



6.1 171-183 FERRARS STREET, SOUTHBANK
LOCATION/ADDRESS: 171-183 FERRARS STREET, SOUTHBANK
EXECUTIVE MEMBER: LILI ROSIC, ACTING GENERAL MANAGER, PLACE STRATEGY AND DEVELOPMENT
PREPARED BY: HELEN PRITCHARD, FBURA PLANNER
SIMON GUTTERIDGE, PLANNING COORDINATOR CANAL WARD

1. PURPOSE

- 1.1 To provide a Council position on Ministerial Application MPA14/0004 for a Section 72 Amendment to the approved permit which authorises Demolition of the existing building and construction of a residential development (20 storey tower), use of the land for dwellings and waiver of loading bay requirements, at the above-mentioned address.

2. EXECUTIVE SUMMARY

WARD: Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE: Accommodation use within the Fishermans Bend Urban Renewal Area
APPLICATION NO: DELWP Reference: MPA14/0004
Council Reference: 2/2014/MPA/A
APPLICANT: Sumitomo Australian Forestry C/o- Ethos Urban
EXISTING USE: Commercial
ABUTTING USES: Automotive Body Works, Office
ZONING: Capital City Zone Schedule 1
OVERLAYS: Design and Development Overlay Schedule 30
Parking Overlay Schedule 1
Heritage Overlay (HO4)
Special Building Overlay Schedule 2
Development Contributions Plan Overlay Schedule 2
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL Expired

- 2.1 This report assesses the informal Ministerial referral of an application for a Section 72 Amendment to an existing permit issued on 2th of July 2015, which authorised demolition of the existing building and construction of a 20 storey residential development with ground level cafe, use of the land for dwellings, and waiver of loading bay requirements.
- 2.2 Plans for the original Planning Permit have not been endorsed and as such plans are proposed to be endorsed simultaneously. The applicant has applied for



Conditions 5 (PTV Condition), 7 (Projection over Council Roads), and 8 (Minimum clearance above Railway Place) to be deleted, correlating with the proposed deletion of the pedestrian bridge link to the tram platform abutting Railway Place. Conditions 1 (Amended Plans), 4 (Materials and Finishes), 14 (Waste Management), 26 (Car Parking Provision), and 37 (Contaminated Land) are proposed to be discharged with consent provided for variations.

- 2.3 The amendment proposes the following changes to the plans;
- 2.3.1 Reduction of dwellings (previous; 122 dwellings, proposed 67 dwellings = reduction of 55 dwellings), partially due to the required 4 storey reduction to comply with permit Condition 1 (g). The dwelling mix would be as follows;
 - a. 12 x 1 bedroom (- 28, originally 40);
 - b. 12 x 2-bedroom (- 68, originally 80);
 - c. 43 x 3-bedroom (+ 41, originally 2).
 - 2.3.2 Provision of Office space, and residential amenities (game room & gym) at Level 1 (500m²).
 - 2.3.3 The introduction of one basement level of car parking accessible from Railway Place, an additional car lift, and reconfiguration of car parking from levels 2 to 5 requiring the deletion of apartments facing Railway Place at Levels 3 & 5. Increase in car parking spaces from 42 spaces to 55 spaces (+13 spaces). This equals a rate of .82 spaces per dwelling.
 - 2.3.4 Revised ground floor layout which retains the café fronting Ferrars Street, amends vehicular ingress and egress from Railway Place, and provides access to the lobby via the publicly accessible pedestrian link from Ferrars Street to Railway Place.
 - 2.3.5 Deletion of the first-floor pedestrian bridge link over Railway Place to the tram platform, and provision of one affordable housing unit to replace the lost public benefit associated with the deletion of the bridge.
 - 2.3.6 Redesign of podium façade.
- 2.4 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 allows applicants to apply to the responsible authority for an amendment to a permit.
- 2.5 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 amendments proposed 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.
- 2.6 The Planning Minister is the Responsible Authority for the Application pursuant to Section 2.0 of the Schedule to Clause 61.01 of the Port Phillip Planning Scheme. The proposal has been informally referred to the City of Port Phillip for comment.
- 2.7 The Minister has provided Council with the opportunity to consider and provide advice on the application, which can be used by the Minister and his department in their assessment of the proposal. Council's advice is provided on an informal basis as the planning scheme exempts most applications from notice and review.



- 2.8 The site is located within the Montague Precinct of the Fishermans Bend Urban Renewal Area, and is affected by a Design and Development Overlay which prescribes a mandatory height maximum of 40 storeys. At the time of the issue of the original permit the height maximum was preferred to be 18 storeys (60.0m) and a discretionary requirement. The development must be no more than 20 storeys in accordance with Condition 1(g) of the permit. Since the issue of the permit the Design and Development Overlay has been introduced with the mandatory 40 storey height maximum.
- 2.9 The Fishermans Bend Strategic Framework Plan July 2014 (Amended September 2016) (FBSFP) does not identify the subject land for a particular use. The FBSFP identifies Ferrars Street as an existing street and Railway Parade as an existing laneway to be activated.
- 2.10 The Amendment GC81 proposes new planning controls and a new Strategic Framework. Submissions regarding the draft Framework and Planning Scheme provisions closed on 15 December 2017. The Framework and Controls are being reviewed by an independent Panel, following the recent conclusion of the Panel Hearing.
- 2.11 The draft planning Scheme controls recommend mixed use development with shops and businesses providing active street edges, fine grain built form and laneways and through block links for permeability and connectivity through street blocks, and retention of heritage buildings. Amendment GC81 proposes to introduce Floor Area Ratio (FAR) and Floor Area Uplift (FAU) provisions and recommended maximum dwelling densities in the FBURA, however the proposed amendment seeks to reduce the number of dwellings and the building footprint has been approved under the original permit and these elements cannot therefore not be revisited. The proposed Strategic Framework and draft controls would allow a building up to a maximum height of 8 storeys (discretionary requirement), and although the proposal involves a 20 storey building the height/number of storeys have already been approved by the original permit. The proposed framework and controls do not identify the subject site for a specific use or function. Further discussion regarding the proposed controls and framework is provided at Section 8.4 of this report.
- 2.12 The proposed amendments to the plans and permit would delete the first-floor pedestrian link to the tram stop which was previously not supported by Council. The proposal would introduce a revised mix of dwellings including a higher percentage of 3-bedroom dwellings and would delete smaller apartments with questionable internal amenity. The revised external materials and façade detailing detailed within the discussion plans received on 20/06/2018 are supported by Council's Urban Designer, and further to changes to the pedestrian link at the Ferrars Street frontage the proposal would be acceptable from an Urban Design perspective. While the amended vehicle access and additional car lift reduce the activation to Railway Place this would be acceptable in light of the previous approval, functionality of the car parking, and current conditions. Concerns are raised with the increased car parking rate of 0.82 spaces per dwelling, and it is considered that the overall car parking rate should be reduced to 0.5 spaces per dwelling, in accordance with the current FBSFP, due to the location and proximity to a number of public transport options.



- 2.13 The proposed materials and finishes include external timber cladding. Council's Municipal Building Surveyor advised this would not comply with the National Construction Code (NCC) and Building Regulations.
- 2.14 It is considered that the application to amend the permit could be supported subject to additional permit conditions detailed within the attached draft conditions. The additional permit conditions would require a reduction to the car parking rate, increase in finished floor levels at the ground level facing Railway Place, incorporation of discussion plans, inclusion of an action plan for car lift maintenance, an amended WMP, inclusion of a Section 173 Agreement for the proposed affordable housing unit, and deletion of materials and finishes not compliant with the NCC and Building Regulations lieu of compliant materials and finishes.
- 2.15 On 27 July 2017, the permit applicants lodged an application for review to the Planning List of the Victorian Civil and Administrative Tribunal for failure of the Minister to make a decision within 60 statutory days.
- 2.16 Council will consequently need to seek to be made a party to any VCAT hearings. The recommendation duly seeks Council consent to authorise the Manager City Development to instruct Council's Statutory Planners and/or Council Solicitors on any independent advisory committee appointed by the Minister for Planning to consider the called in application, and/or any Victorian Civil Administrative Tribunal (VCAT) application for review for the called in application.

