



118 BERTIE STREET, PORT MELBOURNE (5/2016/MIN/A)

LOCATION/ADDRESS: 118 BERTIE STREET, PORT MELBOURNE

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

PREPARED BY: BRAD FOLETTA, PRINCIPAL PLANNER FISHERMANS BEND
SIMON GUTTERIDGE, PLANNING TEAM LEADER FISHERMANS BEND

1. PURPOSE

- 1.1 To provide a Council position for the Fishermans Bend Standing Advisory Committee on the request from the Minister for Planning to prepare, adopt and approve an Amendment to the Planning Scheme under Section 20(4) of the Planning and Environment Act for 118 Bertie Street, Port Melbourne.

2. EXECUTIVE SUMMARY

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|---|--|
| WARD: | Gateway |
| TRIGGER FOR DETERMINATION BY COMMITTEE: | Accommodation (dwellings) within the Fishermans Bend Urban Renewal Area |
| APPLICATION NO: | 2014002000-1 (Minister for Planning) 3/2014/MPA/A (Council) |
| APPLICANT: | James Guthrie, c/o Lateral Estate Pty Ltd |
| EXISTING USE: | Warehouse and Industry |
| ABUTTING USES: | One to two storey warehouse, offices and associated car parking and out buildings. |
| ZONING: | Capital City Zone - Schedule 1 (CCZ1) |
| OVERLAYS: | Design and Development Overlay - Schedule 32 (DDO32) Environmental Audit Overlay (EAO) Parking Overlay - Schedule 1 (PO1) Infrastructure Contribution Overlay - Schedule 1 (ICO1) |
| ABORIGINAL CULTURAL HERITAGE | All of the property is in an 'area of Aboriginal Cultural Heritage Sensitivity'. |
| STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL | 19 October 2019 |



Strategic Planning Matters

- I.1 In February 2016, the Minister for Planning (the Minister) announced a review of the Strategy and Planning Controls for the Fishermans Bend Urban Renewal Area (FBURA)
- I.2 On 19 December 2017, and then on 21 February 2018, the Minister called in all 26 live Ministerial planning permit applications in the FBURA on the grounds that:
- *'The proposals involve significant development within the context of the area which is declared as an urban renewal project of State significance.'*
 - *The proposals may have a substantial effect on the development and achievement of the planning objectives in Fishermans Bend as it may result in development occurring which is inconsistent with the proposed Fishermans Bend Strategic Framework Plan having regard to development density, timing of development, timing and method of delivery of infrastructure and overall population levels to be achieved.'*
- I.3 Twenty-one of the called in applications are in the City of Port Phillip and five are in the City of Melbourne.
- I.4 In October 2018, the Minister:
- Released a revised Fishermans Bend Framework;
 - Approved Amendment GC81 to change the Planning Scheme controls for the FBURA; and
 - Appointed the Fishermans Bend Standing Advisory Committee (the Advisory Committee) to advise on site specific planning controls to facilitate proposals within Fishermans Bend, prior to the introduction of an Infrastructure Contributions Plan for the called in applications and new proposals.
- I.5 In particular, Amendment GC81 deleted the Development Contributions Plan Overlay (DCPO) and introduced a new Infrastructure Contributions Overlay and Schedule (ICO1) which forbade (with a few minor exceptions) the grant of a permit to construct a building until an infrastructure contributions plan had been incorporated into the scheme. At the time of writing, the infrastructure contributions plan has not been finalised or incorporated into the scheme.
- I.6 The Minister, through the Department of Environment, Land, Water and Planning (DELWP) (the Department) invited the proponents of the called in applications to revise their designs having regard to the amended Planning Scheme controls and new Strategy.
- I.7 Revised proposals were required to be submitted as an application for the Minister to prepare, adopt and approve an Amendment to the Planning Scheme under Section 20(4) (i.e. an Amendment for which exhibition and notice is not undertaken) of the *Planning and Environment Act* (the Act).
- I.8 The Terms of Reference for the Advisory Committee sets out the process for consideration of Planning Scheme Amendment (PSA) applications including:
- The Department must prepare a brief to the Minister requesting the application be referred to the SAC.



- If the Minister decides to refer a PSA to the Advisory Committee, formal notice must be given to the City of Port Phillip or Melbourne (as applicable), relevant persons including land owners and occupiers, and referral authorities such as Melbourne Water.
- Parties have 20 business days to provide a written response to the Department, after which submissions are forwarded to the Advisory Committee.
- The Advisory Committee must commence a public hearing no later than two months after receipt of a Ministerial referral.
- Council would typically be allocated one day to present to the Advisory Committee, but may be allowed additional time if calling evidence.
- The Advisory Committee must submit its report to the Minister no later than 40 days from the completion of the hearing.

- I.9 The Minister must then determine whether to approve the proposal and PSA.
- I.10 Any approved PSA would then be listed in the Schedule to Clause 72.04 of the Planning Scheme, in the same manner as for example:
- Amendment C9 for the St Kilda Station Redevelopment, July 1999;
 - Amendment C110 for the Stokehouse, 30 Jacka Boulevard, St Kilda, July 2014; and
 - Amendment Port C149 for the Victorian Pride Centre Incorporated Document 2018.
- I.11 Developments could then proceed in accordance with plans and conditions referenced in the Incorporated Document.
- I.12 Once the infrastructure contributions plan is finalised and incorporated into the scheme, applications for planning permits in the FBURA could revert to the standard process.

Application Matters

- I.13 This report is to consider an application before the Minister for Planning to prepare, adopt and approve an Amendment to the Planning Scheme for proposal 118 Bertie Street, Port Melbourne.
- I.14 The proposal is an amendment to the development design originally lodged with the Department in June 2016.
- I.15 On 18 July 2017, the applicants lodged a S50 amended application with the Department. This was forwarded to Council for comment on 21 July 2017.
- I.16 The S50 amended application originally proposed to:
- Demolish all the existing buildings and remove all vegetation on the land.
 - Construct two towers of 18 and 19 storeys in height (including a single five level podium) containing ground floor level retail and SoHo dwellings, apartments above, and associated car and bicycle parking.



- The two towers were proposed to be linked by an open walkway at Level 6 (podium rooftop level), a glazed sky lobby/bridge at Levels 7 to 18, and an open walkway at roof top level.
 - Construct and carry out works including removing the existing central vehicle crossing and constructing a new 6.0m wide crossing at the southern end of the front boundary onto Bertie Street.
- I.17 On 15 December 2017, the permit applicant lodged an application for review against DELWP for failure to decide the application within 60 statutory days with the Planning List of the Victorian Civil and Administrative Tribunal (VCAT).
- I.18 On 30 January 2018, Council's Delegate considered the application for 118 Bertie Street, Port Melbourne. Council's delegate resolved to advise the Planning List of the Victorian Civil and Administrative Tribunal, the Minister for Planning C/- the Department of Environment, Land, Water and Planning and the applicant, that it does not support the application in its current form, in particular stating the grounds; The height of the tower would exceed the eighteen storey mandatory height limit, does not achieve a satisfactory level of sustainable design, wind impacts, does not achieve suitable noise attenuation levels, inadequate detail design with regard to car and bicycle parking areas, vehicle egress, and ceiling heights.
- I.19 The Minister did not make a decision on the application.
- I.20 On 21 February 2018, the application was called in by the Minister.
- I.21 The applicant subsequently elected to revise their designs and apply to the Minister to prepare a PSA and have their proposals assessed by the Advisory Committee.
- I.22 As per the original applications, it is proposed to demolish the existing buildings and construct a multi-level mixed-use podium and tower building on the site.
- I.23 The current application proposes a built form including:
- Demolish all the existing buildings and remove all vegetation on the land.
 - Construct a podium and tower form with a maximum height of 72.8 metres above ground level, comprising 20 storeys plus a covered rooftop terrace, with a 6 storey (24 metre) podium.
 - 165 apartments (47 x 1 bedroom, 84 x 2 bedroom and 34 x 3 bedroom).
 - 1,207 square metres (comprising 147.2 square metres indoor and 1,059.8 square metres outdoor) of communal recreational space for apartment residents
 - 458 square metres of retail floorspace and 295 square metres of commercial office floor space at the ground floor level
 - 101 car parking spaces (93 x residential, 6 x car share and 2 x commercial)
 - 8 motorcycle parking spaces
 - 204 bicycle spaces
 - A 9-metre-wide road along the south-east boundary.



