



**6.7** 15-87 GLADSTONE STREET, PORT MELBOURNE  
(11/2013/MIN/B)

**LOCATION/ADDRESS:** 15-87 GLADSTONE STREET, PORT MELBOURNE

**EXECUTIVE MEMBER:** LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT

**PREPARED BY:** BRAD FOLETTA, SENIOR URBAN PLANNER  
SIMON GUTTERIDGE, PLANNING COORDINATOR CANAL WARD AND FISHERMANS BEND

## 1. PURPOSE

- 1.1 To provide a Council position on Ministerial Application 2013/00595-2 at the above-mentioned address, to amend the existing permit under Section 72 of the *Planning and Environment Act 1987* to delete condition 8(e).

## 2. EXECUTIVE SUMMARY

<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	Accommodation (dwellings) within the Fishermans Bend Urban Renewal Area
<b>APPLICATION NO:</b>	2013/005951-2 (DELWP) 11/2013/MIN/B (Council)
<b>APPLICANT:</b>	Urbis
<b>EXISTING USE:</b>	Commercial car park
<b>ABUTTING USES:</b>	One to four storey commercial and industrial buildings
<b>ZONING:</b>	Capital City Zone – Schedule 1 (CCZ1)
<b>OVERLAYS:</b>	Design and Development Overlay – Schedule 30 (DDO30) Infrastructure Contribution Overlay – Schedule 1 (ICO1) Parking Overlay – Schedule 1 (PO1) Environmental Audit Overlay (EAO) Special Building Overlay – Schedule 2 (SBO2)
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired



- 2.1 The Minister for Planning (the Minister) is the Responsible Authority for the subject site.
- 2.2 On 17 June 2013, an application was made to the Minister c/- the Department of Planning and Community Development (now the Department of Environment, Land, Water and Planning) (the Department) for demolition of the existing car park & structures, use of the land for dwellings, and the staged construction of three residential towers and associated works including public realm.
- 2.3 The application was referred to Council on 27 June 2013.
- 2.4 Council considered the application at its meeting of 11 June 2014. Officers recommended, and Council determined, that the application not be supported because its height exceeded the recommended height in the Fishermans Bend Draft Vision (as relevant at the time of assessment).
- 2.5 Council advised the then Minister on 11 June 2014 that it did not support the application.
- 2.6 On 01 September 2014, the then Minister granted a permit for the proposal, subject to conditions.
- 2.7 An application to amend the permit was lodged with the Minister on 23 November 2013 to delete Condition 13 (which required the architectural oversight of Hayball/ Oculus Architects) and substitute new plans prepared by Elenberg Fraser Architects to satisfy Conditions 1 (Master plan) and 8 (Detailed plan) of the permit.
- 2.8 At a Planning Committee meeting dated 16 February 2016 a motion was carried to advise the Department that Council supported some of the changes, but not all.
- 2.9 The Department subsequently issued amended permit 2013/005951-1 on 04 November 2016 with additional Conditions 8(d) to 8(j) and 46, updated references in Conditions 8, 11 and 13 and subsequent renumbering of conditions. A copy of the amended permit forms **Attachment 1**.
- 2.10 The Minister granted an extension of time to the permit on 28 June 2018 so that it will expire if the works are not commenced by 01 September 2019 and completed by 01 September 2024.
- 2.11 The Master plan was endorsed by the Minister on 12 May 2017 in accordance with Condition 1 of the permit.
- 2.12 To date, no detailed development plans have been endorsed in accordance with Condition 8 of the permit. However, plans have been submitted to the Minister for endorsement. These form **Attachment 3** to this report. However, they cannot be endorsed because they do not comply with Condition 8(e).
- 2.13 The permit applicant is now seeking to amend the permit to delete Condition 8(e) which states: '*Canopies/awnings over footpaths to not project further than 300mm*'. This condition did not originate from Council.



