



240-246 NORMANBY ROAD, SOUTH MELBOURNE

**LOCATION/ADDRESS:** 240-246 NORMANBY ROAD, SOUTH MELBOURNE  
**EXECUTIVE MEMBER:** LILI ROSIC, GENERAL MANAGER, DEVELOPMENT,  
TRANSPORT AND CITY AMENITY  
**PREPARED BY:** SIMON GUTTERIDGE, PLANNING TEAM LEADER FISHERMANS  
BEND  
PATRICIA STEWART, FISHERMANS BEND URBAN RENEWAL  
SENIOR PLANNER

1. PURPOSE

- 1.1 To provide a Council position for the Minister for Planning on an application to the Minister to prepare, adopt and approve an Amendment to the Port Phillip Planning Scheme under Section 20(4) of the Planning and Environment Act for 240-246 Normanby Road, South Melbourne.

2. EXECUTIVE SUMMARY

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| <b>WARD:</b>                                   | Gateway / Montague   |
| <b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b> | Accommodation (dwellings) in the Fishermans Bend Urban Renewal Area  |
| <b>ADDRESS</b>                                 | 240-246 Normanby Road, South Melbourne   |
| <b>APPLICATION NO:</b>                         | <b>DELWP Ref:</b> PA2015/35870 and PSA C195port<br><b>CoPP Ref:</b> 6/2015/MIN/A and PSA C195port  |
| <b>APPLICANT:</b>                              | MG Normanby Road Pty Ltd   |
| <b>EXISTING USE:</b>                           | Two storey Showroom / Warehouse  |
| <b>ABUTTING USES:</b>                          | Showrooms / Offices / Warehouse.   |
| <b>ZONING:</b>                                 | Capital City Zone (CCZ1)<br>Abuts Road Zone Category 1 (RDZ1)<br>(Normanby Road and Montague Street)   |
| <b>OVERLAYS:</b>                               | Design and Development Overlay (DDO30)<br>Environmental Audit Overlay (EAO)<br>Parking Overlay (PO1)<br>Infrastructure Contributions Plan Overlay (ICO1) |
| <b>ABORIGINAL CULTURAL HERITAGE</b>            | The land is in an 'area of Cultural Heritage Sensitivity' under the Aboriginal Heritage Regulations 2018.  |



**STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL** 20 business days = 26-03-2021

**Strategic Planning Matters**

- 2.1 In February 2016, the Minister for Planning (the Minister) announced a review of the Strategy and Planning Controls for the Fishermans Bend Urban Renewal Area (FBURA)
- 2.2 On 19 December 2017, and then on 21 February 2018, the Minister called in all 26 live Ministerial planning permit applications in the FBURA on the grounds.
- 2.3 Twenty-one of the called in applications were in the City of Port Phillip and five were in the City of Melbourne.
- 2.4 The Minister, through the Department of Environment, Land, Water and Planning (DELWP) (the Department) invited the proponents of the called in applications to revise their designs having regard to the amended Planning Scheme controls and new Strategy.
- 2.5 Revised proposals were required to be submitted as an application for the Minister to prepare, adopt and approve an Amendment to the Planning Scheme under Section 20(4) (i.e. an Amendment for which exhibition and notice is not undertaken) of the *Planning and Environment Act* (the Act).
- 2.6 The Minister also prepared Terms of Reference (ToR) for the Advisory Committee setting out the process for consideration of Planning Scheme Amendment (PSA) applications, including for new proposals lodged following approval of GC81.
- 2.7 The ToR were updated on 29-04-2020, principally to:
  - apply to unresolved issues between parties rather than requiring the Advisory Committee to consider proposals de novo;
  - Change the Office of the Victorian Government Architect from an Advisory Committee member to a referral agency; and
  - Introduce a process for round-table meetings between all agencies to discuss and resolve issues prior to the Advisory Committee hearing the matter.
- 2.8 The Advisory Committee must submit its report to the Minister no later than 20 business days from the completion of the final meeting or other forum.
- 2.9 The Minister must then determine whether to approve the proposal and PSA.
- 2.10 Any approved PSA would then be listed in the Schedule to Clause 72.04 of the Planning Scheme.
- 2.11 Developments could then proceed in accordance with plans and conditions referenced in the Incorporated Document.
- 2.12 Once the infrastructure contributions plan is finalised and incorporated into the scheme, applications for planning permits in the FBURA could revert to the standard procedure.
- 2.13** Since the approval of GC81, the Minister has approved six (6) Planning Scheme Amendments in the CoPP FBURA as follows (in order of approval):



| Address  | (Precinct) / Approval   | Approval Date                               | Status      |
|--|---|---|-------------|
| <b>477-481 Plummer St, PM (Woolworths)</b>             | (W) Supermarket & Packaged liquor (New application - post GC81)                                 | 31/06/2020: Approved<br>02-07-2020: Gazette | Started     |
| <b>203-205 Normanby Rd, SB (Site 06)</b>               | (M) 171 dwellings, 36 levels (Called-in application)  | 30-07-2020: Approved<br>13-08-2020: Gazette | Not started |
| <b>118 Bertie St, PM</b>                               | (S) 67 dwellings, 20 levels (Called-in application)   | 18-08-2020: Approved<br>24-08-2020: Gazette | Not started |
| <b>2-28 Montague / 80 Munro St, SM</b>                 | (M) 623 (approx.) dwellings, 15, 24, 38 levels (Called-in application)                          | 18-08-2020: Approved<br>02-09-2020: Gazette | Not started |
| <b>256-258 &amp; 260-262 Normanby Rd, SM (Site 02)</b> | (M) 171 dwellings, 20 levels (Called-in application)  | 30-09-2020: Approved<br>15-10-2020: Gazette | Not started |
| <b>11-41 Buckhurst St, SM</b>                          | (M) 145 dwellings, 6,185m <sup>2</sup> retail/comm, 12, 20 levels (New application - post GC81) | 03-03-2021: Approved<br>05-03-2021: Gazette | Not started |

- 2.14 Seven (7) Planning Scheme Amendments to the Port Phillip Planning Scheme are pending approval, one (1) of which has been considered by the Advisory Committee, and six (6) of which are being considered directly by the Minister as follows:

| Address                                 | (Precinct) / Proposal   |
|---|---|
| 261, 271-281 Ingles St, PM              | (M) 78,656m <sup>2</sup> commercial & retail, Hotel, 947 dwellings, 18, 50, 32, 37 levels |
| 264-270 Normanby Rd, SM: <b>Site 01</b> | (M) 171 dwellings, 20 levels  |
| 272-280 Normanby Rd SM: <b>Site 00</b>  | (M) 280 dwellings, 30 levels  |
| 17 Rocklea Drive, PM                    | (W) 194 dwellings, 9, 16 levels   |
| 365, 371, 391 Plummer St PM             | (W) 702 dwellings, 26, 13, 29, 26 levels  |
| 2-14 Thistlethwaite St, SM              | (M) 6,550m <sup>2</sup> commercial, 14 levels   |



|  |                                    |
|--|------------------------------------|
| 450-460 City Rd & 7<br>Wolseley St, SM | (M) Office, 4 levels + 2 basements |
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**Application Matters**

- 2.15 This report is to consider an application to the Minister for Planning to prepare, adopt and approve an Amendment to the Port Phillip Planning Scheme to demolish the existing buildings on the land and construct a 32-storey mixed use building including a 6-level podium, a basement level and rooftop plant level and associated car, motorcycle and bicycle parking, and construct and carry out works.
- 2.16 Council considered an application for a planning permit for a 40 level tower on the site on 16-02-2016 and resolved to advise the Minister for Planning it did not support the proposal including because of concerns regarding the height and reduced setbacks of the tower.
- 2.17 On 21 February 2018, the Minister called in the application (and 20 other applications in CoPP).
- 2.18 The permit applicant subsequently elected to revise the proposal.
- 2.19 On 24 August 2020, new owners applied to the Minister to prepare a Planning Scheme Amendment (PSA) to the Port Phillip Planning Scheme.
- 2.20 During 2020, there were pre-application meetings with the proponents and agencies regarding the new proposal.
- 2.21 On 24 February 2021, the Department wrote to Council pursuant to s20(5) of the Act formally seeking its views regarding the most recent amended plans and providing **20 business days** (authors emphasis) to provide its views.
- 2.22 The proposal was internally referred and officers raised concerns that included the tower height being inconsistent with the preferred scale, typology and architectural form for the land and surrounds, the reduced setbacks of the tower, the number of car parking spaces and the design of car and bicycle parking areas, the number of vehicle crossings and proposed alterations to Normanby Road, a need for plan and written confirmation of sustainable design and water sensitive urban design, and wind impacts within and adjoining the land.
- 2.23 In particular, the proposed height and reduced setbacks of the tower and non-compliances or minimum compliance with several design matters are considered to be signs the proposal would be an overdevelopment for the site and would also result in inequitable development opportunity for the adjacent site to the south side.
- 2.24 The application offer of Affordable Housing totalling 6% of all dwellings is considered a satisfactory response to the Fishermans Bend Local Policy.
- 2.25 It is considered that the extent of change needed to make the proposal acceptable goes beyond what could be achieved by conditions. However, if the proposal was to be supported, officers recommend that any Incorporated Document include conditions to address Council’s concerns that include building height, tower setbacks, car and bicycle parking, sustainable and water sensitive urban design, wind impacts etc. It is considered that the maximum height of the building should not exceed 20 storeys.



- 2.26 It is recommended that the Planning Committee resolve to advise the Fishermans Bend Standing Advisory Committee C/- the Department of Environment, Land, Water and Planning that the Council does not support the application in its current form based on the matters set out in Section 11 and the Appendices of this report.
- 2.27 That the Planning Committee advise the Fishermans Bend Standing Advisory Committee C/- the Department of Environment, Land, Water and Planning that in the event that the application for a Planning Scheme Amendment is supported, the Incorporated Document for the amendment incorporate conditions to address Council's concerns.

**3. RECOMMENDATION**

**RECOMMENDATION – PART A**

- 3.1 That the Planning Committee advise the Minister for Planning, C/- the Department of Environment, Land, Water and Planning that Council:
  - 3.1.1 Does not support the application in its current form based on the matters set out in Section 11 and the Appendices of this report including:
    - 1. The height above the preferred heights and the reduced setbacks of the tower.
    - 2. The number of car parking spaces for the Residential hotel (serviced apartments).
    - 3. The number and width of vehicle crossings off Munro Street and proposed alterations to Normanby Road.
  - 3.1.2 That in the event that the application for a Planning Scheme Amendment is supported, the Incorporated Document for the amendment incorporate conditions to address Council's concerns.

**RECOMMENDATION – PART B**

- 3.2 That Council authorise the Manager City Development to instruct Council's Statutory Planners and/or solicitors on any future VCAT application for reviews and/or any independent advisory committee appointed by the Minister for Planning the consider the application(s).

**4. RELEVANT BACKGROUND**

- 4.1 There is one (1) previous relevant permit application recorded for the site as follows:

| Application No. | Proposal   | Decision  |
|-----------------|--|---|
| 6/2015/MIN      | Demolition of the Existing Building, Buildings and Works Associated with the Construction of a Multi-level Mixed Use Development and Use of the land | <b>16-02-16: Statutory Planning Committee Meeting</b> |



|  |   |   |
|--|---|---|
|  | for the Purpose of Multiple Dwellings and the Alteration of Access to a Road<br>40 levels - 216 (59 x 1BR, 134 x 2BR, 23 x 3BR) dwellings | <p><b>24-02-16: Council comments to Minister</b> Do not support building setbacks. Query if justifies max. height</p> <p><b>21-02-18: Application called-in by Minister.</b><br/> <b>No decision.</b></p> |
|--|---|---|

**5. PROPOSAL**

5.1 It is proposed to:

- Demolish the existing buildings on the land.
- Construct a 32-storey mixed use building including a 6-level podium, a basement level and rooftop plant level and associated car, motorcycle and bicycle parking, and construct and carry out works.
- Use the land for Dwellings, a Residential hotel (Serviced Apartments), and Retail premises in the CCZ1.
- Vary, reduce or waive the bicycle facilities requirements of Clause 52.34-3 and 52.34-4.
- Create or alter access to a road in a Road Zone, Category 1 (provision of guest drop-off/loading area on Normanby Road for Serviced Apartments).

5.2 The tower would have a maximum height of 32 storeys (ground level + 31 levels) / 104.7m (106.8m AHD) to rooftop level and 107.8m (109.9m AHD) to the top of the unroofed rooftop plant.

5.3 120 dwellings are proposed within levels 7-32, including 7 affordable dwellings, 81 serviced apartments at levels 3-5, and 3 retail tenancies (total 570m<sup>2</sup>) at ground level.

5.4 Three vehicle crossings and back of house is proposed along Munro Street, with active frontages proposed along Normanby Road and Montague Street.

5.5 The application is seeking:

- Four (4) years from the date of gazettal of the amendment to commence development;
- Six (6) years from the date of gazettal of the amendment to commence use;
- Six (6) years from the date of the gazettal of the amendment to complete the development.

**Note:** There is a clerical error within the proposed draft incorporated document which includes the word five, and in brackets the number 6. It is assumed the expiry is intended to be six years.

5.6 More particularly, the proposal comprises:

**Note:** For consistency when referring to the plans, the following summary, and the summary within Table 1, adopts the floor numbering regimen of the **application** drawings where ground floor is not ascribed a level no and Level 1 refers to the first floor etc. resulting in the top floor number being one less than the actual number of



levels / floors eg. the top level is noted as Level 31 on the plans, but has 32 levels/floors above ground. Elsewhere in this report floor counts assume L1 to be the ground floor level and additional levels are counted from there.

#### 5.6.1 Basement

- The basement would be constructed to title boundaries and comprise 38 car parking spaces, 134 bicycle parking spaces, 2 motorcycle spaces, and plant and service areas. No storage is proposed within the basement level.