- I.24 The application site is located in the Sandridge precinct of the Fishermans Bend Urban Renewal Area (FBURA).
- I.25 The Minister for Planning 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 as the proposal is for development with a building height of 4 storeys or greater, and use and development of 60 or more dwellings.
- I.26 The Standing Committee's consideration of applications called in by the Minister before the approval of Amendment GC81 is subject to the proposal:
- Responding to local policy;
 - Meeting the requirements of the CCZ, the DDO and the PO, other than:
 - i. the dwelling density requirement;
 - ii. the requirement to be generally in accordance with the Fishermans Bend Framework (September 2018); and
 - iii. the permit condition requirement to enter a section 173 agreement to provide a new road or laneway; and
 - Making appropriate development contributions.
- I.27 The Minister has provided Council with the opportunity to consider and provide advice on the application, which is to go before the Standing Advisory Committee and can be used by the Minister and his department in their assessment of the proposal.
- I.28 The proposed building now has a 20-storey built form, which would be two storeys and 8.2m higher than the previous proposal called in by the Minister. As part of the site (after the Gazettal of Planing Scheme Amendment GC81) is now in an area designated under the DDO32 as an area with a discretionary maximum height of 12 storeys, a portion of the proposed 20 storey tower will likely fall within this reduced height portion of the land, therefore failing to comply.
- I.29 The built form as proposed sets back the tower potion 26.7 metres from the front boundary of the site, almost 3 times the preferred setback stipulated under the DDO32. Due to the narrow width of the site, which is then further reduced in width by 9 metres road to be vested in Council, results in the tower portion of the built form being only 14.3 metres wide, consequently only presenting a very narrow built form to the Bertie Street streetscape. Given this narrow built form and the 26.7m setback to the street it is considered that the visual bulk resulting from the tower would be suitable given the site constraints.
- I.30 Notwithstanding that the building height specified for the land is discretionary and the increase in height achieves compliance with the non-specified height limit portion of the site and improves office and apartment amenity, and as will be discussed in the next portion does not unduly overshadow the proposed public open space to the south-west.



- I.31 DDO32 specifies the proposed park to the South-west of the subject site should not be overshadowed between 11.00am and 2.00pm on 22 September, whilst the revised design would change the pattern of shadow falling onto the reserve at 11.00am, the new shadow still does not fall onto the protected portion of the public open space complying with the overshadowing requirement specified in Section 2.6 of the DDO32, and by an hour later at midday has retreated to covering only half of Bertie Street and should be supported.
- I.32 The setback of the tower portion of the built form (forming levels 7 to 20) to the north-west side and the rear setback are specified on the plans at 5m, which is equivalent to the minimum setback specified under the DDO32, and far less than the 10m preferred setback specified. If the preferred 10 metre setback was enforced to the north-west boundary the tower would only be able to achieve a width of 9.36 meters, an unreasonable constraint on development. Therefore, it is recommended that the 5 metre setbacks should be supported.
- I.33 The terms of reference for an application to proceed to the Standing Advisory Committee states that *Proponents will be encouraged, but not required to meet the requirement to be generally in accordance with the Fishermans Bend Framework (September 2018) and provide new roads and laneways.*
- I.34 As the new road will likely be deemed a local urban road a through lane width of 3 metres (each way) will be suitable to facilitate the traffic flow. Given the terms of reference have designated that the provision of roads shown in the Fishermans Bend Framework are not mandatory and the reduced demand likely on the proposed new road, the 9 metre wide roadway is considered a suitable solution, that will still successfully implement the Fishermans Bend vision.
- I.35 Whilst Clause 58 does not apply, the on-site amenity and facilities and dwelling dimension provisions of Clauses 58.05 and 58.07 still provides an appropriate benchmark for the dwelling living and bedrooms and open space areas to demonstrate compliance eg: Min. open space areas of 8m² within min. dimension of 1.8m, 8m² with min dimension of 2m and 12m² with min. dimension of 2.4m for 1, 2 and 3BR dwellings respectively.
- I.36 With the exception of a small number of private open space balconies the proposal exceeds these minimum requirements. The development includes well in excess of the required communal open space provision of 30% net developable area to help offset the smaller private open space provision found in small number of the proposed dwellings. Separate foyers are proposed for the Bertie Street and proposed road interfaces, resulting in duplication of infrastructure for the first six levels of the building. The duplication results in a disconnect for the Bertie Street entrance from the common facilities proposed on site (gym, outdoor terraces and pool), Residents with dwellings accessed via the Bertie Street entrance will need to exit the building and go through the residential entrance on the proposed street to access these facilities.
- I.37 To improve connectivity, it is recommended that through access should be provided from the Bertie Street entrance to the common property on level 7, via the extension of the lift core up into the podium terrace area. This would allow



direct access from the Bertie Street lift core, onto level 7 and via the terrace into the tower lift well.

- I.38 The concession for private amenity and provision of commercial floor area below that required in the core area of Sandridge Precinct are weighed against the benefits of the build to rent model proposed, and its ability to deliver affordable rental properties in to the market. To ensure that the end use of the development will remain consistent with the stated build to rent model it is considered that to an agreement under Section 173 of the Planning and Environment Act be register on title as a condition of support.
- I.39 Subject to conditions, it is considered that the application should be supported.
- I.40 It is recommended that the Planning Committee resolve that a letter be sent to the Department of Environment, Land, Water and Planning advising that the Council does not support the proposal in its current form based on the matters set out in this report.
- I.41 That the Planning Committee advise the Department of Environment, Land, Water and Planning that in the event that the Minister determines to support the application, any permit issued should incorporate the recommended conditions.

3. RECOMMENDATION

3.1 RECOMMENDATION - PART A

- 3.1.1 Advise the Department of Land, Water, Environment and Planning that Council supports the application as proposed for the reasons set out in this report; subject to conditions.
- 3.1.2 In the event that the Standing Advisory Committee determines to grant a permit for the application, any permit issued should incorporate the without prejudice amended draft conditions to be provided as part of Council submission.

4. RELEVANT BACKGROUND

- 4.1 In February 2016, the Minister for Planning (the Minister) announced a review of the Strategy and Planning Controls for the Fishermans Bend Urban Renewal Area (FBURA)
- 4.2 On 19 December 2017, and then on 21 February 2018, the Minister called in all 26 live Ministerial planning permit applications in the FBURA, twenty-one of the called in applications are in the City of Port Phillip and five are in the City of Melbourne.
- 4.3 In October 2018, the Minister:
- Released a revised Fishermans Bend Framework;



- Approved Amendment GC81 to change the Planning Scheme controls for the FBURA; and
- Appointed the Fishermans Bend Standing Advisory Committee (the Advisory Committee) to advise on site specific planning controls to facilitate proposals within Fishermans Bend, prior to the introduction of an Infrastructure Contributions Plan for the called in applications and new proposals.