- 2.14 The Victorian planning system recognises that a permit holder's intentions may change over time. Rather than requiring a new permit application to be made every time a change is proposed, Section 72 of the *Planning and Environment Act 1987* allows applicants to apply to the responsible authority for an amendment to a permit and associated plans.
- 2.15 An application to amend a permit under Section 72, including any plans, drawings or other documents approved under a permit, follows the same process as an application for a permit. It has the same requirements for giving notice and referral. However, the assessment for an application to amend a permit focuses only on the amendment itself and avoids reopening all the issues associated with the approved use or development. It also avoids the proliferation over time of permits for different aspects of the use and development of a parcel of land.
- 2.16 This proposal seeks to make a minor change to the permit to enable some planter boxes which form part of the building facade to project up to 550mm (increased from 300mm) beyond the title boundaries over the footpath on Gladstone Street, on levels 1 to 6 of all three towers.
- 2.17 The complete deletion of condition 8(e) would remove all control over the extent of projection of the planter boxes over Gladstone Street. Therefore, to ensure a more precise built form outcome, it is recommended that Condition 8(e) be amended to state: *'Canopies/awnings, planter boxes and green walls over footpaths to not project further than 550mm'*.
- 2.18 With the above revised condition 8(e) the proposed development would remain consistent with the existing and proposed strategic policy framework for Fishermans Bend. In particular, both commercial and residential uses would be retained and dwelling diversity objectives would be achieved, and the most significant facade elements and built form will be retained.
- 2.19 The proposed changes would not result in any additional off-site amenity impacts, with no increase in height or extent of main built form envelope.
- 2.20 For these key reasons, it is recommended that Council advise the Minister that Council supports the proposal in its current form.

### 3. RECOMMENDATION

That Council:

- 3.1 Advises the Minister (C/- the Department of Environment, Land, Water and Planning) that whilst Council supports the amended application, its support is subject to the retention and rewording of Condition 8(e) from:

*'Canopies/awnings over footpaths to not project further than 300mm'*

To:

*'Canopies/awnings, planter boxes and green walls over footpaths to not project further than 550mm'*



#### 4. RELEVANT BACKGROUND

- 4.1 In addition to this planning permit, two other recent permit applications are recorded for the subject land:

Application No.	Proposal	Decision	Date of Decision
<b>15-87 Gladstone Street</b>			
P1348/2006	The development of a three, four and six storey building, for the use the land as offices, warehouses, a convenience restaurant, gymnasium, 286 on-site car parking spaces and an on-site loading bay area to serve the uses on the site and a dispensation from the Planning Scheme car parking rates	Approved	16 November 2007
P260/2007	Four hundred and forty-five (445) lot subdivision of proposed three, four and six storey building, for the use the land as offices, warehouses, a convenience restaurant, gymnasium, 286 on-site car parking spaces.	Lapsed	25 June 2008

- 4.2 This history of this planning permit is as follows.
- 4.3 On 17 June 2013, an application was made to the Minister c/- the Department of Planning and Community Development (now the Department of Environment, Land, Water and Planning) (the Department) for demolition of the existing car park & structures, use of the land for dwellings, and the staged construction of three residential towers and associated works including public realm.
- 4.4 The application was referred to Council on 27 June 2013.
- 4.5 Council considered the application at its meeting of 11 June 2014. Officers recommended, and Council determined, that the application not be supported because its height exceeded the recommended height in the Fishermans Bend Draft Vision (as relevant at the time of assessment).
- 4.6 Council advised the then Minister on 11 June 2014 that it did not support the application.
- 4.7 On 01 September 2014, the then Minister granted a permit for the proposal, subject to conditions.
- 4.8 An application to amend the permit was lodged with the Minister on 23 November 2013 to delete Condition 13 (which required the architectural oversight of Hayball/ Oculus Architects) and substitute new plans prepared by Elenberg Fraser Architects to satisfy Conditions 1 (Master plan) and 8 (Detailed plan) of the permit.
- 4.9 At Planning Committee meeting dated 16 February 2016 a motion was carried to advise DELWP that:



1. Council does not support the deletion of Condition 13, but does support the amendment of the condition to replace the reference to 'Hayball / Oculus Architects / Designers' with 'Elenberg Fraser Architects'.
2. Council supports the amended plans with the exception of:
  - a. The increase in height of all towers to 30 levels. It is considered that the streetscape appearance and skyline views of the proposal would be enhanced by at least one of the towers remaining at 27 levels, and consideration given to the third tower being less than 30 levels in height.
  - b) The increase in car parking provision to 0.8 spaces per dwelling.
  - c) The design and location of the loading bay for the east and central tower.
  - d) The lack of convenient access from the loading bays to the dwelling lobby's and retail tenancies.
  - e) The reduction in separation distances between the three towers.
  - f) The lack of detail of wind impacts and wind mitigation measures, particularly with regard to useability of podium and roof top open space and surrounding streets.
  - g) The number and location/distribution of bicycle parking spaces, and
  - h) The lack of stores for each dwelling.
- 4.10 The Department subsequently issued amended permit 2013/005951-1 on 4 November 2016 with additional Conditions 8(d) to 8(j) and 46, updated references in Conditions 8, 11 and 13 and subsequent renumbering of conditions. A copy of the amended permit forms **Attachment 1**.
- 4.11 The Minister granted an extension of time to the permit on 28 June 2018 so that it will expire if the works are not commenced by 1 September 2019 and completed by 1 September 2024.
- 4.12 The Master plan was endorsed by the Minister on 12 May 2017 in accordance with Condition 1 of the permit.
- 4.13 To date, no detailed development plans have been endorsed in accordance with Condition 8 of the permit. However, plans have been submitted to the Minister for endorsement. These form **Attachment 3** to this report. However, they cannot be endorsed because they do not comply with Condition 8(e).