#### 5.6.2 Ground Floor

- Normanby Road: Two commercial tenancies of 295m<sup>2</sup> (at the corner of and also facing Montague St) and 219m<sup>2</sup>, accessed via sliding doors and an alteration to the kerb to create an indented vehicle drop-off/loading bay for the serviced apartments)
- Montague Street: The side return of the 295m<sup>2</sup> corner commercial tenancy, shared stair and DDA lift access to two (2) separate lobbies for the Residential hotel (Serviced Apartments) and the Dwellings, one commercial tenancy of 56m<sup>2</sup>) with access via sliding doors, the residential lobby/reception, serviced apartments lobby/reception, and gas meters at the corner with Munro Street.
- Munro Street: Building services including gas metres to the corner of Montague Street, fire services and bin room, and removal of two existing vehicle crossings and replacement with three (3) new crossings (1 x 5.775m (w) entry/exit to a loading / waste collection bay including a truck turntable, 1 x 3.0m (w) entry only to ramps to the basement and upper level parking, and 1 x 5.5m (w) entry/exit to the car park ramps.
- Internally, the ground floor level also includes 2 lifts for the dwellings and 2 for the Residential hotel (serviced apartments), stairs, building manager room, separate commercial, residential and serviced apartment bin rooms and a fire booster cupboard would be located within the ground level.

#### 5.6.3 Level 1

- 30 car stacker parking spaces, 7 standard car parking spaces (4 of those proposed to be tandem). 37 car spaces in total.
- Substation (45m<sup>2</sup>), and MSB Plant (21m<sup>2</sup>).
- Five x 5m<sup>3</sup> storage lockers.

#### 5.6.4 Level 2

- 33 car stacker spaces, 3 standard car parking spaces, 8 tandem car share spaces. 44 car parking spaces in total.
- 15 x 5m<sup>3</sup> and 1 x 7.2m<sup>3</sup> storage lockers.



**5.6.5 Level 3**

- 27 x 1 BR serviced apartments ranging from 25m<sup>2</sup> to 30m<sup>2</sup>.
- Communal swimming pool and associated saunas, showers, change rooms, reception and pool plant.

**5.6.6 Level 4**

- 27 x 1 BR serviced apartments ranging from 25m<sup>2</sup> to 30m<sup>2</sup>.
- Communal gym and wellness centre, and associated bathrooms and storage.

**5.6.7 Level 5**

- 27 x 1 BR serviced apartments ranging from 25m<sup>2</sup> to 30m<sup>2</sup>.
- Communal kitchen/dining area, meeting rooms, amenity/breakout area, theatre, sports simulator, karaoke, and games rooms.

**5.6.8 Level 6**

- 3 x 4 BR dwellings with podium level terraces.
- Communal library, lounge, and outdoor landscaped area.

**5.6.9 Level 7-11**

- 1 x 1BR affordable dwelling, 3 x 2 BR dwellings, 3 x 3BR dwellings; total of 7 dwellings at each level.

**5.6.10 Level 12-13**

- 1 x 2BR affordable dwellings, 3 x 2BR dwellings, 3 x 3BR dwellings; total of 7 dwellings at each level.

**5.6.11 Level 14**

- 4 x 2BR dwellings, 3 x 3BR dwellings (7 dwellings in total).

**5.6.12 Level 15-19**

- 2 x 2BR dwellings, 4 x 3BR dwellings (6 dwellings in total).

**5.6.13 Level 20-22**

- 4 x 3BR dwellings, 1 x 4BR dwellings (5 dwellings in total)

**5.6.14 Level 23**

- 3 x 4BR dwellings

**5.6.15 Level 24-25**

- 3 x 4BR dwellings

**5.6.16 Level 26**

- 2 x 4BR dwellings (note: large terrace area provided to one of the dwellings, this is referenced above at 5.2 as a step in height).

**5.6.17 Level 27**





- 2 x 4BR dwellings.

**5.6.18 Level 28**

- 2 x 4 BR dwellings.

**5.6.19 Level 29 - 31**

- 1 x penthouse with large terrace (213m<sup>2</sup>) at Level 29

**5.6.20 Rooftop plant (unroofed)**

- The plant would be unroofed and contain services, lift overrun, fire staircase, cooling tower and solar panels.

5.7 A summary of the application is set out in Table 1:

**Table 1:** Application Summary

|  |   |
|--|---|
| <b>Planning Scheme Amendment (PSA) No.</b>   | PSA C195port<br>CoPP Ref: 6/2015/MIN/A  |
| <b>FBURA Precinct</b>  | Montague – M1: Hybrid (predominantly mid-rise)  |
| <b>Plans assessed</b>  | TP000, TP004, TP005, TP099 – TP107, TP112, TP114, TP115, TP120, TP123 – TP130, TP132, TP200, TP201, TP250, TP506, TP507, TP512, TP514, TP515, TP520, TP523, TP524, TP526, TP527, TP528, TP601, Project No. 1607, Drawings Issued on 02/02/2021, Prepared by Fender Katsalidis.  |
| <b>Site area / Title particulars</b>   | Volume 09674 Folio 241 – Plan of Consolidation 161780W<br><b>Area:</b> 1,518m <sup>2</sup> approx. (0.1518ha)<br><b>Frontages:</b> 30.18m Normanby Rd, 30.18m Munro St, 50.29m Montague St<br><b>Encumbrances, Caveats and Notices:</b> Party wall easement (E-1) width = 0.1m each side, length = 45.78m, length of wall unaffected = 4.5m)<br>The land also benefits from a 4.5m (w) right-of-way and drainage easement over part of the adjoining property to the south, which provides vehicle access to Normanby Road. |
| <b>Minimum plot ratio not used for Dwelling (Core areas)</b><br><b>Clause 22.15-4.1</b><br><b>Note: Clause 73.01: Plot ratio:</b><br><i>The GFA divided by the area of the site. (Includes any</i> | Montague Core area ratio = 1.6:1 x 1,518m <sup>2</sup> (0.1518ha)<br>= 2,428.8m <sup>2</sup>  |



|  |  |
|--|--|
| <i>proposed road, laneway and pos.)</i>  |  |
| <b>Non-residential floor area</b>  | <p>Retail:</p> <ul style="list-style-type: none"> <li>• Tenancy 01: 56m<sup>2</sup></li> <li>• Tenancy 02: 295m<sup>2</sup></li> <li>• Tenancy 03: 219m<sup>2</sup></li> </ul> <p>Sub Total = 570m<sup>2</sup></p> <p>Commercial:</p> <ul style="list-style-type: none"> <li>• 81 serviced apartments at Levels 3 – 5</li> </ul> <p>Sub Total = 2,157m<sup>2</sup></p> <p><b>Total: 2,727m<sup>2</sup></b></p> |
| <p><b>CCZ1 Dwelling Density</b><br/> <b>Clause 22.15-3</b><br/> <b>Dwelling density</b><br/> <i>(dw/ha) means the number of dwellings on the site divided by the total site areas (hectares) including any proposed road, laneway and public open space.</i></p> | <p>Montague Core area @ 450 dw/ha x 0.1518 ha = <b>68 (68.31) dwellings</b></p>  |
| <p><b>No. dwellings</b><br/> <i>25% 3BR or greater required</i></p>  | <p>120 residential dwellings within Levels 7-32, including 7 affordable dwellings</p> <ul style="list-style-type: none"> <li>• 5 x 1BR Affordable/4.16%</li> <li>• 35 x 2BR/29.16%</li> <li>• 2 x 2BR Affordable/1.66%</li> <li>• 56 x 3BR/46.66%</li> <li>• 21 x 4BR/17.5%</li> <li>• 1 x Triple level penthouse/0.83%</li> </ul> <p>78 x 3 or 4BR dwellings = 65%</p>  |
| <p><b>Affordable housing</b><br/> <b>Clause 22.15-4.3</b><br/> <i>Development should provide at least 6% of dwellings permitted under the dwelling</i></p>   | <p>7 (5 x 1BR and 2 2BR) = 6% of all Residential Apartments<br/> <b>Note:</b> 6% of 120 = 7 (7.2) dwellings.</p>   |



|  |   |
|--|---|
| <p><i>density requirements in the CCZ (excluding any Social housing uplift dwellings) as Affordable housing</i></p>  |   |
| <p><b>Social housing</b><br/> <b>Clause 4.2 of Schedule 1 to the CCZ.</b><br/> <i>...at least 1 Social housing dwelling for every 8 dwellings provided above the no. of dwellings allowable under the specified Dwelling density</i></p> | <p><b>Nil</b><br/> <b>Note:</b> 120 dwellings – 68 dwelling density = 48 @1 per 8 = <b>6 (6.75) social housing dwellings required for uplift.</b><br/> <b>Note:</b> Social housing not required under ToR.</p>  |
| <p><b>Basement</b></p>   | <p>Constructed to title boundaries.<br/>         Plant and service areas, 38 car parking spaces (4.9mL x 2.6mW), 134 bicycle parking spaces<br/>         2 Motorcycle spaces.<br/>         No storage provided at basement level.</p>   |
| <p><b>Street wall (podium) height</b></p>  | <p><b>Maximum:</b><br/>         Podium: at least 4 storeys, except where a lower height is necessary to respond to an adjoining heritage place / maximum 6 storeys.<br/>         Note: 66 Montague Street is in HO218<br/> <b>Proposed:</b><br/>         Podium: 6 levels / 24.8m (26.0m AHD) to podium rooftop, 25.1m (27.2m AHD) to top of glazed balustrade.<br/> <b>Note:</b> NGL = approximate 2.1m AHD to all site boundaries</p>   |
| <p><b>Maximum height (Tower)</b></p>   | <p><b>Preferred Maximum:</b> 68m (20 storeys)<br/> <b>Proposed:</b><br/>         Tower: Ground Level + 31 Levels (32 storeys) / 104.7m (106.8m AHD) to rooftop level, 107.8m (109.9m AHD) to top of rooftop plant.<br/>         Steps in height proposed:<br/> <ul style="list-style-type: none"> <li>○ 26 levels + roof terrace at L27</li> <li>○ 29 levels + roof terrace at L30</li> <li>○ 32 levels (inc. ground floor) + services above (unroofed)</li> </ul> <b>Note:</b> NGL = approximate RL 2.1 to all site boundaries</p> |
| <p><b>Street wall (podium)</b></p>   | <p>0m setback to all title boundaries</p>   |



|                                |   |
|--------------------------------|---|
| <b>Setbacks</b>                |   |
| <b>Tower Setbacks</b>          | <p><b>Setbacks above street wall required:</b><br/>                 &gt; 20 storeys, preferred 10m, minimum 10m<br/>                 (Montague Rd = 30.9m wide approx., Normanby Rd = 30m wide approx.)</p> <p><b>Setbacks above street wall proposed:</b></p> <ul style="list-style-type: none"> <li>• Normanby Road: 5m</li> <li>• Montague Street: 3.5m</li> <li>• Munro Street: 3.5m</li> </ul> <p>At level 24:</p> <ul style="list-style-type: none"> <li>• setbacks from Normanby Road partially increase to 20m.</li> <li>• All other setbacks remain unchanged.</li> </ul> <p>At level 29:</p> <ul style="list-style-type: none"> <li>• setbacks to Normanby Road increase to a minimum of 25.9m (not including the setback from the balustrade to the penthouse terrace).</li> </ul> <p><b>Side and rear setbacks required:</b><br/>                 Above max street wall height and &gt;20 storeys, preferred setback 10m and minimum setback 10m.</p> <p><b>Side and rear setbacks proposed:</b><br/>                 To title boundary with 248-250 Normanby Road: 5m above podium</p> |
| <b>Tower separation</b>        | N/A   |
| <b>Active Street Frontages</b> | <p><b>Required:</b><br/>                 Montague Street: Secondary Type 2 (20% permeable)<br/>                 Normanby Road: Primary (80% permeable)</p> <p><b>Proposed:</b><br/>                 Montague Street: percentage unknown, however a visual estimate confirms it will easily comply due to tenancy 01 &amp; 02, residential lobby, and terrace facing Montague St.<br/>                 Normanby Road: percentage unknown, however a visual estimate confirms it will easily comply due to tenancy 02 and tenancy 03 fronting Normanby Road.</p> <p><b>Note:</b> car park access, waste collection, and most services are located to Munro Street.</p>  |
| <b>Adaptable Buildings</b>     | <p><b>Proposed:</b></p> <ul style="list-style-type: none"> <li>• Ground floor to Level 2 = 4.0m floor to floor.</li> <li>• Level 3 &amp; Level 4 = 3.1m floor to floor.</li> <li>• Level 5 = 4.8m floor to floor</li> </ul> <p><b>Car parking areas:</b> level and at least 3.8m floor to floor. <i>Proposed: 4m</i></p> <p><b>Dwelling layout:</b> amalgamation of units. <i>Proposed: Appears to comply</i></p> <p><b>Internal layout:</b> Load bearing walls. <i>Proposed: Appears to comply</i></p>   |
| <b>Loading bay</b>             | Accessed via a new crossover 5.775m crossover to Munro Street.  |



|   |   |
|---|---|
|   | <p>Dimensions for turntable not provided<br/>                 116m<sup>2</sup> in area<br/>                 Refuse zone at ground level.</p>  |
| <b>Car parking</b>                                  | <p><b>Proposed:</b> 182 car parking spaces<br/> <b>Car parking requirements:</b><br/> <b>Residential</b><br/>                 42 (1 &amp; 2 BR dwellings) x 0.5 = 21<br/>                 78 (3 &amp; 4 BR &amp; Penthouse) x 1 = 78<br/>                 Total = 98 spaces<br/> <b>Serviced apartments:</b><br/>                 81 x 1 BR serviced apartments = 81 spaces<br/> <b>Retail</b><br/>                 5.7 (570m<sup>2</sup>) x 1 = 5.7 spaces (rounded down to 5)<br/> <b>Car share</b><br/>                 2 spaces + 1 per 25 car parking spaces (99/25) = 2 + 3<br/>                 Total required = 5 car share spaces<br/>                 Proposed = 8 tandem spaces within level 02<br/> <b>Total required = 189</b><br/> <b>Proposed:</b><br/>                 182 car parking spaces (7 spaces less)<br/> <ul style="list-style-type: none"> <li>• Located within basement, Level 1, and Level 2. Car stacker spaces proposed within Level 1 &amp; 2.</li> <li>• 8 car share spaces located within Level 2.</li> <li>• Location of EV charging unspecified</li> </ul> </p> |
| <b>Motorcycle parking</b><br>1: 50 dwellings req.   | <p>Required: 2 (2.4)<br/>                 Proposed: 2 spaces within basement level (resident spaces)</p>  |
| <b>Bicycle parking</b>                              | <p><b>Required:</b> 120 (@1 space per dwelling) and 12 (@1 visitor space per 10 dwellings) = 132 spaces<br/> <b>Proposed:</b> 134<br/> <b>Shortfall:</b> 0<br/> <b>Excess:</b> 2<br/>                 Bike parking within basement<br/>                 No shower / change room facilities required or proposed</p>   |
| <b>Stores*</b><br><i>*Note: Excludes storage in</i> | <p>21 stores (5.0m<sup>3</sup> to 7.2m<sup>3</sup>) within L1 &amp; L2</p>  |