3. RECOMMENDATION

That Council

- 3.1 Advises the Minister for Planning (C/-o the Department of Environment, Land, Water and Planning) that:
 - 3.1.1 Council supports the proposed Section 72 Amendment.
 - 3.1.2 In the event that the Minister determines to grant an amended permit for the application, any permit issued should incorporate the amended draft conditions attached to this report.
- 3.2 Authorises the Manager City Development to instruct Council's Statutory Planners and/or Council Solicitors on any independent advisory committee appointed by the Minister for Planning to consider the called in application, and/or any Victorian Civil Administrative Tribunal (VCAT) application for review for the called in application.

4. RELEVANT BACKGROUND

- 4.1 The original permit was issued on 2nd of July 2015, by the Planning Minister, and authorised demolition of the existing building and construction of a residential development (tower), use of the land for dwellings, and waiver of loading bay requirements. Plans have not been endorsed for this permit.
- 4.2 The permit expiry has been extended twice by the Planning Minister, the current expiry date is 2 July 2019 for commencement of works and 2 July 2021 for completion of works.



- 4.3 The original application was referred to Council for comment and it was considered at the Statutory Planning Committee on 18 November 2014, Council did not support a number of aspects of the proposal, however provided draft conditions should the Metropolitan Planning Authority (MPA) determine to issue a Planning Permit. Council did not support the first floor level link bridge (pedestrian access) across Railway Place to the tram stop, this has now been deleted from the proposal. Concerns were also raised with the height of the building as it was 6 storeys over the preferred 18 storey maximum (24 storeys), and wind mitigation works. The building is now a maximum of 20 storeys due to permit conditions.
- 4.4 Since the issue of the Planning Permit the South Melbourne Primary School has been constructed at 129 Ferrars Street Southbank, and the use has been commenced. In addition, works for the public open space located at 2 Buckhurst Street have commenced. The existing site context is described within Section 6 of this report.
- 4.5 The Planning Minister has called in 26 major development applications, however amendments to approved permits have been excluded from the call in and continue to be considered by the Minister.
- 4.6 The following relevant applications have been considered for the nearby sites:

Address Council Ref. No.	Proposal	Decision Status
277/2015 15 - 35 Thistlethwaite St, South Melbourne	Demolish existing buildings and works and construct an 8-storey building comprising dwellings.	Approved 14-Dec-2015 (VCAT) Not started Permit 14-Dec-2019 to start.
3/2013/MIN 134 - 142 Ferrars Street, South Melbourne	Demolish existing buildings and works, and construct an 18-storey mixed use building comprising retail, office and dwellings.	Approved 10-Apr-2017 (VCAT) Not started Permit 10-Apr-2020 to start
951/2017 144 Ferrars Street, South Melbourne	Demolition of existing buildings and works, and construction of a 5-storey mixed use building comprising office and café.	Approved 28-Mar-2018 (CoPP) Not started Permit 28-Mar-20 to start

5. PROPOSAL

- 5.1 The permit applicant has applied for a Section 72 Amendment to the approved development (Planning Permit MPA14/0004) consisting of changes to plans pursuant and deletion of Permit Conditions 5 (PTV Condition), 7 (Projection over Council Roads), and 8 (Minimum clearance above Railway Place). Endorsement of plans and reports to satisfy Conditions 1 (Amended Plans), 4 (Materials and Finishes), 14 (Waste Management), 26 (Car Parking Provision), and 37 (Contaminated Land).
- 5.2 Planning Permit MPA14/0004 authorises demolition of the existing building and construction of a residential development (20 storeys), use of the land for dwellings, and waiver of loading bay requirements.
- 5.3 The amendment proposes the following changes to the plans;
- 5.3.1 Reduction of dwellings (previous; 122 dwellings, proposed 67 dwellings = reduction of 55 dwellings) and increase in size of apartments, partially due

to the required 4 storey reduction to comply with permit Condition 1 (g). The apartment break up would be as follows;

- 12 x 1 bedroom apartments (- 28, originally 40);
- 12 x 2-bedroom apartments (- 68, originally 80);
- 43 x 3-bedroom apartments (+ 41, originally 2).

5.3.2 Provision of Office space, and residential amenities (game room & gym) at Level 1 (500m²).

5.3.3 The introduction of one basement level of car parking accessible from Railway Place, and reconfiguration of car parking from levels 2 to 5. Increase in car parking spaces from 42 spaces to 55 spaces (+13 spaces). This equals a rate of.82 spaces/dwelling

5.3.4 Revised ground floor layout which retains the café fronting Ferrars Street, and provides alternative vehicular ingress and egress from Railway Place, deletion of the outdoor terrace fronting Railway Place, and access from the Lobby via the public pedestrian link from Ferrars Street to Railway Place.

5.3.5 Deletion of the first-floor pedestrian bridge link over Railway Place to the tram platform.

5.3.6 Redesign of podium façade.

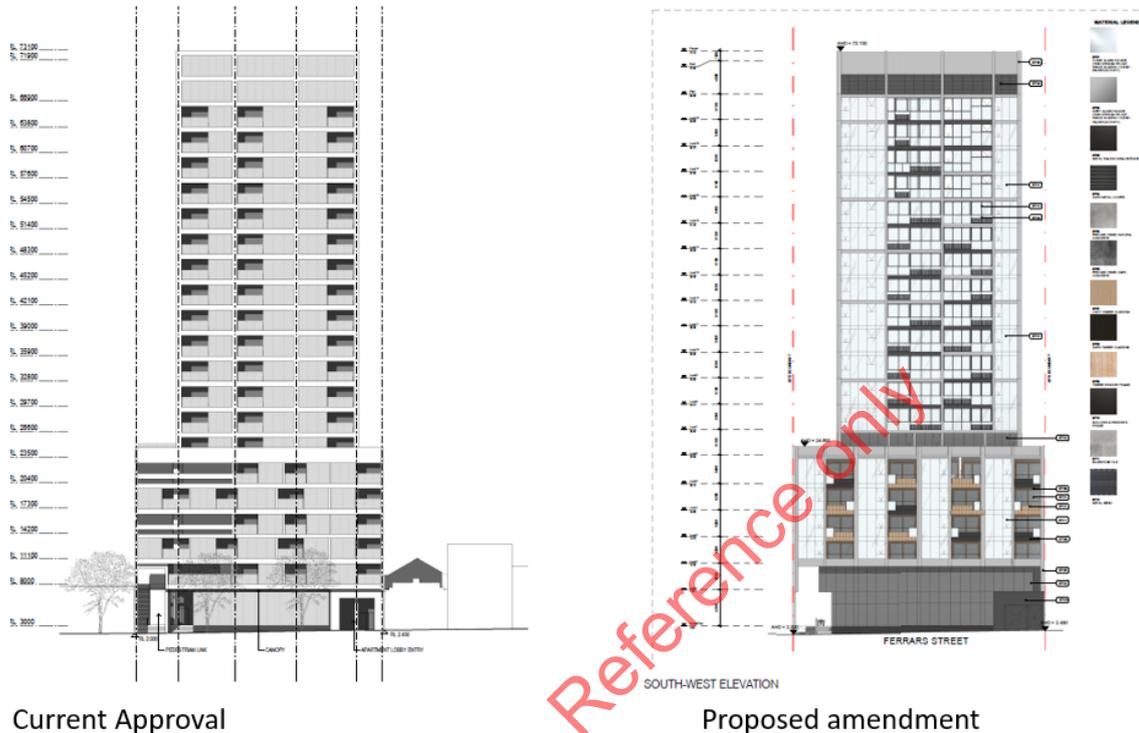
5.3.7 External materials would include clear glass, grey glass, metal railing and balustrade, metal louvre, precast natural and dark concrete, light and dark timber cladding, timber window frame, bluestone tile, metal mesh.

5.3.8 No alterations to the approved building footprint, excluding building height changes to comply with conditions, are proposed.

