist in master planning of key sites and areas on an opt in basis. Once the Precinct Plan is prepared for Sandridge and the extent of the core retail activity area is resolved, this might result in the opportunity to apply a DPO. Further, the appropriate designation of a core retail area could then be applied on the Precinct Plan.

3.9 Findings and recommendations

The Review Panel finds:

- The built form of Sandridge is consistent with its intended future role and the need to transition to lower scale areas.
- Sandridge lends itself to taller buildings in the core to support its employment role and to capitalise on the planned Metro Station.
- The Plummer–Fennel Street boulevard will be a key feature of the future development of the Precinct.
- The Part C version street wall height are generally satisfactory with one change.
- Locating communal open space at ground level may lead to suboptimal built form outcomes.
- The location of the Part C proposed active frontage controls are appropriate.

The Review Panel recommends that the following changes are made in the Sandridge DDO:

- 1. Remove the specific requirement for the Maximum street wall height for the northeast corner of Fennel and Bridge Streets.**
- 2. Delete the requirement that communal open space should be at ground level.**

4 Location of open space

4.1 Context

North Port Oval is an established existing open space in the Precinct which is home to the Port Melbourne Football Club that plays in the Victorian Football League. The draft Fishermans Bend Framework proposes to expand this District open space to provide sport and recreation facilities for the new residential and worker community. The future tram and potential Metro Station central to the Sandridge Precinct will be a key driver in attracting both residents and workers to the Precinct.

Figure 7: Proposed open space



Source: Minister Part C controls (D307)

Five changes were recommended by Ms Thompson in Sandridge, one of which was accepted by the Minister, being a reconfiguration of the public open space on Woolboard Street into a larger public open space.

There are five main issues in relation to open space (marked on Figure 7):

- ① Plummer Street and Bridge Street 'civic square'
- ② Woolboard and Bertie Streets open space
- ③ Woolboard extension open space
- ④ Boundary Street park
- ⑤ open space on the corner of Bertie and Fennel Streets.

4.2 Plummer Street and Bridge Street 'civic square'

(i) Submissions and evidence

Port Phillip submitted that the draft Amendment should be changed to relocate the area of public open space from 299 Bridge Street (south of the intersection with Plummer Street) to 577 Plummer Street (north of the intersection) to deliver the larger public open space

(approximately 3,000 square metres) on the north side of the street and a smaller space on the south side (within the existing road reserve).

The land is owned by Delta who use it for a demolition transfer station and mechanical repair shop for 150 tonne vehicles. Delta opposed Port Phillip's submissions.

Delta opposed the acquisition of their land, pointing out the vital services they delivered to the construction industry. The role of these types of uses is discussed in the Overview Report and the draft Amendment now proposes to give such uses better recognition.

Port Phillip submitted that the Review Panel should not have any sympathy for the submissions of Delta. While it acknowledged their concerns, it said that it must be accepted that this State-declared Strategic Redevelopment Area will be transformed both in terms of land use and built form. It was submitted that the Council's proposal for the Delta site also results in a better outcome for this landowner. That is, the acquisition of the whole of the Plummer Street site and the retention of development opportunities for the southern Bridge Street site.

Port Phillip also submitted that the overshadowing requirements in the DDO should be changed to move the equinox overshadowing control from the proposed public open space on the southern corner of Plummer/Bridge Streets to the proposed larger open space (Civic Space) on the northern corner of Plummer/Bridge Streets.

Port Phillip submitted that:

Mr Sheppard supports the consolidation of smaller, elongated parks into larger parks in Sandridge. Council has undertaken that consolidation at the intersection of Plummer Street and Bridge Street to create a new Civic Square and in respect of the creation of the Sandridge North Park. Ms Thompson supported the intent behind these recommendations also, albeit in slightly different locations. However, Ms Thompson also agreed under cross examination that her placement of parks only considered public open space planning considerations and not other considerations.⁹

Port Phillip submitted that its proposals for these two parks considered the imperative for open space but in an integrated manner, having regard to a broader suite of place making and urban design considerations. Council's other considerations in making its open space recommendations included, but were not limited to:

- creating terminating vistas and anchoring key streets with civic markers
- co-locating open space with community infrastructure and preserving key city blocks for development to facilitate an intensity of activity in the key locations around the future Metro Station.

While the Minister acknowledged the attraction of this option, he did not accept it. He noted the significant area of land required:

- to deliver the realignment of the Plummer Street/Fennell Street intersection
- to deliver the tram alignment and proposed open space

⁹ Closing submission City of Port Phillip (DS39), [16].

- to ensure that the remaining area of sites required for these purposes can support the proposed FARs for the Sandridge core.

Land on both sides of the intersection is expected to be required for the tram. The Minister submitted that it is premature to identify exactly how much land will be required for the tram corridor, but the proposed open space arrangements presently depicted in the draft Framework ensure that the road, tram, open space and developable sites are able to be provided.

(ii) Discussion

There is need to consider both the tactical reasons for relocating this open space and combining it with a civic function (namely that it will simplify acquisition), and the strategic reasons (namely that it will create a better urban outcome).

The Review Panel is not convinced the relocation has strategic merit. As currently proposed, the open space on the south side of the intersection has the potential for a north facing active frontage, which could be very successful if developed well. Such a space benefits from being on the south side of the road, allowing for sun penetration with less impact on buildings with respect to overshadowing controls.

Reconstructing the Plummer/Bridge Street intersection and incorporating a tram will be no small endeavour. Whether land on one or both sides of the intersection will ultimately need to be purchased, may not be a significant factor at all in the broader scheme of delivering the tram project.

4.3 Woolboard and Bertie Streets

(i) Submissions and evidence

Ms Thompson gave evidence that:

Given the urban densities and the distance of approximately 800 metres to the North Port Oval District open space, I have recommended that the proposed linear form of park is reconfigured into a larger Neighbourhood open space (8,594 sqm) so that facilities such as multi use courts can be provided in it and allow for a diversity of uses and adaptability in the future. The proposed linear link between Bertie and Ingles Streets is located along a laneway access. I recommend that this should be included into the road reserve and designed as a streetscape with the required pedestrian and vehicle connectivity and large canopy trees.¹⁰

The Minister accepted an increase in the public open space provision for the Sandridge Precinct by adopting Ms Thompson's recommendation for an expanded park on the corner of Woolboard and Bertie Streets. As exhibited, the total new open space shown for the Sandridge Precinct in the draft Framework is 94,607 square metres.

¹⁰ Evidence of Joanna Thompson (D75), page 34.

The effect of accepting this recommendation is to increase the public open space by an additional 1,242 square metres, bringing the total provision for Sandridge to 95,849 square metres.

(ii) Discussion

The outcome of this change is a larger, and more useable open space in Sandridge North and the provision of a linear park for the proposed recreation loop. The Review Panel supports the increased open space proposed in the Part C controls. Given the distance of approximately 800 metres to the North Port Oval District open space, reconfiguring the open space into a larger neighbourhood open space so that multi use courts and the like can be provided makes sense.

4.4 Woolboard Road extension open space

(i) Submissions and evidence

Port Phillip submitted that the public open space in the draft Amendment be relocated to shift 6,700 square metres of proposed public open space from the south side of the Woolboard Road extension (leaving a 12 metre wide linear park) to deliver the larger public open space (about 10,000 square metres) on the north side of the street at 155 Bertie Street.

(ii) Discussion

Port Phillip proposed relocating this open space onto the Toyota land in the location of its existing headquarters. The Review Panel does not support this. There is a commitment to support Toyota as a long-term employment generating use in Sandridge. The space is not needed to support a safe and convenient 200 metre catchment for residents and workers. The expanded park on the southwest corner of Woolboard and Bertie Streets provides a better alternative as a larger open space to the Port Phillip proposal for the Toyota land.

4.5 Boundary Street park

(i) Submissions and evidence

Kador submitted that locating substantial open space in this location unreasonably impacts on the development potential of its site and is ill considered. It said that the open space would be better located on the south west side of Boundary Street, to optimise sunlight access.

The Minister did not propose to expand the Boundary Street park towards White Street onto Crown land because the Minister wishes to preserve the opportunity to deliver social housing or community infrastructure on this site in addition to open space.

The Minister submitted that the expanded park does not materially strengthen the 200 metre walkable catchment from homes and workplaces. It is acknowledged that the larger area would support a broader range of uses. However, the alternative of additional opportunities on a scarce piece of Crown land is preferred in this instance. As a consequence, the associated recommendations of Port Phillip to remove the linear parks

delivered by road closures was not supported by the Minister and the partial closure of White Street and Gittus Street is proposed to be retained.

The proposal for a new open space on the corner of Fennell and Boundary Street was not supported by the Minister on the grounds that it would require introduction of new height controls in an area within the core intended for unlimited heights and would have implications for achievement of the FAR on the affected sites.

(ii) Discussion

The Review Panel accepts the Minister's position on this area of open space. As discussed in the Overview Report, the provision of affordable and social housing is important and retaining the opportunity for social or affordable housing on this land makes sense.

4.6 Corner of Fennell and Bertie Streets

(i) Submissions and evidence

Ms Thompson recommended consolidation of open space, and the proposed removal of the open space on the corner of Fennell and Bertie Streets. The proposal to reconfigure the open space on the corner of Fennell and Bertie Streets was not supported by the Minister.

Nias Nominees Pty Ltd operates Australia's largest independent picture and sound post-production company, trading as Soundfirm at 2 – 31 Fennell Street. Soundfirm supports the evidence of Ms Thompson regarding the proposed consolidation of open space, and the proposed removal of the open space on the corner of Fennell and Bertie Streets.

The Soundfirm site has also engineered to comply with the Motion Picture Association of America Content Security Program, referred to as MPAA Accreditation, which enables Soundfirm to work on assignments from the US. Designing and refurbishing the site as a cutting-edge facility has cost over \$3.5 million. Works to the site include specialised sound mixing equipment not found elsewhere in Australia. The total investment in the site has been in excess of \$7 million, which, it was submitted, has undoubtedly contributed to Soundfirm's reputation as a world class post-production studio (of which there are only two in Australia).

(ii) Discussion

Soundfirm would appear to be an operation worth keeping in Fishermans Bend give its profile and the nature of employment it provides. There would be merit in revisiting the role and location of this open space in the Precinct Planning process.

4.7 Findings

The Review Panel finds:

- there is no compelling design reason to relocate the open space at the Plummer/Bridge Street intersection to the north side of the intersection
- the proposed open space network in Sandridge as reflected in the revised CCZ and DDO maps is appropriate

- the open space on the corner of Fennel and Bertie Streets should be revisited when preparing the Precinct Plan.

5 Location of community hubs

5.1 Context

The areas of Sandridge identified as community hub investigation areas, as shown in Figure 8.

Figure 8: Investigation areas for hubs



5.2 Submissions and evidence

Identifying specific sites

Port Phillip submitted that it had identified specific locations for the various hubs, including the Health and Wellbeing Hub, which Council suggests should be relocated from Wirraway to Sandridge, in preference to broad investigation areas. The idea of identifying specific sites is consistent with the other submission of Port Phillip, namely the funding of these facilities by way of a DCP. Identifying a specific site, which Port Phillip submitted, occurs in virtually all other structure planning in Victoria, also provides far greater certainty to the community, developers and government.

Ms Heggen and Mr Rogers agreed it was a better approach to identify specific sites than identifying investigation areas.

The Minister submitted that he wished to preserve the opportunity for the community hubs to be provided within the broader nominated investigation areas. If necessary, the exact location for the community hubs could be fixed in the Precinct Plan process.

Health and Wellbeing Hub

Port Phillip's proposed location for the Sandridge North Park on Toyota's land at 155 Bertie Street would locate the Health and Wellbeing Hub adjacent to the park within a mixed use building on the Goodman land. Port Phillip submitted that this fulfils many orderly planning principles involving the colocation of civic uses.

In turn, it was submitted that this would create an important northern anchor to the Sandridge Activity Centre in the longer term, connected by a green spine along Bertie Street to the cluster of hubs adjacent to the proposed expansion of North Port Oval. Port Phillip said that there was an undeniable order and logic in this sort of planning which will further entrench this key landmark at the southern end, saying *"That is what place making is all about"*.

Port Phillip submitted that this approach will provide a clear physical framework upon which Fennell Street and Bertie Street can develop over time, noting that the Metro Station at the junction of these key streets will, in the longer term, complete the urban structure of Sandridge.

Art and cultural hub

Port Phillip submitted that the CCZ1 should include a plan showing the Sandridge Urban Structure identifying the preferred location for the arts and culture hub as 577 Plummer Street.

The Minister did not accept this recommendation.

The Minister noted that the location is within the investigation area for the arts and culture hub and agrees that the location is an appropriate one. However, the Minister wished to preserve the opportunity for the arts and culture hub to be provided within the investigation area. The Minister submitted that if necessary, the exact location for the arts and culture hub could be fixed in the Precinct Plan.

Port Phillip submitted that that an Art and Cultural Hub at the intersection of Plummer Street and Bridge Street could achieve multiple objectives with 'one move', because it would obviate the need for multiple land acquisitions. It also said that locating the hub directly adjacent to open space, would create an important landmark vista down the realigned Plummer Street.

Education and community hub

Port Phillip submitted that the Education and community hub (Primary School) should be a P-12 combined primary and secondary school.

The Minister did not agree. Reference is made to SIN 9 (Document 151) which outlines the Minister's response to the Port Phillip's submissions regarding community infrastructure.

Specifically, the Minister submitted that unless and until the Department of Education identifies the need for another secondary school, it is not appropriate to require this outcome.

5.3 Discussion

The Review Panel considers that where existing infrastructure can be used to provide or support community facilities, it should be pursued in the first instance to determine whether it is feasible and practical.

The expansion of the North Port Oval and the location of a Sport and recreation hub and Education and community hub near the open space is good planning.

The Review Panel is comfortable with the broad area identified for the Art and Cultural Hub and notes that it does not preclude Council's preferred location.

