



6.1 **253-273 NORMANBY ROAD, SOUTH MELBOURNE**
LOCATION/ADDRESS: 253-273 NORMANBY ROAD, SOUTH MELBOURNE
EXECUTIVE MEMBER: CLAIRE FERRES MILES, GENERAL MANAGER
PREPARED BY: SANDRA STEWART, SUBDIVISION OFFICER

1. PURPOSE

1.1 To consider and determine planning application P1146/2017 for the subdivision of the site.

2. EXECUTIVE SUMMARY

WARD:	Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE:	Fishermans Bend Subdivision
APPLICATION NO:	1146/2017
APPLICANT:	SM253 Pty Ltd
EXISTING USE:	Warehouse, office and at grade parking
ABUTTING USES:	Warehouses and Commercial uses
ZONING:	Capital City Zone Schedule 1 Abuts Road Zone Category 1
OVERLAYS:	Design and Development Overlay Schedule 30 Development Contributions Plan Overlay Schedule 2 Parking Overlay Schedule 1 Special Building Overlay Schedule 2
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

2.1 It is proposed to subdivide the site into 2084 lots and common property in 5 stages.

2.2 Eight Owners Corporations are proposed to service the building.



- 2.3 The Minister for Planning issued Planning Permit PA170223 on 5 December 2017 in accordance with a VCAT order. The permit allows a staged development including demolition of the existing building, the construction of a multi-storey building, use of land for accommodation, and to create or alter access to a road in a Road Zone Category 1.
- 2.4 At the time of writing this report, plans have not been endorsed in accordance Planning Permit PA170223.
- 2.5 Council issued Planning Permit 1135/2017 on 14 February 2018 for a two lot subdivision (stage 1 of a staged subdivision).
- 2.6 The proposed subdivision of the building would allow a subdivision in accordance with plans to be endorsed under Planning Permit PA170223.
- 2.7 The application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987 pursuant to Clause 37.04-3 of the Port Phillip Planning Scheme.



3. RECOMMENDATION

3.1 That the Responsible Authority issue a planning permit for the staged subdivision of the site at 253-273 Normandy Road, South Melbourne

3.2 That the decision be issued as follows:

1. Amended plans required

Before the plan of subdivision can be endorsed and prior to the certification of any stage of the subdivision, amended plans must be submitted, that, when approved by the Responsible Authority, form part of this permit. The plans must be generally in accordance with the plans submitted (PS 812023L stages 2-6, compiled, Version 1), but modified to show:

- (a) That the plan is consistent with the plans endorsed under Planning Permit PA170223 for the development of the site.
- (b) The creation of an easement of way in favour of the City of Port Phillip, along the eastern boundary over the area of common property shown as laneway. The easement is to be restricted in depth to be from the site level and above.
- (c) The staging of the subdivision to be in accordance with the staging approved under Planning Permit PA170223 for the development of the site.

2. No Alterations

The size, layout, level and location of the lots as shown on the endorsed plan of subdivision shall not be altered or modified without the consent of the Responsible Authority.

3. Agreement under Section 173 of the Planning and Environment Act 1987. (Carparking)

Prior to the issue of the statement of compliance for any stage of the subdivision, the applicant must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:-

- (a) The car park lots (appended with the letter C) must only be sold to the owner or purchaser of a lot containing a hotel room, retail space or a dwelling;
- (b) The store lots (appended with the letter S) must only be sold to the owner or purchaser of a lot containing a dwelling;
- (c) The car park lots must only be leased to the occupier of a lot containing a hotel room, retail space or a dwelling;



- (d) No more than one car park lot may be owned or leased in conjunction with any lot containing a dwelling unless a planning permit has issued to exceed the maximum car spaces set out in the Schedule 1 of the Parking Overlay;
- (e) No more than 1 car space per 100m² of retail/commercial floor area (including the residential hotel) may be owned or leased in conjunction with such a lot; and
- (f) It shall pay the Responsible Authority's Solicitor/client costs in respect to the preparation and registration of the agreement.

The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987. A dealing number must be provided to the Responsible Authority.