- 4.4 The subject application was one of the called in applications.
- 4.5 The Minister, through the Department of Environment, Land, Water and Planning (DELWP) (the Department) invited the proponents of the called in applications to revise their designs having regard to the amended Planning Scheme controls and new Strategy.
- 4.6 Revised proposals were required to be submitted as an application for the Minister to prepare, adopt and approve an Amendment to the Planning Scheme under Section 20(4) (i.e. an Amendment for which exhibition and notice is not undertaken) of the *Planning and Environment Act* (the Act).
- 4.7 The applicant subsequently elected to revise their designs and apply to the Minister to prepare a PSA and have their proposals assessed by the Advisory Committee, which forms the basis of this application.
- 4.8 The subject site currently contains a warehouse, and associated outbuildings and car parking to the rear.
- 4.9 There are five prior planning applications recorded for the land as follows:

| Application No. | Proposal | Decision |
|--|--|------------------------------------|
| 839/1995 | Construct 4 new warehouses with offices | Approved 9 January 2001 |
| 711/1996 | Use of the site for a timber yard. | Approved 12 August 1996 |
| 1458/2001 | Use of the site for timber yard & sales | Approved 26 October 2001 |
| 372/2016 | Construction of a wall in front of the building to contain a fire hydrant and booster | Approved 13 May 2016 |
| DELWP Ref: PA16/00111 CoPP Ref: MINRA 0005/2016 | Demolish the existing buildings and construct an 18 and 19 storey building (including a five and six level podium) containing ground floor level retail and Soh-lo dwellings, and apartments above, and associated car and bicycle parking and construct and/or carry out works in the Capital City Zone (CCZI). Use land for Accommodation (dwellings) in the Capital City Zone. Construct a building or construct or carry out works in the Design and Development Overlay (DD030) | Called in by Minister |



5. PROPOSAL

Amendment built form

5.1 The current application proposes the following:

5.1.1 Demolish all the existing buildings and remove all vegetation on the land

5.1.2 Substitute a revised design comprising:

- Construct a podium and tower form with a maximum height of 72.8 metres above ground level, comprising 20 storeys plus a covered rooftop terrace, with a 6 storey (24 metre) podium.
- 165 apartments (47 x 1 bedroom, 84 x 2 bedroom and 34 x 3 bedroom).
- 1,207 square metres (comprising 147.2 square metres indoor and 1,059.8 square metres outdoor) of communal recreational space for apartment residents
- 458 square metres of retail floorspace and 317 square metres of commercial office floor space at the ground floor level
- 101 car parking spaces (93 x residential, 6 x car share and 2 x commercial)
- 8 motorcycle parking spaces
- 204 bicycle spaces
- A 9-metre-wide road along the south-east boundary.

5.1.3 The proposed amended height and setbacks are as follows:

- Podium height: Six storeys / 24.2m on all elevations.
- Maximum tower height: 20 Storeys and roof top terrace, 72.9m (75.4 RL) to top of roof top services, and 64.9 metres (67.4 RL) to roof top parapet level.
- Front setback: 0.0m (podium), and 26.7m for the tower forming levels 7 to 20.
- Podium side setbacks: 9-10.8m (south-east elevation) and 0-5m (north-west) and no setback to all other elevations.
- Tower side setbacks: 13.8 to 14m (south-east elevation) and 4.8 to 5m for all other elevations.
- Rear setback: 0m (podium), and 4.8 to 5m (tower).

5.2 More particularly, the amended plans comprise:

Ground floor (Level 1)

- Two (2) retail premises fronting Bertie Street (with second frontage to new road) with a total floor area of 458m².



- Six (6) SoHo tenancies fronting the new road with a total floor area of 317m².
- Two residential entrance foyers, one fronting Bertie Street, the other fronting the proposed new road, both including four lifts, concierge desk, mailboxes, and access to 204 residential bicycle spaces.
- Vehicle access in the centre of the south-east to loading bay, and ramp to upper level parking.
- Back of house services including; residential waste room, communal recycling room, electrical substation, fire sprinkler system and rainwater tanks, two fire escapes and waste compactor room.
- Nine (9) metre roadway and pedestrian path along entire south-east boundary.

First floor (Level 2)

- Three dwellings including two (2), three-bedroom and one single bedroom dwellings, associated residential hallway, and lift fronting Bertie Street.
- The upper levels of seven (7) SoHo apartments, exiting directly to the proposed roadway to the south-west.
- Car park comprised of two (2) car share spaces, two (2) commercial spaces and twenty-nine residential car spaces.
- Four (4) motorcycle spaces.
- Lift core to upper tower, comprised of three lifts and dual bin shoots.

Second floor (Level 3)

- Three dwellings including two (2), three-bedroom and one single bedroom dwellings, associated residential hallway, and lift fronting Bertie Street.
- The upper levels of seven (7) SoHo apartments, exiting directly to the proposed roadway to the south-west.
- Car park comprised of two (2) car share spaces, and thirty-one residential car spaces.
- Four (4) motorcycle spaces.
- Lift core to upper tower, comprised of three lifts and dual bin shoots.

Third floor (Level 4)

- Three dwellings including two (2), three-bedroom and one single bedroom dwellings, associated residential hallway, and lift fronting Bertie Street.
- The lower levels of seven (7) three-bedroom apartments, fronting the proposed road.
- Car park comprised of two (2) car share spaces, and thirty-three residential car spaces.
- Lift core to upper tower, comprised of three lifts and dual bin shoots.



Fourth floor (Level 5)

- Three dwellings including two (2), three-bedroom and one (1) two-bedroom dwellings, associated residential hallway, fire escape and lift fronting Bertie Street.
- The upper levels of seven (7) three-bedroom apartments, fronting the proposed road, associated residential hallway, fire escapes and lifts.
- Communal open space comprised of two (2) gym areas (55.8m² and 52.5m²), and a residential terrace.
- Two residential storage rooms, with a total of 93 storage 2.5m³ or larger.

Fifth floor (Level 6)

- Three dwellings including two (2), three-bedroom and one (1) two-bedroom dwellings, associated residential hallway, fire escape and lift fronting Bertie Street.
- Eleven dwellings including: seven (7) two-bedroom dwellings, two (2) three-bedroom dwellings, and two (2) single bedroom dwellings, associated residential hallway, fire escapes and lifts exiting to the proposed road.

Sixth floor (Level 7)

- Eight dwellings including: three (3) two-bedroom dwellings, two (2) three-bedroom dwellings, and three (3) single bedroom dwellings, associated residential hallway, fire escapes and lifts exiting to the proposed road.
- Communal facilities including: communal room, and landscaped terrace area fronting Bertie Street.

Seventh to Nineteenth floor (Level 8 - 20)

- Nine dwellings including: five (5) two-bedroom dwellings, one (1) three-bedroom dwellings, and three (3) single bedroom dwellings, associated residential hallway, fire escapes and lifts exiting to the proposed road.

- 5.3 Materials and finishes are proposed to include face brickwork, coloured cement, powder coated metal, clear glazing, spandrel panels, Archclad panels, and painted concrete and cladding panels.



Figure 1: 3D renders of Bertie Street perspective, and podium elevation detail.

5.4 The plans and reports which are the subject of this assessment are those provided to Council entitled:

- Planning Permit Application – Mixed Use Build to Rent Development, Project number 1518, Issue Date 20 May 2019: Drawing Nos. A-0001, A-0101 to A-0104, A-1001 to A-1004, A-1101 to A-1122, A-2001 and A-2002, A-3001 to A-3004, A-4001, A-4101 to A-4108, A-4150, A-4201 to A-4212, A-8001 to A-8004, A-8101 to A-8103 and A-9001, all Revision D, prepared by Mako Architecture, received by Council on 25 July 2019.
- Landscape Plans, prepared by NBRS Architecture Landscape, dated 16 May 2019.
- Urban Context Report, prepared by Mako Architecture, dated 17 April 2019.
- Design Response Plans (56 sheets in total), prepared by Mako Architecture, dated 17 April 2019.
- Town Planning Report, prepared by Urbis, dated May 2019.
- Acoustic Report, prepared by Acoustic Logic, Revision 7, dated 19 March 2019.
- Site Investigation Report, prepared by Environmental Investigations Australia Pty Ltd, Revision 0, dated 13 May 2016.
- Build to Rent Analysis Report, Prepared by Urbis, Revision 2 dated May 2019.
- Traffic Engineering Report, prepared by Transport and Traffic Planning Associates, dated May 2019 (Rev I)