|  |   |
|--|---|
| <i>Apartments per BADS.</i>                |   |
| <b>Communal facilities</b>                 | <p><b>Level 3:</b> swimming pool, sauna, change rooms (340m<sup>2</sup> total)</p> <p><b>Level 4:</b> gym/wellness center, change rooms (318m<sup>2</sup> total)</p> <p><b>Level 5:</b> kitchen, meeting room, games room, break out area, sports simulator, theatre, karaoke (355m<sup>2</sup> total)</p> <p><b>Level 6:</b> library (43m<sup>2</sup>), lounge (69m<sup>2</sup>), outdoor area (68m<sup>2</sup>)</p> <p><b>Total: 1,193m<sup>2</sup></b></p> |
| <b>Community (public) facilities</b>       | N/A   |
| <b>New Roads / Laneways</b>                | N/A   |
| <b>Vehicle access</b>                      | <p>Munro Street: 3 crossovers</p> <ul style="list-style-type: none"> <li>• Loading: 5.775m wide leading to a loading dock turntable.</li> <li>• Basement: 3.0m wide (single width with vehicle propping area) leading to basement carparking.</li> <li>• Upper car parking levels: 5.5m wide (two-way) leading to car parking at Levels 1, and level 2.</li> </ul>  |
| <b>Dwelling access</b>                     | <ul style="list-style-type: none"> <li>• Ground floor residential lobby with two lifts accessed via Montague Street</li> <li>• Ground floor serviced apartment lobby with two lifts via Montague Street</li> </ul>  |
| <b>Retail/commercial access</b>            | <p>Tenancy 01 access to Montague Street</p> <p>Tenancy 02 access to both Montague Street and Normanby Road</p> <p>Tenancy 03 access to Normanby Road</p>  |
| <b>Staging</b>                             | N/A   |
| <b>Gross floor area (GFA) / Plot ratio</b> | <b>Gross Floor Area (GFA): 30,867m<sup>2</sup></b>  |

5.8 The Minister, through the Department would be the responsible authority for approving plans for the proposal. Council would typically be responsible or would share responsibility for approving aspects of the proposal such as traffic and parking, sustainable design, landscaping etc.

## 6. SUBJECT SITE AND SURROUNDS

6.1 Existing conditions are as follows:

|                                  |   |
|----------------------------------|---|
| <b>Site description and area</b> | <p>The subject site is situated on the south-west corner of Normanby Road and Montague Street, South Melbourne and has a rear abuttal to Munro Street.</p> <p>The land is rectangular and has a width of 30.18m to Normanby Road and Munro Street and a side abuttal to Montague Street of 50.29m for an overall area of 1,518m<sup>2</sup> (0.15ha.) approx.</p> |
|----------------------------------|---|



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|   | <p>The land is generally flat with no discernible slope in any direction. Plans show only minor differences of approx. 0.15 to 0.07m in the natural ground level (NGL) of the centre of the site frontages as follows: Normanby Rd: 2.24m AHD, Montague St: 2.17m AHD; Munro St: 2.11m AHD.</p>   |
| <p><b>Existing building &amp; site conditions</b></p> | <p>The land is developed with a two storey Showroom / Warehouse / Industrial building which is setback approximately 4.5m from Normanby Road and constructed to the remaining boundaries except for a small fenced at-grade paved car parking area at the rear corner of Montague and Munro Streets.</p> <p>The land has two vehicle crossings at the rear off Munro Street and has rights of access off Normanby Road via a vehicle crossing to (and across) the adjoining property to the south side.</p> <p>There are no trees or other landscaping on the site and no street trees along its street frontages.</p> <p>Normanby Road and Montague Street are both in a Road Zone Category 1 and carry high volumes of car and truck traffic, including to and from the nearby West Gate Freeway approx. 230m to the north-west (via Montague Street).</p> <p>The intersections of Normanby Road and Montague Street and Munro and Montague Street are signalised.</p>  |
| <p><b>Surrounds / neighbourhood character</b></p>     | <p>Surrounding land is predominantly developed with circa 1940s onwards one and two-storey showroom, warehouse, and industrial buildings, and is industrial in appearance.</p> <p>Normanby Road features mature canopy trees (with some gaps) along both sides. More particularly, surrounding land is developed as follows:</p> <ul style="list-style-type: none"> <li>• <b>North-east (side) (opposite, across Montague Street):</b> Predominantly circa 1980s 2-storey showroom, warehouse, industrial buildings used for car sales, offices, retail and a child-care centre.             <ul style="list-style-type: none"> <li>There are three (3) approvals for sites to the north-east as follows:                     <ul style="list-style-type: none"> <li>○ <b>199-201 Normanby Road:</b> 40-level mixed use tower approved 01-09-2014 under different planning controls from those that apply today. This development is under construction and has almost reached its maximum height.</li> <li>○ <b>202-204 Normanby Road:</b> 40-storey mixed-use tower approved 21-08-2016 under different planning controls from those that apply today. This development is under construction and has almost reached its maximum height.</li> <li>○ <b>203-205 Normanby Road:</b> 36 level mixed-use tower approved 13-08-2020 by Planning Scheme Amendment C163port. This development has not started.</li> </ul> </li> </ul> </li> <li>• <b>North-west (rear):</b> Across Munro Street, a one-storey circa interwar factory / warehouse building with a one and two-storey contemporary showroom facing to Montague and Munro Streets, currently used for storage and Covid testing. There are two approvals for the site opposite and beyond that as follows:</li> </ul> |



|  |   |
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|  | <ul style="list-style-type: none"> <li>○ <b>2-28 Montague Street and 80 Munro Street:</b> Three (3) mixed use towers of 15, 24 and 38 levels approved by Planning Scheme Amendment C176port on 15-10-2020. This development has not started.</li> <li>○ <b>60-82 Johnson Street:</b> Four (4) mixed-use towers of 22, 28, 43 and 46 levels approved in 20-05-2015 under previous planning scheme controls. The land has been cleared, but the development has not yet commenced.</li> </ul> <p>Beyond this is the elevated West Gate Freeway and the Yarra’s Edge residential towers and Docklands precincts in the City of Melbourne, the Yarra River and the Port.</p> <ul style="list-style-type: none"> <li>● <b>South-west (side):</b> Four (4) circa 1980s 2-storey showroom, warehouse, industrial buildings used for various commercial purposes, and older commercial/industrial buildings and North Port Oval beyond.<br/>There are three applications and one approval for the immediate four properties as follows:             <ul style="list-style-type: none"> <li>○ <b>248-250 Normanby Road (Site 03):</b> Application for a 20-level mixed use tower. Application is currently on-hold at request of the applicant.</li> <li>○ <b>256-258 Normanby Road (Site 02):</b> 20-level mixed use tower approved by Planning Scheme Amendment C166port on 15-10- 2020. This development has not started.</li> <li>○ <b>264-270 Normanby Road (Site 01):</b> Application for a 20-level mixed use tower. Application has been referred to the Fishermans Bend Standing Advisory Committee (SAC).</li> <li>○ <b>272-280 Normanby Road (Site 00):</b> Application for a 33 level mixed-use tower. This application was considered by the SAC in December 2020. The SACs report has been submitted to the Minister and a determination is imminent.</li> </ul> </li> <li>● <b>South-east (opposite, across Normanby Road):</b> Four-level heritage graded former Dunlop Pneumatic Tyre Co. rubber mill, now used for self-storage and incorporating two residential levels constructed in 1997, circa 1980s 2-storey showroom, warehouse, industrial buildings, and the City to Port Melbourne light rail and adjacent parkland beyond.<br/>There are two approvals further to the south-east as follows:             <ul style="list-style-type: none"> <li>○ <b>245-251 Normanby Road:</b> 40-level mixed use tower approved on 05-12-2018 under different planning controls from those that apply today. This development has not started.</li> <li>○ <b>253-257 Normanby Road: Two mixed-use towers of 28 and 40 levels approved on 05-12-2017</b> under different planning controls from those that apply today. This development has started.</li> </ul> </li> </ul> <p>The City to Port Melbourne light rail line and Montague stop are approximately 110m to the south-east of the site. Limited bus services run along Normanby</p> |
|--|---|





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|  | <p>Road, with bus stops nearby to the south and diagonally opposite. There is an off-road bike path alongside the light rail line.</p> <p>Vehicle access to the Westgate Freeway is approximately 330m north-west of the site via Montague Street.</p> <p>The nearest Activity Centre is South Melbourne including the South Melbourne Market is located approximately 760m to the SE via Montague Street and York Street.</p> <p>The South Wharf retail and hospitality precinct is approximately 450m to the north-east.</p>   |
| <p><b>Fishermans Bend Framework October 2018</b></p> | <p>The Fishermans Bend Framework and the Planning Scheme propose:</p> <p><b>For the subject site:</b></p> <ul style="list-style-type: none"> <li>• Primary (80%) permeability Active frontage to Normanby Road and Secondary Type 2 (20%) permeability Active Frontage to Montague Street.</li> <li>• No vehicle crossings off the Normanby Road frontage.</li> </ul> <p><b>For the surrounding area:</b></p> <p><u>Short term (2018-2020)</u></p> <ul style="list-style-type: none"> <li>• City Road / Ferrars Street intersection upgrade. <b>Completed</b></li> <li>• South Melbourne primary school and community hub. <b>Completed</b></li> <li>• Kirrip Park. <b>Completed.</b></li> <li>• Route 96 (Stop 126) and 109 (Stop 125A) light rail upgrades. <b>Stop 125 Completed.</b></li> <li>• Railway Place/Ferrars Street streetscape upgrades. <b>Railway Place part constructed.</b></li> </ul> <p><u>Medium Term (2020-2025)</u></p> <ul style="list-style-type: none"> <li>• Closure of Johnson Street between Normanby Road and Munro Street for new park.</li> </ul> <p><u>Long Term (2025+)</u></p> <ul style="list-style-type: none"> <li>• Montague North Open Space.</li> <li>• Montague Street Route 109 tram stop 126 upgrade.</li> </ul> <p><u>No time frame specified</u></p> <ul style="list-style-type: none"> <li>• Linear park along Johnson Street.</li> <li>• Through block links on both sides of Normanby Road to Munro Street and Woodgate Street at regular intervals.</li> <li>• On-road cycle path on Normanby Road and Montague Street.</li> </ul> |

**7. PERMIT TRIGGERS**

The following zone and overlay controls apply to the site. If the application was for a Planning Permit (rather than an application for a Planning Scheme Amendment), the following permissions would have been required:



| Planning Scheme Provision                            | Why is a planning permit required?  |
|--|---|
| <p><b>Clause 36.04: Road Zone Category 1</b></p>     | <p>Pursuant to Section 2 of Clause 52.29-2, a permit is required to create or alter access to a road in a Road Zone, Category 1. This may include a substantial increase in traffic to or from a Road Zone.</p> <p><b>A planning permit would be required under this clause.</b></p>  |
| <p><b>Clause 37.04: Capital City Zone (CCZ1)</b></p> | <p>Pursuant to Section 2 of the Table of uses at Clause 37.04-1 of the CCZ1 and Clause 1 of the Schedule to the CCZ1, a planning permit is required to use land for a use not in Section 1 or 3 of the Schedule to the zone. This includes:</p> <ul style="list-style-type: none"> <li>• <b>Dwelling</b> if it does not meet the following conditions: <ul style="list-style-type: none"> <li>○ Must be in a Non-core area.</li> <li>○ Must not be within an Amenity buffer shown on Map 4.</li> <li>○ Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5.</li> <li>○ Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.</li> </ul> </li> <li>• <b>Retail premises (other than Hotel, Shop and Tavern (i.e. Bar))</b> if it does not meet the following conditions: <ul style="list-style-type: none"> <li>○ Must not exceed 1000m<sup>2</sup> gross leasable floor area.</li> <li>○ Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5.</li> <li>○ Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.</li> </ul> </li> <li>• <b>Residential building (i.e. Serviced apartments)</b> if it does not meet the following conditions: <ul style="list-style-type: none"> <li>○ Must not be within an Amenity buffer shown on Map 4.</li> <li>○ Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5.</li> <li>○ Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.</li> </ul> </li> </ul> <p>The land is in in a Core Area and is within 450m of the South Melbourne to Brooklyn pipeline. <b>A permit is required to use the land for a Dwelling, Residential Building, and Retail premises (other than Hotel, Shop and Tavern</b> under this clause.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.0 of the Schedule to the CCZ1, a permit is required to construct a building or construct or carry out works in the Capital City Zone, with the exception of an addition of, or modification to a verandah, awning, sunblind or canopy of an existing dwelling.</p> <p>Pursuant to Clause 37.04-4, an apartment development must meet the requirements of Clause 58. This does not apply to:</p> |



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|  | <ul style="list-style-type: none"> <li>• An application lodged before the approval of Amendment VC136 (02-Feb-2017).</li> <li>• An application for amendment of a permit under S72, if the original application was lodged before the approval of Amendment VC136.</li> </ul> <p>The application was first lodged on 16 August 2017 and so <b>must meet Clause 58</b>.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.1 of Schedule 1 to the CCZ1, a permit is required to demolish or remove a building or works, except for:</p> <ul style="list-style-type: none"> <li>• The demolition or removal of temporary structures;</li> <li>• The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law.</li> </ul> <p>An application for the use of land, or to demolish or remove a building, or 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. This does not apply to an application to use land for a nightclub, tavern, hotel or adult sex product shop.</p> <p><b>A planning permit would be required under this clause.</b></p> |
| <p><b>Clause 43.02: Design and Development Overlay - Schedule 30 - Fishermans Bend - Montague Precinct (DDO30)</b></p> | <p>The land is in Precinct Area M1 of DDO33 which encourages a hybrid (predominantly mid-rise) building typology and a preferred maximum building height of 68 metres (20-storeys).</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 30 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>Pursuant to Clause 62.02-3, this excludes the construction of or putting up for display of a sign unless a permit is specifically required.</p> <p>An application to construct a building or construct or carry out works or subdivide land in DDO30 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.</p> <p><b>A planning permit would be required under this clause.</b></p>   |
| <p><b>Clause 45.03: Environmental Audit Overlay (EAO)</b></p>  | <p>Pursuant to Clause 45.03-1 of the EAO, before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;</p> <ul style="list-style-type: none"> <li>• A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</li> <li>• A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that</li> </ul>   |