## 5. PROPOSAL

- 5.1 The permit applicant has applied for a Section 72 Amendment to the approved development (Ministerial Permit 2013/005951-1) to delete Condition 8(e) which states: '*Canopies/awnings over footpaths to not project further than 300mm*'.
- 5.2 This is required to enable some planter boxes which form part of the building facade to project up to 550mm (increased from 300mm) beyond the title boundaries over the footpath on Gladstone Street, on levels 1 to 6 of all towers.



6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
<b>Site Area</b>	5,985m <sup>2</sup>
<b>Existing building &amp; site conditions</b>	<p>The subject site is located on the south-west corner of Gladstone Street and Kerr Street, South Melbourne.</p> <p>The site is generally rectangular (with a slight widening to the south-east rear corner), with a frontage width of 142.26m to Gladstone Street, a side boundary depth of 41.08m to Kerr Street, and a maximum depth of 44.29m, for an overall area of 5,985m<sup>2</sup>.</p> <p>The land is generally flat, with a slight rise from east to west of approximately 340mm and from north to south of approximately 360mm.</p> <p>The site is developed with a concrete apron (remnant of previous warehouse/industrial buildings on the land), and is currently used as an open-air commercial car park (accessed by two vehicle crossing on Gladstone Street and one crossing on Kerr Street).</p>
<b>Surrounds / neighbourhood character</b>	<p>Land surrounding the subject site is developed as follows:</p> <p><b>North-west (front):</b> Gladstone St, single-storey commercial and industrial buildings, the Port Melbourne tram depot and light rail line, and commercial and industrial buildings (inc. approvals for 40-storey towers), the elevated West Gate Freeway and Docklands beyond.</p> <p><b>North-east (side):</b> Kerr Street, now 'Kirrip Park' and the Ferrars Street Education and Community Precinct developed as parkland, and one and two-storey commercial buildings beyond (one with a permit for a 20 level residential tower).</p> <p><b>South-east (rear):</b> Two-storey commercial-industrial building used for car sales and storage (with a permit for 4 x 36-37 levels towers containing 1023 dwellings, 1557m<sup>2</sup> commercial floor space and 704 car spaces), one and two storey commercial and industrial buildings beyond (inc. one with a with for an 8-storey apartment building).</p> <p><b>South-west (side):</b> Four-storey office building, Gladstone Place (lane), one and two storey commercial-industrial buildings facing Montague Street. And a 30-storey residential tower at 89-101 Gladstone Street at the corner of Gladstone Street and Montague Street.</p>



Figure 1: Subject site (shown in red) and surrounds.