The Review Panel is not convinced that there is an 'undeniable order and logic' in using a Health and Wellbeing Hub to 'anchor' one end of a green spine along Bertie Street. In the absence of any clear understanding of the role and design constraints of the Health and Wellbeing Hub it would be premature to conclude that Council's location is superior to a location in Wirraway.

The Review Panel agrees until the Department of Education identifies the need for another secondary school, it is not appropriate to require this outcome.

5.4 Findings and recommendations

The Review Panel finds:

- the proposed locations of the community hubs are appropriate.

6 Roads and transport infrastructure

6.1 Context

A number of new streets and laneways are proposed to transform the industrial scale blocks into a walkable neighbourhood. The Fennel Street–Plummer Street civic spine provides a strategic cycling corridor and a proposed public transport route accommodating a tram line and a potential future Metro Rail alignment. Enhanced bus routes and services are also proposed. A well-spaced collector road network is formed by:

- Ingles Street
- Bridge Street
- Graham Street
- proposed east–west roads each side of Fennel Street–Plummer Street civic spine.

Mr Kiriakidis, Mr Fooks, Ms Dunstan and Mr Walsh provided high level review of Fishermans Bend transport network. Ms Dunstan and Mr Walsh also provided site specific expert traffic evidence for developers and land owners.

The majority of roads and transport infrastructure issues centred around more site specific roads and laneway locations. The key issues are:

- new roads south of Fennel Street
- closing the southern end of Bertie Street
- modified and additional laneways.

6.2 New roads south of Fennell Street

(i) Submissions and evidence

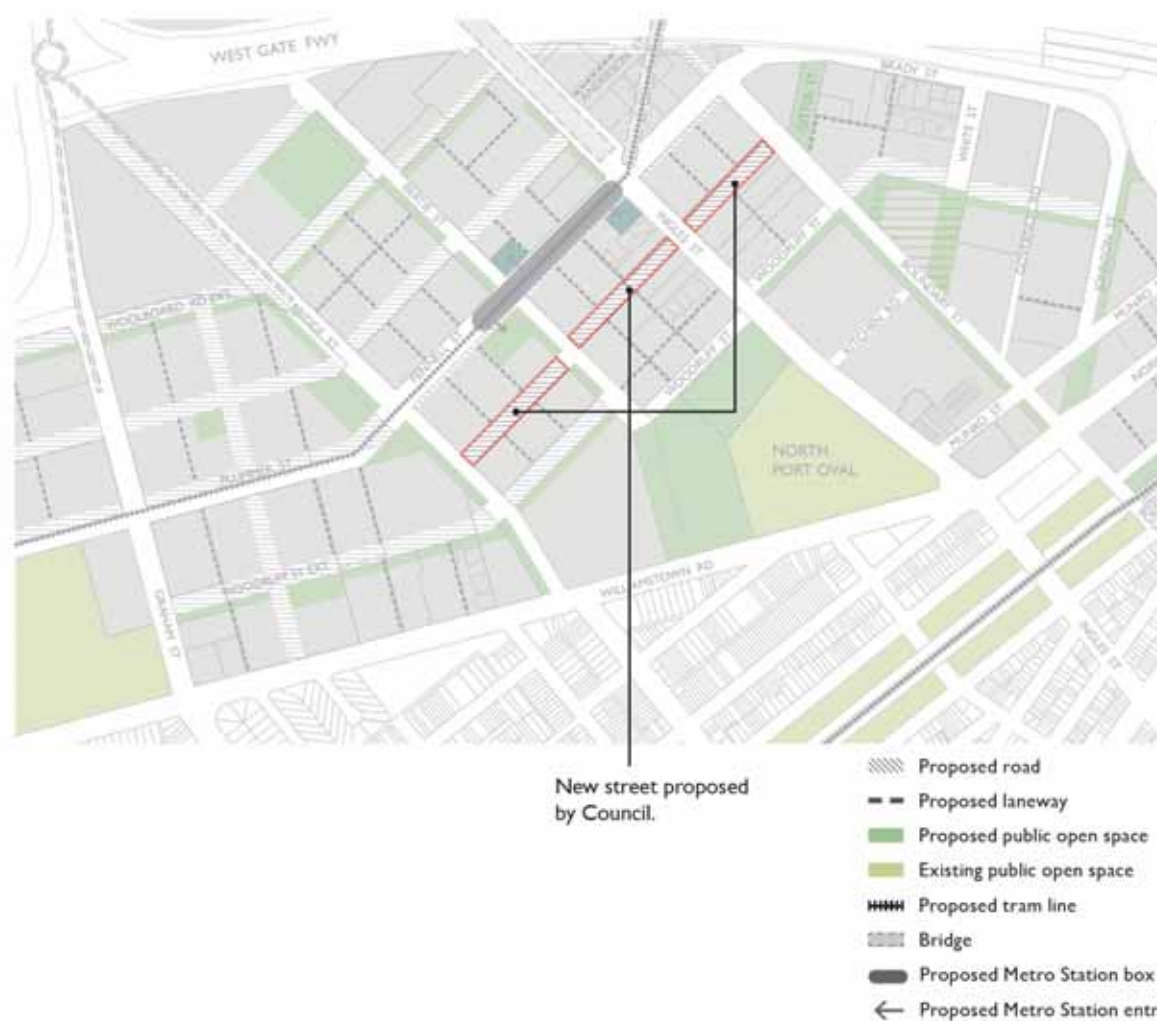
Port Phillip submitted that the draft Amendment should be changed to include an additional 22 metre wide road in the Sandridge core, as shown in Figure 9. This was based on its analysis that the block size was too large in this area.

The Minister (DS37) generally supported this suggestion, to further break up the large allotments, but did not agree with setting the exact location. The Minister submitted that this matter can be resolved when the Precinct Plan is developed. The Part C controls present this as a road with ‘width subject to precinct planning’.

Port Phillip noted that Mr Sheppard¹¹ also agreed with the need to provide additional local streets in the three very large blocks between Fennell Street and Woodruff Street, and the reorientation of the laneways to generally run perpendicular to Fennell Street to maximise solar orientation and create more versatile city blocks. Mr Sheppard also supported showing the indicative laneway locations in the controls.

¹¹Who appeared on behalf of many developers but not Council.

Figure 9: New road suggested by Port Phillip



Source: City of Port Phillip urban design report (DS1), Figure 8

(ii) Discussion

The Review Panel agrees that the blocks between Fennell Street and Woodruff Street will be too large and would benefit from a new road. It considers that the proposed new road segments south of Fennell Street should be shown as 'indicative' on plans in the draft Amendment and supports the Minister's approach in leaving the width undetermined. It also considers that the exact location does not need to be specified at this stage.

6.3 Closing the southern end of Bertie Street

Mr Sheppard recommended a review of the merits of closing the southern end of Bertie Street, believing that permeability for traffic might be more desirable than open space as it would reduce traffic on other roads.

The Minister did not accept this recommendation.

The Review Panel agrees that the closure of Bertie Street is required to facilitate an integrated approach to public open space and community facilities. The closure of Bertie

Street will provide for the expansion of the North Port Oval and connectivity to the proposed Sport and recreation hub investigation area.

6.4 Modified and additional laneways

(i) Submissions and evidence

Laneway width

Port Phillip submitted that the DDO should be changed to specify a minimum width of nine metres for lanes in Sandridge. The Minister did not accept this recommendation, stating that if lanes are proposed for pedestrian access only, a width of nine metres may be unnecessary. The Minister also submitted that further consideration of the minimum widths of laneways can occur during the Precinct Plan process when the role and function of each laneway can be determined.

Laneway location

Port Phillip submitted that the draft Amendment should be changed to show additional and differently oriented laneways until further work is undertaken through detailed precinct planning.

The Minister accepted that further work is required regarding the precise location and dimensions of the laneways, and submitted that the work required to finalise the precise location of laneways, their role and character are matters that will be finalised during the Precinct Plan process. He submitted that laneways should continue to be shown in the maps, and the Part C version of the maps included some of the proposed laneway locations as requested by Port Phillip, albeit identified as 'indicative'.

Submissions from the Salvo Property Group and CitiPower highlighted that it is important for maps to clearly show the location of various proposed roads and laneways – using 'indicative' provides little comfort when parties are well progressed with applications or development ideas. The Review Panel has recommended use of GIS software to provide greater certainty together with greater detail and clarity for land owners.

Arcades as well as laneways

Port Phillip submitted that Clause 22.XX should be changed to allow one through block link through buildings per street block in place of an open to the air laneway, where commercial/office development is proposed.

The Minister accepted the suggestion of through block links for commercial and office development which are additional to the proposed open air laneways. This will support additional permeability. However, the Minister did not agree that through block links should be provided in place of open air laneways because they are not guaranteed to be public and open at all hours. through block links may not be open all hours.

(ii) Discussion

The Review Panel does not take issue with the need for a fine grain urban structure but believes that further work is required. However, as discussed in the Overview Report, the Review Panel recommends that laneways only be shown at this stage if they are essential for

vehicle access, such as land locked sites or where a road is classified as a ‘no crossover’ road. All other laneways should be resolved during the Precinct Plan phase, when the road and laneway network can be further refined to resolve the exact location, width and function of the roads and laneways.

A key issue in the planning of the Sandridge Precinct relates to clearly articulating the desired road and laneway layout, balancing access with the other important elements such as urban realm. A road or laneway may not be required explicitly for traffic purposes; but can serve other functions in relation to urban realm, permeability, street activation and, where the road reservation is sufficiently wide, functions related to built form, building separation and street wall height controls.

The Review Panel also supports through block links for commercial and office developments which are additional to the proposed open air laneways as this will enhance permeability. These links can be further considered as part of the permit process for specific sites.

6.5 Finding and recommendations

(i) Findings

The Review Panel finds:

- The three proposed road segments south of Fennell Street between Bridge Street and Boundary Street are required to break up the large allotments.
- The exact location of street alignment can be resolved as part of the Precinct Plan phase.
- Closing Bertie Street is a positive initiative that should be progressed.
- The road and laneway network can be further refined as part of the Precinct Plan process to resolve the exact location, width, function and character of roads and laneways.

The Review Panel recommends:

- 3. Include the need for three proposed road segments south of Fennell Street between Bridge Street and Boundary Street in the Capital City Zone maps as an indicative link.**

7 Site specific issues

A number of the issues raised by submitters in Sandridge are common to all precincts and addressed in the Overview Report. If relevant to Sandridge and have broader implications beyond the particular site, they are addressed in earlier chapters of this report.

Sandridge submissions have in the first instance been identified where the submitter has indicated the submission relates to this Precinct. In addition every effort has been made to identify Sandridge related issues raised in other submissions.

7.1 277 – 281 Ingles Street, Port Melbourne

Mr Walsh submitted traffic evidence for 277 – 281 Ingles Street, Port Melbourne.

Application plans lodged with the Department and Port Phillip contemplate the proposed road as shown in the draft Framework. It was submitted that because this road terminates at the Ingles Street bridge, it provides limited vehicular access to the broader network, and that the exact location of the new road and laneways across the site does not need to be prescribed at this time.

Mr Walsh noted that Ingles Street is a strategic cycling corridor. However, the Ingles Street service road, parallel to the bridge could still have vehicle crossings as local vehicle access is effectively separated from the bicycle lanes. As such, this section of Ingles Street could accommodate crossovers.¹²

The Review Panel agrees with Mr Walsh that the ‘no crossover’ should not apply to the Ingles Street service roads, as the presence of the bridge will separate the strategic cycling corridor along Ingles Street.

The Review Panel recommends:

- 4. Remove the ‘no crossover’ designation from the Ingles Street service road in those locations where the Ingles Street bridge will deliver the strategic cycling corridor.**

7.2 155, 140 and 61 Bertie Street (S220)

Toyota Motor Corporation Australia Limited owns and occupies land in the Sandridge Precinct:

- 155 Bertie Street – corporate headquarters
- 140 Bertie Street – car park
- 61 Bertie Street – Technical, Design and Regional Office.

Toyota submitted that, if the draft Amendment is to proceed, aspects of the controls need to be changed. Toyota's site specific concerns are:

- the identification of a roadway through the middle of the site at 155 Bertie Street, including through the middle of its headquarters building
- Port Phillip’s proposal for public open space on 155 Bertie Street
- the designation of core and non-core areas over 155 Bertie Street.

¹² Mr Walsh evidence (D194), [32] – Mr Walsh wrote Fennell Street in his evidence, but the Review Panel has read his intention of this paragraph to be Ingles Street.

Ms Dunstan gave traffic evidence on behalf of Toyota. Many of the road and transport issues associated with the Toyota site are addressed in the Overview Report.

The site specific issue Ms Dunstan identified was the proposed road which bisects the 155 Bertie Street site. Her evidence was that the road should be deleted or alternatively, the controls should apply discretion. Ms Dunstan agreed under cross examination by Mr Montebello that proposed road through the site could be shown as 'indicative'.

Brendan Rogers gave evidence that it would be desirable to allow flexibility for Toyota to masterplan for the future on their 155 Bertie Street site by removing the use of mandatory controls around the proposed road alignment.

The Minister submitted that in the event that the existing use ceases, the introduction of a road will add to the permeability of the area, but the location and width of the road can be flexible given it does not line up with another road through the Precinct. Subject to further refinement, the Minister supported showing this road as 'indicative'.

Toyota is a valuable large-scale business which uses its land for commercial office and headquarter-type operations. Its future use is directly consistent with the aims for Sandridge. While the head office Toyota site presents long-term opportunities, it is more valuable in the short to medium-term as an existing employer in the Precinct.

While the form of development in this location is expected to change over the longer term time frame, the Review Panel agrees with Port Phillip that *"No one is going to knock on Toyota's door and say 'it's time to move on'"*.¹³

Provisions that enable reasonable modifications to land to facilitate existing use of land are appropriate, and are contained in the Review Panel's recommended version of the controls. Given the road on the Toyota site does not have a strategic transport role it is appropriate to show it as 'indicative'.