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|  | <p>Act that the environmental conditions of the land are suitable for the sensitive use.</p> <p><b>A planning permit would not be required under this clause.</b></p>   |
| <p><b>Clause 45.09: Parking Overlay (P01)</b></p>                      | <p>Pursuant to Clause 45.09-1, the Parking Overlay operates in conjunction with the requirements of Clause 52.06.</p> <p>Table 1 of Schedule 1 to the Parking Overlay specifies maximum rather than minimum parking rates for <b>Dwelling</b>, and <b>Retail premises (including Café, Convenience shop, Restaurant, and Shop)</b>.</p> <p>A planning permit is required to provide car parking spaces in excess of the rates specified in Table 1.</p> <p>The application does not fully detail car parking allocation.</p> <p><b>A planning permit would likely be required under this clause.</b></p>  |
| <p><b>Clause 45.11: Infrastructure Contribution Overlay (IC01)</b></p> | <p>Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan has been incorporated into the Planning Scheme.</p> <p>Pursuant to Clause 45.11-6, land or development of land is exempt from the ICO if it is for:</p> <ul style="list-style-type: none"> <li>• A non-government school;</li> <li>• Housing provided by or on behalf of the Department of Health and Human Services;</li> <li>• Any other land or development of land specified in a Schedule to the ICO.</li> </ul> <p>Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:</p> <ul style="list-style-type: none"> <li>• An existing use of land provided the site coverage is not increased.</li> <li>• A sign.</li> <li>• Consolidation of land or a boundary realignment.</li> <li>• Subdivision of buildings and works approved by a permit granted before the approval date of Amendment GC81.</li> <li>• Subdivision of an existing building used for non-residential purposes provided each lot contains part of the building and each lot is not intended for a residential purpose</li> </ul> <p><b>A planning permit cannot be granted for the proposal.</b></p> <p>The application for a Planning Scheme Amendment allows consideration of the application by an alternative process whilst the Infrastructure Contributions Plan is being prepared.</p> |
| <p><b>Clause 52.06: Car Parking</b></p>                                | <p>Pursuant to Clause 45.09-1 (Parking Overlay), the Parking Overlay operates in conjunction with the requirements of Clause 52.06.</p> <p>Uses not listed in the Parking Overlay must provide car parking at the rates specified in the Table to Clause 52.06.</p>   |



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|  | <p>For the purposes of assessment under Clause 52.06, the subject site is in the Principle Public Transport Network Area.</p> <p>A planning permit is required to provide less than the Clause 52.06 parking rates.</p> <p>Pursuant to Clause 52.06-6, where a use is not specified in the Table or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay ... car parking must be provided to the satisfaction of the responsible authority (i.e. the Minister).</p> <p>Residential building, including Residential hotel is not listed in the Parking Overlay or Table 1 to Clause 52.06. Consequently, the rates in Clause 52.06 do not apply and the number of spaces must be to the satisfaction of the Minister.</p> <p>Car parking plans must meet the design requirements of Clause 52.06-9 unless the responsible authority agrees otherwise.</p> <p><b>A permit would not be required under this clause.</b></p> |
| <p><b>Clause 52.34: Bicycle Facilities</b></p> | <p>A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1.</p> <p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p><b>A planning permit would not be required under this clause.</b></p>   |

## 8. PLANNING SCHEME PROVISIONS

### 8.1 Planning Policy Frameworks (PPF)

The application needs to be assessed against the Planning Policy Framework (PPF), including:

Clause 11: Settlement, including:

Clause 11.01-1R1: Settlement - Metropolitan Melbourne

Clause 11.02: Managing Growth

Clause 13: Environmental Risks and Amenity, including:

Clause 13.01: Climate Change Impacts

Clause 13.03: Floodplains

Clause 13.07: Amenity

Clause 15: Built Environment and Heritage, including:

15.01-1: Built Environment

15.01-1R: Urban design - Metropolitan Melbourne

15.01-2S: Building Design



- 15.01-4R: Healthy neighbourhoods - Metropolitan Melbourne
- 15.01-5S: Neighbourhood character
  - 15.02-1: Sustainable development
  - 15.02-2S: Aboriginal cultural heritage
- Clause 16: Housing, including:
  - Clause 16.01: Residential development
  - Clause 16.01-3R: Housing diversity - Metropolitan Melbourne
- Clause 18: Transport, including:
  - Clause 18.02-4S: Car parking
- Clause 19: Infrastructure, including:
  - Clause 19.01: Energy
    - Clause 19.01-1S: Energy supply
    - Clause 19.01-2R: Renewable energy - Metropolitan Melbourne
    - Clause 19.01-3S: Pipeline infrastructure
  - Clause 19.03-1S: Development and infrastructure contributions plans
  - Clause 19.03-4S: Stormwater

## 8.2 Local Planning Policy Framework (LPPF)

The Municipal Strategic Statement (MSS) contains a number of clauses, which are relevant to this application as follows:

- Clause 21: Municipal Strategic Statement
  - Clause 21.01: Vision and Approach
  - Clause 21.02: Municipal Context and Profile
  - Clause 21.03: Ecologically Sustainable Development
  - Clause 21.04: Land Use, including
    - 21.04-1: Housing and Accommodation
  - Clause 21.05: Built Form, including:
    - 21.05-2: Urban Structure and Character
  - Clause 21.06: Neighbourhoods, including
    - 21.06-8: Fishermans Bend Urban Renewal Area

## 8.3 Local Planning Policy Framework (LPPF)

The application also needs to be assessed against the following Local Planning Policies:

- Clause 22.12: Stormwater Management (Water Sensitive Urban Design)



Clause 22.13: Environmentally Sustainable Development

Clause 22.15: Fishermans Bend Urban Renewal Area Policy

#### 8.4 Other relevant provisions

Clause 58: Apartment Developments

Clause 59.05: Buildings and Works in an Overlay

Clause 59.10: Car Parking

Clause 65: Decision Guidelines, including:

Clause 65.01: Approval of an Application or Plan

#### 8.5 Relevant Planning Scheme Amendment/s

Past and present Planning Scheme Amendments relevant to the subject site include:

##### 05 July 2012: Amendment C102:

- Designates the Fishermans Bend Urban Renewal Area (FBURA).
- Rezones the subject site and surrounding land from Industrial 1 Zone and Design and Development Overlay 9 (DDO9) to Capital City Zone (CCZ1), deletes DDO2, 8 and 9, and introduces the Development Contributions Plan Overlay (DCPO2) and the Parking Overlay (PO1). Heritage Overlay carries over.

##### 07 August 2014: Amendment GC7:

- Clause 52.01 (Open Space) changed to require 8% open space contribution in FBURA. FBSFP July 2014 made an Incorporated Document.

##### 17 April 2015: Amendment GC29:

- Changed the CCZ1 to introduce interim mandatory height limits for two years (inc. transition provisions for apps lodged before GC29), expands the FBURA to include the Fishermans Bend Employment Precinct (in the City of Melbourne), and updates the FBSFP July 2014 (amended April 2015) Incorporated Document.

##### 14 November 2016: Amendment GC50:

- Introduced new Local Planning Policy (Clause 22.15) Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area, which specifies discretionary targets for dwelling diversity (a percentage of apartments with three or more bedrooms), affordable housing, and minimum floor areas for employment uses;
- Moved interim height controls from the CCZ1 to a new Design and Development Overlay (DDO30), which specifies mandatory maximum street wall and tower heights, and mandatory minimum tower street, side and rear boundary setbacks and tower separation distances. The height and setback controls apply on an interim basis until 31 March 2019, and updates the Fishermans Bend Strategic Framework Plan, July 2014 (Amended September 2016) and incorporated document provisions.



**05 October 2018: Amendment GC81:**

- Amends MSS at Clauses 21.01 (Vision and Approach), 21.02 (Municipal Context and Profile), 21.03 (Ecologically Sustainable Development), 21.04 (Land Use), 21.05 (Built Form), 21.06 (Neighbourhoods) to update references to FB and include a refined vision for Montague, Sandridge and Wirraway precincts.
- Introduces new local planning policy at Clause 22.15 (Fishermans Bend) to provide guidance and assist with the exercise of discretion in the assessment of planning permit applications in FB. Includes Fishermans Bend Framework October 2018 as a Reference Document.
- Introduces a new Schedule 1 to Clause 37.04 (CCZ) to ensure land use and development outcomes implement the FB Vision, September 2016 and FB Framework, September 2018.
- Introduces new precinct specific Schedules 30, 32 and 33 to Clause 42.03 (Design and Development Overlay) to align built form controls with preferred character and vision for Montague, Sandridge and Wirraway precincts, respectively.
- Introduces new Schedule 1 to Clause 45.09 (Parking Overlay) to encourage sustainable transport patterns and the provision of alternative forms of parking.
- Deletes Schedule 2 to Clause 45.06 (Development Contributions Plan Overlay).
- Inserts Clause 45.11 (Infrastructure Contributions Overlay) and Schedule 1 (ICO1) and applies it to land to enable implementation of an Infrastructure Contributions Plan when prepared.
- Applies Environmental Audit Overlay (EAO) to Montague, Sandridge and Wirraway precincts.
- Applies Environmental Significance Overlay - Schedule 1 (ESO1) to Wirraway precinct near Port of Melbourne.
- Amends Schedule to Clause 66.04 to include the Port Phillip City Council and Melbourne Water as a recommending referral authority for planning permit applications where the Minister for Planning is the responsible authority and makes minor corrections to existing provisions.
- Amends Schedule to Clause 66.06 to require notice of certain permit applications to be given to the relevant pipeline licensee and Transport for Victoria.
- Amends Schedule to Clause 72.03 to reflect the deletion of Planning Scheme Map 1DCPO and insertion of new Planning Scheme Maps 1EAO, 1ICO, 2ICO and 3ICO.
- Amends Schedule to Clause 72.04 (Incorporated Documents) to delete the Fishermans Bend Strategic Framework, July 2016 (amended September 2016).

**20 June 2019: Amendment GC118:**

Corrects technical, formatting and grammatical errors identified in the Fishermans Bend planning controls.





## 9. REFERRALS

### 9.1 External referrals

The Minister for Planning C/- the Department is responsible for external referrals, including to Council. Council needs to provide a response within 20 business days of receipt.

### 9.2 Internal referrals

The application was internally referred for comment.

Advice was received from Council's Heritage Advisor, Building Department, Sustainable Design Officer, Traffic Department, Arborist, Urban Design Officer, Drainage Engineer, Waste Management Officer and Property Officer.

The comments are discussed in Section 11.

Internal referral responses in full are an **Appendix** to this report.

## 10. PUBLIC NOTIFICATION/OBJECTIONS

10.1 The Department has given notice of the proposal to the City of Port Phillip, relevant persons including landowners and occupiers, and referral authorities.

10.2 The Council has **20 business days** (author's emphasis) from the date of receiving notice to provide a written response (i.e. Friday 26 March 2020).

## 11. OFFICER'S ASSESSMENT

### 11.1 Responding to Local Policy

Clause 22.15: Fishermans Bend Urban Renewal Area Policy

| Clause 22.15 Fishermans Bend Urban Renewal Area Policy  | Officer Assessment  |
|---|---|
| <p><b>22.15-4.1 Providing for employment floor area</b></p> <p>Development in a Core area <u>should</u> provide a minimum plot ratio not used for dwelling of:</p> <p>Montague: 1.6:1; Sandridge 3.7:1; Wirraway 1.9:1. Exceptions apply.</p> <p><b>Plot ratio:</b> <i>The gross floor area of all buildings on a site, divided by the area of the site.</i></p> <p><b>Gross floor area:</b> <i>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</i></p> | <p><b>Achieved:</b></p> <p><b>Recommended: 2,428.8m<sup>2</sup></b> floor area ratio not used for dwelling (1,518m<sup>2</sup> (0.15ha.) site area x 1.6:1).</p> <p><b>Proposed: 2,727m<sup>2</sup></b> including <b>Retail premises: 570m<sup>2</sup></b> (3 tenancies) and <b>Residential hotel</b> (Serviced apartments) 2,157m<sup>2</sup> (81 Serviced apartments)</p> |



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| <p><i>(i.e. includes the area of stairs, loading bays, accessways, or car parking areas, or any area occupied by machinery required for air conditioning, heating, power supply, or lifts).</i></p>   |   |
| <p><b>22.15-4.2 Community and diversity.</b><br/>Proposals of &gt; 100 dwellings <u>should</u> provide 3BR dwellings: Montague: 25%; Sandridge: 20%; Wirraway: 30%.</p>   | <p><b>Achieved:</b><br/><b>Recommended:</b> 25% of 120 dwellings = 30 x 3BR (or more).<br/><b>Proposed: 65%</b> (56 /46.66% x 3BR + 21 /17.6% x 4BR dwellings + 1 x 3 or 4BR or greater penthouse (0.83%)</p>   |
| <p><b>22.15-4.3 Providing for Affordable housing</b><br/><b>Affordable housing</b><br/>Developments <u>should</u> provide at least 6% of dwellings permitted under the dwelling density requirements in CCZ (excluding any Social housing uplift dwellings) as Affordable housing, unless:</p> <ul style="list-style-type: none"> <li>• The site makes it impractical to do so;</li> <li>• It can be demonstrated the policy objectives can be met by a lesser provision; or</li> <li>• It can be demonstrated meeting the objective would render the proposal economically unviable</li> </ul> | <p><b>Achieved – condition recommended</b><br/><b>Proposed:</b> Six (6) % of all dwellings = 7 (7.2) (5 x 1BR, 2 x 2BR)<br/>1 or 2BR</p> <ul style="list-style-type: none"> <li>• Transferred to a HA etc. @ min 35% discount to mkt value; or</li> <li>• Leased under management of a HA etc. @ min 35% discount to mkt rent for not less than 30 years; or</li> <li>• Other method of equal or higher value.</li> </ul> <p>The Affordable Housing offer is consistent with recent determinations for other FBURA PSA applications and is considered generally satisfactory.</p> <p>It would however be desirable for the provision options to include an additional matter for:</p> <ul style="list-style-type: none"> <li>• A % of the dwellings be transferred to a Housing provider at zero consideration, the value of which must be equivalent or higher to the value of the transfer at minimum 35% discount option.</li> </ul> |
| <p>Affordable housing <u>should</u> be mix of 1, 2 and 3BR, internally match other dwellings, be externally indistinguishable from other dwellings.</p>   | <p><b>Not achieved:</b><br/>Proposed 5 x 1 BR and 2 x 2BR would not be representative of the predominantly 3 and 4BR dwellings. The only 1BR dwellings in the development would be the 5 x 1BR affordable dwellings.</p>  |