5.4 Renders of the proposed building are provided below (facing Ferrars Street);



5.5 The below elevations detail the current approval and the proposed amendment when facing Ferrars Street;



Current Approval

Proposed amendment

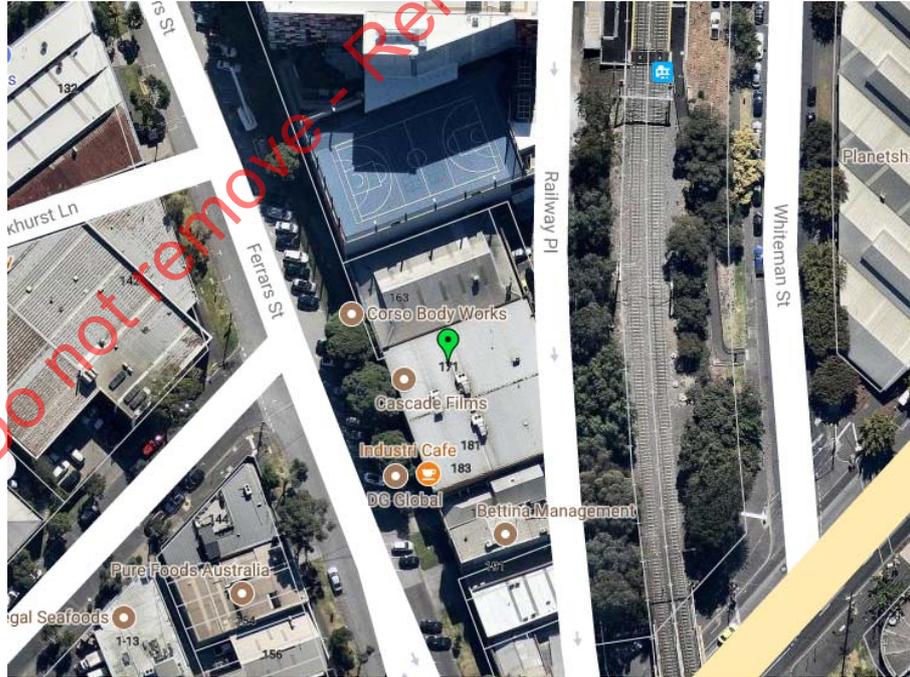
5.6 **Discussion Plans:** Discussion plans have been submitted on a without prejudice basis on 20/06/2018. The discussion plans detail the following;

- 5.6.1 Increase in width of the public pedestrian link at the ground floor to 3.7m.
- 5.6.2 Deletion of gym and game room and increase in the office floor area at Level 1. The office would have a total floor area of 379m² (increased from 291m²).
- 5.6.3 Changes to the façade detailing by providing further regular intervals to express the building horizontally & deletion of the bracing structure and introduction of glazing louvers to integrate the crown with the tower.

These changes are supported and it is recommended that the plans be substituted formally, this could be addressed via an amendment to Condition 1 of the Planning Permit referencing the plans.

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	854m ²
Existing building & site conditions	<p>The subject site contains a double storey commercial building with flat roof constructed to all title boundaries. The building is orientated towards Ferrars Street and has a rear interface with Railway Parade (blue stone laneway) with vehicle access and undercroft car parking.</p> <p>The existing uses on site are commercial comprising office and a café.</p> <p>Three substantial trees, and smaller trees/vegetation, are located along Ferrars Street adjacent to the building.</p>

	<p>The site is located approximately 50m north of City Road, 112m to the south of Douglas Street, and 214m to the south of the West Gate Freeway which defines the border between the City of Port Phillip and Melbourne City Council.</p>
<p>Surrounds / neighbourhood character</p>	<p>The site is located within the Montegue Precinct of Fishermans Bend. The surrounding land uses and development are largely commercial and light industrial, excluding the South Melbourne Primary School which is located approximately 20m to the north of the subject site.</p> <p>The Buckhurst Public Park is currently under construction and is located approximately 120m to the north of the subject site.</p> <p>The east of Railway Place is angle parking adjacent to the City Road light rail tramline which is owned by PTV.</p> <p>Directly abutting the subject site to the north is No. 163-169 Ferrars Street which contains a single storey commercial building occupied by an automotive body works business orientated towards Ferrars Street.</p> <p>Directly abutting the site to the south is No. 185 Ferrars Street which contains a single storey brick building orientated to Ferrars Street with vehicle access via Ferrars Street and Railway Place.</p> <p>The subject site is identified by the green marker in the 2018 aerial photograph of the subject site and surrounds.</p> 

7. PERMIT TRIGGERS

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

Additional primary consents (permit triggers) are required for the buildings and works due to the introduction of the Design and Development Overlay (Schedule 30) and Special Building Overlay (Schedule 2) since the issue of the original Planning Permit.



Zone or Overlay	Why is a permit required?	New Permit Trigger?
<p>Capital City Zone Schedule 1</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 threshold distance from industrial and/or warehouse uses referred to in the Table to Clause 52.10. The land is proximate to warehouse and light industrial uses and thus requires a permit under this clause. Office, and Retail are Section 1 uses and do not require a planning permit.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 3.0 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.</p> <p>Pursuant to Clause 37.04-4 an apartment development must meet the requirements of Clause 58.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1, and Clause 4.0 of Schedule 1 to the CCZ1, a permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.</p> <p>Pursuant to Clause 6.0 of Schedule 1 to the CCZ1: 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"> <input type="checkbox"/> A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or <input type="checkbox"/> 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. <p>A planning permit is required under this clause.</p>	<p>No</p>
<p>Clause 43.02 - Design and Development Overlay – Schedule 30 (DDO30)</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>Yes</p>
<p>Clause 44.50 Special Building Overlay Schedule 2 (SBO2) Note: Partially affects the subject site</p>	<p>Pursuant to Clause 44.05-1 a permit is required to construct a building or to construct or carry out works.</p>	<p>Yes</p>
<p>Clause 45.06 - Development Contributions Plan Overlay (DCPO2)</p>	<p>Pursuant to Schedule 2 to the DCPO, a permit may be granted to subdivide land, construct a building or construct or carry out works before a precinct wide development contributions plan has been prepared to the satisfaction of the responsible authority if any of the following apply:</p> <ol style="list-style-type: none"> a. A site specific development contributions plan has been prepared by the developer to the satisfaction of the Minister for Planning; b. An agreement under Section 173 of the Planning and Environment Act 1987 has been entered into with the responsible authority that makes provision for development contributions. c. The permit contains a condition requiring an agreement under Section 173 of the Planning and Environment Act 1987 that makes provision for development contributions to be entered into before the commencement of development. d. The permit allows for the construction of a building or construction or carrying out works for; 	<p>No</p>



	<ul style="list-style-type: none"> - Additions or alterations to a single dwelling or development ancillary to use of land for a single dwelling. - A single dwelling on a lot - An existing use of land provided the gross floor of the existing use is not increased by more than 1000 square metres. - A sign. <p>e. The permit only allows the consolidation of land or a boundary realignment.</p> <p>A permit is required under this clause.</p>	
Clause 45.09 - Parking Overlay (PO1)	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. The proposed parking provision does not exceed the maximum rates set out in the Table, and therefore no permit is required under this clause.	No
Clause 52.10 Uses with Adverse Amenity Potential	The threshold distances from industrial and/or warehouse uses referred to in the table to Clause 52.10 are required to be met. A permit is required under this clause.	No
Clause 52.06 Car Parking	Pursuant to Clause 45.09-1 (Parking Overlay), the PO operates in conjunction with the requirements of Clause 52.06.	No
Clause 52.34 Bicycle Facilities	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. A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.	No

8. PLANNING SCHEME PROVISIONS

8.1 PLANNING POLICY FRAMEWORK

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

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



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

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: Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area

8.3 Other relevant provisions

Clause 52.06: Car Parking

Clause 58: Apartment Developments

Clause 65: Decision Guidelines, including Clause 65.01: Approval of an Application or Plan

8.4 Relevant Planning Scheme Amendment/s

8.4.1 The Planning Scheme controls affecting the site were changed by Amendments GC50 and GC59 on 14 and 29 November 2016 respectively. The Amendments introduced:

- a) A 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.
- b) The Design and Development Overlay, Schedule 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 requirements of the DDO30 apply on an interim basis until 31 March 2019.
- c) An update to the Fishermans Bend Strategic Framework Plan, July 2014 (Amended September 2016). The Framework is an incorporated document to Port Phillip Planning Scheme.

8.4.2 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. The draft Framework Plan proposes (relative to the subject site and surrounds):

- a) The site is located within the Montague non-core area (FAR 3.0:1), where mixed use activity is encouraged.
- b) An eight-storey maximum is prescribed for the site.
- c) No crossovers are permitted along Ferrars Street.



- d) The subject site is located approximately 22m to the south of the Ferrars Street Primary School (South Melbourne Primary School).