## 7. PERMIT TRIGGERS

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

Zone or Overlay	Why is a permit required?
<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 Accommodation (Dwellings) if it does not meet the following conditions:</p> <ul style="list-style-type: none"> <li>• Must not 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> <p>The land is in a core area, but is within 450m of the South Melbourne to Brooklyn and Dandenong to West Melbourne pipelines and thus requires a permit 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> <ul style="list-style-type: none"> <li>• An application lodged before the approval of Amendment VC136.</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>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>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.</p> <p>An application for the use of land, subdivision, or 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>A planning permit is required under this clause.</p>
<b>Clause 43.02: Design and Development Overlay - Schedule 30 - Fishermans Bend - Montague Precinct (DDO30)</b>	<p>The land is in Precinct Area M5 of DDO30 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 2.1 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>
<b>Clause 44.50: Special Building Overlay - Schedule 2 (SBO2)</b>	<p>Pursuant to Clause 44.05-2 a permit is required to construct a building or to construct or carry out works.</p>
<b>Clause 45.03: Environmental Audit Overlay (EAO)</b>	<p>Pursuant to Clause 45.03-1 of the EAO:</p> <p>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 Act that the environmental conditions of the land are suitable for the sensitive use.</li> </ul> <p>A planning permit is required under this clause.</p>
<b>Clause 45.09: Parking Overlay (PO1)</b>	<p>A planning permit is required to provide car parking spaces in excess of the rates specified in Table 1 of Schedule 1 to the Overlay.</p> <p>The proposed parking provision does not exceed the maximum rates set out in the Table, and therefore no permit is required under this clause.</p>
<b>Clause 45.11: Infrastructure Contributions Overlay (ICO1)</b>	<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> </ul> <p>The proposed change of use and development (signs) fall within the above exemptions; consequently, a permit may be granted.</p> <p>This application is not for a new permit, and therefore these requirements do not apply.</p>
<b>Clause 52.06 Car Parking</b>	Pursuant to Clause 45.09-1 (Parking Overlay), the PO operates in conjunction with the requirements of Clause 52.06.
<b>Clause 52.34 Bicycle Facilities</b>	<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>A permit is required under this clause.</p>

## 8. PLANNING SCHEME PROVISIONS

### Planning policy framework

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

- Clause 11: Settlement
- Clause 12: Environmental and Landscape Values
- Clause 13: Environmental Risks and Amenity
- Clause 15: Built Environment and Heritage
- Clause 16: Housing
- Clause 17: Economic Development
- Clause 18: Transport
- Clause 19: Infrastructure

### Local Planning Policy Framework (LPPF)

8.2 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  
Clause 21.06: Neighbourhoods, including 21.06-8: Fishermans Bend Urban Renewal Area

8.3 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

#### **Other relevant provisions**

8.4 The following general and particular provisions are of relevance to this proposal:

- Clause 52.06: Car Parking  
Clause 52.34: Bicycle facilities  
Clause 58: Apartment Developments  
Clause 65: Decision Guidelines, including Clause 65.01: Approval of an Application or Plan

#### **Relevant Planning Scheme Amendment/s:**

8.5 Since the issue of the Planning Permit the Planning Scheme has been changed including by Amendment GC81 (gazetted 05 October 2018), which modified some of the controls affecting the site as follows:

- Modification of 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.
- Three modified Design and Development Overlays, Schedules DDO30, DDO32 and DDO33 which specifies mandatory maximum street wall and tower heights, and mandatory minimum tower street, side and rear boundary setbacks and tower separation distances.
- Modification to the Parking Overlay Schedule 1, to reduce the maximum parking rates for residential dwellings.
- An update to the Fishermans Bend Strategic Framework Plan, October 2018. The Framework is a reference document to the Port Phillip Planning Scheme.

## **9. REFERRALS**

### **Internal referrals**

9.1 The application was not required to be internally referred.

### **External referrals**

9.2 The City of Port Phillip is a recommending referral authority for this matter.



- 9.3 As a result of Amendment GC81 the application is now required to be referred to the operators and licensees authorised under the respective pipeline licence pursuant to the provisions of Schedule 1 to the Capital City Zone and Schedule to Clause 66.06. The Department are responsible for undertaking the referral.

## 10. PUBLIC NOTIFICATION/OBJECTIONS

- 10.1 The Minister for Planning is the Responsible Authority for the application.
- 10.2 The Minister has not given notice of the application.
- 10.3 An application to demolish or remove a building, construct a building or construct or carry out works, or use land (other than a nightclub, tavern, brothel or adult sex product shop) 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.
- 10.4 An application is also exempt under the Special Building Overlay, and Clause 52.34 Bicycle facilities.

## 11. OFFICER'S ASSESSMENT

- 11.1 This assessment considers the proposed amendment but does not revisit approved elements of the proposal.
- 11.2 The amendment proposes to delete Condition 8(e) which states: '*Canopies /awnings over footpaths to not project further than 300mm*'.
- 11.3 Condition 8 requires the submission of amended detailed development plans for endorsement.
- 11.4 Council or its delegate did not provide draft conditions for this application, and thus Condition 8(e) originates from the Department.
- 11.5 The deletion of Condition 8(e) is required to enable some planter boxes which form part of the building facade to project up to 550mm (increased from 300mm) beyond the title boundaries over the footpath on Gladstone Street, on levels 1 to 6 of all three towers. The applicant has advised that this is necessary to ensure that the planter boxes are wide enough to be functional. This is shown on the plans submitted to satisfy Condition 8 which forms **Attachment 3**.
- 11.6 The resultant built form outcome to Gladstone Street would still achieve the podium treatment (including planter boxes and green wall projections) and streetscape interface sought within the Capital City Zone and Design and Development Overlay.
- 11.7 Additionally, the increase in width of the planter projections over the Gladstone Street footpath from 300mm to 550mm would be acceptable because:
- They form part of the building design and would be fully integrated with the building façade.