4. Agreement under Section 173 of the Planning and Environment Act 1987. (Environmental Audit requirements).

Where a Statement of Environmental Audit is issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, prior to certification for any stage of the subdivision, the applicant must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:-

- (a) The site must be maintained in accordance with the conditions of the Statement of Environmental Audit; and
- (b) It shall pay the Responsible Authority's Solicitor/client costs in respect to the preparation and registration of the agreement.

The agreement will be registered on Title in accordance with Section 181 of the Planning and Environment Act 1987. A dealing number must be provided to the Responsible Authority.

5. Melbourne Water

- (a) Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988

6. South East Water

- (a) The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfil all requirements to its satisfaction.
- (b) The owner of the subject land must enter into an agreement with South East Water for the provision of recycled water supply and fulfil all requirements to its satisfaction.
All new buildings and major refurbishment of existing buildings within the Fisherman's Bend Precinct, must include the installation of a third



- pipe water supply system to supply non-potable water uses such as toilet flushing, clothes washing and irrigation within the development
- (d) The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
 - (e) The Plan of Subdivision must be accompanied by an Owners Corporation Schedule. All lots shown on the Plan of Subdivision must be included in the Owners Corporation Schedule.
or
The owner of the subject land can enter into an agreement with South East Water for the provision of separate services to each individual lot.
 - (f) Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the Subdivision Act 1988.
 - (g) The certified Plan of Subdivision will need to show sewerage supply easements over all existing and/or proposed South East Water sewer mains located within the land, to be in favour of South East Water Corporation pursuant to Section 12(1) of the Subdivision Act

7. Citipower

- (a) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- (b) The applicant shall:-
 - o Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
 - o Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
 - o Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
 - o Set aside on the plan of subdivision for the use of CitiPower reserves and/or easements satisfactory to CitiPower where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of CitiPower a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. CitiPower will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.
 - o Provide easements satisfactory to CitiPower, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out



- on the plan. These easements shall show on the plan an easement(s) in favour of " CitiPower Pty" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.
- Obtain for the use of CitiPower any other easement external to the subdivision required to service the lots.
 - Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
 - Obtain CitiPower's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
 - Provide to CitiPower, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

SUBSTATION ABOLISHMENT

- CitiPower's records indicate that the property is supplied via an onsite substation. If the customer's building works necessitate the removal of this substation, an application for abolishment should be made at least 32 weeks prior to the proposed abolishment date and cost may be incurred to remove this asset.

8. Vic Roads

Before the use approved by this permit commences the following must be completed at no cost to and to the satisfaction of the Roads Corporation:

- (a) install a "Left in only" sign from Normanby Road into the porte cochere;
- (b) install a "No Entry" sign from Woodgate Street into the porte cochere;
- (c) line marking for one way traffic flow (southbound) along internal eastern accessway.

9. Telecommunications

The owner of the land must enter into an agreement with:

- (a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- (b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre

10. Telecommunications

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications



services in accordance with the provider's requirements and relevant legislation at the time; and

- (b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

11. Public Open Space Requirement

The applicant or owner must make a financial contribution to open space of 8% of the site value in accordance with the schedule to Clause 52.01 of the Port Phillip Planning Scheme as follows:

- (a) Prior to the issue of the statement of compliance for each of the first two stages of the subdivision requiring compliance, the applicant or owner must make a financial contribution of 4% of the site value of the whole of the site in accordance with the requirements of the *Subdivision Act 1988*. The payment shall be made no less than 7 days prior to the issue of a statement of compliance.

12. Environmental Audit

Prior to the issue of the Statement of Compliance for any stage of the subdivision, where a Statement of Environmental Audit has issued, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement of Environmental Audit have been satisfied.

13. Development Contributions

Prior to issue of the Statement of Compliance for each stage of the subdivision, evidence must be provided to Council that the full payment has been made to the Responsible Authority in accordance with condition 23 of Planning Permit PA170223 for the development of the site.

14. Street Trees

Prior to issue of the Statement of Compliance for the final stage of the subdivision, the additional street trees referred to in condition 29 of Planning Permit PA170223 have been provided or an agreement has been reached for their provision to the satisfaction of the City of Port Phillip.

15. Time for starting and completion

This permit will expire if one of the following circumstances applies:

- (a) Any stage of the subdivision is not certified within four (4) years of the date of this permit.
- (b) The certified plan for each stage is not registered at Land Registry within five (5) years of the date of the relevant stage Plan of Subdivision being Certified by Council.