Summary comparison of plans

5.5 A summary and comparison of the **01 June 2017 original application plans** and the **20 May 2019 Amended Plans** is as follows:

| | 01 June 2017 - Original Plans | 20 May 2019 - Amended Plans |
|--------------------------------|---|---|
| Site area: | 3,031m ² (0.3ha.) approx. | 3,031m ² (0.3ha.) approx. |
| Use: | 165 Dwellings , (1 bed) 64 (38.7%), (2 bed) 52 (31.5%), (3 bed + SOHO) 49 (29.5%), and Retail 288m² (1 tenancy) | 165 Dwellings , (1 bed) 47 (28%), (2 bed) 84 (51%), (3 bed) 34 (21%), and Commercial: 317m² (6 SoHo tenancies) and Retail: 458m² (2 tenancies) |
| Social Housing | Nil proposed | Nil proposed |
| Gross Floor Area (GFA): | 27,748m ² | 27,917m ² |
| Street wall height: | 6 Storeys (19.2 metres) | 6 Storeys (24.2 metres) |
| Max. height: | 18 Storeys (plus roof form and plant) (highest point 64.7 metres) | 20 Storeys (highest point 72.9 metres, 64.9 metres to parapet) |
| Setbacks: | Podium Street Setback (Bertie St) - 0 metres (levels 1-6) Podium Side Setback: - 0 – 4.2 metres (north-west) - 0 metres (south-east) Tower Street Setback (Bertie St) - 10 metres (levels 7-18) Tower Side Setback: - 9.2 to 10 metres (both sides) | Podium Street Setback (Bertie St) - 0 metres (levels 1-6) Podium Side Setback: - 0 – 5 metres (north-west), - 9 -10.8 metres (south-east) Tower Street Setback (Bertie St) - 26.7 metres (levels 7-20) Tower Side Setback: - 4.8 – 5 metres (north-west), - 14.2 -14.4 metres (south-east) |
| Loading bay: | 1 loading bay located off the common accessway along the south-east boundary | 1 loading bay located off the new roadway along the south-eastern boundary. |
| Car parking: | Total 74. Residential (71 spaces), Retails (2 spaces), and Car share (1 space) Residential ratio 0.43:1 | Total 101. Residential (93 spaces), Car share (6 spaces), and Commercial (2 spaces). Residential ratio 0.61:1 |
| M'cycle parking: | 4 spaces | 8 Spaces |
| Bicycle parking: | 194 spaces (184 occupant, and 10 visitor spaces) | 204 spaces (Lockable at ground level - not allocated) |
| Communal Facilities | 304.5m communal recreation space comprising podium rooftop open space, and 3 x tower rooftop outdoor open space terraces inc. two partly roofed and one unroofed inc. | 147.2m² indoor: Gym (L5) and Communal Room (L7) 1,059m² outdoor; open space (L5, L7 and Rooftop) outdoor terraces, BBQ facilities and pool. |

| | | |
|-----------------------------|---|---|
| | an outdoor pool | |
| Storage lockers | 78 (L2 - 14, L3 - 14, L4 – 50) Storage: 1BR: 6m ³ internal; 2BR: 9m ³ internal; 3BR: 18m ³ internal | 93 (L5): 9.25m ² to 27.27m ² Storage: 1BR: 6m ³ internal; 2BR: 9m ³ internal; 3BR: 18m ³ internal |
| Private Open Space | Balcony: Min: 8.0m ² | Balcony: Min: 8.0m ² |
| Vehicle access: | Off Bertie Street: 1 x 6metre crossover against south-east boundary, and 1 x 3.5 metre crossover against north-west boundary. | A 12 metre roadway is specified along the south-eastern boundary under the FBURA policy. A 6.6 metre crossover is proposed onto the above roadway. |
| New Roads / Laneways | Road way proposed was not on subject site, however did about the north-west boundary. | 6m (w) road proposed along the inside of the south-east (side) boundary. |

5.6 Front (Bertie Street) and north-west (previous proposed road location) elevations of the 01 June 2017 - Original Plans are as follows:

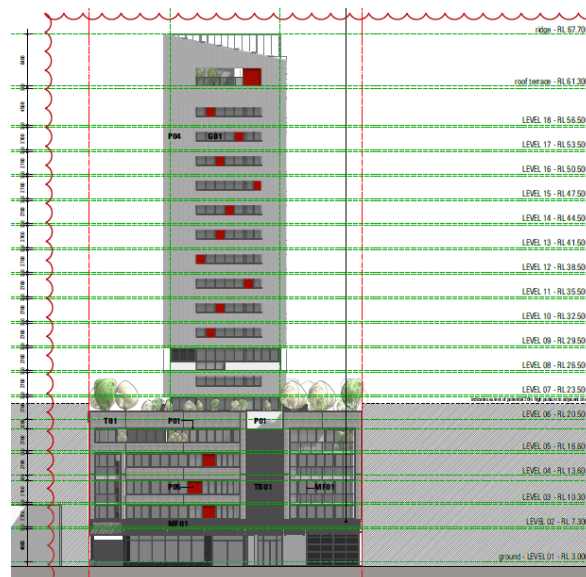


Figure 2: Front elevation (Bertie Street), of previous decision plans for MINRA 0005/2016.

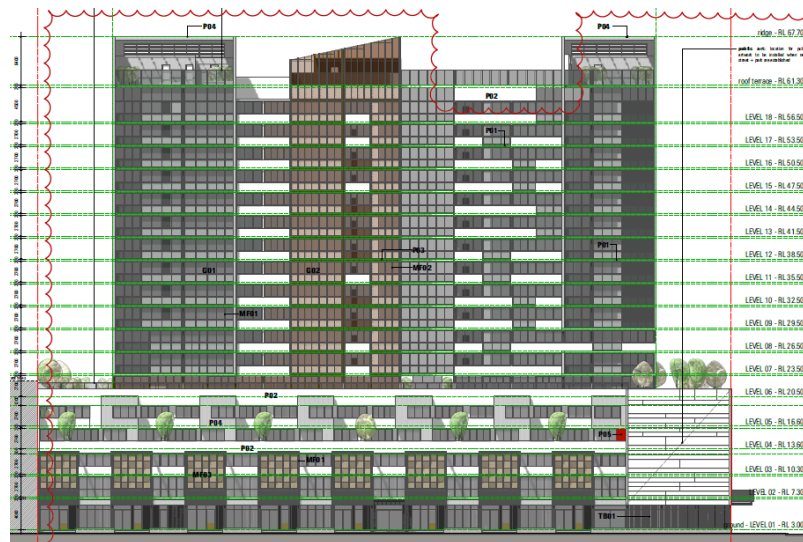


Figure 3: North-west elevation of previous decision plans for MINRA 0005/2016, fronting previous proposed street located to the north.

5.7 Front (Bertie Street) and south-east (current proposed road location) elevations of the 20 May 2019 - Amended Plans are as follows:

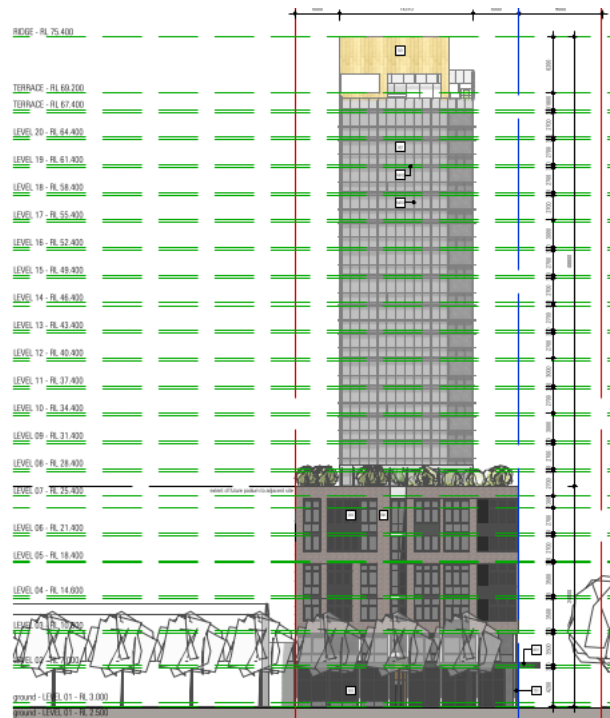


Figure 4: Front elevation (Bertie Street), of current decision plans.