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| <p><b>Social housing</b></p> <p><u>Encourage</u> Social housing in addition to 6% Affordable housing – Social housing uplift: allow 8 additional private dwellings of equivalent size for each Social housing unit provided.</p>  | <p><b>Not Applicable:</b> Pursuant to the FBSAC Terms of Reference, the dwelling density requirements (and associated Social Housing uplift provisions) do not formally apply.</p> <p><b>Note:</b> If the provisions applied, Social Housing would be required as follows: 120 dwellings - 68 dwelling density = 48 dwellings @ 1 per 8 = <b>6 (6.75) social housing dwellings</b> required for uplift.</p>  |
| <p><b>22.15-4.4 Design Excellence</b></p> <p><u>Encourage</u> varied built form that aligns with precinct character areas in DDO.</p>   | <p><b>Not achieved:</b></p> <p><b>Recommended:</b> Precinct character area M1 encourages a hybrid (predominantly mid-rise 7-15 level) building typology and maximum 68m (20 storey) building height.</p> <p><b>Proposed: Stepped 26, 29 and 32 level tower</b> (max. 104.7m AHD to roof top level and 107.8m to top of roof plant) would exceed preferred precinct character heights and the preferred maximum height for the site and along Normanby Road.</p>  |
| <p><b>22.15-4.5 Achieving a climate adept, water sensitive, low carbon, low waste community</b></p> <p><u>Energy:</u> Assess against:</p> <ul style="list-style-type: none"> <li>• <u>Should</u> achieve a 20% improvement on current National Construction Code energy efficiency standards including for building envelopes, lighting and building services.</li> </ul> | <p><b>Achieved in part (condition required):</b></p> <p>The SMP notes within the table at Section 1.2.3 that building fabric and fixtures will be selected at the detailed design stage to meet the requirement.</p> <p>Council’s Sustainable Design Officer has advised that the SMP includes the relevant commitment under the Green Star credit for Thermal Comfort (14.1 and 14.2), however does not address exceeding NCC for the non-residential components of the development, noting that the NatHERS rating pathway for the Energy section of Green Star applies only to multi-unit residential dwellings.</p> <p>The SMP must be updated to address energy efficiency for the retail and residential hotel components, as well as building</p> |



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|  | services and any element that is not covered by NatHERS.  |
| <ul style="list-style-type: none"> <li>Residential development <u>should</u> achieve an average 7 star NatHERS rating for each building.</li> </ul>  | <p><b>Achieved in part (condition required):</b></p> <p>The SMP again notes that building fabrics would be selected at the detailed design stage to address this requirement. The SMP opts for the NatHERS pathway under the Energy section of Green Star (Greenhouse Gas Emissions credit 15.B). Six out of 16 points are targeted in the GS pathway at Appendix A. The SMP should be updated to provide details of how these six points would be claimed.</p>   |
| <ul style="list-style-type: none"> <li>Developments <u>should</u> incorporate renewable energy generation, on-site energy storage and opportunities to connect to a future precinct wide or locally distributed low-carbon energy supply.</li> </ul>   | <p><b>Achieved in part (condition required):</b></p> <p>Solar PV panels are proposed on the tower roof.</p> <p>Council's Sustainable Design Officer has advised that the application must demonstrate how the proposal incorporates renewable energy generation, on-site energy storage and opportunities to connect to a future precinct-wide or locally distributed low-carbon energy supply.</p> <p>The SMP does not provide any specific details of the solar panel system and the system capacity is not stated. Furthermore there is no commitment to storage (i.e. a battery) detailed within the SMP, and the capacity is not detailed within the architectural plans. If a permit is issued conditions should be included to ensure storage is achieved and capacity of the system is detailed on the plans.</p> |
| <p><u>Urban heat island:</u> Assess against:</p> <ul style="list-style-type: none"> <li>At least 70% of total site <u>should</u> comprise building or landscape elements that reduce impact of urban heat island effect including:                             <ul style="list-style-type: none"> <li>- Vegetation, green roofs and water bodies;</li> <li>- Roof materials, shade structures, solar panels or hard scaping materials with high solar reflectivity index.</li> </ul> </li> </ul> | <p><b>Achieved in part (condition required):</b></p> <p>The SMP commits to the relevant requirement via Green Star Credit 25 Heat Island Effect, stating that this will be achieved for 75% of the site area through selection of roofing materials with SRI (Solar Reflectance Index) above 64, hard-scaping elements with SRI above 39, and vegetation on terraces.</p>   |



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|   | <p>Council’s Sustainable Design Officer has noted that the drawing set should include a plan to demonstrate how this would be incorporated for 75% of the site.</p> <p><b>Note:</b> Green Star credit requirements apply to 75% of the site not 70% of the site as per Clause 22.15.</p>  |
| <ul style="list-style-type: none"> <li>• Non-glazed façade materials exposed to summer sun <u>should</u> have a low solar absorptance.</li> </ul>   | <p><b>Achieved (condition required):</b></p> <p>The SMP advises that at detailed design stage, light-coloured façade materials with solar absorptance between 0.40 and 0.60 will be specified. A notation should be included on the finishes schedule to this effect.</p>   |
| <p><u>Sea level rise, flooding and water recycling and management:</u></p> <p>Raise internal floor levels above street level as a last resort, except where other measures and evidence / risk management necessitates it.</p>              | <p><b>Achieved:</b></p> <p>The ground floor commercial tenancies and back-of-house / building service areas are proposed to have finished floor levels (FFL) of 2.1 and 2.2m AHD (effectively at footpath level).</p>   |
| <p>Assess proposals in flood prone areas against:</p> <ul style="list-style-type: none"> <li>• Design elements and materials <u>should</u> be resilient inc. water proof doors and windows, elevated power outlets and the like.</li> </ul> | <p><b>Achieved in part:</b></p> <p>The plans and application documentation do not provide details of flood resilient design and materials for the ground floor commercial tenancies and back-of-house / building service areas. Internal raised floor levels of 3.0m AHD are provided for the two lobbies and associated stairs and lifts, and as a bund for the basement car park.</p> |
| <ul style="list-style-type: none"> <li>• Land uses at ground level <u>should</u> be able to easily recover from temporary flooding.</li> </ul>  | <p><b>Achieved in part:</b></p> <p>The plan and elevation drawings show the ground floor level lobbies and basement car park entry protected from flooding by incorporating a FFL of 3.0m AHD. The plans do not detail how the 2.1m and 2.2m AHD ffl commercial tenancies and service areas would be able to easily recover from temporary flooding.</p>                                |



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| <ul style="list-style-type: none"> <li>Any level changes required between street level and internal ground floor <u>should</u> be integrated into the building design to maintain good physical and visual connection between street and interior.</li> </ul> | <p><b>Achieved in part:</b></p> <p>Level changes would be mostly internal except for the shared entry to the two lobbies.</p>   |
| <ul style="list-style-type: none"> <li>Essential services such as power connections, switchboards and other critical services <u>should</u> be located to address flooding impacts.</li> </ul>  | <p><b>Not achieved:</b></p> <p>The plan and elevation drawings do not show ffl for all services.</p>  |
| <ul style="list-style-type: none"> <li>Developments and public realm layout and design <u>should</u> integrate best practice WSUD.</li> </ul>   | <p><b>Not achieved:</b></p> <p>The proposal involves a 26 kL basement rainwater tank would be connected to apartment toilets. Council’s Sustainable Design Officer has noted that the proposal has not demonstrated that it would meet the mandatory rain water tank and third pipe requirements pursuant to CCZ1 Clause 4.3, nor the stormwater quality requirements of Clause 22.12. Best practice WSUD has not been demonstrated. Further detail regarding WSUD can be found within the referral comments and within relevant sections of this report.</p> |
| <p><b>22.15-4.6 Communal open spaces</b></p> <p><u>Encourage</u> developments to landscape all public, communal and private open space.</p>   | <p><b>Not achieved:</b></p> <p>The design includes a small communal landscaped section at the podium level. Podium level apartments are shown to have landscaped terraces, no other landscaping details are provided. This extent of landscaping is low considering the scale of the development.</p>   |
| <p>Landscape areas <u>should</u>:</p> <ul style="list-style-type: none"> <li>Contribute to creation of sense of place and identity and preferred character for the precinct.</li> </ul>   | <p><b>Not achieved:</b></p> <p>The limited landscaping does not create any sense of particular place or identity or the preferred character for the precinct.</p>   |
| <ul style="list-style-type: none"> <li>Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice WSUD.</li> </ul>   | <p><b>Achieved in part:</b></p> <p>Rainwater from the roof and terrace areas would be collected in a rainwater tank system with a minimum capacity of 26kL, as noted earlier Council’s Sustainable Officer</p>  |



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|   | has advised that best practice WSUD has not been demonstrated.   |
| <ul style="list-style-type: none"> <li>• Incorporate opportunities for community gardens.</li> </ul>  | <p><b>Not achieved:</b><br/>No community garden is proposed.</p>   |
| <ul style="list-style-type: none"> <li>• For POS, interpret and celebrate heritage and culture inc. Aboriginal cultural heritage.</li> </ul>  | <p><b>Not achieved:</b><br/>The open space does not interpret and celebrate heritage and culture inc. Aboriginal cultural heritage.</p>  |
| <p>Plant selection <u>should</u>:</p> <ul style="list-style-type: none"> <li>• Support complex and biodiverse habitat including native and indigenous flora and fauna.</li> </ul>   | <p><b>Not achieved:</b><br/>An indicative landscape plan with plant selections has not been provided.</p>  |
| <ul style="list-style-type: none"> <li>• Balance provision of native and indigenous plants with exotic climate resilient plants that provide opportunity for biodiversity.</li> </ul>   | <p><b>Not achieved:</b><br/>No details have been provided.</p>   |
| <ul style="list-style-type: none"> <li>• Support creation of vegetation links within FB to surrounding areas of biodiversity, plant selection design.</li> </ul>  | <p><b>Not achieved:</b><br/>A vegetation link is not proposed.</p>   |
| <p>Buildings <u>should</u>:</p> <ul style="list-style-type: none"> <li>• Include deep soil zones of at least 1.5m or planter pits for canopy trees.</li> </ul>  | <p><b>Not achieved:</b><br/>The plans do not show deep soil zones.</p>   |
| <ul style="list-style-type: none"> <li>• Incorporate green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions.</li> </ul> | <p><b>Achieved in part:</b><br/>The landscape plan proposes some landscaping to the podium rooftop.<br/><br/>The plans do not detail if the landscaping would be water efficient, or located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions.</p> |
| <p><b>22.15-4.8 New streets, laneways and pedestrian connections</b><br/>New streets, laneways and pedestrian connections <u>should</u> be spaced:</p>  | <p><b>Not applicable</b><br/>No new street, laneway or pedestrian connection required for the site.</p>  |



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| <ul style="list-style-type: none"> <li>• Core areas: not more than 50-70m apart in preferred direction and 100m apart in the other direction in a block.</li> <li>• Non-core areas: not more than 100m apart and orientated in the preferred direction.</li> </ul> <p>The preferred direction for new pedestrian connections and laneways is north-south.</p> |  |
| <p>Sites &gt;3000m<sup>2</sup> <u>should</u> provide new streets, laneways or paths to create mid-block through links and define and separate buildings.</p>  | <p><b>Not applicable</b><br/>The site is less than 3000m<sup>2</sup>.</p>  |
| <p>New streets, laneways and pedestrian connections <u>should</u>:</p> <ul style="list-style-type: none"> <li>• Be aligned with and connected to existing and proposed streets as per relevant Maps in CCZ1.</li> </ul>   | <p><b>Not applicable</b></p>   |
| <ul style="list-style-type: none"> <li>• Provide direct access to existing or proposed public transport stations and routes, and existing or proposed public open space.</li> </ul>   | <p><b>Not applicable</b></p>   |
| <p>New shared streets or lanes <u>should</u> prioritise pedestrian movement and safety.</p>   | <p><b>Not applicable</b></p>   |
| <p>New streets and lanes <u>should</u> be designed to: Enable views through the street block; Have active frontages in a core area; Be open to the sky; Allow for canopy tree planting.</p>   | <p><b>Not applicable</b></p>   |
| <p><b>22.15-4.9 Sustainable transport</b></p> <p>Ensure development does not compromise the delivery of future PT inc, new tram, train and bus routes.</p>  | <p><b>Achieved:</b></p> <p>The development would not compromise the delivery of future PT inc, new tram, train and bus routes.</p>   |
| <p>Reduce impacts of new vehicle access points on pedestrian, PT and bicycle priority routes.</p>   | <p><b>Not achieved:</b></p> <p>Normanby Road is proposed to feature on-road cycling paths. The proposed indented vehicle drop-off/loading bay on Normanby Road would create points of conflict with any future cycle path.</p> |





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|  | The proposed three vehicle crossings off Munro Street would create multiple conflict points for pedestrians.   |
| Design internal connections to give priority to pedestrians and bicycles.  | <b>Achieved in part:</b><br>Pedestrian access from the street would be satisfactory.<br>No priority access is provided for bicycles.   |
| Provide high levels of and easy access to bicycle parking facilities, inc. change rooms, showers and lockers.                  | <b>Achieved in part:</b><br>Access to the basement bicycle parking via the vehicle ramp would be poor due to the very steep 1:5 grade and single-lane configuration of the ramp and the lack of bicycle access facilitation to the lifts through the two lobbies off Montague Street.<br><br>The plans do not show details of bicycle parking facilities, inc. change rooms, showers and lockers, or the design and dimensions of bike parking spaces and associated areas / enclosures. |
| Encourage developments to provide less than preferred max. no. car spaces.   | <b>Not achieved:</b><br>The application does not provide sufficient details of car parking allocation to allow car parking provision to be determined.<br><br>The rate proposed for the serviced apartments is not supported as it is higher than the rate applied for a 1BR dwelling in Fishermans Bend. Further details are required for car parking allocations.  |
| Encourage developments to provide for future conversion of car parking to alternative uses.                                    | <b>Achieved in part:</b> The podium car park level floors and floor-to-floor levels of 4.0m would potentially facilitate future conversion to alternate uses, although this would be tempered somewhat by the lack of access to natural light to much of these levels.   |
| <b>22.15-4.10 Land use transition</b><br>Ensure new uses and expansion of existing uses with potential adverse amenity impacts | <b>Achieved:</b> The proposed uses would not prejudice the urban renewal of Fishermans Bend.   |



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| do not prejudice the urban renewal of Fishermans Bend.   |  |
| Applications that may be affected by adverse amenity impacts, require the preparation of an Amenity Impact Plan that includes measure to mitigate adverse amenity impacts. | <p><b>Not applicable:</b></p> <p>The land is not in an Amenity Buffer or otherwise in an area which may be affected by adverse amenity impacts sufficient to warrant an Amenity Impact Plan.</p> <p>Notwithstanding this, the site abuts two main roads and is close to the Freeway and a light rail line and proximate to the port such that any building would need to meet a high standard of noise attenuation in its construction to protect occupants from external noise.</p> |

**11.2 Clause 37.04: Capital City Zone (CCZ1)**

**11.2.1 Use of Land**

Use of land for **Dwelling** requires a permit because the land is in a Core area and within the 450m buffer of the South Melbourne to Brooklyn gas pipeline.