The Review Panel recommends:

- 5. Show the proposed road through the Toyota site at 155 Bertie Street, Port Melbourne as 'indicative'.**

7.3 Plummer Street/Bridge Street intersection (S180)

Delta owns sites on either side of Plummer Street at the intersection with Bridge Street. The northern parcel is affected by the realignment of Plummer Street, the southern by proposed open space. The draft Framework identifies the realignment and road widening as a 'medium-term' action.

Delta made detailed submissions about the acquisition of land and the need to provide for existing activities. These are addressed in the Overview Report.

Mr Song gave evidence in relation to the Delta site and agreed that the realignment of Plummer and Fennell Streets was a necessary outcome (as did Mr Walsh in his traffic evidence for the site).

¹³Closing submission City of Port Phillip (DS39), [49].

Port Phillip submitted that once it is accepted that realignment is necessary, then the only issue is to try and minimise the impact on Delta. But the minimisation of the impact should not be in deference to the existing use of the Delta site, which is not consistent with the long-term Vision for the Precinct. The objective should be to minimise the impact on Delta's property rights, not their use rights.

Port Phillip submitted that for the northern Plummer Street site, it makes sense to acquire the entire site given that parts of the existing buildings must be acquired for the tram and road realignment. This is discussed in Chapter 4.

Port Phillip submitted that the acquisition of this whole site by the State Government will also go a long way to addressing the concerns raised in submissions by Mr Morris QC noting that this would result in Delta being compensated for the need to relocate its business activities from this location.

Road to the south

Mr Walsh submitted traffic evidence on behalf of Delta Group regarding the draft Amendment's impact on 577 Plummer Street and 299 Bridge Street, Port Melbourne. He found that in the general context of the future grid style road network, the proposed road (south of Plummer Street) is a logical response but it provides relatively local access as it terminates at JL Murphy Reserve (Graham Street).

The proposed road is located entirely within Delta Group's land yet properties to the south will realise benefits but not contribute to its cost. It was submitted that this raises access, timing and delivery issues if other nearby parties choose to develop before Delta.

The Review Panel agrees that some realignment of the intersection is necessary, but that redesign depends on developing a functional layout of the intersection to determine precisely how much land is required.

There is clearly a need to deliver a fine grained road network in the Precinct. The Review Panel does not think that it would be prudent to remove the road to the south of the Delta site. In terms of who would benefit from the road, this is a matter of its precise location – which can be determined in the Precinct planning process – and who pays for the road – which can be determined as part of any ICP or DCP.

7.4 90 – 96 Johnson Street (\$175)

Citipower is the owner of the land at 90 – 96 Johnson Street, South Melbourne. The site is currently used for the purpose of an electrical substation. It has an area of 4,066 square metres with frontages to Johnson Street, Munro Street and Governor Streets.

Ms Heggen gave evidence on behalf of Goodman and CitiPower. Ms Heggen's primary concerns related to the general matters of infrastructure delivery and governance, and the difference between the FAR and the FAU in terms of what she regarded as a 'looseness of fit'. Cross examination by Ms Brennan confirmed that this view was significantly over estimated as Ms Heggen's analysis did not fully account for the practical issues in building design that limits what percentage of the build form envelope can actually be developed.

It was submitted that there is a significant difference between the discretionary height of 24 storeys and the existing approval for development on the site to the immediate north of

between 26–46 storeys in height. The height permitted on the CitiPower site cannot be considered in isolation. The Review Panel is comfortable with the 24 storey height limit in this part of Sandridge, accepting that permits for taller development have been issued.

7.5 60 – 82 Johnson Street (S250)

Salvo purchased 60 – 82 Johnson Street the land in 2016 with the intention of redeveloping the land in accordance with an existing permit. The permit was originally issued by the Minister for Planning on 20 May 2015. It was subsequently amended on 17 October 2016. The amendments made were relatively minor.

This application made allowance for a mid-block link (14.8 metres wide) and for half of a proposed 22 metre wide road along the north boundary of the site. It was submitted that with the draft Amendment these matters are now unclear, in particular the proposed road on the northern boundary may be entirely within their property, half, or not at all.

Salvo is an established, land developer and over the past decade, has been responsible for the development of more than 3,000 residential apartments. Salvo stressed:

Perhaps more significantly in the context of this Hearing, Salvo have a 100 per cent project completion record. They have never failed to complete a development project.¹⁴

The site is currently vacant, save for some residual areas of hard stand concrete. There have also been some recent works associated with environmental site investigation and remediation undertaken.

In response to the exhibition of draft Amendment, Salvo raised several concerns site specific concerns:

- the building height and floor area ratio are inappropriate
- the proposed reduction in building height and introduction of mandatory floor area ratio unreasonable and unjustified, particularly in the Sandridge Precinct
- there should be recognition of existing permits in determining preferred built form controls for a site/precinct
- no potential local amenity considerations justify lower heights and density
- current approved building heights need to be given weight in any assessment associated with determining preferred building heights
- proposed 22 metre wide road along north boundary to linear open space was not raised in any consultations.

It was submitted, as is evident from the endorsed plans, that there is a significant difference between the built form approved under the permit and the built form that could be achieved under the draft Amendment.

Both Mr McGurn and Mr Sheppard identified that the development approved under the permit would be prohibited under the draft Amendment because of:

- the application of the FAR controls

¹⁴Submission on behalf of Salvo Group (DS14), [5].

- the location of a 22 metre wide road on the Salvo Land (although the precise location of the road is not entirely clear)
- the location of the proposed area of linear open space.

Under the draft Amendment, the Salvo Land would be located within the non-core area of Sandridge. It would be subject to a FAR of 3.3:1. This is below the FAR of the development approved under the permit. Salvo submitted that:

The Minister has made no submission, and produced no evidence, that should lead the Review Panel to conclude that the development approved under the permit would adversely impact on Fishermans Bend, or fail to deliver a net community benefit. There is no good reason why control should be drawn which would effectively preclude this kind of development outcome, or make it conditional upon the exercise of a poorly defined, unreviewable and arbitrary FAU decision by the Minister.¹⁵

The draft Amendment seeks to change the trajectory of Fishermans Bend. This implies that what was once permitted will not be permitted under the draft Amendment. The submissions from Salvo challenge this change in direction.

Development can proceed under the current permit. The Review Panel considers that if some of the current permits are acted upon, and others approved, it will ensure a varied built form outcome, albeit somewhat taller than proposed by this draft Amendment. However, it does not mean that all building heights should revert back to what was included as part of Amendment GC50.

As discussed in the Overview Report, the Part C version of the draft Amendment deals better with existing permits.

7.6 44 – 54 White Street (\$141)

Kador Group Holdings Pty Ltd own 44 – 54 White Street. The site is located on the north eastern side of White Street, is irregular in shape and has an area of approximately 1.3 hectares. The site is:

- partly in the core and partly in the non-core area of Sandridge and subject to FARs of 8.1:1 and 3.3:1 respectively
- subject to a discretionary building height of 42.2 metre (12 storeys) in the core area
- subject to a discretionary building height of 80.6 metre (24 storeys) in the non-core area, with a small portion in the westernmost part of the non-core area being subject to a discretionary building height of 42.2 metre (12 storeys).

The site is identified as being located partly within the Sandridge Arts and Cultural Hub investigation area and partly within the Sandridge Sport and recreation hub investigation area.

Kador relied on the expert evidence of:

- David Song in relation to town planning considerations
- Jason Walsh in relation to parking and traffic matters.

¹⁵ Submission on behalf of Salvo Group (DS14), [30].

It was submitted that there was no planning benefit in applying a reduced height to the southern part of the site, as there was no need to transition building scale down towards the Northport Oval, and Boundary Street forms a logical boundary to higher form. It was submitted that the nominated 12 storey height limit was unjustified, given the proposed, generally higher scale of development to the east of Boundary Street.

Mr Walsh submitted traffic evidence and noted that the site is located towards the West Gate Freeway and as such, has limited permeability and no connection to the east until Munro Street (approximately 300 metres south of the site). In this regard, permeability is sought north–south through this area to access the broader road network and proposed facilities.

Mr Walsh’s evidence was that it seems illogical to close part of White Street and Gittus Street, and replace those connections with a new road through the site. This road encumbers the subject land without benefiting others. The new roads forms a cross intersection and would desirably be signalised, creating the need for further infrastructure and cost when the existing network is sufficient. Mr Walsh is of the view that this road is not necessary and could be deleted from the plan.

The Minister responded that Gittus Street and White Street (west end) road closures provide valuable open space to an area that is lacking in open space.

The Review Panel agrees with Mr Walsh that the proposed road closures and associated new road through this site are generally not required on traffic engineering grounds. When looking holistically at the proposed road network for the land east of Boundary Street, Brady Street, the proposed road–Woodruff Street (generally midblock) and Johnson Street–Governor Road (to a lesser extent due to the narrower road reservation) at the southern end provides a level of connectivity. However, broader elements such as open space need to be considered. The Review Panel does not consider that any change is warranted to the proposed road and open space network.

In terms of the heights, the Review Panel accepts that the heights in this area should be reduced to transition to the existing residential areas and North Port Oval. It is difficult to respond to submissions about individual sites without considering the broader impact of the development of the Precinct if all similar sites were treated the same. Given the density and other controls that apply the Review Panel does not think that height will be the main detriment to development yield. The appropriateness of the FARs is discussed in the Overview Report.

7.7 11 Munro Street and 282, 286, 290 Normanby Road (\$169)

The Teller Group Pty Ltd owns 11 Munro Street and 282, 286 and 290 Normanby Road, Port Melbourne. This site is a large island site of 5,200 square metres and is located on the edge of the Sandridge Precinct. Teller broadly supported the concept of the Framework and the draft Amendment, but sought changes so that:

- the proposed mandatory building height for the site is changed to ‘discretionary’
- the proposed FAR be increased to better reflect the site’s context and a discretionary building height

- the proposed discretionary maximum dwelling density be reconsidered in light of a discretionary building height.

The controls for Normanby Road have been determined to set an appropriate interface with the existing residential area. The height and street wall requires have been modified since exhibition and the Review Panel supports the current (Part C) approach.

7.8 118 Bertie Street (S182)

118 Bertie Street, Port Melbourne, is located within a 'core area' of the Sandridge Precinct. Lateral Estates currently have a planning permit application for an 18-storey mixed use development, which was submitted in June 2016. Following the introduction of the interim controls through Amendment GC50, the original proposal underwent a significant redesign given that no transitional provisions were incorporated in the amendment.

It was submitted that the draft Amendment would have a significant impact on the site and the current planning permit application, specifically the:

- FARs
- minimum employment floor area requirements
- maximum dwelling density
- 12 metre wide road proposed along the southeast property boundary, within the site
- maximum building height of 12 storeys for the front half of the land and unlimited at the rear half of the land – the exact location where the height requirements change is not clear
- mandatory requirement restricting additional overshadowing to proposed parks
- two proposed parks located within proximity to the subject site.

Lateral Estates submitted that urban design analysis confirms only a four storey development would be viable (compared with the current controls allow 18 storey).

Lateral Estates specifically objected to the 12 metre road proposed along the south east boundary within the site on the following grounds:

- three previous iterations of the Fishermans Bend Framework Plan show the road located on a neighbouring site
- proposed road results in a loss of over one-third developable area
- neighbouring sites are larger could reasonably accommodate the road.

The 118 Bertie Street property in particular has been identified by both Ms Hodyl¹⁶ and Mr Sheppard¹⁷ as being incapable of achieving its maximum FAR under the Amendment. It was submitted that one of the significant constraints apart from the FAR and height issues, is the new 12 metre wide lane on the property's southern boundary.

It would appear from the material submitted on behalf of the Minister during the Hearing that this road or lane may have moved to the abutting property although Port Phillip did not accept that.

¹⁶ Ms Hodyl's Addenda 4 (D92), pages 4-5.

¹⁷ Mr Sheppard Sandridge evidence (D177d), pages 38-41.

Lateral Estates submitted that having identified that this property is incapable of achieving any reasonable development yield, the submitters had been left in a complete vacuum as to what is to be done about it.

Mr Sheppard prepared a concept plan showing alternative laneway locations (Figure 10).

Figure 10: 118 Bertie Street, Port Melbourne – Alternative laneway locations



Source: Mr Sheppard Sandridge evidence (D177d), page 40

The Review Panel agrees that the draft Amendment does restrict the development potential of the site, and this was clearly articulated in Ms Hodyl's evidence. Part of the issue is that the site is restively narrow. The Review Panel has recommended changes to the DDO which may deliver different development opportunities to the site.

In any area different sites have different development potential depending on their particular constraints and opportunities. The issue with this site appears to be the additional constraint imposed by the proposed road. If this road is need to serve other properties, there may be a case that it does not fall solely to the landowner to provide it.

There are potentially two ways to secure a fair outcome for this site:

- relocate the road to allow more development on the site
- compensate for the loss of value under an infrastructure plan.

The Review Panels generally supports Mr Sheppard's findings and believes that further investigation is appropriate to determine if a more optimal laneway location and width can be resolved for 118 Bertie Street, Port Melbourne, as part of the Precinct Plan process.