The Responsible Authority may extend the period referred to in (a) if a request is made in writing before the permit expires or within six (6) months afterwards



Notes:

- (a) The Council has made this decision having particular regard to Sections 58, 59, 60, and 62 of the Planning and Environment Act 1987.
- (b) The following South East Water agreement options are available:
 - i. Application to enter into a Development Agreement-Works – If South East Water reticulated sewer/water/recycled water (as applicable) is required to be extended to service lots within the development
 - ii. Application to enter into an agreement-Non Works – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner only requires Statement of Compliance to release the titles (i.e. subdivision prior to building)
 - iii. Plumbing Industrial, Commercial, Units & Private Water application – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner wishes to commence construction of the building/s (i.e. building prior to subdivision).
- (c) If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference **283528**.
- (d) Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.
- (e) The section 173 agreements referred to in this permit and within planning permit PA170223 may be combined within one or more agreements as required.

4. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
PA170223	<i>Staged development including demolition of the existing building, the construction of a multi-storey building, use of land for accommodation, and to create or later access to a road in a Road Zone Category 1</i>	<i>Approved</i>	<i>5 December 2017</i>
1135/2017	<i>Two lot subdivision (stage 1 of a staged subdivision) of the site</i>	<i>Approved</i>	<i>14 February 2018</i>



5. PROPOSAL

- 5.1 The application proposes to subdivide the proposed building into 2084 lots and 8 different common properties. The proposed lots consist of:
- 9 retail lots;
 - 755 car space lots;
 - 416 store lots;
 - 10 townhouse lots;
 - 820 apartment lots; and
 - 76 lots containing between 1 and 3 hotel rooms in each lot.
- 5.2 Eight Owners Corporations are proposed as follows:
- Owners Corporation no. 1 contains all lots within the subdivision. The following areas have been nominated as Common Property no.1:
 - All areas outside the building, including the lane on the eastern side and the easement at the corner of Boundary Street and Normanby Road;
 - Car access ways and ramps for the basement, ground floor and mezzanine level;
 - All lifts except the two eastern most lifts;
 - All stairways;
 - The service areas, the ground floor meeting rooms, lounge and amenities and the residential lobby;
 - The podium area, except for the dwellings, including the landscaping, pool and corridors.
 - Owners Corporation no. 2 includes the townhouse lots and dwelling lots within the podium. Access corridors to those dwellings are nominated as Common Property no.2;
 - Owners Corporation no. 3 includes all the dwelling lots in the western tower. Access corridors to those dwellings are nominated as Common Property no. 3 except those corridors on the podium level (level 5) which are nominated as Common Property no.1. The roofspace of the western tower has been nominated as Common Property no.3;
 - Owners Corporation no. 4 includes all the dwelling lots in the eastern tower. The access corridors within the eastern tower for levels 12 and above are nominated as Common Property no.4. The roof space of the eastern tower has been nominated as common property no.4;
 - Owners Corporation no. 5 includes all the hotel lots. The hotel foyer, kitchen, café and two of the lifts are within common property no. 5. The access corridors on levels 6 to 11 of the eastern tower are nominated as Common Property no.5. The corridors within the hotel at the podium level are nominated as Common Property no.1;
 - Owners Corporation no. 6 includes car space lots 319C to 755C. The access ways within the car parks on levels 1, 2, 3 and 4 are nominated as common property no. 6;
 - Owners Corporation no. 7 includes all car space lots; and
 - Owners Corporation no.8 includes the retail lots.
- 5.3 It is proposed that the subdivision would be completed in 5 stages, in addition to the stage already approved under Planning Permit 1135/2017.



- 5.4 Stage 2 would include the western part of the building to the top of the podium, and specifically for the basement, ground, mezzanine and levels 1 to 4.
- 5.5 Stage 3 would include the western tower above the podium, from level 5 and above.
- 5.6 Stage 4 would include the eastern part of the building to the top of the podium, and specifically for the basement, ground, mezzanine and levels 1 to 4.
- 5.7 Stage 5 would include the eastern tower above the podium from level 5 to level 11 and contains lots which are part of the proposed hotel.
- 5.8 Stage 6 would include the eastern tower from level 12 and above.