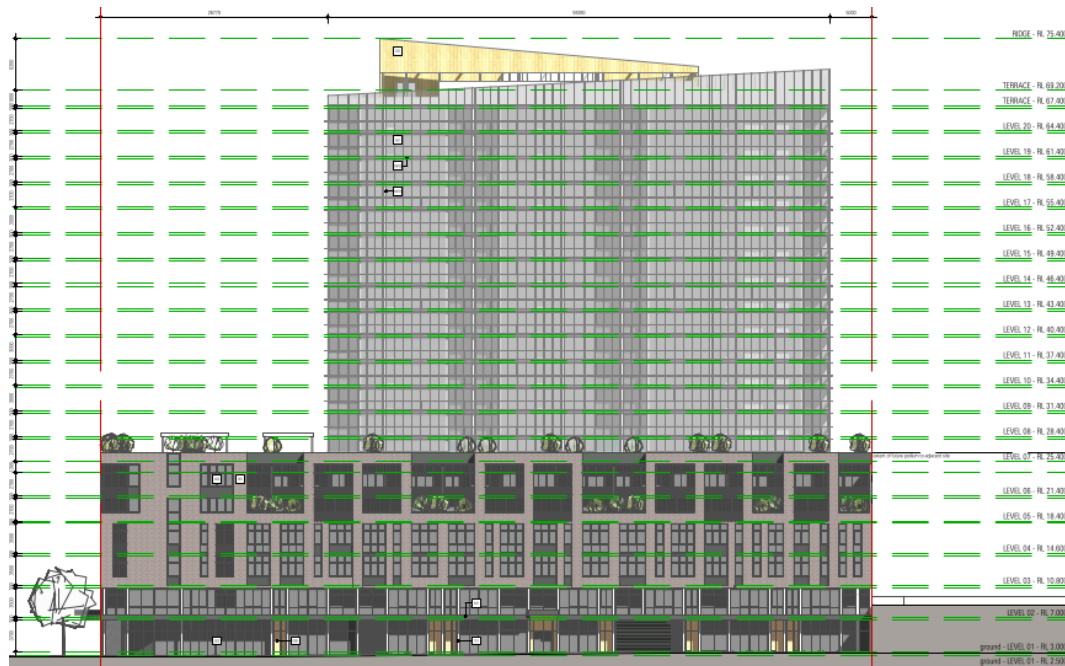


Figure 3: South-east elevation of current decision plans, fronting current proposed street located to the south.

6. SUBJECT SITE AND SURROUNDS

| Description of Site and Surrounds | |
|--|--|
| Site Area | 3,031m ² , including road, 1939m ² excluding Road |
| Existing building & site conditions | <p>The subject site is located on the eastern side of Bertie Street, approximately 200m north-west of its intersection with Fennell St, and 140m south-east of the West Gate Freeway. Bertie Street is a cul-de-sac that has no direct access to the Westgate Freeway.</p> <p>Bertie Street is approximately 30.0m wide and is identified in the FB Framework as a road where no crossovers are permitted (unless there is no other option for site access).</p> <p>The site is a regular rectangle in shape, with a frontage width 33.33m to Bertie Street, and depth of 90.93m.</p> <p>Surrounding land to the north and south of the site is developed for warehouses, factories and /offices.</p> <p>The land is relatively flat, with minimal undulation across the site.</p> <p>The land contains an existing warehouse, currently used for car storage with associated open-air car parking and outbuildings to the rear.</p> <p>There is currently no constructed footpath along the Bertie Street frontage of the site.</p> |
| Surrounds / neighbourhood character | <p>Surrounding land is developed as follows:</p> <p>North-west (side): 120-182 Bertie Street - A two storey industrial/warehouse building with ancillary office and showroom, with three access ways and open-air car parking within its front setback to Bertie Street. Over this site is No 140 Bertie</p> |

Street which is an open air carpark servicing the Toyota Headquarters, and the Westgate Freeway.

South-east (side): 261, 271-281 Ingles Street – The site is predominately cleared of buildings with the exception of two single storey warehouses and a two-storey heritage listed industrial building fronting Ingles Street and associated open air carparking. The land is subject to Planning Application 1/2015/MPA currently called in by the Minister which proposes to: *demolish existing buildings and construct three commercial and residential buildings:*

- Tower 1 - 34 levels (105.35m) inc. 4 level 15.35m podium, 381 dwellings, 458m² retail, 364 car spaces.
- Tower 2 - 34 levels (105.96m) inc. 4 to 6 level 15.35m to 18.38m podium, 393 dwellings, 717m² retail, 368m² commercial, 372 car spaces.
- Tower 3 - 52 levels (158.69m) inc. 6 level 23.09m podium) with 632 dwellings, 1255m² retail inc. 1000m² small supermarket.

South-East (opposite, across Bertie Street): 153 Bertie Street which contains seven double storey industrial buildings, with ancillary offices and showrooms. Within their front setback is an open air carpark and two crossovers onto Bertie Street.

North-east (rear): 297 Ingles Street which contains six double storey industrial buildings, with ancillary offices and showrooms, incorporating a shared open air carpark, and accessway within the centre of the site.

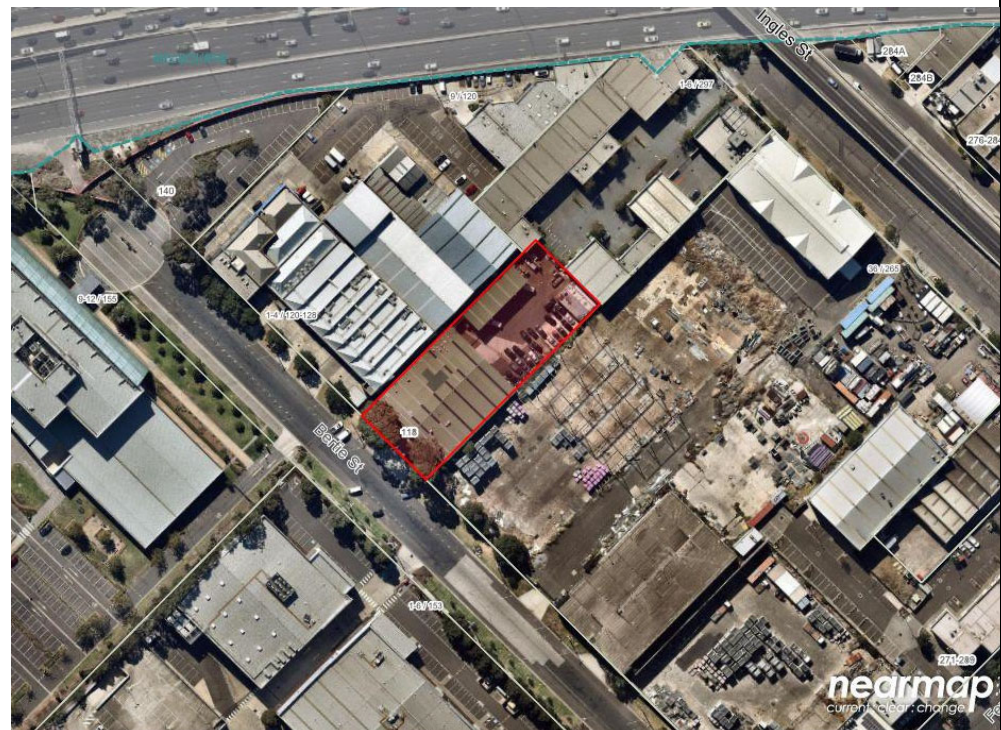


Figure 6: Subject site (shown in red) and surrounds - Image date 7 April 2019.