Appendix A Document list

No.	Date	Description	Presented by
S1	19/04/18	City of Port Phillip Urban Design Report for Sandridge	Ms Alvarez, Maddocks
S2	20/04/18	Revised Sandridge DDO maps	Mr Watters of Counsel for the Minister for Planning
S3	“	Proposed Precinct Character for Sandridge	“
S4	“	Enlarged Plans (from S1)	Mr Montebello, Maddocks Lawyers
S5	“	City of Port Phillip Submission	“
S6	27/04/18	Sandridge Opening Submission	Mr Wren
S7	“	PowerPoint presentation on urban design evidence	Mr Sheppard
S8	“	Sandridge building heights map	Ms Brennan
S9	“	Extract of Heritage Overlay, Port Phillip Planning Scheme	“
S10	“	Images prepared by Hodyl & Co along Williamstown Road and Bridge Street	“
S11	“	Screen shots, Hodyl 3D models	“
S12	“	Sandridge revised FAR Modelling 26.04.1	Mr Sheppard
S13	30/04/18	60-82 Johnson St, South Melbourne Planning permit extension of time	Ms Brennan
S14	“	Submission on behalf of SPG Johnson Street Landowner Pty Ltd (Salvo Group)	Mr Tweedie
S15	“	Existing permit 60-82 Johnson Street No MPA 14/003-1	“
S16	“	Plans for 60-82 Johnson Street	“
S17	“	DELWP letter – application for extension of time	“
S18	“	Salvo Group’s request for EOT letter dated 8 December 2017	“
S19	“	Presentation of proposed revisions to Amended Planning Permit MPA14/003-1	“
S20	“	Amended Plans for 60-82 Johnson Street	“
S21	“	Amended Planning Permit 60-82 Johnson Street No MPA 14/003-1	“

S22	“	Letter – Connolly Environmental summary of environmental works	“
S23		Salvo Professional fees to date	“
S24	02/05/18	Submission – Teller Group	Mr Govenlock, Urbis
S25	“	PowerPoint presentation on planning and urban design evidence for CitiPower Pty Ltd	Ms Heggen
S26	“	Submission – CitiPower Pty Ltd	Mr Canavan
S27	03/05/18	Submission – Delta Group	Mr Morris and Ms Collingwood
S28	“	Aerial photo of site	“
S29	“	Aerial photo of local area	Mr Watters
S30	“	Aquanio Pty Ltd Submission, including: - appendix A (timelines) - appendix B (costs)	Mr Canavan
S31	“	Geotech investigation	“
S32	“	Addendum 1 to evidence of Toyota Motor Corporation	Mr Wiseman
S33	04/05/18	Submission – Toyota Motor Corporation	Mr Chiappi
S34	“	PowerPoint presentation on planning evidence for Toyota Motor Corporation	Mr Rogers
S35	“	PowerPoint presentation on traffic evidence for Toyota Motor Corporation	Ms Dunstan
S36	“	Sandridge Precinct approved permits/applications spreadsheet	Mr Watters
S37	07/05/18	Closing submission – Minister for Planning	“
S38	“	Parking Overlay 45.09	“
S39	“	Closing submission – City of Port Phillip	Mr Montebello, Maddocks Lawyers
S40	09/05/18	Revised FAR modelling for 1 Fennel St Port Melbourne	
S41	16/05/18	Submission from Kador Pty Ltd	Ms Collingwood
S42	“	Extract from Mr Walsh’s evidence	“
S43	“	Shadow impacts of alternative building forms	“
S44	“	Submission from Nias Nominees Pty Ltd & Roger Savage	Ms Robertson
S45	“	Addendum to evidence	Ms Collingwood
S46	22/05/18	Correspondence from CitiPower	Ms Choi

Fishermans Bend Planning Review Panel Wirraway Precinct – Report No. 5

19 July 2018

Planning and Environment Act 1987

Report pursuant to section 151 of the Act

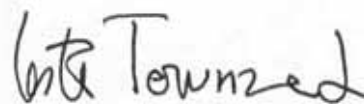
Fishermans Bend Planning Review Panel

Wirraway Precinct – Report No. 5

19 July 2018



Kathy Mitchell, Chair



Lester Townsend, Deputy Chair



Sarah Carlisle, Member



Rodger Eade, Member



Peter Edwards, Member

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List of Abbreviations – as per Report No. 1, Volume 1

Executive summary

(i) Summary

This is Report No. 5 of the Review Panel which relates to the Wirraway Precinct within Fishermans Bend.

Wirraway is located in the City of Port Phillip and covers an area of 94 hectares. Wirraway will be an inner city neighbourhood known for its leafy green streets, local cafes and shops and thriving cultural hub. It will provide walking and cycling access to Westgate Park and Sandridge Beach. It is proposed to have a larger proportion of two and three bedroom dwellings than the other precincts, and will have a greater emphasis on accommodating households with children.

Submissions raised a wide range of issues including:

- height and setback controls
- urban structure issues including boundaries, building typologies and active frontages
- location of open space
- location of community hubs
- road and transport infrastructure
- particular site matters
- the complexity of the controls.

This report should be read in conjunction with Report No. 1, which provides the overview of the context and process of the Review Panel, and addresses common issues raised in submissions (such as the method of acquiring land for public purposes, funding infrastructure in Fishermans Bend, Floor Area Ratio, Floor Area Uplift, affordable housing, governance and other matters).

(ii) Findings

In relation to Wirraway Precinct key issues, the Review Panel concludes:

- The proposed built form controls for the core are generally appropriate.
- The proposed built form controls for the non-core are likely to lead to underdevelopment.
- Significantly more development can occur without compromising the Precinct character.
- Minor changes to core and subprecinct boundaries proposed are supported.
- Densities of 370 dwellings per hectare in the core and 348 dwellings per hectare in the non-core are supported.
- Maximum proposed building heights of six storeys in the non-core are likely to be nonviable and an increase to eight storeys as the preferred height is proposed.
- The location and quantum of open space is satisfactory.
- The community hub investigation areas are supported and it is regarded as premature to nominate particular sites for community facilities at this stage.

In addition, the Review Panel has responded to a range of site specific issues raised in submissions and has recommended further changes where appropriate.

(iii) Recommendations

Based on the reasons set out in this Report, the Review Panel recommends that the Minister for Planning progress draft Amendment GC81, subject to the following changes:

- 1. Amend Map 2, Building Heights, in the Design and Development Overlay for Wirraway to change building heights in the non-core area which were proposed as six storeys discretionary to be eight storeys discretionary.**

1 Strategic Overview

1.1 Precinct context

The Wirraway Precinct is located in Port Phillip and is 94 hectares in size, with a net developable area of 58 hectares.

It is bound by the West Gate Freeway to the north, Graham Street to the east, Williamstown Road to the south and Todd Road to the west (refer to Figure 1). Wirraway contains two large public open spaces, the JL Murphy Reserve and Howe Reserve. It has reasonable access to West Gate Park, further to the west in the Employment precinct.

Figure 1: The subject land

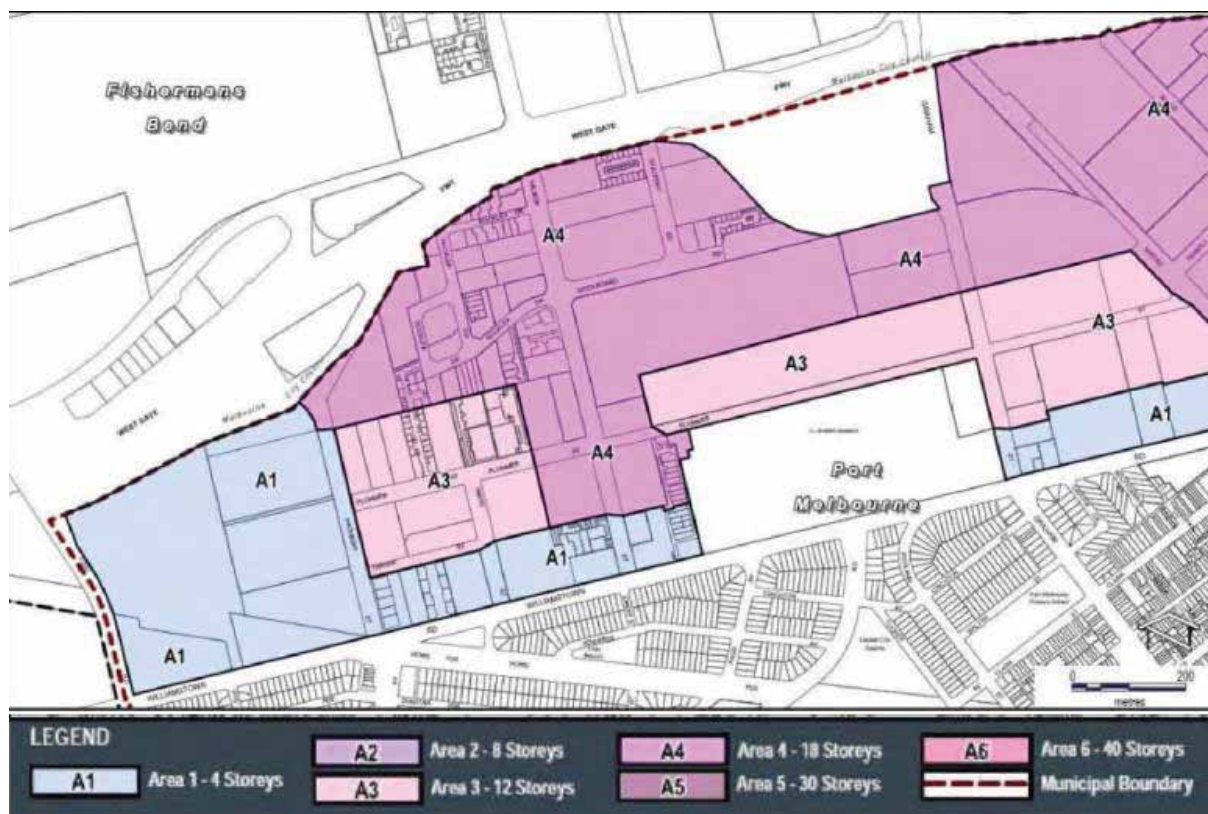


Source: Google Maps

1.2 Existing Planning Controls

The Capital City Zone, Schedule 1 and Design and Development Overlay (DDO), Schedule 30 currently apply to the Wirraway Precinct. DDO30 applies as illustrated in Figure 2.

Figure 2: Design and Development Overlay, Schedule 30



Under DDO30, Wirraway is split into three areas (A1, A3 and A4) with varied maximum building heights. Much of north Wirraway and parts of central Wirraway are designated A4, which allows for 18 storey limits. Land to the north of JL Murphy Reserve is designated A3, which provides for 12 storeys. Land to the south and west of the precinct is predominantly A1, which allows for heights of 1-4 storeys. Most of the current permits and permit applications are for buildings between 12 and 18 storeys which are generally consistent with DDO30.

The interim built form controls currently applying are shown in Table 1.

Table 1: Interim built form controls

Built Form Element	Requirement
Building height	Mandatory maximum: A1 - 4 Storeys A3 - 12 Storeys A4 - 18 Storeys
Street wall height	Mandatory maximum 5 storeys or 20 metres, whichever is lesser
Tower setback	Mandatory minimum 10 metres to the street edge Mandatory minimum 10 metres to all other boundaries Setback can be taken from centre of laneway (if applicable)
Tower separation	Mandatory minimum 20 metres

1.3 Planning permit application history

There are currently five approved permits and five live permit applications. Of those permit applications, all five have been called in. Current permits are in Table 2 and permit applications are in Table 3.

Table 2: Current Permits

Address	Submitter	Permit	Proposed FAR
320 Plummer St	217	12 & 15 storeys	4.1:1 (core) 2.1:1 (non-core)
S2, 19 Salmon St	167	4 storeys	4.1:1 (core)
101 Salmon St	N/A	12 storeys	2.1:1 (non-core)
9, 339 Williamstown Rd	58	10 storeys	4.1:1 (core)
10-12/339 Williamstown Rd	N/A	13 storeys	4.1:1 (core)

Table 3: Permit applications

Address	Submitter	Permit application	Proposed FAR
365 – 391 Plummer St	217	12-18 storeys (called in)	4.1:1 (core)
17 Rocklea Dr	217	18 storeys (called in)	2.1:1 (non-core)
541 Graham St	150	18 storeys (called in)	2.1:1 (non-core)
18 – 22 Salmon St	203	13 storeys (called in)	4.1:1 (core)
112 Salmon St	68	12-18 storeys (called in)	N/A

1.4 Hearing process

The Wirraway Hearing was held over six days, between 8 and 17 May 2018, with some other submitters being heard during other parts of the Hearing due to their unavailability during the scheduled times.

There were in the order of 20 written submissions in relation to sites in Wirraway, of which 13 submitters presented in support of their submission at the Hearing, with a number calling evidence.

The findings and recommendations of the Review Panel for Lorimer are based on the Minister's Part C version of the planning controls.

2 Vision and Framework

2.1 Wirraway Vision

The Vision for Wirraway is, in summary, is a family friendly inner city neighbourhood close to the Bay and West Gate Park. It will provide an array of housing options, including small to medium scale apartment buildings, linked by leafy streets lined with different types of shops and cafes.

JL Murphy Reserve provides a major green space and will provide a focus for recreation, sports and leisure activities. It will incorporate best practice stormwater management in line with sustainability goals.

Wirraway will be known for its thriving arts scene, with galleries and cultural facilities drawing visitors from Melbourne and afar. It will host a wide array of workers, from service industries to research and development, built off connections to the Employment Precinct.

Regular tram services will run down Plummer Street Boulevard ensuring that Wirraway is well connected to the city and beyond. Popular cycle and walking routes will provide access to Sandridge Beach, Westgate Park and back through to the city. The transport network will support a higher density local centre, with slender commercial buildings interspersed among the primarily lower rise skyline.¹

The Precinct Directions are:²

- *establish a local centre with a mix of uses at the corner of Plummer and Salmon streets*
- *provide green links between new and existing public spaces*
- *support arts and cultural activity to drive creativity and innovation throughout the area*
- *connect to surrounding precincts and destinations including Sandridge, the Employment Precinct, Garden City and the Beach*
- *encourage diverse building types and scales including low and medium scale apartment buildings.*

The target population is for 17,600 residents in 6,822 households, and 4,000 jobs by 2050.³

2.2 Proposed urban structure

The proposed urban structure for the Wirraway Precinct is set out in Figure 3 and is proposed by the Minister to be included as Map 4 in the Capital City Zone Schedule.