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	7,661m ²
Existing building & site conditions	<p>The subject site is located on the south-east corner of Normanby Road and Boundary Street, in South Melbourne. The site is flat and slightly irregular in shape, with a frontage to Normanby Road of 118m, a rear abuttal to Woodgate Street of 110.5m, and a side abuttal to Boundary Street of 68.47m, yielding an overall site area of approximately 7,661m².</p> <p>The subject site is currently developed with a four storey office and warehouse building and associated at grade car parking. Two existing crossovers are located on the Normanby Road frontage of the site, and the Woodgate Street frontage also contains one crossover.</p>
Surrounds/neighbourhood character	<p>The subject site is located within the Montague Precinct of the Fishermans Bend Urban Renewal Area, as identified within the Fishermans Bend Vision. The surrounding area is primarily occupied by industrial and commercial uses, generally of one and two storeys in height, typically located on large allotments with some smaller subdivisions located in the southern area of the precinct.</p> <p>The land surrounding the subject site can be described as follows:</p> <ul style="list-style-type: none"> • To the immediate east of the subject site is 245-251 Normanby Road, currently developed with two double storey commercial buildings. Planning Permit No. PA1500028 was issued by the Minister in accordance with a VCAT order on 25 January 2018. The permit allows demolition of the existing building, the construction of a multi-storey mixed use building, use of land as dwellings, and to create or alter access to a road I Road Zone Category 1. Further west of this site is a row of generally



	<p>double storey commercial buildings, and a five storey self-storage facility at the intersection with Montague Street.</p> <ul style="list-style-type: none"> • To the west of the subject site is Boundary Street, and on the opposite side of Boundary Street are a number of double storey commercial buildings. To the south-west, across Boundary Street, is Fennel Reserve, located to the south of Evans Street. This reserve is a public open space. • To the north of the subject site (across Normanby Road) is a row of one and two-storey commercial buildings. Five planning permit applications for towers ranging from 38 to 40 storeys in height have been lodged for sites on the northern side of Normanby Road. These applications have been called in by the Minister, and are pending further consideration. • To the south of the subject site is Woodgate Street, and rail infrastructure associated with the light rail route 109 and the Southbank Tram Depot
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7. PERMIT TRIGGERS

The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?
Clause 37.04 Capital City Zone Schedule 1	<p>A Planning Permit is required to subdivide land pursuant to Clause 37.04-3.</p> <p>A permit granted must be generally in accordance with the incorporated Fishermans Bend Strategic Framework Plan, July 2014 (amended April 2015).</p>
Clause 52.29 Land Adjacent to a Road Zone Category 1	<p>A permit is required to subdivide land adjacent to a road in a Road Zone, Category 1.</p> <p><i>Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:</i></p> <ul style="list-style-type: none"> • The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies. • The views of the relevant road authority. • The effect of the proposal on the operation of the road and on public safety. • Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.
Clause 44.05 Special Building Overlay SBO2	<p>A planning permit is required for the subdivision pursuant to clause 44.05-2.</p> <p><i>Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:</i></p> <ul style="list-style-type: none"> • Any local floodplain development plan. • Any comments from the relevant floodplain management authority.



	The existing use and development of the land.
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8. PLANNING SCHEME PROVISIONS

8.1 State Planning Policy Frameworks (SPPF)

The following State Planning Policies are relevant to this application:

- Clause 11 Settlement, including 11.01 Activity Centres, 11.02 Urban Growth, and; 11.04 Metropolitan Melbourne
- Clause 16 Housing
- Clause 18 Transport
- Clause 19 Infrastructure

8.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

- Clause 21.04 Land Use, including
 - Clause 21.04-1 Housing and Accommodation
 - Clause 21.04-2 Activity Centres
 - Clause 21.04-3 Office and Mixed Activity Areas
 - Clause 21.04-4 Industry
 - Clause 21.04-5 Public Open Space and Foreshore
 - Clause 21.04-7 Subdivision
 - Clause 21.06 Neighbourhoods, including Clause 21.06-8 Fishermans Bend Urban Renewal Area
 - Clause 22.05 Subdivision Policy
- ### 8.3 Other relevant provisions
- Clause 52.01 Public Open Space Contribution and Subdivision
 - Clause 65 Decision Guidelines

8.4 Relevant Planning Scheme Amendment/s

Draft Controls and Strategic Framework: on 21 October 2017, a draft revised Fishermans Bend Framework was released by the State Government for consultation in October 2017 (Amendment GC81). On 31 October 2017, associated draft Planning Scheme Amendment GC81 setting out revised State and Local policy, zone, overlay and general provisions for Fishermans Bend was released for consultation.