Use of land for a **Residential hotel** (i.e. Serviced apartments) requires a permit because the land is in the 450m gas pipeline buffer.

Use for a **Retail premises (other than Hotel, Shop and Tavern)** (including **Food and drink premises** including **Restaurant**) requires a permit because the gross floor area exceeds 1,000m<sup>2</sup> and the land is in the 450m gas pipeline buffer.

All the proposed uses are considered satisfactory for the site, subject to conditions for any protection measures required for the gas pipelines and for management of amenity impacts such as noise emissions and/or protection from nearby sources of noise etc. such as by the building including noise attenuation measures in its construction.

Council’s Urban Designer did however raise a concern:

*On a general matter, I am concerned with the high number of serviced apartments proposed throughout Fishermans Bend, which appear to be used as a way to achieve the required ‘non-residential’ floor area. The feasibility of this number of serviced apartments in this location at this stage of the renewal of the area is questionable.*

Officers concur and this is a matter that can be incorporated in our response to the Minster.

**11.2.2 Dwelling Density**

Pursuant to the FBSAC Terms of Reference, the dwelling density provisions of the CCZ do not apply to the application.



### 11.2.3 Buildings and Works Requirements

Buildings and works must be generally in accordance with the Montague Urban Structure, Amenity Buffer, Pipeline Buffer and Transport and Infrastructure maps of the Schedule to the CCZ. This does not apply to a new road or laneway marked as indicative.

**Map 1: Montague Urban Structure** seeks

- Primary (80%) permeability Active frontage to Normanby Road and Secondary Type 2 (20%) permeability Active Frontage to Normanby Road.
- No vehicle crossings off the Normanby Road frontage.

**Map 4: Amenity buffers.** The land is not within an amenity buffer shown on Map 4.

**Map 5: Pipeline buffers** includes the land in the 450m buffer of the South Melbourne to Brooklyn gas pipeline. The Minister is responsible for seeking the views of the gas pipeline operator as to whether conditions or protection measures are necessary.

**Map 6: Transport Infrastructure** shows the site is proximate to the Route 109 City to Port Melbourne light rail line.

### 11.2.4 Bicycle, Motorcycle and Car Share Parking

**Note:** Also see assessment at 12.4 of this report

Clause 4.2 of Schedule 1 to the Capital City Zone requires bicycle, motorcycle and car share parking spaces at specified rates (unless the responsible authority is satisfied a lesser number is sufficient).

A summary of the requirements and provision based on the Development Schedule is set out below:

**Table 12.2.4-1: CCZ1 Bicycle, motorcycle, car share parking, and vehicle access points and crossovers**

| Measure                               | Bicycle Spaces Required                                  | Bicycle Spaces Proposed         | Motorcycle Spaces Required                                 | Motorcycle Spaces Proposed  | Car Share Spaces Required   | Car Share Spaces Proposed   |
|---------------------------------------|--|---------------------------------|--|-----------------------------|---|---|
| Development of more than 50 dwellings | 1 space per dwelling x 120 dwellings = <b>120 spaces</b> | 122 resident spaces (2 surplus) | 1 per 50 dwellings x 120 dwellings = <b>2 (2.4) spaces</b> | <b>2</b> residential spaces | 2 spaces + 1 per 25 car spaces x 120 residential car parking spaces = <b>5 spaces</b> | 8 tandem car spaces within level 3 (level 2 on the submitted plans) |



|   |   |                   |                                  |                 |                                 |                 |
|---|---|-------------------|----------------------------------|-----------------|---------------------------------|-----------------|
|   | 1 visitor space per 10 dwellings x 120 = <b>12 spaces</b>                 | 12 visitor spaces | None specified                   | N/A             | None specified                  | N/A             |
| <b>Subtotal:</b>  | <b>132 spaces</b>   | <b>132 spaces</b> | <b>2 spaces</b>                  | <b>2 spaces</b> | <b>5 spaces</b>                 | <b>8 spaces</b> |
| Development with > 10,000m <sup>2</sup> non-residential floor space | 1:50m <sup>2</sup> of net non-residential floor space                     | N/A               | 1:100 non-res car parking spaces | N/A             | 1:60 non-res car parking spaces | N/A             |
|   | 1 visitor space per 1000m <sup>2</sup> of net non-residential floor space | N/A               | None specified                   | N/A             | None specified                  | N/A             |
| <b>Subtotal:</b>  | <b>N/A</b>  | <b>N/A</b>        | <b>N/A</b>                       | <b>N/A</b>      | <b>N/A</b>                      | <b>N/A</b>      |
| <b>Total:</b>   | <b>132 spaces</b>   | <b>132 spaces</b> | <b>2 spaces</b>                  | <b>2 spaces</b> | <b>5 spaces</b>                 | <b>8 spaces</b> |

Bicycle parking

The proposal would comply with the resident and resident visitor bicycle parking spaces provisional requirements. However, the location of the bicycle parking spaces solely within the basement level raises concerns. To improve usability spaces should also be located within the ground floor level.

The submitted Traffic Engineering Assessment suggests that the requirements for the serviced apartments should be assessed using the commercial requirements. This is accepted due to the nature of the use (short term accommodation) and the associated low likelihood of bike use. The serviced apartments would have a floor area of 2,157m<sup>2</sup>. The retail tenancies would have a combined area of 570m<sup>2</sup>. The total area of commercial uses would be 2,727m<sup>2</sup> which would be well below the 10,000m<sup>2</sup> trigger listed within Table 2 to Schedule 1 to the Capital City Zone.

Motorcycle parking



The development would provide two motorcycle spaces in accordance with the requirements. The number and location of the motorcycle spaces is considered satisfactory.

#### Car share spaces

The proposed development requires the provision of 5 car share spaces, 8 car share spaces have been proposed which exceeds this requirement by 3. The car share spaces are proposed at Level 3 in four rows of end-on tandem spaces. Council's Transport Planners advised:

- They did not support tandem car share spaces as it could limit or prevent access to a particular class of vehicle if for example a car share van was parked behind a car share sedan etc.
- They questioned accessibility to the car shared spaces by persons from outside the building and recommended any approval include provision for: "24 hours a day, seven days a week by any member of the car share provider, and by employees or contractors of the car share operator in order to clean, detail or service the car."
- Council's car share policy encourages spaces be provided on the "first level of a multi-storey car park (be it ground level, the first level up or first level down)".

Noting the above, a redesign to provide five (5) independently accessible car share spaces at basement or L2 may provide a better outcome than the proposed 8 tandem spaces on L3.

#### Vehicle access points and crossovers

Clause 4.2 of Schedule 1 to the Capital City Zone specifies that a permit must not be granted to construct a building or construct and carry out works where vehicle access points and/or crossovers (not including openings for a road) are located along roads designated as 'no crossovers permitted' in the relevant Map of this schedule, unless no other access is possible.

The relevant map identifies that crossovers are not permitted along Normanby Road. Vehicle access for the development is located along Munro Street, however a guest drop-off and loading area is proposed along Normanby Road. Whilst ultimate approval for the drop-off/loading area rests with the Department of Transport (DoT), Council's Transport Engineer advised they did not support it and pick-up and drop-off should be provided on site.

#### **11.2.5 Conditions on Permits**

Clause 4.3 of Schedule 1 to the CCZ sets out mandatory conditions to be included on permits (as relevant). The listed conditions for:

- Green star rating; and
- Third pipe and rain tank;



should be included in any approved Incorporated Document for the proposal.

### **11.3 Clause 43.02: Design and Development Overlay - Schedule 30 - Fishermans Bend - Montague Precinct (DDO30)**

#### **11.3.1 Building Typologies**

The land is in Precinct Area M1 of DDO33 which encourages a hybrid (predominantly mid-rise i.e. 7 to 15 storey) building typology and a preferred maximum building height of 68 metres (20-storeys).

The preferred precinct character is

*'Mid to high-rise (i.e. 16 storeys and taller) 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.'*

#### **Assessment**

The stepped 26, 29 and 32 level tower would exceed both the preferred precinct character heights and the preferred maximum height for the site and along Normanby Road.

The proposed more than doubling of the preferred 7 to 15 level precinct character height is not justified having regard to the sites location along the proposed Normanby Road avenue and on the border of a change in preferred height to a slightly taller 81m / 24 levels across Munro Street to the north-west.

Approving such an exceptional height on the subject site would undermine the intended progressing stepping up in height away from Montague South and would be excessive opposite the heritage graded building opposite across Normanby Road. It is considered that the maximum height of the building should not exceed 20 storeys.

#### **11.3.2 Overshadowing**

**Clause 2.6 of DDO30 states buildings must not 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.
- The existing or new public open spaces or streets shown in **Map 4** of the schedule as follows:
  - The rear of the new public open space proposed opposite at 231-233 Normanby Road between 11.00am and 2.00pm on 22 September;
  - The new Montague North public open space between 11.00am and 2.00pm on 22 September;



### **Assessment**

One set of shadow plans was submitted with the Architectural Drawings (dated 20-11-2020) and another more comprehensive set was submitted with the Urban Context Report (dated February 2021). The two sets of shadow plans are different at 1.00pm

Both sets show the proposal **would not** overshadow the specified residential zoned land or areas of public open space.

### **11.3.3 Building Height**

#### **Street Wall Height**

Normanby Road is approx. 30.0m wide. Montague Street is approximately 31.0m wide. Munro Street is approx. 20.4m wide.

The preferred street wall (i.e. podium) height for all three streets is at least 4 storeys, except where a lower height is necessary to respond to an adjoining heritage place. The maximum street wall height is 6 storeys.

A 6 level / 26.0m AHD to roof top level (27.2m AHD to top of balustrade glazing) podium is proposed to the boundary of all three streets and the south side boundary.

#### **Assessment**

The proposed 6-storey street wall height exceeds the preferred height but complies with the maximum height.

#### **Tower Height**

The preferred building height for the precinct is mid-rise 7-15 storeys and preferred maximum building height is 68m (20 storeys) (discretionary).

The tower is proposed to step up in three tiers of 26, 29 and 32 levels, plus level of rooftop services above this.

The building would have a maximum height of 104.7m (106.8m AHD) to rooftop level, 107.8m (109.9m AHD) to top of rooftop plant.

#### **Assessment**

All three tiers of the proposal would exceed both the preferred precinct character heights and the preferred maximum height for the site and along Normanby Road.

The application documentation argues that the increased height of the proposal would add to a varying and visually interesting skyline.

Officers consider the extent of variation from the 7 to 15 level preferred character height (i.e. an additional 17 to 25 levels + rooftop services) and the 20 level preferred maximum precinct height and the approved height for Site O2 (i.e. an additional 12 levels + rooftop services) go far beyond providing skyline variation and would be inconsistent with the vision for Normanby Road.



It is considered the heights do not have proper regard to the present-day planning strategy and controls introduced by Amendment GC81 and is seeking heights that relate to buildings approved pursuant to pre GC81 controls and to buildings in other height precincts to the north-west.

There are four (4) pre GC81 approvals for 40 level towers and one post GC81 approval for a 36-level tower on Normanby Road. Three of the 40 level towers are under construction and the fourth is likely to start during 2021. A start date is not known for the recently approved 36-level tower.

Officers note that the post GC81 36-level tower was approved having regard to exceptional site circumstances where one of the pre GC81 40-level towers had been approved with a sheer, windowless wall on the boundary. Allowing a tower of more than 20 levels to abut and conceal this sheer wall was considered a reasonable site specific response to that earlier approval, and as such, not a precedent for similar height towers elsewhere along Normanby Road post GC81.

The subject site is not encumbered with a substantial wall on the adjoining boundary and the proposal is for a freestanding tower, albeit with significantly reduced setbacks above the podium.

It is considered that there is no exceptional circumstance affecting the site which justifies such a significant increase in height.

Officers further note that the four approved 40 levels tower sites represent less than ¼ of development sites along the length of Normanby Road.

Officers do not consider the subject site a gateway or bookend site which are sometimes marked by taller buildings noting it is located midway along Normanby Road and part way along Montague Street. It is considered that the maximum height of the building should not exceed 20 storeys.

#### **11.3.4 Street wall setbacks**

Street walls should be built to or within 0.3m of an existing or proposed street, laneway or public open space. This is not a mandatory requirement.

##### **Assessment**

All three street walls would be constructed to the boundary.

#### **11.3.5 (Tower) Setbacks Above the Street Wall**

The preferred and minimum setback above the street wall for a building of more than 20 levels is 10.0m. The building is proposed to be setback:

- Normanby Road:
  - 5.0m up to L23, and for approx. 50% of the width of the tower up to L26
  - 20.0m for approx. 50% width of the tower from L23 to 29.
  - 25.9m for the final 50% width of the tower at L30 and 31 and the rooftop services





- Montague Street: 3.5m
- Munro Street: 3.5m

**Assessment**

The 10.0m setback from all boundaries is a mandatory setback requirement. Council’s Urban Designer commented:

*‘The proposed setback above the street wall from the southwest boundary is less than the 10m minimum mandated in Clause 2.9 of DDO30. There is concern that any setback to the southwest boundary less than 10m will not achieve the built form outcomes of Clause 2.9. In particular, equitable development outcomes for the adjoining site at 248-250 Normanby Road appear not have been addressed. Further, the proposed setback (in combination with future development on the adjoining property) will result in the appearance of a continuous wall when viewed from street level and may worsen wind conditions in the public realm.’*

Officers do not support variation of the mandatory setbacks from any of the boundaries.