7. PERMIT TRIGGERS

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

| Zone or Overlay | Why is a permit required? |
|---|--|
| Clause 37.04: Capital City Zone (CCZ1) | <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 a Dwelling if it is:</p> <ul style="list-style-type: none"> • Within an Amenity buffer shown on Map 4 • Within a Core Area. • Within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline. • Within 100m of the Port Melbourne to Symex Holdings pipeline. <p>The land is within a Core Area, and amenity buffer shown on Map 4 within the Sandridge Precinct. Accordingly, a permit is required for a dwelling under this clause. This also includes a Retail Premises if it:</p> <ul style="list-style-type: none"> • Exceeds 1000 square metres gross leasable floor area, and is located outside a Core area. • Within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipelines as shown on Map 5. • Is within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5. <p>The land is a core area, is not over 1000m² in area, and thus does not require 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 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"> • The demolition or removal of temporary structures; • The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law. <p>A permit is required demolition under this clause.</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 to use the land for a Dwelling.</p> <p>A permit is not required to use the land for an Office as this use is as-of-right.</p> <p>Pursuant to Clause 4.2 of the Schedule to the CCZ1,</p> <ul style="list-style-type: none"> • Developments must provide bicycle, motorcycle and car share parking space(s) in accordance with Table 2 unless the Responsible Authority is satisfied that a lesser number is sufficient. |



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| | <ul style="list-style-type: none"> A permit must not be granted to construct a building or construct or carry out works where vehicle access points and/or crossovers (not including openings for a road) are located along roads designated as 'no crossovers permitted' in the relevant Map of this schedule, unless no other access is possible. <p>A permit is required to construct a building and construct and carry out works under this clause.</p> |
| Clause 43.02: Design and Development Overlay - Schedule 33 - Fishermans Bend - Sandridge Precinct (DDO33) | <p>The land is in Precinct Area S3 of DDO32 which encourages a Hybrid (predominantly high-rise) and a preferred maximum building height of 43 metres (12-storeys), at the Bertie Street end, with the remainder of the site having an unspecified in height.</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.1 of Schedule 32 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> |
| Clause 45.03: Environmental Audit Overlay (EAO) | <p>Pursuant to Clause 45.03-1 of the EAO:</p> <p>Before a sensitive use (residential use, childcare centre, pre-school centre or primary school) 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"> A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use. <p>A planning permit is required under this clause.</p> |
| Clause 45.09: Parking Overlay (PO1) | <p>A planning permit is required to provide more than the maximum parking provision specified for a use in Table 1 to this schedule.</p> <p>Use for Dwelling, Office and Retail premises are listed in Table 1. The number of car parking spaces does not exceed the maximum rates set out in Table 1; therefore a permit is not required under this clause.</p> |
| Clause 45.11: Infrastructure Contributions Overlay (ICO1) | <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"> A non-government school; Housing provided by or on behalf of the Department of Health and Human Services; Any other land or development of land specified in a Schedule to the ICO. <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"> An existing use of land provided the site coverage is not increased. A sign. Consolidation of land or a boundary realignment. <p>This clause is excluded in the terms of reference for the Standing Advisory Committee.</p> |



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| Clause 52.06: Car Parking | <p>Pursuant to Clause 45.09-1 (Parking Overlay) (PO), the PO operates in conjunction with the requirements of Clause 52.06.</p> <p>The parking rates of Clause 52.06 do not apply because the proposed Dwelling, Retail premises and Office uses are listed in Table 1 of the Parking Overlay.</p> <p>A permit is not required under this clause.</p> |
| Clause 52.34: Bicycle Facilities | <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 not required under this clause.</p> <p>Strategy 1.3.9 of the Fishermans Bend Framework October 2018 recommends the provision of one bicycle space per 50m² for workers and one space per 1000m² for visitors in non-residential areas.</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 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 original Permit, the Planning Scheme has been changed including by Amendment GC81 (gazetted 05 October 2018), which changed the controls affecting the site, including as follows:

- Revisions to Local Planning Policy, Clause 22.15 Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area, to specify discretionary targets for dwelling diversity, percentage of apartments with three or more bedrooms, affordable and Social housing, and minimum floor areas for employment uses.
- Revisions to the Design and Development Overlay Schedules DDO30, DDO32 and DDO33 which specify preferred and/or maximum street wall and tower heights, podium and tower street, side and rear boundary setbacks, and tower separation distances.
- Revisions to the Parking Overlay Schedule 1 to reduce the maximum parking rates for residential dwellings.
- Introduction of the Fishermans Bend Framework Plan, October 2018 to replace the Fishermans Strategic Framework Plan September 2016. The Framework is a reference document to the Port Phillip Planning Scheme.

8.6 On 20 June 2019, Amendment GC118 further amended the Planning Scheme to correct technical and formatting errors in Amendment GC81.

9. REFERRALS

Internal referrals

9.1 The application was internally referred for comment. Matters arising are discussed in Section 11 of this report.



| Internal Department / Referral Officer | Internal Referral Comments (summarised) |
|--|---|
| Waste Management | No objection |
| Heritage | No objection |
| Recreation and Open Space Planning | No objection |
| Traffic Engineers | To be provided |
| Strategic Planning/ Urban Design | <p>The following advice was received:</p> <ul style="list-style-type: none"> • The tower and podium composition is successfully expressed through a reflective glass, curtain-wall tower acting as counterpoint to the base of a more visually heavy, articulated, masonry podium. This variation is reinforced through vertical vs horizontal patterning/ expression between the lower and upper forms • The provision of ground floor activation through multiple tenancies and entries is supported. However, many of the doors are recessed more than 1200mm resulting in shaded, concealed alcoves which are known to present security, safety and maintenance issues. We understand the requirement for outward opening exit doors at ground floor but recommend bringing these doors and window lines as far forward as possible to remove the deep alcoves. • The window line of the corner tenancy is splayed and set back from the property boundary, presumably to create an opportunity for outdoor dining. This will be south facing and shaded which in a windy place like Port Melbourne is likely to have compromised amenity. Furthermore, spaces like this can create issues between public and private responsibilities. We recommend doing away with the splay and bringing the window line out to align with those in other retail and commercial tenancies. • It is expected that full occupation of ground floor tenancies may take some time. Further information be sought regarding strategies for the short-medium term viability of retail/commercial tenancies. • If not already provided, we recommend an expert report addressing wind effects on ground level footpaths and future park, podium and upper level common spaces. • Further information be sought to confirm layout, materials and finishes for streetscape including pavements, planting, street furniture, kerbside trading. |
| Environmentally Sustainable Design | <p>The following advice was received:</p> <ul style="list-style-type: none"> • A five star Green Star Design & As Built rating is targeted which is consistent with the mandatory Green Star condition under schedule 1 of the Capital City Zone. However, this project should seek a certified rating, as per the mandatory condition requirement in CCZ1, rather than just benchmarking against the Design & As Built rating tool, noting that the project will be required to be registered with the GBCA prior to commencement of works as per the condition wording. • The Green Star Design & As Built Scorecard targets 60 points, which will just make it to a five star rating, provided all those credits are actually implemented. The SMP should demonstrate how the development will achieve the rating with a 10% buffer above the minimum $60 + 6 = 66$ points Five Star Australian Excellence. General alignment to the Fishermans Bend Framework |