Submissions regarding the draft Framework and Planning Scheme provisions closed on 15 December 2017. Submissions and the Framework are being reviewed by an independent Panel. It is estimated the new framework and controls will not be resolved or implemented before circa mid-2018.



9. REFERRALS

9.1 Internal referrals

The application was referred to the following areas of Council for comment:

- Council Valuers will provide street numbering for the proposal.
- Council’s drainage engineer have no objections.

9.2 External referrals

Referral Authority	Response	Conditions
Melbourne Water	No objection subject to conditions.	Refer condition 5
Citipower	No objection subject to conditions	Refer condition 7
Multinet Gas	No objections	
South East Water	No objection subject to conditions	Refer condition 6
VicRoads	No objection subject to conditions.	Refer condition 8

10. PUBLIC NOTIFICATION/OBJECTIONS

- 10.1 It is noted that an application to subdivide in the Capital City Zone 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 review rights of Section 82(1) of the Act.
- 10.2 An application affected by the Special Building Overlay is exempt from are exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and review rights of Section 82(1) of the Act.
- 10.3 No exemptions to the notice provisions are provided within Clause 52.29 (Land Adjacent to a Road Zone, Category 1. It is considered that no material detriment would occur and the proposal does not require advertising considering that the proposal is for the subdivision of an approved development and won’t make any physical changes to the site.

11. OFFICER’S ASSESSMENT

Local Policy

- 11.1 The site is within the Montague Urban Village, referenced in the Fishermans Bend Strategic Framework. The building has been approved and will provide



accommodation, commercial and retail space in proximity to the light rail, the proposed open space and the existing school. The subdivision of the building will allow the sale of the dwellings, hotel and retail space to the future residents and workers of this precinct.

11.2 **Development Permit**

Planning permit PA170223 was issued by the Minister for Planning in accordance with a VCAT order. The approval is for a staged development of the site for a multi-storey building and the use of the land for accommodation. Plans have not been endorsed under the permit at this time. The application plans for planning permit PA170223 show the following:

Basement:

One basement level including car parking, stores and services. The basement is accessed by a vehicle ramp, and several sets of stairs and lifts.

Ground:

9 retail spaces; a hotel foyer, kitchen and café; the lower floor of 10 townhouses; car parking spaces, loading areas, residential amenities and services.

Mezzanine:

Car parking and the second level of the town houses.

Levels 1 to 4:

Car parking and apartments

Level 5

Top of the podium, including large landscaped gardens; the lower level of the western tower includes apartments and the lower level of the eastern tower includes hotel rooms.

Levels 5 to 31 (Western tower):

Apartments

Levels 5 to 11 (Eastern tower):

Hotel rooms

Levels 12 to 39 (Eastern tower):

Apartments.

The layout of the plan of subdivision accords with the application plans for planning permit PA170223. The changes required by condition 1 of PA170223 have not been incorporated into the plan of subdivision. The changes required by condition 1 include modification of the 'L' tower (western tower) to reduce overshadowing of the neighbouring reserve; redesign or relocation of the loading bays; reduction in the number of retail car spaces; provision of bike and motorcycle parking; increase in three bedroom dwellings. As a result, an



amended plan of subdivision will need to be provided to ensure that it accords with the amended plans to be endorsed under planning permit PA170223.

Generally, Council would require a condition that the plan of subdivision must be amended to accord with the development permit when there are minor changes between the endorsed development plans and the subdivision plans. In this case, there are no endorsed development plans. It is intended that a similar development will be constructed on the site, therefore proposed condition 1(a) will require that prior to endorsement and certification of the plan of subdivision, the plan must be amended to accord with the latest plans endorsed under planning permit PA170223 for the development of the site. The condition will also allow for further amendments to the development permit which are inevitable on a project of this size and complexity.