8.4.3 The Draft Planning Scheme Provisions include Municipal Strategic Statement (MSS) encouragement for:

- a) Mixed use development with shops and businesses providing active street edges, fine grain built form and laneways and through block links for permeability and connectivity through street blocks, and retention of heritage buildings.
- b) The amendment proposes to introduce Floor Area Ratio (FAR) and Floor Area Uplift (FAU) provisions and recommended maximum dwelling densities in the FBURA.
- c) A FAR of 3.0:1 (i.e. a maximum floor area equal to three times the site area of 854m²= 2,562m²) and a maximum density of 198 dwelling per ha. are proposed to apply to the site; the proposal would have a Gross Building Floor Area of 13,715m², and a FAR of 16.05:1. The building footprint has been approved and the number of dwellings are being reduced therefore these elements of non-compliance with the draft controls should not be given weight in the assessment.
- d) The current planning scheme controls encourage developments of over 12 storeys to provide at least six per cent of dwellings as affordable housing through a range of housing models, typologies and occupancies. The draft controls propose to require the provision of affordable housing and/or other public benefits such as public open space as a condition of approval of any floor area in excess (i.e. Floor Area Uplift or FAU) of the specified FAR. The applicants suggests a 'public benefit' in lieu of the pedestrian bridge in the form of one x 1 bedroom apartment on Level 2 (Apartment 201) as an affordable housing unit to be provided to an affordable housing agency.
- e) Family friendly housing is encouraged, including mid-rise housing with access to POS, family friendly housing on lower levels with direct access to communal play areas, living room sizes which exceed minimum requirements, access to outdoor communal green space provided on ground, podium, or roof top levels, Children's communal active indoor play or recreation space as part of indoor communal spaces, sufficient storage areas with easy access to dwellings.
- f) Communal open space is encouraged within residential developments to create opportunities for social interaction, including community gardening sheds etc.
- g) The proposed DDO30 includes the following requirements for the subject site;
 - i. A street wall height of 4 storeys/15.4m to Railway Place, and 6 storeys/23m to Ferrars Street. The proposal would maintain the approved 6 storey podium. This element has already been approved and should not be revisited through this application.



- ii. A six storey (23m) wall built on the site and rear boundaries would be permissible under the controls. The proposal would comply with this requirement.
 - iii. A 10m setback for any part of the building over 6 storeys. If a sensitive interface does not exist this can be reduced to 5m.
- 8.4.4 Submissions regarding the draft Framework and Planning Scheme provisions closed on 15 December 2017. The Framework and Controls are being reviewed by an independent Panel, following the recent conclusion of the Panel Hearing.
- 8.4.5 Planning Scheme Amendment VC136 was introduced on 13 April 2017 and implemented Clause 58 (Apartment Developments) which replaced Clause 52.34 (Urban Context Report and Design Response for Residential Development of Five or More Storeys), and the Guidelines for High Density Residential Development. Pursuant to Clause 37.04-4 (CCZ1; Buildings and works) Clause 58 (Apartment Developments) of the Port Phillip Planning Scheme does not apply to the Section 72 application as the original permit application was lodged before the approval date of Amendment VC136.
- 8.4.6 Strategic Amendment VC142 removes permit requirements for loading and unloading of vehicles by deleting Clause 52.07 – Loading and unloading of vehicles. Updates are made to Clause 65 (decision guidelines) to ensure that loading and unloading facilities, amenity and traffic flow are considered. The amendment has also made multiple minor changes to the Planning Scheme including amended references to a number of uses.

9. REFERRALS

9.1 Internal referrals

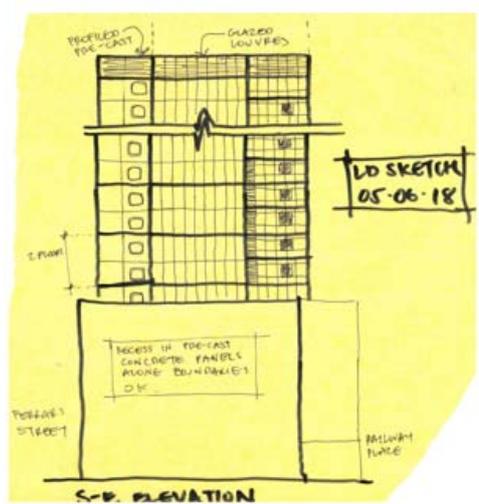
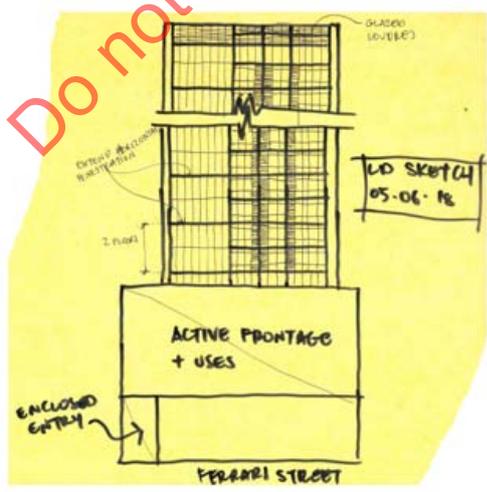
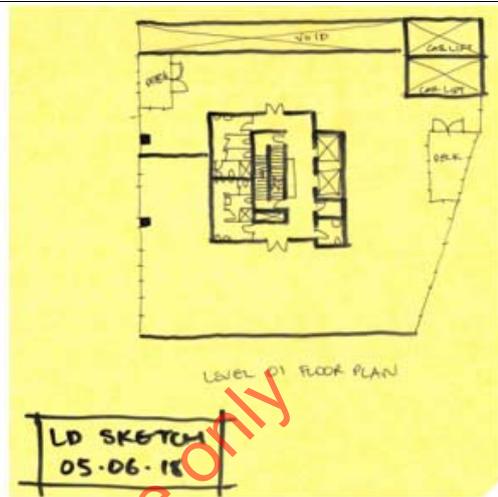
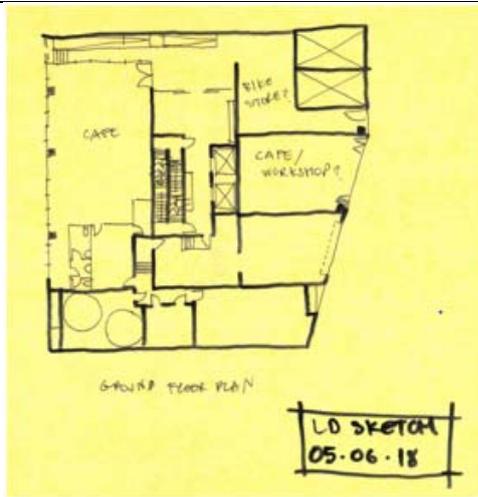
The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 9.

Internal Department / Referral Officer	Referral Comments (summarised)
Urban Design	<ul style="list-style-type: none"> a. Starting from the ground floor – the vehicular access arrangement as proposed off Railway Place is not supported. This creates a poor interface to Railway Place and an enclosed ground floor condition is sought. This could be achieved by investigating the relocation of the car lifts to the North-East corner (refer sketches) which would free up space for more active uses – possibly bike store/workshop/café etc. Secondly this also has the potential to really highlight the car lifts as a feature of the design within the podium. b. The pedestrian link as proposed is also not supported. Ideally, the preference would have been to provide a laneway (or part of) that is open to the sky and doesn't require a vertical change in grade as pedestrians move through the space. Due to site constraints this doesn't appear to be a realistic outcome. As such it is recommended that the entry from Ferrars



	<p>Street becomes an enclosed entry space with glazed frontage. This would achieve a strong and defined street edge at ground level which is sought.</p> <ul style="list-style-type: none">c. The provision of commercial use within the podium at level 01 is supported in providing a mix of uses within the Montague Precinct. It is a shame this isn't continued on the levels above to form an active edge to the car park levels – refer sketches.d. Car parking with frontage along the Railway Parade streetscape (despite efforts to conceal it) is not supported, as this would provide a poor inactive frontage and design response to Railway Parade. A better urban design outcome is required which doesn't rely on tacked on screening to achieve visual interest.e. The tower design and façade articulation is generally supported however, there is opportunity to provide a more cohesive design response by extending the horizontal articulation of the grid across at two storey intervals. This would further break up the façade visually and would reflect the expression of a grid at multiple scales – refer sketch elevations.f. Lastly, it is recommended that the louvred screening to the plant floor at the top of the tower is changed to glazed louvres to better integrate it into the design of the rest of the tower. Refer sketch elevations and image of examples.g. Sketches and images referenced within the above comments are provided below:
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Do not remove - Reference only



Do not remove - Reference only



Additional referral comments relating to discussion plans received on 20/06/2018:

- a. I've reviewed the provided discussion plans and am satisfied with the changes to façade and materials – I'm extremely pleased they took onboard the feedback.
- b. I express my support of the façade strategy and believe it results in a far more visually cohesive design outcome, particularly with the resolution of the plant louvres.
- c. It is a shame about the Railway Place interface at ground level, however it would overall be a considerable improvement.