¹ Fishermans Bend Vision, page 28.

² Fishermans Bend Framework, page 76.

³ Fishermans Bend Framework, page 76.

Figure 3: Proposed urban structure in Wirraway



Source: Minister Part C Control maps (D317), map 1c

The Plummer Street and Salmon Street intersection is proposed to be the focus of activity within the Precinct, with Plummer Street Boulevard providing a high quality pedestrian environment.

Active recreation and organised sports are focused on JL Murphy Reserve. Further open space is proposed in Wirraway North and East which are to be linked by green walkways, combined with new laneways and streets, creating a walkable neighbourhood.

Arts and culture, education and community, sports and recreation, and health and well-being hubs will be located centrally within the Precinct.

2.3 Proposed built form

The *Urban Design Strategy* defines the preferred building typology in Wirraway as follows:

The primary focus of Wirraway is to support family friendly housing. The residential density targets here are lower than the other three precincts. Within

*the new activity core, taller buildings are supported to define this centre, however these should ensure that the southern side of Plummer Street is not overshadowed. Generally six storey height limit in the non-core areas is proposed, reducing to four storeys at the interface to low-scale neighbourhoods to the south.*⁴

The tallest built form is anticipated in central Wirraway. Tower form is not supported in the non-core areas of Wirraway.⁵

The proposed DDO schedule provides for maximum building heights of 12-24 storeys (42.2 metres to 80.6 metres) in the Wirraway core with small areas with discretionary maximum heights of:

- 10 storeys (36 metres) at the south eastern corner of the corner of Plummer and Prohasky Streets and on the western edge of the JL Murphy Reserve north of the proposed laneway
- 6 storeys (23 metres) on the northern side of Plummer Street opposite the JL Murphy Reserve.

In the non-core area, the predominant height provided for in the DDO is 6 storeys (23 metres) with:

- 4 storeys (15.4 metres) north of Williamstown Road west of the JL Murphy Reserve, to provide a transition to the built form south of Williamstown Road
- 6 storeys (23 metres) mandatory between those area and the boundary of the core to the north.

2.4 Key issues

The Review Panel supports many aspects of the planning framework and proposed controls for Wirraway. These are not repeated in this report or expanded upon.

During the course of the Wirraway Hearing, the key issues raised related to:

- urban structure and built form
- location of open space
- location of community hubs
- other site specific issues.

The Review Panel notes that not unexpectedly, most issues raised were of a site specific nature but did have a number of common themes. For this reason the focus is on issues with reference to particular submissions and or sites where relevant.

⁴ Hodyl + Co, *Fishermans Bend Urban Design Strategy* (D53), page 88.

⁵ Hodyl + Co, *Fishermans Bend Urban Design Strategy* (D53), page 69.

3 Urban structure and built form

3.1 Context

Wirraway is proposed to be a precinct which is significantly different in character to other parts of Fishermans Bend. It is proposed to be more appropriate for households with children, with a lower built form in the non-core and a greater proportion of larger dwellings appropriate to the needs of the proposed household mix.

(i) Building heights

Building heights in the core are proposed to vary between 12 and 24 storeys and in the non-core are predominantly 6 storeys, with 4 storeys north of Williamstown road to provide a transition to the lower built form south of Williamstown Road. Proposed heights are set out in Figure 4.

Figure 4: Proposed building heights in Wirraway



Source: Revised maps Wirraway (DW25), Map 2

(ii) Street wall heights

Proposed street wall heights are set out in Table 3. In the Wirraway core, lower street wall heights are proposed to maximise the amount of sunlight that will penetrate the built form to reach the southern side of Plummer Street. To the south of the core, a variety of street wall heights between 4 and 8 storeys are proposed, to contribute to architectural diversity within the street and provide opportunities for portions of the street to receive greater levels of

sunlight access throughout the day. In the eastern part of the Precinct which abuts Sandridge, street wall heights proposed are consistent with a mid-rise form and allow for visually recessive upper levels.

Table 3: Wirraway street wall height

Location	Qualification	Preferred street wall height	Maximum street wall height
on Plummer Streets		6 storeys (23 metres) in height, except where a lower height is necessary to respond to adjoining heritage places	
along Williamstown Road		at least 4 storeys (16 metres)	4 storeys
Laneway (street \leq 9 m wide)			4 storeys along laneways except on corner sites in which case the higher street wall applies and should not extend more than 25 metres along the laneway
on a street $>$ 9 and \leq 22m wide			6 storeys
On a street $>$ 22m wide	where the building height is \leq 10 storeys	at least 4 storeys (16 metres)	8 storeys
-	where the building height is $>$ 10 storeys	at least 4 storeys (16 metres)	6 storeys

(iii) Setback above street wall

Proposed setbacks above the street wall are set out in Table 4. These generally vary between five and ten metres based on the need to transition to other types of built form, to be visually recessive from the street level and to improve solar access.

Table 4: Wirraway setbacks above the street wall

Location	Qualification	Preferred Setback	Minimum Setback
- Where the building has a direct interface with the West Gate Freeway	if the building height is \leq 8 storeys	5 metres	3 metres
	if the building height is $>$ 8 storeys	10 metres	5 metres
Williamstown Road		As specified for other locations	10 metres
Other locations	if the building height is \leq 8 storeys	5 metres	3 metres
	if the building height is $>$ 8 storeys and \leq 20 storeys	10 metres	5 metres
	if the overall building height is $>$ 20 storeys	10 metres	10 metres

(iv) Side and rear setbacks

The proposed side and rear setbacks, set out in Table 5, will provide equitable development rights, reasonable building separation and in some instances ensure reasonable solar penetration.

Table 5: Wirraway side and rear setbacks

Part of building	Qualification	Qualification	Preferred setback	Minimum setback
Below the street wall	If not within 300 mm of a side or rear boundary	Within core areas	6 metres	6 metres
		Within non-core	9 metres	6 metres
Above the street wall height	Building height \leq 20 storeys		10 metres	5 metres
	Building height $>$ 20 storeys		10 metres	10 metres

(v) Building separation within a site

Proposed building separation within a site are set out in Table 6.

Table 6: Wirraway

Part of building	Qualification	Preferred building separation	Minimum building separation
Below the street wall		12 metres.	6 metres.
Above the street wall	A new building up to 20 storeys in height	20 metres	10 metres
	A new building over 20 storeys in height	20 metres	20 metres

3.2 General urban structure

(i) Submissions and evidence

There was considerable debate about an appropriate urban form for the core and non-core areas of Wirraway. The Minister submitted that the built form controls were aimed at creating a preferred character broadly summarised as follows:

- generally mid-rise developments with potential for commercial uses in the non-core areas
- slender towers on Plummer Street located to minimise overshadowing impacts
- low-rise to mid-rise west of the core with opportunity for visually recessive upper levels which do not result in tower-podium forms
- generally mid-rise development south of the core with an opportunity for visually recessive upper levels.⁶

The definition and interpretation of the term ‘mid-rise’ was the subject of submissions and evidence. Under cross examination by Mr Montebello, Mr Sheppard stated that in his view mid-rise was 5 to 12 storeys, sometimes up to 15 storeys. Port Phillip submitted that a lower built form was appropriate for the Wirraway core, to give it a character which distinguishes it from the other precincts.

Port Phillip submitted that a ‘tooth and gap’ approach to the urban form of the north side of the core in particular was appropriate. The Minister supported a diverse building form and submitted that the proposed FAR would facilitate this. The Minister did not specifically oppose the tooth and gap approach.

(ii) Discussion

The Review Panel generally supports the urban structure proposed by the Minister and believes that a preferred character can be achieved for Wirraway without unnecessarily restricting height in the core, which will be well supported by public transport infrastructure. The different character in Wirraway will be partly achieved by the lower rise forms in the non-core. The Review Panel is supportive of limited use of the tower-podium form in the core.

The Review Panel supports Port Phillip’s tooth and gap approach as appropriate and supports changes to the DDO to facilitate implementation of this. This should apply to both sides of Plummer Street in the Wirraway core with the eastern extent being the lower built form on the north side commencing opposite the western end of the JL Murphy Reserve.

3.3 Achieving a varied building typology

(i) Submissions and evidence

Port Phillip proposed adding indicative building typologies to the Building typologies map in the DDO. Port Phillip’s preferred representation is indicated in Figure 4. Port Phillip further proposed that more descriptions of preferred building typologies were required in Table 1 of

⁶ Port Phillip MSS Review (D66c), pages38-39.

the DDO to ensure that an appropriately distinct character is created in Wirraway. The Minister did not accept this.

Figure 5: Port Phillip preferred built form typologies



Figure 3. Council's preferred building typologies within Wirraway sub-precincts

Source: City of Port Phillip Wirraway submission (W4), Figure 3

Port Phillip's overarching *Urban Design Report*, at Recommendation 8 stated in part:

*Reduce the scale of high-rise and encourage a diversity in building typologies such as hybrids in Wirraway core.*⁷

In describing mid-rise development it further stated that as part of a mid-rise benchmarking exercise, the characteristics of mid-rise included FARs which ranged from 3.1 to 7.8 with buildings of 3-15 storeys.

(ii) Discussion

The Review Panel is broadly supportive of more detail being provided in the character statements. The Review Panel believes that the preferred character statements as proposed by Port Phillip will better facilitate the preferred character for Wirraway outlined in the Vision, and are supported. However the Review Panel does not support the inclusion of the indicative built form types in the maps in the DDO, as it does not consider these appropriate for inclusion in a planning scheme control. They are more appropriate for a guidance note or similar, which sits outside the planning scheme.

⁷ City of Port Phillip Urban Design Report (D183), page 45.

3.4 Proposed density

(i) Proposed FAR

The proposed Floor Area Ratio (FAR) controls for the Wirraway core area is 4.1:1 with a minimum commercial FAR of 1.9:1. The Wirraway non-core FAR controls is proposed at 2.1:1.

In his general evidence, Mr Sheppard pointed out that the *Urban Design Strategy* indicates that the housing typologies proposed for the Wirraway non-core are consistent with a FAR of 4:1, that is significantly higher than the 2.1:1 proposed. On this basis he argued that the proposed FAR is too low and would represent an underdevelopment of the Precinct.

For reasons outlined in the Overview Report, the Review Panel does not support the FARs, and recommends that they be replaced with a dwelling density control. Chapter 7.8 of the Overview Report explains the starting point for the Review Panel's recommended dwelling densities in each precinct. They are based on the FARs, translated to dwelling densities. The starting point for Wirraway is a dwelling density of 139 dwellings per hectare in the core and 131 dwellings per hectare in the non-core (see Table 16 in Chapter 7.8(ii) of the Overview Report).

(ii) Is this the right density?

The Review Panel has found that:

- the target population of 80,000 for Fishermans Bend is too low, given its status as a State significant urban renewal area and its potential to provide a greater contribution to help cater for Melbourne's growth
- planning for Fishermans Bend should proceed on the basis of a target population in the range of 80,000 to 120,000 by 2050
- all of the preferred typologies can deliver residential densities of at least 4:1
- there is scope to increase the densities without compromising the building typologies and preferred characters, with the possible exception of Lorimer, Montague core and Sandridge core (where the proposed densities are already higher than 4:1).

These findings are discussed in detail in Chapters 6 and 7 of the Overview Report.

This raises the question of by how much the densities for each precinct should be increased.

For Wirraway, the Review Panel considers that a dwelling density of 370 dwellings per hectare is appropriate in the core and 348 dwellings per hectare in the non-core. The numbers presented here are more than double the original because as discussed in Chapter 7.8 of the Overview Report, the base densities initially proposed by the Minister have been factored up to provide for a full buildout of the Precinct. This is consistent with the approach taken to calculating the initially proposed FARs in the *Urban Design Strategy*.

The dwelling densities proposed for Wirraway have been increased significantly more than in the other Precincts based on the Review Panel's assessments as follows:

- It appears that population forecasts for Wirraway were 'held back' to keep the overall population forecast for Fishermans Bend at 80,000, possibly on the basis that Wirraway was considered by the Minister to be the last of the Precincts to develop.

- The Review Panel believes that based on current market pressures and development interest, development in Fishermans Bend will progress on two fronts, south from the CBD and Southbank, and north from Port Melbourne and the Bay (into Wirraway). Currently approved developments set out in Table 2 are evidence of this.
- There is significant looseness of fit between the densities represented by the initially proposed FARs and maximum permitted building height. There is therefore adequate scope to accommodate the increased density.
- The proposed densities will not compromise the urban form outcomes for Wirraway nor the Vision for Wirraway as an area that can accommodate households with children. This is because all of the lower rise typologies envisaged for the Wirraway non-core area can, according to Mr Sheppard's evidence, accommodate densities of up to 4:1.

The Review Panel therefore recommends that the dwelling density for Wirraway be set at 370 dwellings per hectare in the core and 348 dwellings per hectare in the non-core. This is an effective doubling of the proposed density.