11.3 **Car Parking and Stores**

The proposed plan of subdivision creates separate lots for each car parking space. Schedule 1 to the Parking Overlay at Clause 45.09 specifies a maximum number of spaces for each use. The overlay specifies a maximum of 1 space for each dwelling and 1 space for each 100m² of retail space. Condition 1(j) of planning permit PA170223 requires that the number of car parking spaces for the retail/commercial floor area be reduced to not more than 1 space per 100m² (including the residential hotel). A section 173 agreement is required to ensure that the car spaces and stores are only sold and used in conjunction with the development on the subject site. The agreement would also ensure that the car parking allocation accords with condition 1(j) above and that not more than one space would be sold to, or used by a dwelling lot without a further planning permit. Condition 3 would require the owners to enter into an agreement with the Responsible Authority pursuant to section 173 of the *Planning & Environment Act 1987*

11.4 **Environmental Audit**

Condition 16 of the development permit (PA170223) requires that the Responsible Authority must be provided with a Certificate of Environmental Audit or a Statement of Environmental Audit prior to the start of the development.

Condition 18 of Planning Permit PA170223 requires that where a Statement of Environmental Audit has issued, that prior to issue of a Statement of Compliance, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied. Condition 12 would require that the letter is provided prior to compliance.

Condition 19 of Planning Permit PA170223 also requires that where a Statement of Environmental Audit has issued for the land, and any condition of that statement requires any maintenance or monitoring of an on-going nature, the owner(s) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning & Environment Act 1987*, which must be executed before the certification of the plan of subdivision. If there are on-going



maintenance conditions required, condition 4 would require the inclusion of such a requirement within a Section 173 agreement.

11.5 Staging

Condition 20 of the development permit (PA170223) requires a staging plan to be submitted and approved. Condition 1(c) will require that the staging of the subdivision must accord with the staging of the development.

11.6 Development Contributions

Condition 23 of Planning Permit PA170223 requires the owner of the land to enter a section 173 agreement in regard to the provision of development contributions. Condition 13 will require that the relevant contributions are paid prior to the statement of compliance for any stage of the subdivision.

11.7 Street Trees

Condition 29 of Planning Permit PA170223 requires the owner to provide additional street trees in coordination with the City of Port Phillip. Condition 14 will require that such trees have been provided or an agreement entered into regarding provision of the trees prior to the issue of the statement of compliance for the final stage of the subdivision.

11.8 Laneway

A laneway is to be constructed on the eastern side of the development. The plan of subdivision shows that the area would be contained within common property no.1 which provides access to all lots within the subdivision. The laneway would provide a connection between Normanby Road and Woodgate Street in accordance with the current and draft versions of the Fishermans Bend Framework Plan. Such a link should be available to pedestrians in the area, therefore condition 1(b) will require that an easement of way be created over the laneway in favour of the City of Port Phillip.

11.9 Public Open Space

Pursuant to Clause 52.01 of the Port Phillip Planning Scheme, a person who proposes to subdivide land must make a contribution to the council for public open space in accordance with the schedule to the clause. An 8% public open space contribution is required in the Fishermans Bend Urban Renewal Area. (Refer condition 11).

12. COVENANTS

12.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the title for the subject site being Volume 11415 Folio 350, .



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 Approve as recommended
14.2 Approve with changed or additional conditions
14.3 Refuse - on key issues

15. CONCLUSION

- 15.1 The proposed subdivision would allow the future sale of the building approved under Planning Permit PA170223 for the development of the site. The subdivision complies with the State and Local Planning Provisions contained within the Planning Scheme. It complies with the current and draft versions of the Fishermans Bend Framework Plan.
- 15.2 It is considered that the creation of lots for car spaces is reasonable subject to the imposition of the restrictions in a Section 173 Agreement to ensure they are tied to the approved development. It is considered that the subdivision is worthy of support and it is recommended that a Planning Permit be issued subject to conditions
- 15.3 It is considered that the subdivision is worthy of support and it is recommended that a Planning Permit be issued subject to conditions.

1.1

TRIM FILE NO: PF17/326403
ATTACHMENTS
1. Locality Plan
2. Plan of Subdivision