Planning Officer Comment:

- a. The internal pedestrian link has been approved through the original permit and cannot be revisited in principal. While a glazed entrance (automatic sliding doors) could be incorporated into the design to improve the street edge, the original application included an open arrangement and therefore we should not revisit the treatment.
- b. Refer to section 11.2.6 of this report for discussion regarding the ground floor interface with Railway Place.
- c. Whilst the provision of car parking along the Railway Place façade at level 2 to 5 does not provide activation, the previous approved scheme included very limited activation at this interface for levels 3 & 5 provided through small apartments with questionable internal amenity.
- d. Car parking would not be exposed along Ferrars Street, it appears that these comments may be provided in relation to the original scheme not the amended proposal.
- e. The permit applicant has provided a written response and provided discussion plans to try to address the Urban Design Comments and concerns relating to the width of the pedestrian link raised by DELWP.
- f. The submitted discussion plans introduce further expressions at regular intervals which would express the building horizontally. The discussion plans also detail the deletion of the bracing structure and introduce glazed louvers to integrate the crown with the rest of the tower. Council's



	<p>Urban Designer has advised that the discussion plans would address concerns raised about the façade detailing and could be supported.</p>
<p>Traffic Engineer</p>	<p>Parking Layout and Access Arrangements</p> <ul style="list-style-type: none"> a. Proposed access to off-street parking facilities is via proposed crossovers to Railway Place. This is considered satisfactory. b. Access ways at the entrance to all parking/loading is considered acceptable. c. Car parking spaces have been provided in accordance with the planning scheme and/or Australian Standard requirements, this is considered acceptable. d. The applicant has provided a swept path assessment showing a B85 vehicle is able to access/egress all critical parking spaces with suitable clearance and number of corrective manoeuvres. e. Applicant must have an action plan in place for when scheduled maintenance occurs or the lift is temporarily unavailable. f. The traffic report has undertaken a queuing assessment for all car lift operations. The traffic report states that all queuing generated by the site can be contained wholly within the site, this is considered acceptable. g. The applicant has provided swept paths showing a B85 vehicle is able to circulate each parking level, with suitable clearance and minimal number of corrective manoeuvres. h. The applicant has provided swept paths showing a B85 can satisfactorily enter/exit the site in a forward's direction i. All redundant and proposed crossovers must be reinstated to Council satisfaction. j. Applicant shall be responsible for costs incurred by Council to modify any existing on-street parking signage and line-marking. <p>Parking Overlay and Parking Provisions</p> <ul style="list-style-type: none"> a. The FBURA target rate for the provision of residential parking is 0.5 spaces/dwelling and a maximum rate of 1 space/100m² for retail/commercial. b. It is proposed to provide 55 resident parking spaces, which equates to a rate of 0.82 spaces/dwelling. This level of parking for residents is considered high and not in line with the FBURA target rate. It is recommended reducing the level of off-street parking for residents. c. The traffic report indicates that no parking spaces will be provided on-site for office or retail staff. This level of parking does not exceed the FBURA target rates and is considered acceptable. <p>Traffic Generation</p> <ul style="list-style-type: none"> a. Traffic generation assumptions of 3 inbound and 11 outbound movements during the AM peak and 8 inbound and 6 outbound movements during the PM peak.



- b. The total traffic generation from the proposal is 14 movements for entry and exit volumes during peak hours. This is considered satisfactory.
- c. The proposed amended development scheme results in a decrease of 2 movements during the peak periods, therefore the likely traffic impact from the amended development scheme is unlikely to have a significant impact of the surrounding road network and is considered acceptable.
- d. No cumulative trip generation for other developments has been considered.

Pedestrian Sightlines

- a. Full pedestrian sight triangles have been provided in accordance with Clause 52.06 at both the proposed crossovers to Railway Place. This is considered acceptable.

Provisions for Loading and Waste Collection

- a. One loading area has been proposed on the ground floor of the development. Access has been satisfactorily demonstrated with swept paths for a 6.4m Small Rigid vehicle (MRV) within the previously submitted traffic report. This is considered acceptable.
- b. I have concerns given no loading area has been provided for residents to load/unload when moving in/out of the development, especially given the recent construction of the Ferras Street Primary school and the likely limited availability of on-street parking in the area. However, as the previous permit supported the waiver of a loading area and this amendment reduces the number of dwellings, I am happy to support the waiver of a residential loading area in this case.
- c. I have concerns given the location of the proposed loading area, with potential conflicts between vehicles exiting car lifts and loading vehicles. Please ensure all loading operations occur outside of peak periods and that car lift access is not interrupted for any significant period.

Provisions for Bike Parking

- a. The FBURA target rate for the provision of residential bicycle parking is 1 space/dwelling.
- b. The traffic report indicates that it is proposed to provide the following bicycle parking spaces:
- c. 65 resident bike spaces
- d. 10 visitor spaces
- e. This level of bicycle parking exceeds the previous approved level and is considered acceptable. Noting, the Australian Standards require a minimum of 20% horizontal, ground level bicycle parking spaces (not wall mounted).
- f. All visitor spaces have been provided at ground level and in a prominent and safe location



	<p>Planning Officer Comment:</p> <ul style="list-style-type: none"> a. The applicant has suggested that the provision of two car lifts is satisfactory to respond to the requirement for an action plan for when maintenance occurs for the car lift or maintenance is scheduled. It is considered that if an amended permit is issued by the Minister a new permit condition should be included which requires the provision of an action plan as an attachment to the submitted Traffic Assessment. b. Conditions on the existing planning permit require vehicle crossovers to be constructed/reinstated in accordance with Council guidelines, and require payment of costs associated with these requirements (Conditions 32 and 34 of the existing permit). c. The increase in car parking equates to a rate of 0.82 spaces per dwelling which is above the 0.5 spaces/dwelling rate preferred within the FBSFP, the approved rate was 0.42 spaces per dwelling. The applicant suggests that this rate would be acceptable as the proposal increases the number of three bedroom apartments, this is not considered to be satisfactory justification and will be discussed further at Section 11.2.7 to 11.2.10 of this report. d. Section 6.5.3 of the submitted Traffic Assessment considers cumulative trip generation surrounding the approved developments. e. Section 2.2 of the Waste Management Plan clarifies that waste collections shall be carried-out during off-peak traffic periods and that bins shall not be left on public areas at any time. The waste collection would be run by private contractors where the Owners Corporation would have a responsibility for its management. This would protect car lifts from interruption. 												
<p>Waste Officer</p>	<ul style="list-style-type: none"> a. Residential and commercial waste storage areas/hard waste should be separated. This could include installing a door for the commercial waste area. <p>Planning Officer Comment:</p> <ul style="list-style-type: none"> a. Should the Minister issue an amended permit a modified Waste Management Plan (WMP) should be submitted via a condition to address the below. This could be achieved through amending Condition 12 of the existing permit. 												
<p>Development Engineer</p>	<ul style="list-style-type: none"> a. The SBO2 designated flood level for the property is 2.275m (AHD). <table border="1" data-bbox="411 1780 1412 1926"> <thead> <tr> <th>House Number</th> <th>House Suffix</th> <th>Street Name</th> <th>Street Type</th> <th>Locality</th> <th>100yrBC_Max Flood Level (m)</th> </tr> </thead> <tbody> <tr> <td>171 FERRARS STREET SOUTHBANK 3006</td> <td>171</td> <td>FERRARS STREET</td> <td>SOUTHBANK</td> <td></td> <td>2.275</td> </tr> </tbody> </table> <ul style="list-style-type: none"> b. The SBO2 appears to cover part of the site over the following areas of the ground floor plan (to the east). 	House Number	House Suffix	Street Name	Street Type	Locality	100yrBC_Max Flood Level (m)	171 FERRARS STREET SOUTHBANK 3006	171	FERRARS STREET	SOUTHBANK		2.275
House Number	House Suffix	Street Name	Street Type	Locality	100yrBC_Max Flood Level (m)								
171 FERRARS STREET SOUTHBANK 3006	171	FERRARS STREET	SOUTHBANK		2.275								