3.5 Core and subprecinct boundaries

(i) Submissions and evidence

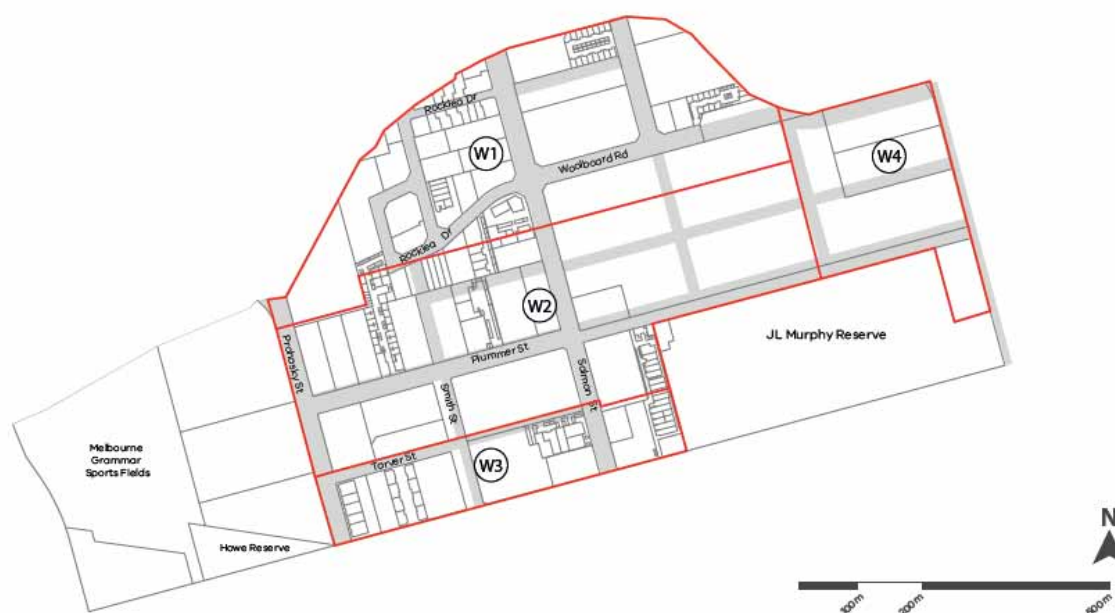
Core and subprecinct boundaries as proposed by the Minister are set out in Figure 6.

Mr Sheppard recommended that the boundary of the core, which bisects property boundaries at 359-391 Plummer Street, between the Smith Street extension and Salmon Street, be moved north to align with property boundaries. The Minister accepted Mr Sheppard's recommendation and submitted:

The Minister supports revisions to the boundary of the core area to clarify conditions where there are adjoining proposed roads and to incorporate the land required for the road into a core to support higher density over the balance of the land available for development.

Port Phillip submitted that the boundary of subprecinct W2 be moved to align with the core area of Wirraway.

Figure 6: Wirraway core and subprecinct boundaries



Source: Revised maps Wirraway (DW25), map 1C

(ii) Discussion

The Review Panel accepts the proposed revisions to the core area proposed by the Minister based on Mr Sheppard's recommendation. The Panel understands that this may extend to a number of properties with a frontage to Plummer Street between the new extension of Smith Street to the new street in the general location of 451 Plummer Street.

Moving the boundary of subprecinct W2 to align with the boundary of the core and non-core in Wirraway is supported by the Review Panel.

3.6 Building heights and setbacks

(i) Submissions and evidence

The Minister proposed that building heights abutting Williamstown Road between Smith Street and the JL Murphy Reserve be revised from four storeys mandatory to four storeys discretionary, and behind that frontage, generally abutting Tarver Street and its proposed extension, heights be revised from four storeys discretionary to six storeys mandatory.

On the northern side of the Plummer Street abuttal, Council proposed an eight storey height limit with 15 storeys behind it. This was based on the characterisation of the area in the Vision as small to medium scale buildings. As discussed in Chapter 3.2, there was considerable debate about the translation of the term mid-rise into building height.

Mr Sheppard supported medium rise development for most of the Precinct. He supported limiting tower-podium development to the Plummer Street spine between Prohaska Street and the JL Murphy Reserve, and excluding these forms from the land to the immediate north to protect its solar access.

Mr Sheppard indicated under cross examination by Mr Montebello that he could not understand Port Phillip's rationale for wishing to restrict building height to 15 storeys on the south side of Plummer Street.

There were a number of site specific submissions with respect to building height. These related to both the core and non-core areas.

These are summarised in Table 4.

Table 4: Building height submissions – Wirraway precinct

Address	core/ non core	Minister Proposed Height	Submitter proposed height	Submission/ comment
332 Plummer/ 21 Smith Street	Part C/NC	24 storeys/ 6 Storeys	24 storey	<i>"Southern half in non-core is perplexing"</i>
320 Plummer Street	Part C/NC	10 storeys/ 6 storeys		Permit for three towers of 15, 12, 12 storeys
365-391 Plummer Street	Part C/NC	24 storeys/ 12 storeys*		Only small proportion is non-core. Called in application for three towers of 12, 18 and 18 storeys
17 Rocklea Drive	NC	6 storeys		Called in application for 18 storey tower
299 Williamstown/ 11 Salmon Street	NC	4 storey street wall/ 6 storey set back	4 storey discretionary	Opportunities for increased height
2/19 Salmon Street	C	24 storeys	24 storey	
50 Salmon Street	C	12 storeys*	24 storey	
359 Plummer Street	Part C/NC	24 storeys/ 12 storeys*	24 storeys	Two height controls on site is problematic
541 Graham Street	NC	6 storeys		Called in application for four towers of 15 and 18 storeys. Six storeys unreasonably restrictive.
351 Plummer Street	Part C/NC	12 storeys/ 6 storeys	24 storeys/ 12 storeys	
437-481 Plummer Street				Goodman
14-16 Salmon Street	NC	6 storeys	8-12 storeys	<i>Urban Design Strategy</i> anticipates low to mid-rise
18-22 Salmon Street				
291 Williamstown and 1-9 Smith Street	NC	4 and 6 storeys		Four storey discretionary would be more strategically sound
112 Salmon Street		Open space		

2 Salmon Street	NC	4 storey	Four storey mandatory opposed and should be discretionary
187-201 Williamstown Road	NC	4 storey	Should be based on existing provisions

* Mandatory six storey street wall height with taller form set back.

There was little argument about the 24 storey height limit set back from the north of Plummer Street, or abutting the south side of Plummer Street in the core area. A number of submissions argued that the maximum height of 12 storeys on the north side of Plummer Street was not appropriate and that the solar access provision protecting the south side of Plummer Street should be deleted to allow a higher built form.

Mr Barnes supported a maximum preferred height of 24 storeys on both sides of Plummer Street between Smith Street and the JL Murphy Reserve. The Minister did not accept this recommendation.

Mr Barnes gave evidence in respect to the proposed height on other properties as follows:

- 50 Salmon Street – remove the 12 storey height limit
- 2/19 Salmon Street – support a discretionary 24 storeys.

In addition, Mr Barnes supported building heights graduating down to 12 storeys towards Williamstown Road with the possibility of an upper level setback of up to 10 storeys along the north side of Williamstown Road. The Minister rejected Mr Barnes' recommendations.

Bellamia Nominees submitted that the height limit of four storeys on their site was unreasonably low given the core is immediately to its north and that the step down is too severe. The Minister accepted this and proposed to amend the height between the core area and the four storeys on Williamstown Road to a mandatory six storeys (from four storeys).

Mr Armsby submitted that six storey buildings are not viable because soil conditions are such that expensive piling is required for any building taller than four storeys, and that the costs of piling make anything under eight storeys unlikely to be viable. He was supported on this by evidence from Mr Sheppard, however no geo-technical evidence was called.

While many site specific submissions opposed the proposed building heights, particularly on the north side of Plummer Street and in non-core areas, most of them did not nominate a preferred alternative height.

Port Phillip made submissions in relation to setbacks, conveniently summarised by the Minister as follows:

At least 40% of the building height at the street frontage must be 4-6 storeys in height. The remaining height can be up to the discretionary height limit. For a depth of 20m from the street where sheer buildings only are allowed. No pop-ups are permitted (i.e. no upper level setbacks are allowed within this area).

On laneways, development must not exceed 8 storeys in height for lengths greater than 40m.

This would replace the proposed street wall and upper level setback requirements in DDO30.

On other streets within the Core Area, the proposed 6 storey street wall would apply.⁸

The Minister submitted in response that the drafting to achieve some of this is difficult but would be open to further discussion with Port Phillip.

(ii) Discussion

With respect to height in the core, the Review Panel accepts the Minister's proposed heights of between 10 and 24 storeys on the grounds that, regardless of the future heavy rail alignment, this will be an important core area in Fishermans Bend. The desired character of the Precinct can still be achieved, primarily through a lower built form in the balance of the Precinct.

The Review Panel supports the tooth and gap outcome sought by Port Phillip as this will help moderate the built form on Plummer Street.

Based on submissions, the Review Panel is concerned about the viability of six storey development in the Wirraway non-core because of the piling that is likely required as a result of soil conditions. No submitter called specific technical evidence upon which to base a definitive conclusion. Mr Armsby provided a detailed submission on this. The Review Panel is concerned that if the six storey limit is retained, a possible outcome is poorer quality three and four storey development, representing a significant underdevelopment of the Precinct. For this reason the Review Panel proposes that where six storeys is proposed in the Wirraway non-core, this should be increased to a discretionary eight storeys. Other non-core building heights as proposed by the Minister are supported.

The Review Panel is cognisant of the evidence of Dr Eaddy regarding wind impacts and the potential ameliorating effects of appropriately designed taller built forms. Mr Tweedie submitted that taller built forms should be permitted immediately abutting the West Gate Freeway. The Review Panel can understand the advantages of this but believes that these are outweighed by possible overshadowing of the lower built form to the south and more particularly the undesirable impact it would have on the character of Wirraway and the non-core in particular.

The Review Panel supports the Minister's revised building heights for the areas along Williamstown Road and Tarver Street.

The Review Panel supports the further discussion proposed on the setbacks sought by Port Phillip but if agreement with the Minister cannot be reached, the Minister's proposal should be the fall-back position.

3.7 Primary and secondary active frontages

(i) Submissions and evidence

Primary and secondary active street frontages are shown in Map 3 of the Wirraway DDO. These vary from the exhibited control where extensive areas of active street frontage were

⁸ Minister's Closing submission for Wirraway (DW24), page7.

shown without any primary and secondary differentiation. The Minister submitted that the distinction between frontage types had been introduced in response to the submission by Port Phillip which stated:

A 'Core Retail Area' should be identified on the four blocks fronting the intersection of Plummer Street and Salmon Street, with Primary Active Frontages limited to limited to Plummer and Salmon Streets in this area.⁹

The Minister proposed to distinguish between three types of streets as set out in his closing submission.¹⁰

Port Phillip further submitted that a Development Plan Overlay (DPO) over this area could ensure key anchor land uses such as a supermarket are protected.

The Minister did not consider a DPO was required, as new laneway locations will support large floorplate uses and a core retail area can be identified in the Precinct Plan.

(ii) Discussion

The Review Panel supports the identification of a core retail area to ensure that retail activities do not become fragmented, thus possibly weakening the retail centre. Port Phillip's proposed retail core is more restricted than the primary active frontages proposed by the Minister, which extend further in each direction. The Review Panel notes that this Precinct is projected to support 17,500 square metres of retail space by 2050¹¹, with a supermarket considered unlikely before 2040. This relatively late delivery of a supermarket and likely pressure for residential development adds weight to the argument to plan now for such a use.

Having said this the Review Panel is of the view that it is likely that the development of Fishermans Bend will proceed on two fronts, one from the CBD moving south and the other in Wirraway moving from the south. This view is based on current market activity and the inherent attraction of Port Melbourne. On this basis a supermarket may be viable well before 2040.

The Review Panel understands that there are multiple property holdings in the vicinity of the Plummer Street and Salmon Street intersection which are probably not large enough to support a supermarket on their own. Given the inherent difficulties in land assembly for such uses, the nature and location of core retail uses such as a supermarket and a mechanism to facilitate delivery in the future should be considered at the precinct planning stage. The Review Panel does not support the application of a DPO at this stage, as it considers that it would be premature.

(iii) Findings

The Review Panel finds:

- It supports the building typologies proposed for the core and non-core areas of Wirraway, including the range of low to mid-rise typologies proposed for the non-core area

⁹ Submission for CoPP (DW4), [19].

¹⁰ Closing submission Minister for Planning (DW24), [9.2].

¹¹ Fishermans Bend Urban Renewal Area Retail Assessment(D196), table 8.3.

- It supports the tooth and gap approach on both sides of Plummer Street with the eastern extent of it being opposite the western end of the JL Murphy Reserve
- It accepts the revision of the core and subprecinct boundaries as proposed by Port Phillip and agreed by the Minister
- buildings heights in the core as proposed by the Minister are acceptable
- A tooth and gap outcome for Plummer Street as sought by Port Phillip should be provided for in the DDO
- In the non-core area, where a building height of six storeys discretionary is proposed, this should be increased to eight storeys discretionary
- The amended height and setbacks for the north side of Williamstown Road are supported
- Further discussion between the Minister and Port Phillip on setbacks is supported with the Minister's proposal being the fall-back position if agreement is not reached.
- A core retail area can be defined at the Precinct Planning stage.

3.8 Recommendations

The Review Panel recommends to:

- 1. Amend Map 2, Building Heights, in the Design and Development Overlay for Wirraway to change building heights in the non-core area which were proposed as six storeys discretionary to be eight storeys discretionary.**

4 Location of open space

4.1 Context

Wirraway has one existing significant area of active open space, the JL Murphy Reserve. It is proximate to both the existing West Gate Park located in the Employment Precinct and Port Phillip a few hundred metres to the west. Howe Reserve is a further area of passive open space.

Two new parks are proposed within Wirraway:

- Prohasky Park (incorporating the existing Howe Reserve)
- Wirraway North Park (in the vicinity of Salmon Street and Woolboard Road)

In addition there are a series of linear spaces linking existing and proposed parks.

4.2 Submissions and evidence

In his opening submissions, the Minister proposed the following open space for Wirraway.

Existing open space:

- JL Murphy Reserve
- Howe Reserve.

Proposed new parks:

- Prohasky Park
- Wirraway North Park.

Neighbourhood open spaces in the following locations:

- abutting a new east-west street west of Salmon Street
- on the southeast corner of Smith Street and a new east-west street
- on the northeast and southeast corners of the Plummer Street/Salmon Street intersection
- Salmon Street opposite the JL Murphy Reserve
- the southwest corner of Woolboard Road and a new north-south street, extending south to a new east-west street.