- The increase in projection would be relatively minor, particularly in proportion to the scale of the overall development.
  - The projections would be minor compared to the verandah which projects up to 1.7m over the Gladstone Street footpath.
  - The planter boxes would achieve an underside clearance of at least 5m above the footpath and would not project above a lane or road used by vehicles (they would project over the footpath).
  - The projections would apply to only part of the length of the façades.
- 11.8 During the initial assessment of the application it was determined that podium setbacks of the west tower would generally match the 0.0m podium setbacks of the original plans. The exceptions to this were a 4.8m setback along part of the south side boundary, some minor rebates facing Gladstone Street and the introduction of 400mm awning projections beyond the title boundary over the Gladstone Street footpath.
- 11.9 In the assessment of the amended application, the Council Delegate considered that the changes to the podium setbacks were satisfactory subject to any projections beyond the boundary being reduced to not more than 300mm to comply with Council Policy. However this did not lead to a recommended condition. Condition 8(e) therefore originated from the Minister.
- 11.10 The *Building Regulations 2018* regulate projections over roads. Under Part 6 of these regulations, architectural features may project beyond a street alignment as long as certain requirements are met, including specific height clearances. These requirements would be met, with the planter boxes having a clearance above the footpath of over 5m.
- 11.11 Additionally, projections greater than 300mm may require a licence and public indemnity insurance from the land owner / manager. Council records show that Gladstone Street is Crown Land and a Government Road. Therefore the Department is responsible for regulating projections over the Gladstone Street footpath, not Council.
- 11.12 It will be the responsibility of the developer to ensure they obtain the required insurance and approvals and comply with other relevant regulations associated with the planter box (and other) projections beyond the title boundaries.
- 11.13 The proposed deletion of Condition 8(e) would be acceptable with respect to the relevant Planning Policy including the current Fishermans Framework. In addition, the proposed amendments to the approved development would not contradict the newly implemented controls and strategic framework.
- 11.14 However, the complete deletion of condition 8(e) would remove all control over the extent of projection of the planter boxes (and other structures) over Gladstone Street. Therefore, to ensure a more precise built form outcome is facilitated it is considered that Council instead recommend Condition 8(e) be retained and instead amended from:



*'Canopies/awnings over footpaths to not project further than 300mm.'*

to:

*'Canopies/awnings, planter boxes and green walls over footpaths to not project further than 550mm'.*

11.15 With the above revised condition 8(e) the proposed development would remain consistent with the existing and proposed strategic policy framework for Fishermans Bend. In particular, both commercial and residential uses would be retained and dwelling diversity objectives would be achieved, and the most significant facade elements and built form will be retained.

11.16 It is therefore recommended that Council advises the Minister (C/- the Department of Environment, Land, Water and Planning) that Council supports the amended application subject to the retention and amendment of Condition 8(e).

## **12. COVENANTS**

12.1 The applicant has completed a declaration that the subject land is not encumbered by a restrictive covenant or Section 173 Agreement or other obligation such as an easement or building envelope.

12.2 A review of the Titles provided revealed that part of the land is encumbered by a party wall easement, and part of the land is affected by an Owners Corporation. It is understood that neither of these prohibit the proposal.

## **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 amendment is minor in nature and would have minimal impacts on the approved built form outcome and safety and functionality of Gladstone Street subject to the retention and rewording of condition 8(e). In conclusion the proposed amendment would be acceptable in light of the relevant State and Local Planning Policy, applicable controls, and Clause 65 of the Planning Scheme.

15.2 It is therefore recommended that Council advises the Minister (C/- the Department of Environment, Land, Water and Planning) that Council supports the amended application subject to the retention and amendment of Condition 8(e).

**TRIM FILE NO: PF18/38981**

### **ATTACHMENTS**

- 1. 11/2013/MIN/A - Planning Permit**
- 2. 11/2013/MIN/A - Council Report**
- 3. 11/2013/MIN/B - Plans submitted to satisfy condition 8**