	<p>h. Gas Meter and 2x22500L Rainwater Tank area AHD level not indicated.</p> <p>i. Area to be suitable for 6.4m Long Truck AHD level not indicated.</p> <p>Recommendation:</p> <p>a. The proposed FFL for the North East Lift Platform at 3.00m AHD is above the minimum requirement.</p> <p>b. The proposed FFLs of the North East Pedestrian Link, Gas Meter and Rainwater Tank, and Long Truck Parking areas do not appear to have been indicated in AHD (m).</p> <p>c. All switches and electrical boxes should be installed 600mm above the flood level.</p> <p>Planning Officer Comment:</p> <p>a. If an amended permit is issued by the Minister the north-east pedestrian link should have a minimum FFL of 2.575m AHD, the Gas Meter and Rainwater Tank should have FFLs no lower than 2.425m AHD, and Long Truck Parking areas should have FFL no lower than 2.425m AHD. This could be achieved through a new condition 1 requirement.</p> <p>b. All switches and electrical boxes should be installed 600mm above the floor level, this should be addressed through the provision of a new permit condition on any amended permit issued.</p>
<p>Housing Development Officer</p>	<p>c. We recommend the following approach:</p> <p>That Council support:</p> <p>a. The contribution of 1 x 1 BR dwelling to a housing trust, Housing Association or Housing Provider approved by the RA and CoPP (and associated other conditions from standard wording),</p> <p>b. That this dwelling have the same entitlement as per other apartments and a liability of 1 in the Plan of Subdivision, so as to minimise future Owners Corporation fees, and;</p> <p>c. Council officers seek legal advice on whether this is legally possible and how to best frame any condition on Owners Corporation fees.</p> <p>d. See discussion of this recommendation below, in particular the proposed condition on Owners Corporation fees.</p> <p>e. The developer proposes 1 (one bedroom) unit of social housing (valued at \$430,000), as a public benefit replacement to the deletion of a pedestrian bridge that Council opposed.</p> <p>DISADVANTAGES OF 1 UNIT:</p> <p>a. Higher management costs for single unit, including Owners Corporation fees</p> <p>b. Isolation of community housing household in private development.</p> <p>ADVANTAGES OF 1 UNIT:</p> <p>a. Better than no contribution, and being volunteered by developer.</p>



	<p>b. Better than cash alternative, as cash has to be spent over time by a HA or HP, we do not yet have direction on a trust or other legal entity for IoB (to be determined from the current IoB review). Cash also will set a precedent for developers seeking the easiest form of contribution.</p> <p>c. Can include a condition that Owners Corporation fees be waived or low for the unit, through the setting of liabilities and entitlements under the Plan of Subdivision. Subdivision Officer recommends we seek the same entitlement as other apartments, and a liability of 1, as she is unsure if a liability of 0 can apply. This arrangement can't be locked in as it can be overturned by future members (vote of either 50% or 75% of members), as an intent of the Owners Corporation Act was to prevent developers locking in future owners to particular arrangements. Because of these two points, Council's Subdivision Officer advises legal advice be obtained on how to frame that as a condition.</p> <p>Planning Officer Comment:</p> <p>a. If the Minister issues an amended Planning Permit it is considered that it should include a new Section 173 Agreement ensuring the Affordable Housing Unit is provided to a Housing Trust, Housing Association or Housing Provider (refer to attached draft amended permit conditions).</p> <p>b. The single housing unit should not be charged owners corporation fees to ensure ongoing affordability is achieved. Council has received legal advice noting that it would be possible to limit or reduce a lots liability for Owners Corporation fees, and have advised that a condition along the following terms could be included on an amended permit;</p> <p><i>Any affordable housing unit provided for in this development and subsequently subdivided shall not be liable for Owners Corporation fees.</i></p> <p>Any amended permit should include the suggested condition, this is included in the recommended permit conditions.</p>
<p>Municipal Building Surveyor</p>	<p>a. In Australia, the rules about how buildings must be constructed are set out in The National Construction Code (NCC). The NCC requires that the external fabric of buildings, three storeys and above, must be non-combustible. The use of combustible materials is not permitted on a Type A & B building. The proposed building is of Type A construction and timber is not permitted to be used as part of the building fabric as the material is combustible. Although much of the information regarding combustible material has focused on aluminium composite panels (ACP) and expanded polystyrene panels (EPS), timber also falls into the same category and is not permitted to be used on a building of this nature.</p> <p>b. When specifying a building material, the building designer must ensure that the building material meets the requirements of the BCA/NCC and is supported by appropriate evidence of suitability.</p> <p>c. The Minister has now release MG14 that prohibits the use of ACP and EPS on buildings unless the product is justified using fire engineering analysis and approval from the Building Appeals Board. The use of non-compliant ACP and EPS cladding presents risks to public health and safety</p>



	<p>or property. Although timber is not included in MG14 it is clear that timber is combustible and is not permitted for use on these types of buildings.</p> <p>Planning Officer Comment:</p> <p>a. In accordance with the above comments timber should be deleted from the external materials schedule. This could be achieved through a new condition 1 requirement.</p>
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9.2 External referrals

The application must be referred to PTV in accordance with Section 55 of *the Planning and Environment Act 1987*. The Responsible Authority (DELWP on behalf of the Planning Minister) must undertake this task.

The application has been referred internally to Council's Development Engineer in accordance with the SBO2 requirements, although it is noted that this is not a Section 55 referral.

10. PUBLIC NOTIFICATION/OBJECTIONS

10.1 Notice of the application was not required to be given by the City of Port Phillip as the City of Port Phillip is not the Responsible Authority for the application. Advertising is at the discretion of the Minister.

10.2 It is noted that an application to demolish or remove a building or works, construct a building or carry out works, or use land (other than a nightclub, tavern, brothel or adult sex bookshop) in the Capital City Zone, and an application affected by the Design and Development Overlay, and the Special Building Overlay, 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.

11. OFFICER'S ASSESSMENT

11.1 Proposed Amendments

This assessment will consider the proposed amendments in turn below and will not revisit approved elements of the proposal.

11.2 Amendments to the Plans

Reduction of Dwellings

11.2.1 The amended plans would reduce the number of dwellings by 55 from 122 to 67, and increase the size of apartments, partially due to the required 4 storey reduction to comply with permit Condition 1 (g). The amended dwelling mix would be as follows;

- a. 12 x 1-bedroom / 18% (- 28 dwellings);
- b. 12 x 2-bedroom / 18% (- 68 dwellings);
- c. 43 x 3-bedroom / 64% (+ 41 dwellings);

11.2.2 The reduction in one and two-bedroom dwellings and increase in the three-bedroom dwellings would materially differentiate the proposal from the typical 1-2 bedroom residential apartment proposals in Fishermans



Bend and would improve dwelling diversity in the Montague Precinct and is supported.

The provision of 64% of the dwellings with 3-bedrooms would exceed the Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area provisions of Clause 22.15 of the Port Phillip Planning Scheme which encourages new accommodation development over 12 storeys to provide 30% 3-Bedroom dwellings.

- 11.2.3 As noted previously Clause 58 (Apartment Developments) does not apply to the assessment of the application in accordance with the relevant transitional provisions. However, it is noted that the revised apartment breakup and layouts would provide a good level of internal amenity for the following reasons;
- The one-bedroom apartments would have a floor area of 55m² with a 10m balcony each.
 - Two-bedroom apartments would have a floor area of 71m² to 81m² with 8m² to 17m² balconies.
 - The three-bedroom apartments would have a floor area of 94m² to 134m² with balconies of 12m² to 16m².
 - All habitable rooms would have direct access to daylight, and room dimensions would provide adequate functionality for future occupants. Each private open space area could be conveniently located and accessible via a living area.
 - No internal views would be possible, and no overlooking would occur externally.