New linear open space links predominantly:

- east-west along the south side of Woolboard Road
- east-west along the south side of Tarver Street and extending through to JL Murphy Reserve
- north-south along the west side of Smith Street.

The Minister called open space evidence from Ms Thompson who recommended the following changes to open space provision in Wirraway:

- a new neighbourhood open space north west of northern section of Rocklea Drive
- enlarging the neighbourhood open space located on the south east corner of Salmon and the extension of Tarver Street

- relocating the open space on Plummer Street opposite the JL Murphy Reserve to the north so that it includes an existing large tree, abuts the new east west road existing large tree and enlarging it.

In closing for Wirraway, the Minister submitted:

The Minister has accepted all of Ms Thompson's recommendations to provide further public open space in Wirraway.

For the Wirraway Precinct, the total open space in the draft Framework is 143,378m². Ms Thompson recommended three changes. The Minister has accepted all of these changes. The changes are:

- *Introducing a new public open space on Smith Street in the southwest area of Wirraway.*
- *Reconfiguring and expanding the proposed public open space in Rocklea Drive.*
- *Relocating and enlarging the proposed public open space near Plummer Street.*

The effect of these recommendations is to increase the total public open space for Wirraway to 149,926m², an additional 6548m².¹²

Port Phillip submitted no changes to the provision of open space in Wirraway as recommended by Ms Thompson.

128 Salmon Street (S145)

Ms Robertson for Bowens adopted Ms Collingwood's submission (discussed in the Overview Report) that the provision of open space within 200 metres safe walking distance for all residents lacked strategic justification. She further submitted that her client is a long term business operator and intends to remain in its current location.

There were submissions requesting that some of the linear spaces connecting parks be deleted. These included Ms Collingwood who submitted that there is no need for the space along the east boundary of the Diamond Salmon site at 19 Salmon Street. This was supported by the evidence of Mr Barnes. The submissions and evidence questioned what connectivity this link provides.

541 Graham Street (S150)

Mr Canavan for Sel Reklaw objected to the open space link at the north of his client's site and to the provision of a local park on the western part of the site.

The Minister proposed two areas of open space on the north east and south east corners of Plummer Street and Salmon Street as part of the core. These would be complemented by a green link on the west side of Salmon Street, south of Plummer Street terminating on the south west corner of Salmon and Plummer Streets. Mr Barnes recommended deleting these open spaces, stating:

¹² Minister for Planning Closing submission for Wirraway Precinct (W24), [18]-[19].

*... this is a key intersection within the core of the Wirraway Precinct. I would prefer a strong built form to define the corners of this intersection rather than relatively small areas of open space.*¹³

The Minister noted that the public spaces shown on the Plummer Street and Salmon Street intersection will serve different functions and are not intended to be traditional, green, open space areas. These are proposed to be plazas and public spaces.

14- 16 Salmon Street (S136)

A supplementary submission by Bellamia Nominees raised concerns about the apparent inclusion of the northern portion of their site as open space and an east west green link. They submitted Ms Thompson indicated that 478 square metres of their site is required for open space. The Review Panel notes this confirmed in D138 tabled by the Minister.

4.3 Discussion

The Review Panel accepts that the open space provision proposed by the Minister, including Ms Thompson's recommended changes, is satisfactory. The Panel notes Ms Robinson's submission that Bowens are a long term business operator and that their site would need to be acquired for the Wirraway North Park. The Panel further notes that park is proposed in a 20-30 year time frame in the *Open Space Strategy*, and that time frame may well see changes which resolve the issue for Bowens.

With respect to the proposed linear spaces which link the proposed parks both within and beyond the Precinct, as indicated in the Overview Report, the Review Panel strongly supports the proposed linear space network because of the connectivity that it provides. This includes the links raised by both Diamond Salmon and Bellamia. The Review Panel notes that there is an apparent discontinuity in the linear open space on the west side of the extension of Smith Street north of Plummer Street. The Review Panel understands that part of the site where the discontinuity occurs is an electrical substation. It notes the Biosis Heritage Study (2016) undertaken as background to the draft Amendment proposes a further study with a view to including the site in a Heritage Overlay. The Review Panel visited this site but does not comment further on the heritage issue.

The Review Panel considers that this linear open space should be continuous and if there is some reason for the discontinuity in this location as a result of further study, the whole of the link should be deleted as there seems to be no logic to including a link that is not continuous.

Mr Canavan's concerns appear to the Review Panel to be more focussed on the method of acquisition than the provision as such. This issue is addressed in the Overview report at Chapter 14.

With respect to the proposed open spaces on the northeast and southeast corners of Plummer and Salmon Streets, the Review Panel understands that these are proposed as areas where urban design related features will mark this key intersection. For this reason these should be retained and planning for this location be further detailed in the Precinct Plan.

¹³ Expert Evidence of Mr Barnes (D175), [122].

4.4 Findings

The Review Panel finds:

- the provision of open space as proposed by the Minister and subsequently revised is supported
- where linear spaces are proposed they should be retained only if they can be provided as a continuous link.

5 Location of hubs

5.1 Context

Five types of community infrastructure hubs are proposed by the Minister for Wirraway:

- Sport and Recreation Hub
- Arts and Cultural Hub
- Education and Community Hub (primary)
- Education and Community Hub (secondary)
- Health and Wellbeing Hub.

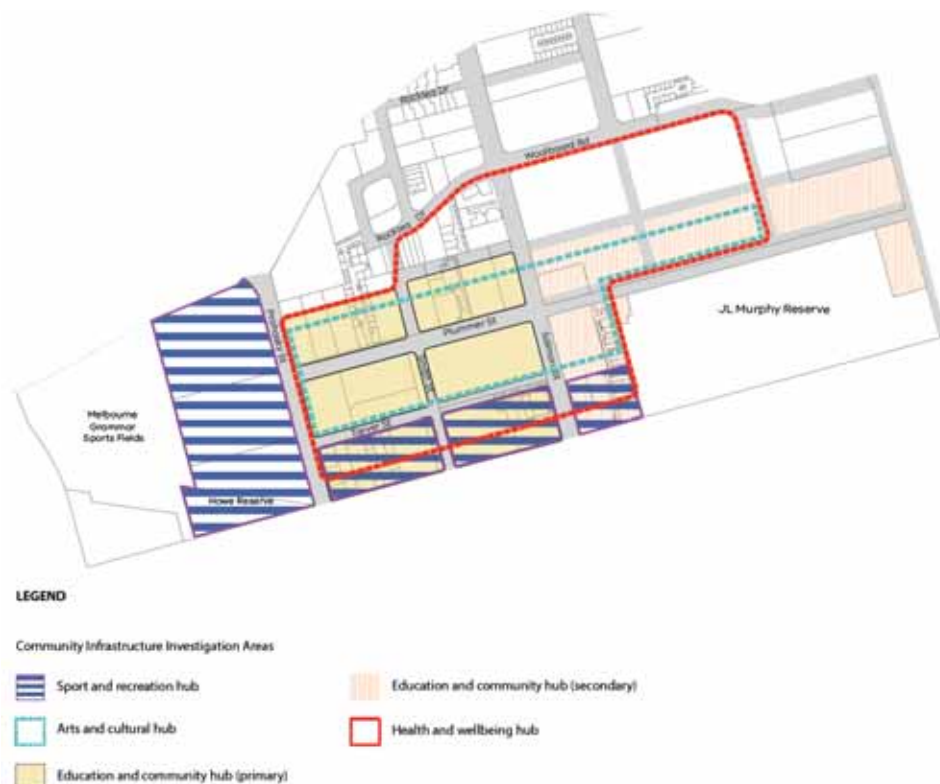
The key issues to be addressed are:

- whether it is appropriate at this stage to nominate investigation areas rather than specific sites
- whether the investigation areas/sites are appropriate.

5.2 Submissions and evidence

The Minister submitted that ‘investigation areas’ for hubs of each of the five types be located as set out in the MSS and reproduced here as Figure 7.

Figure 7: Proposed community hub investigation areas



Source: Revised maps Wirraway (DW25), Map 2C

The Minister submitted that the delivery timetable was planned to be as follows:

- Education and Community Hub (secondary school) (2022-2026)
- Education and Community Hub and Health and Wellbeing Hub (2032-2036)

- Arts and Cultural Hub and Sport and Recreation Hub (2036- 2051).

Port Phillip submitted:

- *The Health and Wellbeing Hub should be relocated to the core area of Sandridge.*
- *The Sport and Recreation Hub should be located within the proposed Prohasky Park at the termination of Plummer Street.*
- *A primary school based Education and Community Hub and the Art and Cultural Hub should be located along Plummer Street within the Goodman owned land.*
- *A second primary school based Education and Community Hub for Wirraway should be located at the corner of Tarver Street and Smith Street.*
- *The secondary school based Education and Community Hub should be located on the government owned land on the corner of Plummer Street and Graham Street¹⁴.*

Council submitted that its preference for nominating particular sites was based on the need to include the cost of the infrastructure in a DCP (or ICP). This would entail greater detail than the approach proposed by the Minister. Council further submitted that its proposal to locate the Health and Wellbeing Hub in the Sandridge core was based on the need to have it more centrally located for Fishermans Bend. Lorimer is the only other precinct where such a facility is proposed.

In closing, the Minister submitted:

- *The Minister does not accept these recommendations at this time.*
- *The Minister's Part C controls and policies (see MSS Map 2C – Urban Structure, circulated on 14 May 2018 and updated with this precinct closing submission), retain Areas of Investigation for the Community Hubs. These have been expanded to include all the sites nominated by COPP, except the relocation of the health hub to Sandridge. The final location of the Community Hubs will be determined during the detailed Precinct Planning stage.*
- *If necessary, the exact location for the various Community Hubs could be fixed in the Precinct Plan or in the ICP if it is used for funding the Community Hubs. In the interim, it is intended that the broader 'investigation area' identified in the MSS plan (and the Framework) for Community Hubs should remain.¹⁵*

5.3 Discussion

The Review Panel sympathises with Port Phillip's wish to be more precise about the location of the various community hubs. It notes that a number of the identified investigation areas are extensive. For example the investigation area for the Health and Wellbeing Hub appears to cover about a half of the entire Precinct.

¹⁴ Submission for CoPP (DW4), [14]-[18].

¹⁵ Closing submission Minister for Planning, [8.1]-[8.3].

The Review Panel understands that Port Phillip's thinking on the location of these hubs is more advanced than that of the Minister and understands the logic associated with a number of the specific locations proposed. The extensive investigation areas cause significant uncertainty for a potentially large group of land owners, particularly any of those who wish to develop their land in the short term.

The Review Panel does not oppose locating the Sport and Recreation Hub in the proposed Prohasky Park but does not agree with the Port Phillip proposal to locate it as a focal point for the western end of Plummer Street. A civic building as a focal point is accepted as an urban design principle but the Review Panel does not believe that a sport and recreation facility is likely to readily fit this function.

The Review Panel notes and supports the Minister's proposal to extend the investigation area for the Sport and Recreation Hub to include Prohasky Park to facilitate potentially locating the facility within the proposed park.

The Review Panel understands Port Phillip's logic for locating the Health and Wellbeing Hub in Sandridge. As a matter of principle the boundaries of the Precincts should be regarded as permeable with respect to the location of such facilities and location one side of the boundary or the other may be of little consequence. There appears to be a logic to locating the Health and Wellbeing Hub closer to the centre of Fishermans Bend and locating it in an activity centre that is likely to develop ahead of the Wirraway centre. There are extensive residential areas south of Wirraway which would benefit from such a hub. Its location should be finalised in the Precinct Plan.

If the proposal to develop an ICP is pursued, location of these hubs will need to be finalised before that plan is completed so that accurate costings of land and construction costs are included if it is proposed that they are funded in total or in part through the ICP.

5.4 Findings

The Review Panel finds:

- the precise location of the various hubs needs to be finalised no later than the release of the Precinct Plan
- Precinct boundaries should be regarded as somewhat permeable with respect to the location of key community facilities.

6 Site specific issues

A number of the issues raised by submitters in Wirraway are common to all precincts and addressed in the Overview Report. If relevant to Wirraway and have broader implications beyond the particular site, they are addressed in earlier chapters of this report.

Wirraway submissions have in the first instance been identified where the submitter has indicated the submission relates to this precinct. In addition every effort has been made to identify Wirraway related issues raised in other submissions.

6.1 Rocklea Drive overpass (S19)

Mr Pearce made submissions on behalf of Salta Properties who owns 87 Cook Street, an L-shaped site of approximately 2.87 hectares with frontages to Cook Street and Salmon Street. Salta Properties proposed a commercial development for part of the site. Abutting the western boundary is the former GMH site which may ultimately be developed as the University of Melbourne's new engineering campus.

The draft Framework is confusing as it showed the Rocklea Drive bridge in two different locations. Figure 9 shows the conflicting information on the bridge location north of the West Gate Freeway. The blue bridge appears to land on the internal local road, Gateway Court on the Salta site. This provides access to all commercial units and is critical to the operation of the business park.

Figure 8: Rocklea Drive overpass – conflicting bridge locations



Source: Salta submission to Review Panel (DM20), page 7

Salta questioned the need for three crossings of the freeway within 450 metres of each other and submitted that if the Rocklea Drive bridge was not provided it would require a walk/cycle

of approximately 250 metres to utilise Salmon Street overpass. The Review Panel notes this is a strategic cycling corridor.

Salta believed that the bridge should be abandoned or alternatively shifted to the west approximately 50 metres, to land in the former GMH site which is relatively unencumbered (former car parking). This would link into the future University of Melbourne campus.

The Minister acknowledged that the representation of the pedestrian/cycling bridge in the draft Framework is confusing. It is understood that the bridge is intended to be provided at the easternmost location, however it may be possible to deliver a bridge which commences in that location but lands on the former GMH site in the Employment Precinct (which is not part of the current draft Amendment).

The Review Panel accepts that the 'correct' location for the Rocklea Drive pedestrian/cycling is the eastern most location as shown in the draft Framework Figure 7 (Cycling infrastructure), and not as displayed elsewhere in the draft Framework.