| | |
|-----------------|---|
| | <p>should also be followed as outlined in the Arup Report Fisherman's Bend Review of Sustainability Standards refer Appendix A for 5 star Pathway for 66 points.</p> <ul style="list-style-type: none"> • Apartment 3A and apartment 3C level 05, open plan living area and kitchen likely to have poor natural daylight, due to 9m+ room depth from glazing, single aspect nature of the room and the recessed location of the glazing along interior edge of an inset balcony. Suggest reconfiguration to significantly improve natural daylight to this apartment. • Adequate space allocation has been provided on the proposed roof plan for the solar PV consistent with the details in the SMP. This should be carried through to endorsed plans. • The north-east and north-west tower elevations will contain a high proportion of exposed glazing with no external shading to habitable rooms. External shading must be included. Reliance on "performance glazing" alone is insufficient to ensure low energy use and good thermal comfort for occupants. • Bike parking for residential and residential visitors meets best practice expectation for environmentally sustainable design (204 spaces). The inclusion of two cargo bike parking spaces is commended. Note that the SMP is inconsistent with plans. The plans show 204 bike parking spaces whereas SMP states 147. The SMP must be consistent with plans. • Visitor bike parking for the proposed retail/commercial spaces should be provided. This should be in a location that is visible on approach to the building and in a space with public surveillance. • SMP states that the rainwater catchment will comprise all roof areas of levels 5, 6, 7 and 20, with a total catchment of 1,435m². Given that the aforementioned roof areas cover the majority of the site area, it's unclear why the catchment is so much less than the total site area of approx. 3,000m². • The proposed rainwater tank capacity is not sufficient to meet mandatory FBURA tank sizing requirement of 0.5m³ per 10m² of roof catchment. Based on the proposed catchment area of 1,435m² the tank should be at least 72,000 litres, whereas 62,000 litres is proposed. Note that the total catchment area should be close to the total site area (as per previous comment), therefore it is likely that the catchment area will need to increase significantly and the required tank size will increase accordingly. • The tank should be connected to all toilets throughout the entire development, not just levels 1 to 12 as stated in the SMP. This is consistent with the mandatory condition requirements set out in Schedule 1 to the Capital City Zone and will ensure rapid drawdown from the rainwater tank, to provide tank capacity during storm events. |
| Arborist | <p>The following advice was received:</p> <ul style="list-style-type: none"> • Two Council owned trees are located within the nature strip adjacent to the site • One nature strip tree could be retained provided adequate tree protection management is adopted and one nature strip tree will require removal to construct the new road. • Please include the below as a conditions of the permit: <ul style="list-style-type: none"> ○ To satisfy Council that the street trees will be protected during development. Before demolition begins, a tree protection management plan (TPMP), setting out how the street tree's will be protected during construction and which generally follows the layout of Section 5 (i.e. General, Tree Protection Plan, Pre-construction, Construction stage and |



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| | <p>Post Construction) of AS4970 'Protection of trees on development sites'. Must be submitted to and approved by the responsible authority. When approved the TPMP will be endorsed and form part of the permit.</p> <ul style="list-style-type: none"> Any Council owned trees shown on the endorsed plans to be removed must not be removed, lopped or pruned without prior consent from the City of Port Phillip. If removal is approved, the amenity value along with removal and replacement costs must be met by the applicant/developer. Potentially up to four (4) trees within the front setback are considered significant under the local law. As the trees provide a significant canopy cover (approximately 400m²) for the area, are important in the context of the broader landscape and the trees proposed to be planted (as per the landscape plan) are unlikely to offset or improve the canopy cover of the site and broader area. Council should not support/grant a permit for their removal, as the loss of the trees will contradict Section 3.1 of Councils Plan of a greener, cooler and more liveable City. Each proposed tree planting within the site would require at least approximately 9.5m² of soil volume within the raised planter in order to provide enough space to establish the tree and for it to reach maturity without impacting the surrounding infrastructure. I have concerns about the proposed tree planting within the upper levels 5, 6 & 7 and how they are going to be stabilised against the effects of high wind loading while the tree is establishing. Cable guys attached to the base structure should be considered. |
| Housing Officer | <ul style="list-style-type: none"> The application proposes to provide 165 Build to Rent apartments, as well as retail and commercial floor space on the ground level, suggesting the development will target moderate income households. The application <u>does not</u> specifically indicate if and how affordable housing will be provided by the proposed Build to Rent development, through any specific arrangement or mechanism, but generally indicates it will be affordable due to: <ul style="list-style-type: none"> Additional rental supply can prevent rental process from further increasing in the market 2. Build to Rent' provides a counter cyclical boost to the housing market, in contrast to 'build to sell' It expands the breadth and depth of the housing continuum. <p>The applicant's 'Build to Rent Analysis' document quotes Council's In Our Backyard strategy, Appendix 2 'Spectrum of Housing Products' diagram, in particular:</p> <ul style="list-style-type: none"> 'Opportunity for increased housing products to create a continuum between social housing and market rate private housing'. <p>The application appears to rely on supply of Build to Rent, and the associated diversity of housing to create affordable housing, without specifying:</p> <ul style="list-style-type: none"> the target household incomes for households that will occupy the dwellings |



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| | <ul style="list-style-type: none"> - the rent levels that the apartment will rent for, and how the dwellings will be affordable to either very low, low or moderate income households under the income ranges specified in section 3AB of the Planning & Environment Act. - how it will address the 6% affordable housing target in the Fishermans Bend Framework. <p>The City of Port Phillip Housing Needs Assessment & Allocation Framework Report, by Beverley Kliger & Associates March 2019 indicates that affordable rent levels in Port Phillip in 2018 for very low, low and moderate income households.</p> <p>The application should provide the following:</p> <ul style="list-style-type: none"> • That it will provide 6% of dwellings that will be affordable to either very low, low or moderate income households • The mechanisms to be used to ensure that 6% of dwellings will be affordable to households with very low, low or moderate incomes, as defined in the Planning & Environment Act, including: <ul style="list-style-type: none"> - the number of dwellings allocated as affordable dwellings - the target household incomes and rent levels to be allocated the affordable dwellings - the number of bedrooms in the affordable dwellings (ie. 1,2 or three bedroom), with a preference for a mix of dwelling sizes to cater for the housing needs of smaller households and some family households. <p>I recommend that the arrangement to be used to ensure ongoing affordability is outlined in a section 173 Agreement.</p> |
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External referrals

- 9.2 Pursuant to Amendment GC81 approved on 05 October 2018, Council and Melbourne Water are **recommending referral authorities** for this application.
- 9.3 A referral authority must consider every application referred to it and may tell the responsible authority in writing that:
- (a) It does not object to the granting of the permit; or
 - (a) It does not object if the permit is subject to conditions specified by the referral authority; or
 - (b) It objects to the granting of the permit on a specified ground.

10. PUBLIC NOTIFICATION / OBJECTIONS

- 10.1 The Minister for Planning is the Responsible Authority for the proposal.
- 10.2 The Minister has not given notice of the proposal.



- 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. An application to construct a building or construct or carry out works in Schedule 33 to the Design and Development Overlay is also exempt from notice.

Pursuant to Clauses 1.0 and 2.0 of Schedule 1 to Clause 37.04 (Capital City Zone) and the Schedule to Clause 66.06 - Notice of Permit Applications under Local Provisions, notice of an application for a Retail premises within the buffer distance of pipelines shown on Map 5 of the Schedule, must be referred to the Operators and Licensees authorised under the respective pipeline licence. The land is not within the buffer distance of the pipelines.

However, Council is not the determining authority for this process.

11. FISHERMANS BEND STANDING ADVISORY COMMITTEE

- 11.1 The Minister has appointed the Fishermans Bend Standing Advisory Committee (the Advisory Committee) to advise on site specific planning controls to facilitate proposals to redevelop land within Fishermans Bend prior to the introduction of the Infrastructure Contributions Plan.

Terms of Reference

- 11.2 The Standing Committee's consideration of applications called in by the Minister before the approval of Amendment GC81 is subject to the proposal:
- Responding to local policy;
 - Meeting the requirements of the CCZ, the DDO and the PO other than:
 - i. the dwelling density requirement;
 - ii. the requirement to be generally in accordance with the Fishermans Bend Framework (September 2018); and
 - iii. the permit condition requirement to enter a section 173 agreement to provide a new road or laneway; and
 - Making appropriate development contributions.
- 11.3 Proponents will be encouraged, but not required to meet the control *'to be generally in accordance with the Fishermans Bend Framework (September 2018) and provide new roads and laneways'*.
- 11.4 The Standing Advisory Committee may inform itself in anyway it sees fit.
- 11.5 In addition, the Terms of Reference sets out matters the Advisory Committee must consider in assessing the appropriateness of a site specific planning control to facilitate a development, including:



- The Planning and Environment Act, the Planning Policy Framework, the Local Planning Policy Framework and local planning policies;
- The content, including the purposes of the planning controls introduced under Amendment GC81;
- Whether any departure from the Fishermans Bend Framework (September 2018) compromises the objectives of the Framework;
- The cumulative effect on the preferred character of the relevant precinct or the ability to achieve the objectives of Fishermans Bend arising from any departure from the Fishermans Bend Framework (September 2018); and
- All relevant submissions and evidence.