Provision of basement car parking, reconfigured car parking, increase in parking provision, and vehicle access via Railway Parade

- 11.2.4 The amended proposal includes a new basement level, an additional car lift and reconfiguration of the car parking at levels 2 to 5. The proposal also seeks to increase the number of car spaces by 13 (from 42 to 55), and provide revised vehicle access.
- 11.2.5 Council's Traffic Engineer advised that the revised car parking layout, design and access arrangements would be acceptable, subject to an action plan for when one of the car lifts is temporarily unavailable or scheduled maintenance occurs. The applicant has suggested that the provision of two car lifts is satisfactory to respond to the requirement for an action plan for when maintenance occurs for the car lift or maintenance is scheduled. Standard 3 of Objective 6.3 (Transport and Access) of the FBSFP requires car lifts and stackers to not result in queuing onto the street or significant time delays in use. The lack of an appropriate action plan has the potential to result in on street queuing and time delays; therefore any approval that may issue should include a condition requiring an action plan as an attachment to the submitted Traffic Assessment.
- 11.2.6 Council's Urban Designer raised concerns with the vehicle access arrangement to Railway Parade and suggested an enclosed ground floor condition to improve the interface. The previous layout provided one car



lift with vehicle access, a gas meter room, pedestrian access to services, an open outdoor terrace and the pedestrian through link.

The current proposal seeks to utilise the Railway Parade frontage for vehicle access, a gas metre/rainwater tank room, and the pedestrian link. The amended design does not encourage activation to this interface, however the level of activation for the approved scheme is limited to the pedestrian link (which is retained), and an outdoor terrace with a frontage of approximately 8.42m with a limited depth.

Furthermore, the project is constrained by the Strategic Framework Plan not supporting vehicle access via Ferrars Street. The current arrangement involves vehicle access and under-croft car parking. Whilst the proposed arrangement does not activate the street, when comparing the proposal to the approved arrangement the level of activation is not significantly less. In addition, the provision of two car lifts provides opportunity for a better contingency plan should one of the car lifts malfunction/require servicing.

- 11.2.7 The proposal seeks to increase the number of parking spaces by 13 for a total of 55 spaces for the 67 dwellings. This equals a rate of 0.82 spaces per dwelling which is less than the rate prescribed under the PO1 of 1 space per dwelling, but would exceed the 0.5 spaces per dwelling rate recommended at Standard 1 of Objective 6.3 (Transport and Access) of the FBSFP.

The previous approval authorised a rate of approximately 0.42 spaces per dwelling when considering the required reduction of dwellings to comply with permit conditions to reduce the overall height.

The applicant asserts the new rate would be acceptable due to the increase in provision of 3-bedroom apartments, and the allocation of 0.5 spaces per dwelling for the 1 and 2-bedroom dwellings.

- 11.2.8 The site is well served by public transport including the adjacent Tram (Route 96 East Brunswick and St Kilda Beach), Tram Route 109 (Box Hill & Port Melbourne) and Bus Route 235 (CBD and Fishermans Bend), within 600m of Tram Route 12 (Victoria Gardens and St Kilda), and within 1.7m from the Southern Cross Railway Station.

- 11.2.9 The increase in car parking provision from 0.42 spaces per dwelling to 0.82 spaces per dwelling is not supported because:

- a. The FBURA Strategic Framework is seeking to achieve a different type of new suburb in Fishermans Bend, which has significantly reduced car usage and significantly increase pedestrian, bicycle and public transport usage; The provision of car parking in excess of the 0.5 spaces per dwelling target rate would work against this ambition;
- b. The subject site is directly opposite a tram route, close to a tram stop and other public transport options, and within walking distance of the South Melbourne Major Activity Centre and the Melbourne CBD, which reduces the necessity for car parking provision in excess of 0.5 spaces per dwelling;



- 11.2.10 It is noted that the draft Planning Scheme provisions exhibited in 2017 proposed making the 0.5 car space/dwelling rate mandatory.

Revised Ground Level Layout

- 11.2.11 The proposed amendment would retain the café to Ferrars Street to activate the area sufficiently.
- 11.2.12 The lobby would be accessible via the pedestrian link which is appropriate and would encourage a higher use of the link.
- 11.2.13 The revised ground floor layout would involve a reduced width of 2.4m to 2.8m (previously 3.7m) to the pedestrian link from Ferrars Street to Railway Parade. The pedestrian link previously included seating within this area which spanned out to an outdoor terrace to Railway Parade. However, due to the reduced width and layout changes the seating is no longer proposed. The submitted discussion plans detail a wider path with a width of 3.7m, this arrangement is supported as it would provide a better level of accessibility.
- 11.2.14 Council's Urban Designer has suggested that the pedestrian link should have been in the form of a laneway, or part thereof, and clear to the sky without changes in grade. Whilst this is preferable the location of the pedestrian link in this location within the building footprint has been approved under the original permit and cannot be revisited. Council's Urban Designer has suggested that the pedestrian link entry from Ferrars Street be an enclosed space with glazed frontage to achieve a stronger defined street edge at ground floor. Again, while enclosure of the pedestrian link through glazing (automatic sliding glazed door or the like) would be preferable the open arrangement has been approved under the previous approval and should not be revisited.
- 11.2.15 Council's Development Engineer has provided a referral response in accordance with the requirements of the Special Building Overlay (Schedule 2) which affects part of the subject site. Standard 1 of Objective 7.1 requires all buildings to maintain a minimum floor level of 3.0m AHD of 0.3m above the local overland flow flood level, whichever is the higher unless otherwise agreed by the relevant water authority. Council's Development Engineer has advised that the proposed FFLs of the North East Pedestrian Link, Gas Meter and Rainwater Tank, and Long Truck Parking areas do not appear to have been indicated in AHD (m) and must be a minimum of 2.575m AHD for habitable spaces (north east area of pedestrian link), and 2.425m AHD for non-habitable spaces (all other areas noted). In addition the all switches and electrical boxes should be installed 600mm above the flood level. Should an amended permit be issued by the Minister a condition should be included requiring the finished floor levels and electrical boxes/switches to be in accordance with the referral comments.

Provision of Office Space at Level 01

- 11.2.16 The provision of office space (291m²) at Level 01 is supported and would align with the strategic aspiration to provide mixed use developments within the Montague precinct and wider Fishermans Bend Urban Renewal Area. The office would replace the previous hot desk/studio space,



outdoor terrace, and apartments which were previously located at this area. The office would front Ferrars Street, and to Railway Parade would be a game room, gym, and bike store and workshop. The level of activation to Railway Parade provided through the gym and associated deck, and bike store with clear glazing would be adequate. The discussion plans delete the gym and game room and replace with additional office floor area which would also be appropriate.

Deletion of the pedestrian bridge link over Railway Place to the tram platform

- 11.2.17 The deletion of the pedestrian bridge link over Railway Place to the adjacent tram platform was not previously supported by Council due to the following concerns;
- The general narrowness of the internal stairs between the ground and first floor levels.
 - Ease of access for disabled persons.
 - The bridge-link obstructing traffic along Railway Place and being partly over the Title boundaries of the adjacent lot to the north side, and;
 - The bridge being superfluous, or of only minor benefit if anticipated upgrade works are carried out to the light rail stop, and/or bridge is constructed further to the north to the proposed school site.
- 11.2.18 Due to the previous concerns raised with the pedestrian bridge deletion is preferable. It is understood that DELWP have suggested a public benefit in lieu of the pedestrian bridge commensurate with the value of the pedestrian bridge. In response the applicant has proposed one 1-bedroom apartment would be provided to an affordable housing agency. The applicant has advised that the pedestrian bridge has an estimated value of \$267,000, whereas the affordable housing unit is valued at \$430,000. This would be supported provided a Section 173 Agreement is placed on any amended permit issued requiring that the affordable housing unit is provided to a housing trust, housing provider or housing association in perpetuity. Council's Housing Officer has suggested that to combat the disadvantages of the provision of a singular affordable housing unit an effort should be made to limit or preclude the Owners Corporation fees. Council's solicitors have advised that a condition to mitigate the affordable housing unit from Owners Corporation fees would not fall foul of Section 62 of the Planning and Environment Act 1987 in terms of validity. In addition the condition imposed would assist in the applications ability to respond appropriately to Clause 22.15- of the Port Phillip Planning scheme.
- 11.2.19 The provision of one affordable housing unit would be less than the 6% (4 dwellings) encouraged under Clause 22.15-3 (Employment and Dwelling Diversity Within the Fishermans Bend Urban Renewal Area). This would be acceptable as the proposal was approved prior to the introduction of Clause 22.15 of the Port Phillip Planning Scheme and the proposal seeks to reduce the number of dwellings rather than increase the number, therefore it is considered that there isn't scope to require the 6%



affordable housing. Should the Minister issue an amended permit a new permit condition requiring a Section 173 Agreement for the delivery of the affordable housing unit, with limited or no Owners Corporation fees, should be included (refer to recommendation amended conditions).