Officers note that applying a 10.0m setback from all boundaries to the 30.18m (w) x 50.29m (l) of the site results in a narrow 10.18m x 30.29m maximum tower envelope.

Officers also note that a tower up to 20 levels would have discretion to reduce these setbacks to a minimum of 5.0m, which would double the width of the tower.

Officers would not support a 5.0m setback from Normanby Road, but subject to suitable amendments to plans, may support reduced tower setbacks from Montague Street and Munro Street, but would need to be convinced of the design merit to exercise discretion to the minimum.

Officers would not support a reduction in the setback from the property to the south side for reasons of ensuring equitable development opportunities.

**11.3.6 Side and Rear Setbacks (podium and tower not facing a street)**

Walls below the maximum street wall height not on or within 300mm of a side or rear boundary in Core areas should be setback 9.0m (i.e. preferred) and must be setback at least 6.0 metres.

Walls above the maximum street wall height for a building of 20 storeys or less **should** be setback 10.0m (i.e. preferred) and **must** be setback at least 5.0m.

Walls above the maximum street wall height for a building of more than 20 storeys or less **must** be setback 10.0m.

**Assessment**

| Standard | Proposal | Assessment |
|----------|----------|------------|
|----------|----------|------------|



|  |  |                         |
|--|--|-------------------------|
| Walls below the maximum street wall height not on or within 300mm of a side or rear boundary in Core areas <b>should</b> be setback <b>9.0m</b> (i.e. preferred) and <b>must</b> be setback at least <b>6.0m</b> . | <b>South-east side:</b><br>0.0m  | <b>Achieved</b>         |
| Walls above the maximum street wall height for a building of 20 storeys or less <b>should</b> be setback <b>10.0m</b> (i.e. preferred) and <b>must</b> be setback at least <b>5.0m</b> .                           | <b>N/A</b>   | <b>N/A</b>              |
| Walls above the maximum street wall height for a building of more than 20 storeys or less <b>must</b> be setback <b>10.0m</b> .  | <b>South-east side:</b><br>5.0m up to L28<br>15.0m L29 to 32 +<br>top of rooftop<br>services | <b>Not<br/>Achieved</b> |

The south-east (side) podium wall complies but the tower wall does not.

As per discussion above, a variation to a mandatory setback is not supported, however a reduction in building height to not more than 20 levels would allow discretion to consider reducing the setback down to a minimum of 5.0m.

### 11.3.7 Wind Effects on the Public Realm

A Pedestrian Level Wind Tunnel Assessment was lodged with the application. The Assessment recommended application of the following wind conditions:

|                                       |                   |
|---------------------------------------|-------------------|
| Public Footpaths                      | Walking criteria  |
| Building Entrances                    | Standing criteria |
| Balconies, Podium roof, Roof Terraces | Walking criteria  |

The assessment concluded:

- Minor increases in wind speeds were predicted to occur within the pedestrian level wind environment as a result of the proposed development.
- All wind speeds were observed to have no adverse effect on the pedestrian level wind environment as a result of the proposed development.
- Wind speeds are predicted to satisfy the recommended criteria in all locations.



Council's Urban Designer reviewed the wind assessment and commented:

*'The current wind assessment does not demonstrate that the proposal will achieve the built form outcome of Clause 2.11 of DDO30 – "local wind conditions that maintain a safe and pleasant pedestrian environment on footpaths and other public spaces for walking, sitting and standing". Further, Clause 22.15-4.4 requires developments to contribute to a "high quality public realm and deliver spaces, including open spaces, for people to meet, gather, socialise, exercise and relax".*

This outcome is particularly relevant for the subject site, which is located within the Montague Core Area where a *"high quality, high amenity public realm is to be delivered"* (Clause 21.06-8). Normanby Road is to be a *"pedestrian friendly boulevard"*. Based on the requirements of Clause 2.11 of DDO30, an assessment distance of approximately 54m is required from the site boundaries (based on current building height). As illustrated in the diagram below, this area encompasses the following public areas that will perform important roles in the amenity and liveability of the area:

- Footpaths on both sides of Normanby Road and Montague Street;
- New park at the northeast corner of Montague and Munro and Salmon Streets;
- New park on the opposite side of Normanby Road; and
- Proposed through-block laneways.

On this basis, adoption of walking comfort criteria for most publicly accessible areas is not supported, as this undermines the purpose of these areas.

An amended wind assessment is required that demonstrates compliance with the above planning requirements. Managing wind impacts on the public realm is closely associated with built form. Required wind treatments will need to be incorporated into the design of the development. On this basis, the wind assessment needs to be prepared, and the above matters addressed, prior to a decision being made. The amended wind assessment needs to address the following matters:

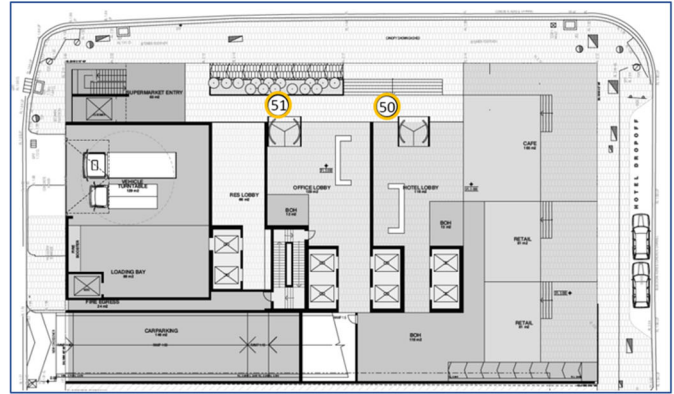
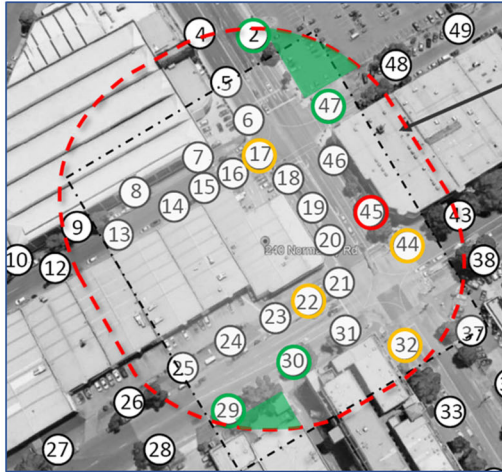
- The assessment distance used must be in accordance with Clause 2.11;
- The assessment must address approved and proposed development and publicly accessible areas within the assessment distance;
- The mandatory wind safety criteria in DDO33 must be achieved. Where the safety criterium is exceeded under existing conditions, the development must not increase the extent of non-compliance, and should seek to improve the level of safety;
- The following comfort criteria should apply to the publicly accessible areas within the assessment distance (not those recommended in the current wind assessment):



- Sitting – the future parks on the southern side of Normanby Road (close to Test Locations 29 & 30) and on the northern corner of Montague and Munro Streets (close to Test Locations 2 & 47) (shown as green in the diagram at left below). The current wind assessment does not include test locations within these proposed park locations, however, it is noted that Test Locations 2, 29, 30 and 47 do not meet the sitting comfort criteria as a result of the proposed building. Any proposed areas for outdoor seating in approved / proposed developments within the assessment distance also need to achieve this criteria;
- Standing – both footpaths of Normanby Road and Montague Street, future laneways within the assessment distance and outside retail / commercial tenancies and lobby entries for the subject development and other approved / proposed developments within the assessment distance. As identified in yellow in the diagram at left below, Test Locations 17, 22, 32 and 44 do not achieve comfort criteria as a result of the proposed building. Furthermore, Test Location 45 does not achieve walking comfort criteria. Comparison between existing and proposed wind conditions is not possible for Test Locations 45-49, as Figure 32 does not include their existing wind conditions. Test Locations 50 and 51 in the Montague Street building entry area do not achieve comfort criteria (despite the Ground Floor plan changing significantly from that tested in the current wind assessment, as shown in the diagram at right below). There has not been a specific test location for the Normanby Road building / tenancy entries; and
- Walking – remaining publicly accessible areas.

Where these criteria are exceeded under existing conditions, the development must not worsen the wind situation.

- Wind management treatments must be located within the development site; and
- Any proposed changes to the built form and/or wind treatments need to be qualified to demonstrate how an amended proposal will achieve the policy requirements in Clause 2.11 of DDO30.'



In summary, it is considered that the wind conditions on and surrounding the site should be improved as follows:

| Location                              | Applicant proposed Wind Criteria | Council recommended Wind Criteria |
|---------------------------------------|----------------------------------|-----------------------------------|
| Public Footpaths                      | Walking criteria                 | Standing criteria                 |
| Building Entrances                    | Standing criteria                | Standing criteria                 |
| Balconies, Podium roof, Roof Terraces | Walking criteria                 | Sitting criteria                  |
| Public Open Space opposite            | Not stated                       | Sitting criteria                  |

These matters could be provided for by requirements of any Incorporated Document that may be approved for the proposal.

**11.3.8 Active Street Frontages**

Normanby Road is designated a Primary (80% permeability) active frontage which seeks at least 80% clear glazing along the ground level frontage to a height of 2.5m, excluding any solid plinth or base.

Montague Street is designated a Secondary Type 2 (20% permeability) active frontage which seeks at least 20% clear glazing along the ground level frontage to a height of 2.5m, excluding any solid plinth or base.

Munro Street is not designated an active street.

**Assessment**



The Normanby Road and Montague Street ground floor level frontages would meet (exceed) the clear glazing permeability active frontage requirements.

**11.3.9 Adaptable Buildings**

Adaptable buildings should incorporate elements as follows:

| Building element  | Adaptability opportunity   | Compliance  |
|---|--|---|
| <b>Lower levels up to the height of the street wall</b> | At least 4.0m floor-to-floor height at ground level<br><br>At least 3.8m floor-to-floor height for other lower levels  | <b>Achieved in part:</b><br><br>Ground level floor-to-floor height: 4.0m<br><br>Podium levels 1 and 2 floor-to-floor height: 4.0m<br><br>Podium levels 3 and 4 floor-to-floor height: 3.1m  |
| <b>Car parking areas</b>                                | <ul style="list-style-type: none"> <li>• In areas not in a basement: Level floors.</li> <li>• A floor-to-floor height at least 3.8m.</li> </ul> Mechanical parking systems to reduce the area required for car parking | <b>Achieved:</b><br><br>Level floors, 4.0m floor to floor heights and mechanical car parking stackers proposed at podium car park levels 1 and 2.<br><br><b>Note:</b> Car stacker specification requires 3.8m head clearance, which would be marginal / questionable with a 4.0m floor to floor<br><br><b>Note:</b> Car parking levels within the podium have poor access to natural light to much of their floor area. |
| <b>Dwelling layout</b>                                  | The ability for one and two-bedroom dwellings to be combined or adapted into three or more bedroom dwellings   | <b>Achieved</b><br><br>Apartment plans could provide for combination of smaller apartments to create larger dwellings, although this is not considered necessary given the proposal already includes a high percentage of 3 and 4BR dwellings.  |
| <b>Internal layout</b>                                  | Minimal load bearing walls to maximise flexibility for retail or commercial refits.  | <b>Achieved</b><br><br>The principle load bearing elements would be a sparse arrangement of internal columns and the perimeter walls, which would allow good  |



|  |  |   |
|--|--|---|
|  |  | opportunity for internal reconfiguration. |
|--|--|---|

**Assessment**

The proposal would meet most criteria for future adaptability.

**11.4 Clause 45.09: Parking Overlay**

**11.4.1 Car Parking**

The subject site is within the Parking Overlay pursuant to Clause 45.09 of the Planning Scheme. The Parking Overlay specifies maximum rather than minimum parking rates for **Dwelling, Office, Retail premises (including Café, Restaurant, and Shop) and Supermarket**. A permit is required to provide parking in excess of the Parking Overlay rates.

An assessment of car parking rates and provision is set out at as follows:

**Table 12.4.1-1: Clause 45.09 Parking Overlay Car Parking Rates and Provision**

| <b>MAXIMUM CAR PARKING PROVISION</b>  | <b>PROPOSED CAR PARKING PROVISION</b>  |
|---|--|
| <b>Dwelling:</b> Max 0.5 spaces per 1 or 2BR dwelling,<br>Max. 1 space per 3BR (or greater) dwelling<br>(Clause 45.09 - Parking Overlay)  |  |
| 5 x 1BR x 0.5 = 2 (2.5) spaces  | Not specified  |
| 37 x 2BR x 0.5 = 18.5 spaces  | Not specified  |
| 56 x 3BR x 1 = 56 spaces  | Not specified  |
| 22 x 4BR x 1 = 22 spaces  | Not specified  |
| <b>Total: 120 dwellings / 98 (98.5) car spaces</b>  | A total of 182 spaces is proposed, however it is unclear how they would be allocated.  |
| <b>Serviced Apartments</b>  |  |
| There is no statutory car parking rate listed for serviced apartments within the Parking Overlay or Clause 52.06 (Car Parking), therefore car parking for this use must be provided to the satisfaction of the Responsible Authority. | The traffic engineering assessment adopts a rate of 1 car space per serviced apartment; 81 spaces in total. It is unclear what the allocation of parking is. |



|  |  |
|--|--|
| <b>Retail premises:</b> Max. 1 space / 100m <sup>2</sup> gross floor area (Clause 45.09 - Parking Overlay) |  |
| 570m <sup>2</sup> x 1/100 = <b>5 (5.7) spaces</b>  | <b>5 spaces.</b> It is unclear if any spaces would be allocated to the retail tenancies and where these spaces would be located.   |
| <b>Totals: 103 spaces excluding provision of car parking for serviced apartments</b>                       | <b>182 car spaces proposed.</b> <ul style="list-style-type: none"> <li>• Allocations unclear.</li> <li>• Rate proposed for serviced apartments not supported.</li> </ul> |

**Assessment**

Number of car parking spaces required

The allocation of car parking is unclear in the submitted Traffic Engineering Assessment. To identify if the proposal complies with the Parking Overlay, allocations are required, and a rate for the serviced apartments should be agreed on.