The Review Panel agrees with Salta that if possible, the northern landing of the bridge should occur in the former GMH site as it is relatively unencumbered. The Minister appeared amenable to exploring this solution. The Review Panel notes that if the 'western' alignment was adopted, the bridge would land in the GMH site.

The Review Panel finds:

- the Rocklea Drive pedestrian and bicycle bridge should land on the former GMH site if possible and its final location should be resolved as part of the planning for the Employment Precinct.

6.2 9a/339 Williamstown Road (S58)

Mr Armsby made detailed submissions including some crucial points about the unintended consequences of using the FAR to control density, which is acknowledged and addressed in the Overview Report.

He submitted that development of the Wirraway Precinct requires a high level of government support to incentivise construction. The Review Panel accepts Mr Armsby's point about the cost of developing six storey buildings in the Wirraway non-core and have taken this into account in its recommendations with respect to the Wirraway non-core. It is not in a position to comment on other incentives as this is a matter for government.

6.3 112 Salmon Street (S68)

Aquino Pty Ltd's submission raised a number of points which have been addressed in both the Overview Report and elsewhere in this report. Their main concern is the designation of their site as part of the Wirraway North Park. Mr Canavan submitted that the site is not needed for open space because the provision of open space is excessive in this locality, the proximity of the proposed park to the JL Murphy Reserve and the proximity to the future elevated freight alignment. Mechanisms for funding and setting aside land for future open space are discussed in the Overview Report.

As noted in Chapter 5, the Review Panel supports the provision of this park and notes further that it is not proposed to be provided for some years.

Mr Canavan detailed the costs which have been incurred in an attempt to develop the land. The uncertainty and the costs incurred by some landholders is an issue addressed by the Review Panel in dealing with transitional provisions in the Overview Report.

6.4 8/339 Williamstown Road (\$76)

Mr Ninecevic questioned the need for a mid-block open space link from Salmon Street to the JL Murphy Reserve, arguing that there was already good access to that reserve. He submitted that for this reason compulsory acquisition is unnecessary. As indicated in Chapter 5, the Review Panel is broadly supportive of the proposed open space links and given the length of the block in question which is in excess of 200 metres, a mid-block linkage is supported. This issue is raised here as it is another matter for the Owners Corporation to address as it will impact common roadways.

6.5 339-343 Williamstown Road (\$100)

The Owners Corporation submitted the difficulties sites were facing with a range of views amongst owners about the further use and redevelopment of the site.

The Owners Corporation supported master planning of the site with approval its members. Varying views within the Owners Corporation have prevented agreement being reached on this. To overcome this difficulty, they submitted that the draft Framework should be changed to compel the Owners Corporation to create a master plan. They made recommendations about what the proposed DPO needs to provide. The Minister did not respond directly.

The Review Panel is sympathetic to the position in which this and other properties in Fishermans Bend who are members of Owners Corporation find themselves. A planning framework cannot compel an Owners Corporation to act in the way proposed in this submission so this is not an option for solving the dilemma they face.

6.6 332 Plummer Street and 21 Smith Street (\$131)

This is a large site with three street frontages. The northern half will be able to reach 24 storeys and the southern half six storeys before, as Mr Wren put it, "*the heavy hand of the FAR regime further burdens it down*".¹⁶ The Minister has proposed no changes to the proposed maximum building heights in this location. The Review Panel acknowledges that the change in height is significant but understands the need to transition to lower built forms towards Williamstown Road.

The Review Panel believes that ideally a site should not be split between two controls but because of a number of large sites in Wirraway, this is not always possible. Further, large sites lend themselves to multiple buildings.

6.7 128 Salmon Street (\$145)

Ms Robertson for Bowens submitted that the road proposed to run across the northern part of their site is "*misconceived, inappropriate and unnecessary*."¹⁷ She argued that the road

¹⁶ Opening submission Jane Group (DW9), [9].

¹⁷ Submission by J & D Bowen and Bowen and Pomeroy (W19), [14].

intersects with Salmon Street where there is an existing overpass and she can't see how it can connect with Rocklea Drive to the west.

The Minister did not respond directly.

The Review Panel accepts that the proposed street appears likely to be needed to provide access for properties to the north.

The Review Panel acknowledges the point raised by Ms Robertson with respect to the Salmon Street overpass and connectivity to Rocklea Drive. The draft Framework shows a key project for the Wirraway Precinct to be the Salmon Street bridge widening (presumably to accommodate the strategic cycling link). It is anticipated that the current one-way service road operation, each side of Salmon Street overpass, would continue, providing connectivity between Rocklea Drive and the proposed road through the Bowens site.

This can be resolved in the Precinct Plan.

6.8 Various properties in Salmon and Plummer Streets (S149)

Goodman did not appear at the Wirraway Hearing but as indicated in the Overview report they are extensive property holders in the Wirraway Precinct as well as both Lorimer and Sandridge. Of their holding, 26 hectares is contiguous and extends through to the Sandridge to the east. The Review Panel reiterates that it is appropriate to master plan such a large site but considers it premature to apply a DPO to the site until more detail about how Goodman intends to develop its site and what community services might be provided on it.

6.9 541 Graham Street (S150)

Mr Canavan on behalf of Frank Walker and Sel Reklaw and supported by expert evidence from Dr Eaddy submitted that given the site abuts the West Gate Freeway there is opportunity for appropriately designed taller built forms abutting the freeway. Dr Eaddy gave evidence that these could be beneficial in mitigating the wind impacts on the built form to the south. The Review Panel has indicated in Chapter 4.5 that while this has some advantages, on balance it does not accept this proposal. In Chapter 5 it accepts that the proposed open space on this site is appropriate, as is the proposed street network. Both these will impact the development yield possible on the site.

Mr Canavan made submissions about the alignment for the proposed heavy rail as it potentially impacts the site. The Review Panel reiterates that a decision on the final alignment appears to be some time away and it is inappropriate to comment on the potential impacts of it on a particular site.

6.10 19 Salmon Street (S167)

Many of the issues raised by One Smart are addressed in the Overview Report. One Smart have a permit for a four storey development in the Wirraway core. Part of their site is proposed for an open space link. As indicated in Chapter 5, the Review Panel is supportive of the open space links.

Ms Collingwood submitted:

There is no strategic justification for mandatory setback controls. Moreover, the overshadowing controls that apply to the south side of Plummer Street are too onerous, given the Site's core location.

The Minister rejected the proposal to remove mandatory setback controls and submitted that he believed that the correct balance had been struck between mandatory and discretionary controls. The Review Panel supports the mandatory controls.

In its Overview Report the Review Panel supports the overshadowing controls proposed for the south side of Plummer Street and the discretionary equinox controls for the south side of Plummer Street.

While One Smart have a permit, the Review Panel notes that the proposed development is an underdevelopment of the core and in the light of on-going uncertainty, may well constitute an example of developers choosing an option which does not require expensive piling.

6.11 359 Plummer Street (S208)

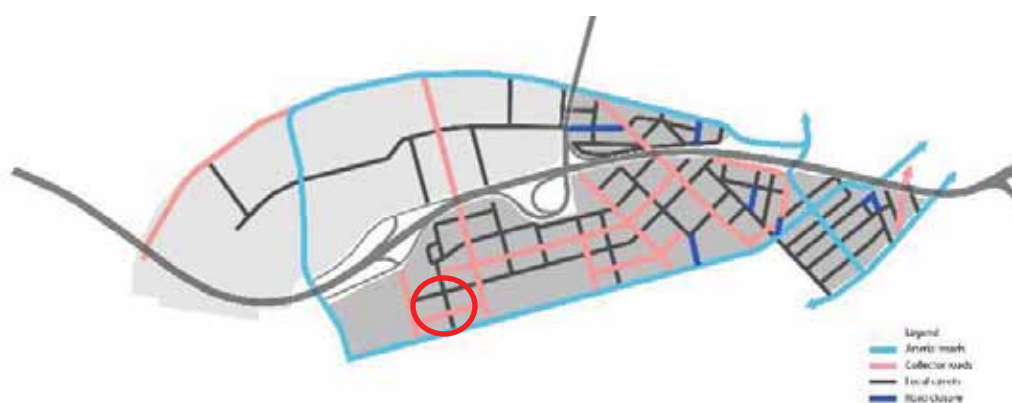
Ms Collingwood made submissions on behalf of 359 Plummer Street, Port Melbourne (Mitzmazal Pty Ltd), objecting to the proposed east-west link along their site's northern boundary. Mr Barnes' evidence was that the proposed east-west link was unnecessary and unreasonably impacts the site. While he acknowledged it completes the road grid, his evidence was that it is not required as the block is reduced in size by the curved layout of Rocklea Drive along its northern boundary.

In closing, the Minister did not support removal of this road as it is important to provide access and increased permeability on the large blocks in Wirraway.

In response to Mr Barnes' evidence, Port Phillip noted that this would create a larger block size inconsistent with the endeavours across Fishermans Bend to achieve a permeable grid based series of new precincts supplemented by appropriately spaced laneways.

When considering the broader aspects, in particular urban realm, permeability, and street activation, the Review Panel considers that on balance the proposed east west road should be retained. The Review Panel notes that this is shown as a collector road in the Framework Figure 6 Proposed Road Hierarchy, circled in Figure 8, and as such is an important part of the road network.

Figure 9: Location of proposed east-west road



More generally, the road and laneway network can be further refined as part of the precinct planning process to resolve the exact location, width, function and character. The Review Panel supports the Minister and Port Phillip in this regard.

6.12 320 Plummer Street, 365-391 Plummer Street and 17 Rocklea Drive (S217)

As indicated in Table 2, 320 Plummer Street has a planning permit for three towers of 15, 12 and 12 storeys. The permit has been acted upon and demolition has occurred. The site is partly in the core with a preferred height of 10 storeys and partly in the non-core with a preferred height of 6 storeys. Permits have been lodged for the other two sites and have been called in by the Minister.

Mr Tweedie submitted that the division between core and non-core across 320 Plummer Street is artificial. The site is large at approximately 7,500 square metres and the Review Panel accepts that the boundaries between core and non-core areas cannot necessarily be adjusted to ensure every site is all under one set of controls. Such an outcome may produce other anomalies.

Mr Tweedie submitted that the setback controls are ambiguous, confusing and inconsistently drafted. Mr McGurn appeared mainly concerned about the mandatory nature of the setback controls. He commented on the *“complicated approach”* to setback controls and the assumptions that appear to underpin them. He detailed a number of instances where the proposed mandatory setbacks would unnecessarily limit the development potential of his clients’ sites.

Mr Tweedie submitted that bridge upgrades proposed for Rocklea Drive potentially impacts his client’s property at 17 Rocklea Drive and neighbouring properties. The Review Panel notes that this issue of detail should be resolved in the Precinct Plan.

The Review Panel reaffirms the comments about transitional provisions in the Overview Report.

6.13 299 Williamstown Road and 11 Salmon Street (S222)

Ms Collingwood made submissions on behalf of Moniton Pty Ltd and relied on evidence from Mr Barnes. He stated that there was an inequity in the burden of the cost of the proposed east-west road which impacts this property. He noted the lack of justification for the mandatory setback controls which is addressed in Chapter 6.10 in respect of 19 Salmon Street.

The Review Panel comments that the equity issue with respect to this and other roads is one that will have to be resolved in the development of the proposed ICP or other mechanism that is used to acquire land to provide this infrastructure. This issue is extensively discussed in Chapters 13 and 14 of the Overview Report.

6.14 351 Plummer Street (S238)

Kalijo Nominees submitted that their site should be designated as core because it has two street frontages. In the Review Panel’s view this is not adequate justification for including this or any similar property the property in the core.

Kalijo submitted that the heritage designation for the property is not justified in the heritage study. The building referred to is an electrical substation which is recommended in the background Heritage Study for further investigation with a possible view to including it in a proposed Heritage Overlay. The Review Panel offers no further comment on this site.

Appendix A Document list

No.	Date	Description	Presented by
W1	4/04/18	City of Port Phillip Urban Design Report for Wirraway	Ms Alvarez, Maddocks
W2	8/04/18	Proposed changes to Planning Scheme Maps	Mr Watters
W3	"	Submission – Minister for Planning	"
W4	"	Submission for City of Port Phillip	Mr Montebello
W5	9/05/18	Submission of Mr J Armsby and supporting calculations	Mr Armsby
W6	"	Speaking notes of Mr J Armsby	"
W7	"	Presentation by Mr Sheppard	Mr Sheppard
W8	"	Attachment to Wirraway Report – Revised FAR modelling	"
W9	"	Opening submission Jane Group	Mr Wren
W10	"	Extracts from Hodyl & Co 3d Modelling	Ms Brennan
W11	10/05/18	Endorsed Plan 320 Plummer Street	Mr Tweedie
W12	"	Landscape Plan 320 Plummer Street	"
W13	"	Submission on behalf of Third Street	"
W14	14/05/18	Written submission on behalf of Moniton	Ms Collingwood
W15	"	Map showing Rigby Cooke submitters sites	"
W16	"	Cadastral Maps of Rigby Cooke submitter sites	"
W17	"	PowerPoint of Mr Barnes presentation	"
W18	"	Submission from various landowners represented by Rigby Cooke	"

W19	16/05/2018	Submission from J & D Bowen and Bowen & Pomeroy Pty Ltd	Ms Robertson
W20	17/05/2018	Submission from Sel Reklaw Pty Ltd	Mr Canavan
W21	“	Revised DDO Wirraway Precinct	Mr Watters
W22	“	Closing submission City of Port Phillip – Wirraway	Mr Montebello
W23	“	Explanatory table outlining changes to DDO for Wirraway	Mr Watters
W24	“	Closing submission Minister for Planning	“
W25	“	Revised maps accompanying Ministers closing submission	“
W26		Wirraway site information spreadsheet	“