Redesign of podium façade and changes to external materials

- 11.2.20 The external changes to the building materials and façade strategy as detailed within the discussion plans received on 20/06/2018 are supported by Council's Urban Designer as discussed previously and would be acceptable, excluding the use of timber which would not comply with the NCC as noted by Council's Municipal Building Surveyor. The discussion plans should be substituted formally, this could be addressed through an amended condition 1 referencing the plans. The use of timber within the external materials schedule should be deleted via a new condition 1.

11.3 Conditions proposed to be deleted

Condition 5 (PTV Condition)

- 11.3.1 The applicant proposes to delete Condition 5 of the existing Planning Permit which reads as follows;

Before the development starts, detailed construction/engineering plans and computations must be submitted to and approved by Public Transport Victoria and VicTrack for the proposed bridge link to the tram platform abutting Railway Place. Before the occupation of the development the bridge link to the tram platform, as shown on the approved plans, must be constructed at a cost born by the permit holder to the satisfaction of Public Transport Victoria and deemed compliant with the Disability Discrimination Act - Disability Standards for Accessible Public Transport 2002.

- 11.3.2 Deletion of this condition would be required due to the proposed deletion of the pedestrian bridge link which is supported. No concerns are raised in relation to the deletion of this permit condition.

Condition 7 (Projection over Council Roads)

- 11.3.3 The applicant proposes to delete Condition 7 of the existing Planning Permit which reads as follows;

Before the development starts, the owner of the land must enter into an agreement with the responsible authority and the City of Port Phillip pursuant to Section 173 of the Planning and Environment Act 1987. The agreement must provide the following:

- a) *liability and maintenance of those parts of the development projecting into airspace or sub-soil of land under the care and maintenance of Council and disclaiming any right or intention to make or cause to be made at any time any claim or application relating to adverse possession of the land;*
- b) *liability and maintenance of those parts of the development projecting into the air-space or sub-soil of land under the care and management of the Council, including provision of an indemnity and comprehensive insurance cover against damage and injury resulting from the erection and use of the projection, to the satisfaction of the responsible authority;*

- c) *providing for the payment to the Council of one lump sum licence fee of such amount as may be reasonably determined by a certified practising valuer appointed by the Council for that purpose.*

The owner of the property to be developed must pay all reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

- 11.3.4 The deletion of this condition is not of concern as it is no longer required due to the deletion of the pedestrian bridge link which previously projected over land under the maintenance and care of Council.

Condition 8 (Minimum clearance above Railway Place)

- 11.3.5 The application proposes to delete Condition 8 of the permit which reads as follows;

minimum clearance to the underside of the proposed link bridge over Railway Place from the existing road surface must be a minimum of 4.5 metres.

- 11.3.6 Again, no concerns are raised with the deletion of this condition as the pedestrian link bridge is no longer required.

11.4 Additional amendments to conditions required

- 11.4.1 **Condition 1:** It is considered that Condition 1(e) requiring a minimum clearance of 2.7m to the underside of any projection over the footway surface in Ferrars Street, should be deleted as there are no projections proposed. In addition, new condition 1 requirements regarding FFL's, car parking provision, and updated references to the submitted plans including discussion plans, should be included on any amended permit (refer to recommended Conditions attached to this report).

- 11.4.2 **Condition 12:** The applicant has submitted a revised Waste Management Plan and requested consent for the changes to the plan and endorsement. Condition 12 of the Planning permit requires *Waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Leigh Design dated 29 September 2014. The submitted WMP must not be modified or altered without prior consent of Port Phillip City Council.*

- 11.4.3 Council's Waste Officer has recommended changes to the WMP which should be incorporated prior to endorsement of the WMP, this could be addressed via an amended Waste Management Condition as detailed within the draft amended conditions.

11.5 **Sustainable Design and Water Sensitive Urban Design**

- 11.5.1 A revised Sustainable Management Plan (SMP) has not been submitted with the proposed amendment. It is considered that an amended SMP should be submitted to ensure that the amended development meets the expectations for sustainable design and water sensitive urban design. This would require an amendment to Condition 1 and Condition 11 of the existing planning permit and is detailed within the draft amended conditions attached to this report.



11.6 Consent to Conditions

- 11.6.1 The permit applicant has requested consent to vary the requirements of Condition 26 (Traffic and Transport), and has requested the discharge of Condition 37 (Contaminated Land) of the permit. These items are generally not considered at a Planning Committee and the conditions are to the satisfaction of the Responsible Authority being the Planning Minister not the City of Port Phillip. However, a brief assessment of the two items is provided below for completeness and the comments should be provided to the Minister C/o DELWP.
- 11.6.2 **Condition 26 (Traffic and Transport):** Consent to vary the requirements of Condition 26 is requested. Condition 26 requires on-site car parking for the development not to exceed the provision detailed in the plans submitted with the original application without the prior written consent of the Responsible Authority. The increased parking provision is not supported and it is recommended that the variation to this condition is not approved by the Minister. To address this concern a new Condition 1 requirement could be included on any amended permit to require a car parking rate of 0.5 car parking spaces per dwelling.
- 11.6.3 **Condition 37 (Contaminated Land):** Condition 37 of the Planning Permit requires a certificate or statement of environmental audit to be undertaken and submitted to the Responsible Authority in accordance with the relevant requirements of the Environment Protection Act 1970. This must occur prior to the commencement of development, with the exception of any works required by the Auditor. The applicant has submitted a preliminary site investigation and a letter advising that an assessment is being undertaken in support of an Environmental Audit. This does not satisfy the requirements of Condition 37 and therefore the permit condition cannot be discharged.

12. COVENANTS

- 12.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 2 of Plan of Subdivision 616839D [Parent Title Volume 09772 Folio 807]. Two Caveat's (AN706731P & AN715183T) are registered on the title however these agreements have no implication on the Statutory Planning assessment of 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 changes to the plans could be supported, excluding the increase in the car parking provision for dwellings which should be addressed via a new permit condition. In addition, due to the introduction of the SBO2 since the issue of the original planning permit increased finished floor levels to part of the ground level building (fronting Railway Place) should be increased. Council's Traffic Engineer has not raised significant concerns with the proposal, and has requested an action plan to be included to address maintenance, this could be addressed via a new planning permit condition. The WMP submitted for endorsement should be amended in accordance with Council's Waste Officers referral comments, this could also be addressed through amending the existing WMP condition (Condition 12).
- 15.2 The provision of one affordable housing unit, in lieu of the public benefit associated with the pedestrian bridge link to the tram stop, is supported subject to the suggested permit condition and reduced or no Owners Corporation fees.
- 15.3 The proposal has not been submitted with a revised Sustainable Management Plan. The proposal is likely to improve the sustainable outcome due to the provision of apartments with better internal amenity, however it is considered that a revised SMP should be submitted. The current condition requires the recommendations of the SMP submitted with the original application to be incorporated prior to the occupation, however the report would no longer be entirely relevant due to the proposed revisions. This could be addressed through providing a new condition 1 requirement and amending condition 11 of the permit as detailed within the draft amended conditions attached to this report.
- 15.4 The proposed amendments would provide apartments with an improved level of internal amenity, would include an office at Level one to better respond to the strategic aspirations of providing a mixed use precinct, and would provide an appropriate Urban Design outcome.
- 15.5 The proposed amendments would be acceptable subject to the draft conditions for reasons explored within the body of this report. The proposed amendments would be acceptable with respect to the relevant Planning Policy including the current Fishermans Bend Strategic Framework Plan. In addition the proposed amendments to the approved development would not contradict the proposed draft controls and draft strategic framework. It is therefore recommended that the Minister issue an amended planning permit subject to the conditions attached to this report.

TRIM FILE NO: PF18/5808

ATTACHMENTS

- 1. Comparison Plans**
- 2. Proposed Amended Plans**
- 3. Existing Planning Permit**
- 4. Discussion Plans**
- 5. CoPP Draft Conditions**