The Assessment proposes a rate of 1 space per serviced apartment, based on the rate listed within Table 2 to Clause 52.06-5 for ‘motel’. This rate is not supported by Council Planners or Council’s Traffic Engineer, and is considered unrepresentative of car parking demand for serviced apartments and too high particularly for Fishermans Bend where lower car parking rates are sought. It is recommended that the applicant provide a more thorough assessment of what rate should be used for the serviced apartments, taking into consideration similar uses within the municipality and the lower rates required within Fishermans Bend.

The number of car parking spaces provided and allocated for each use should not exceed the maximums of the Parking Overlay. Additional demand above the Parking Overlay rates should be met by provision of car share parking spaces within the development.

These matters could be provided for by requirements of any Incorporated Document that may be approved for the proposal.

**11.4.2 Design standards for car parking**

Refer to Internal referral comments Appendix to this report.

Electric Vehicle Charging

The plans, Traffic Report and ESD Report do not show or refer to electric vehicle charging points. At least 50% of all car spaces on all car park levels should have access to an electric vehicle charge point, having regard to:

- The approximately 10 year construction time for the proposal;





- The economic life of the building;
- Existing and pending legislation for car manufactures to end new internal combustion engine (ICE) vehicle sales from 2025 (Norway), 2030 (Sweden, Denmark, Ireland, Israel, Netherlands and Slovenia England, Wales and Northern Ireland), 2032 (Scotland), 2035 (California), 2040 (France and Sri Lanka), and China (tba);
- Major global car manufactures announcing they will cease production of ICE vehicles by 2025 (Jaguar), 2030 (Ford - Europe), 2035 (General Motors)

These matters would need to be provided for by conditions of any Incorporated Document that may issue for the proposal.

## Other Matters

### 11.5 Clause 58 – Better Apartments Design Standards

The proposed dwellings do not fully comply with the Standards, including *Urban context objectives (Standard D1)*, *Integration with the street objective (Standard D5)*, *Energy efficiency objectives (Standard D6)*, *Communal open space objective (Standard D7)*, *Solar access to communal outdoor open space objective (Standard D8)*, *Safety objective (Standard D9)*, *Landscaping objectives (Standard D10)*, *Access objective (Standard D11)*, *Parking location objectives (Standard D12)*, *Integrated water and stormwater management objectives (Standard D13)*, *Building setback objectives (Standard D14)*, *Site services objectives (Standard D22)* and *Waste and recycling objectives (Standard D23)*.

A detailed assessment is included as an Appendix to this report. Any Incorporated Document should include a condition requiring compliance with all standards set out in this clause. Council notes that amendments to Clause 58 will be implemented via a planning scheme amendment later in 2021. Council notes that transitional arrangements will apply to applications lodged before the amendment date. This document would amend requirements relating to Green space, External materials, Wind Impacts and Integration with the street, aspects which Council already notes concerns in relation to.

### 11.6 Transport Matters

#### 11.6.1 Bicycle facilities

Bicycle facilities (change rooms, showers, lockers) are not required under Clause 52.34-5.

#### 11.6.2 Waste Management

Council's Waste Management Officer was generally supportive of the waste arrangements, subject to:

- Collection times need to comply with Port Phillip Local Law. 1 and be noted on the Waste Management



- Details of the storage capacity of the dehydrator and how much material it can process weekly.
- Confirmation if the dehydrator is used for Residential/Commercial or for both.
- Confirmation of clearance for the Waste truck noting the ground floor entrance height shows as 3.9m and the waste truck operating height is 4.0m.

These matters could be provided for by conditions of any Incorporated Document that may issue for the proposal.

### 11.6.3 Loading

One (1) loading bay including a turntable is proposed accessed off Munro Street.

Council's Waste Officer raised concerns regarding satisfactory clearance for operation of waste collection vehicles.

Council's Traffic Engineer raised concerns about:

- the width and number of vehicle crossings off Munro Street;
- the need for pedestrian sight triangles at all vehicle exits
- the loading bay exit's proximity to the Montague Street signalised intersection and the potential for exiting vehicles to block traffic
- Queuing of service vehicles in Munro Street if the loading bay is occupied.

#### Assessment

The number of vehicle crossings needs to be reduced.

Vehicle crossings need to incorporate pedestrian sight triangles, and crossings should be located away from the Montague Street intersection.

Height clearances need to be confirmed.

These matters could be provided for by conditions of any Incorporated Document that may be approved for the proposal.

### 11.6.4 Stores

Twenty-one (21) stores varying in size from 5.0m<sup>3</sup> to 7.2m<sup>3</sup> are proposed at L1 and 2 for the 120 dwellings.

#### Assessment

At least one 6m<sup>3</sup> store should be provided for each dwelling. Given theft problems with wire cages, all stores should feature solid walls /doors / floors / roofs for security.

This could be provided for by conditions of any Incorporated Document that may be approved for the proposal.



### 11.7 Sustainable design

The site is in the NatHERS climate zone 21 Melbourne that specifies a maximum cooling load 30 MJ/M2 per annum.

The development is targeting a 7-Star average NatHERS rating for all apartments, thereby meeting the

minimum 7-Star average NatHERS rating required under Clause 22.15-4.5. This commitment is included in the SMP under the Green Star credit for Thermal Comfort (14.1 and 14.2).

The SMP targets 60.8 Green Star points, which, if achieved, would narrowly meet the 60-point requirement for a 5 star Green Star rating Design & As Built rating. The credits targeted in the SMP should be updated to include a 10% buffer above the minimum 60-point requirement to ensure that at least 60 points are achieved during construction if unforeseen changes arise along the way. 66 points = Five Star "Australian Excellence".

The proposal has not demonstrated that it would meet the mandatory rain water tank and third pipe requirements pursuant to CCZ1 Clause 4.3, nor the stormwater quality requirements of Clause 22.12

A STORM report is provided in the SMP which is not acceptable for the scale of development approved. MUSIC modelling must be provided to demonstrate how stormwater quality requirements will be met in accordance with Clause 22.12. It is noted that the project is not targeting any points under the Green Star credit for Stormwater Pollution Targets 26.2. The project should be achieving the requirements of this credit (based on Column B pollution reduction targets in the GS Submission Guidelines) in order to comply with Clause 22.12. The fact that the credit isn't targeted suggests that insufficient stormwater quality would be achieved, which is not acceptable.

The rainwater tank maintenance manual that has been used in the SMP at Appendix E is taken from a Council template that is for small scale domestic use only. It is not appropriate for a development of this scale. A bespoke WSUD maintenance manual should be included in the SMP for all stormwater treatment devices.

It is noted that only 1.3 out of 14 points are targeted under the Potable Water Green Star Credit (18A.1), using the performance pathway. The proposal should target a higher score in this key ESD category.

Council's ESD officer has noted the following concerns to be resolved prior to any approval:

- Integrated Water Management: The proposal has not demonstrated that it would meet the mandatory rain water tank and third pipe requirements pursuant to CCZ1 Clause 4.3, nor the stormwater quality requirements of Clause 22.12
- A Climate Adaptation Plan should be appended to the SMP and any resulting design changes included on the plans.



- Additional details for energy efficiency of non-residential spaces and details of proposed solar PV system.

### 11.8 Community facilities

The application does not propose community facilities.

### 11.9 Affordable Housing

**11.9.1** The application proposes to provide for the delivery of at least 6% of all dwellings for affordable housing by:

- i. Transferring dwellings within the development to a registered housing agency or other housing provider or trust entity approved by the Responsible Authority at a minimum **35% discount** to market value; or
- ii. Leasing dwellings within the development as affordable housing under the management of a registered housing agency or housing provider or trust approved by the Responsible Authority at a minimum **35% discount** from market rent for a period of not less than **30 years** for the building approved under this control. The overall value of the leased dwellings must be equivalent or higher to 4.60(a); or
- iii. any other mechanism providing a contribution of equivalent or higher value to (i) to the satisfaction of the Responsible Authority.

The Affordable housing must:

- a) be delivered within the development approved by this control;
- b) take the form of one or two or three-bedroom dwellings representative of the approved dwelling mix;
- c) be functionally and physically indistinguishable from conventional dwellings within the development;
- d) include access to all common facilities within the building at no extra fee for occupants of affordable housing dwellings; and
- e) allocate one or more bicycle parking space per dwelling for the life of the Affordable housing.

unless otherwise agreed in writing by the Responsible Authority.

Provide that if the affordable housing is delivered under Clause (i), the agreement must contain a mechanism for review of the minimum discount from market rent by reference to updated income and rental figures upon request by the Responsible Authority to ensure the housing continues to meet the definition of Affordable housing in the Act and by reference to relevant Regulations, Ministerial Notices, Orders in Council and the like.

The agreement may provide that:

- a) In lieu of delivering all or part of the affordable housing in accordance with (i), the Responsible Authority may agree to payment of an equivalent amount of money to a registered housing agency or other housing



provider or trust to be expended for affordable housing in the Fishermans Bend Urban Renewal Area provided the Responsible Authority and Council are satisfied that:

- i) the owner has made best endeavours to secure a registered housing agency recipient or other housing provider or trust for the affordable housing and has not been successful; and
- ii) the payment amount is equivalent to the value of the affordable housing that would otherwise have to be delivered less the value of any affordable housing provided within the development.

### **Assessment**

The Affordable Housing offer is consistent with recent determinations for other FBURA PSA applications and is considered generally satisfactory.

It would however be desirable to include an additional provision for:

- An option for a percentage of the dwellings to be transferred to a Housing provider at zero consideration, the value of which must be equivalent or higher to the value of the transfer at the minimum 35% discount option.

This would likely equate to the gifting of two (2) dwellings.

This could be provided for by a condition of any Incorporated Document that may be approved for the proposal.

### Social Housing

- 11.9.2** No Social housing is proposed. As noted above, pursuant to the FBSAC Terms of Reference, the Dwelling Density / Dwelling uplift / Social Housing provisions of Clause 4.2 of Schedule 1 to the CCZ do not apply to the application.

### **11.10 Environmental Audit**

An environmental audit has not been undertaken for the land.

Pursuant to Clause 6 of the Schedule to the Capital City Zone:

*Before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;*

- *A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- *A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use.*

This could be provided for by requirements of any Incorporated Document that may be approved for the proposal.



### 11.11 Infrastructure Contribution Overlay (ICO1)

Amendments **VC146** (15 May 2018) and **GC81** (05 October 2018) introduced the Infrastructure Contributions Overlay and Schedule 1 to the ICO respectively.

Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan (ICP) has been incorporated into the Planning Scheme.

The application for a Planning Scheme Amendment allows assessment and approval of applications in the interim before an ICP has been incorporated into the Scheme.

Pursuant to the FBSAC Terms of Reference, the provision of appropriate development contributions is a matter for the Committee to determine.

### 11.12 Aboriginal Cultural Heritage

All of the land is in an 'area of cultural heritage sensitivity' as defined under the *Aboriginal Heritage Regulations 2018*. This includes registered Aboriginal cultural heritage places and land form types that are generally regarded as more likely to contain Aboriginal cultural heritage.

Under the Aboriginal Heritage Regulations 2018, 'areas of cultural heritage sensitivity' are one part of a two-part trigger which require a 'cultural heritage management plan' be prepared where a listed 'high impact activity' is proposed.

If a significant land use change is proposed (for example, a subdivision into 3 or more lots), a cultural heritage management plan may be triggered. One or two dwellings, works ancillary to a dwelling, services to a dwelling, alteration of buildings and minor works are examples of works exempt from this requirement.

Under the Aboriginal Heritage Act 2006, where a cultural heritage management plan is required, planning permits, licences and work authorities cannot be issued unless the cultural heritage management plan has been approved for the activity.

This could be provided for by requirements of any Incorporated Document that may be approved for the proposal.

## 12. COVENANTS

12.1 A review of the Title for the land shows the subject land, being all that land contained within Volume 09674 Folio 241, commonly known as Plan of Consolidation 161780W is not encumbered by a restrictive covenant or Section 173 Agreement or building envelope, but;

- Shares a 0.2m (w) (0.1m (w) on each property) party wall easement along 45.78m (l) of its southern boundary with the adjoining property to the south;
- Benefits from a 4.5m (w) right-of-way and drainage easement over part of the adjoining property to the south, which provides vehicle access to Normanby Road.

## 13. OFFICER DIRECT OR INDIRECT INTEREST

13.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.



## 14. OPTIONS

- 14.1 Support the Planning Scheme Amendment.
- 14.2 Support the Planning Scheme Amendment with modifications and conditions to be included in any Incorporated Document.
- 14.3 Not support the Planning Scheme Amendment on key issues.

## 15. CONCLUSION

- 15.1 The proposed height and reduced setbacks of the tower and non-compliances or minimum compliance with several design matters are considered to be signs the proposal would be an overdevelopment for the site and would also result in inequitable development opportunity for the adjacent site to the south side.
- 15.2 The application offer of Affordable Housing totalling 6% of all dwellings is considered a satisfactory response to the Fishermans Bend Local Policy.
- 15.3 It is considered that the extent of change needed to make the proposal acceptable goes beyond what could be achieved by conditions. However, if the proposal was to be supported, officers recommend that any Incorporated Document include conditions to address Council's concerns including for building height, tower setbacks, car and bicycle parking, sustainable and water sensitive urban design, wind impacts etc. It is considered that the maximum height of the building should not exceed 20 storeys.
- 15.4 It is recommended that the Planning Committee resolve to advise the Fishermans Bend Standing Advisory Committee C/- the Department of Environment, Land, Water and Planning that the Council does not support the application in its current form based on the matters set out in Section 11 and the Appendices of this report.
- 15.5 That the Planning Committee advise the Fishermans Bend Standing Advisory Committee C/- the Department of Environment, Land, Water and Planning that in the event that the application for a Planning Scheme Amendment is supported, the Incorporated Document for the amendment incorporate conditions to address Council's concerns.

<insert text>

### TRIM FILE NO:

**PF20/28148**

### ATTACHMENTS

- 1. Location Plan
- 2. Location Photos
- 3. Plan Drawings
- 4. Elevation and Section Drawings
- 5. Shadow Plans
- 6. Render and 3D Views
- 7. Appendix - City of Port Phillip Clause 58 Assessment
- 8. Appendix - City of Port Phillip Internal Referral Comments