11.6 Paragraph 21 directs that the Advisory Committee must not consider submissions and evidence in relation to:

- (a) The application or operation of the Infrastructure Contributions Overlay.
- (b) The quantum of, or need for, public open space, roads and laneways.

Hearings

11.7 The Terms of Reference state the Advisory Committee is expected to carry out public hearings, and may conduct a hearing for two or more proposals concurrently.

Public hearings must commence no later than two months after receipt of a referral from the Minister for a proposal (i.e. by Tuesday 12 November 2019).

11.8 The Standing Advisory Committee will provide an opportunity for any person who requests to be heard to present to it. The Advisory Committee may limit the time of submitters appearing before it. Suggested time frame limits include:

- The Minister, Local Council, Proponent/Land owner: 1 day each
- Agency or Statutory Authority: 3 hours
- Community Group: 2 hours
- Individual: 30 minutes

Where a submitter calls evidence, additional time may be allowed.

11.9 The Standing Advisory Committee must produce and submit a written report for the Minister for each request, no later than 40 days from completion of the hearing.

11.10 The Terms of Reference are included as an attachment to this report.



12. OFFICER ASSESSMENT

12.1 Local Policy

- 11.1-1 The Fishermans Bend Framework October 2018 and associated changes to the Planning Scheme via Amendment GC81 set out the State Governments ambitions for the FBURA and the individual precincts.
- 11.1-2 The vision for the Sandridge precinct is to create One of Melbourne's premium office and commercial centres, balanced with diverse housing and retail development.

11.2 Fishermans Bend Urban Renewal Area Policy

- 11.2-1 Clause 22.15 of the Local Planning Policy Framework (LPPF) sets out Local Policy for the Fishermans Bend Urban Renewal Area for employment and dwelling development diversity.
- 11.2-2 An assessment of the proposal against the local policy is as follows:

| Policy | Officer Assessment |
|--|--|
| <p>22.15-4.1 Providing for employment floor area</p> <p>Development in a Core area <u>should</u> provide a minimum floor area ratio not used for dwelling of:</p> <p>Montague: 1.6:1; Sandridge 3.7:1; Wirraway 1.9:1. Exceptions apply.</p> | <p>Not achieved - Variation supported</p> <p>Pursuant to Clause 22.15-4.1 of the Local Policy, the site should provide 1337m² of employment floor area.</p> <p>The existing approval proposes 288m² employment floor area in one retail tenancy.</p> <p>The proposal would increase the commercial floor area to 775m² within eight tenancies (two retail and six SoHo).</p> <p>Neither the original approved commercial floor area or the amended proposal achieve the 3.7:1 plot ratio for the Wirraway core area.</p> <p>A variation is supported because:</p> <ul style="list-style-type: none"> The original application was submitted prior to the implementation of the plot ratio, so a level of concession should be given to the lesser employment floor area. The retail / commercial tenancy within the front of the building has been expanded and activates both Bertie Street and the proposed new road to the south and therefore would continue to provide activation facing these roadways. The six new SoHo tenancies will allow dual living and workings spaces, in accordance with this policy. |



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| <p>22.15-4.2 Community and diversity.</p> <p>Proposals of > 100 dwellings <u>should</u> provide 3BR dwellings: Montague: 25%; Sandridge: 20%; Wirraway: 30%.</p> <p>It is policy to:</p> <ul style="list-style-type: none"> • Encourage a diversity of dwelling typologies and sizes within each precinct and within individual development sites. • Encourage Affordable housing to be provided within a range of built form typologies. • Encourage design that delivers a range of housing types suitable for households with children • Encourage the delivery of adaptable floor plates including the opportunity to combine one and • two-bedroom units to form larger apartments. • Encourage communal open spaces within residential development to include a range of facilities, garden and recreation areas, with consideration given to opportunities for a range of users. | <p>Achieved in part</p> <ul style="list-style-type: none"> • The proposal includes a mix of 1 BR, 2BR, and 3BR dwellings of varying sizes. • The application specifies a build to rent model to provide affordable housing (as defined by the Act and the Planning Scheme) is proposed for all 165 apartments. • The dwelling layouts would deliver a range of housing types suitable for households with children, with a range of private outdoor spaces of 8.1m2 to 71m2 for dwellings. • Whilst the proposal has not shown delivery of adaptable floor plates, the built form includes a significant number of 100m2 or larger dwellings comprised of 3 bedrooms suitable for families in line with the Wirraway Precinct. • 147.2m2 indoor: Gym (L5) and Communal Room (L7) and 1,059m2 outdoor open space (L5, L7 and Rooftop) including, BBQ facilities and pool are incorporated into the site. • The proposal is for 165 dwellings and supplies 29.5% of these dwelling as 3 or more bedrooms, just below the 30% required. |
| <p>22.15-4.3 Providing for Affordable housing</p> <p>Affordable housing</p> <p>Developments <u>should</u> provide at least 6% of dwellings permitted under the dwelling density requirements in CCZ (excluding any Social housing uplift dwellings) as Affordable housing.</p> <p>Affordable housing <u>should</u> be mix of 1, 2 and 3BR, internally match other dwellings, be externally indistinguishable from other dwellings.</p> <p>Social housing</p> <p><u>Encourage</u> Social housing in addition to 6% Affordable housing – Social housing uplift: allow 8 additional private dwellings of equivalent size for each Social housing unit provided.</p> | <p>Achieved</p> <p>Affordable housing</p> <ul style="list-style-type: none"> • The applicant states a build to rent model providing affordable housing is proposed for all 165 apartments. • Evidentially, the application proposes a number of 1 and 2 bedroom apartments that could be delivered at the lower end of the rental market. • However, a direct commitment is not shown in the documents provided therefore a S173 Agreement registered on title specifying all dwellings are to be built to rent, and 6% of these will be affordable housing as specified under the Act, should be a condition of support. <p>Social housing</p> <p>No Social housing is proposed.</p> |



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| <p>22.15-4.4 Design Excellence</p> <p><u>Encourage</u> varied built form typologies that align with the precinct character area as detailed in the relevant Schedule to the Design and Development Overlay.</p> <p>Encourage fine grain, pedestrian scale environment.</p> | <p>Achieved in part - Condition(s) required</p> <ul style="list-style-type: none"> • The subject site is in precinct character area S3 of DDO32 which encourages a Hybrid (predominantly mid-rise [i.e. 7-15 storeys]) building typology. The land has a preferred maximum building height of 43 metres (12-storeys, transitioning to unspecified height). • The site is constrained by the limited width in conjunction with the required provision of a roadway along the entire S/E boundary, therefore achieving only the minimum setback to the side boundaries is considered satisfactory. • The materiality proposed would help to break up the length of the tower form reducing the impact form massing. The generous setback to Bertie street will minimise the extent of bulk and overshadowing to the roadway and park proposed to the south-west. • The proposed building envelope would generally match that specified under the DDO32, and suitably activates both Bertie Street and the new road to the S/E. • Some concerns with heat gain resulting from the extent of glazing have been raised however these could easily be addressed by conditions on a permit. • Council's Urban Designers are generally supportive of the proposed form. |
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| <p>22.15-4.5 Achieving a climate adept, water sensitive, low carbon, low waste community</p> <p><u>Energy:</u> Assess against:</p> <ul style="list-style-type: none"> • <u>Should</u> achieve a 20% improvement on current National Construction Code energy efficiency standards including for building envelopes, lighting and building services. • Residential development <u>should</u> achieve an average 7 star NatHERS rating for each building. • Developments <u>should</u> incorporate renewable energy generation, on-site energy storage and opportunities to connect to a future precinct wide or locally distributed low-carbon energy supply. <p><u>Urban heat island:</u> Assess against:</p> <ul style="list-style-type: none"> • At least 70% of total site <u>should</u> comprise building or landscape elements that reduce impact of urban heat island effect including: <ul style="list-style-type: none"> - Vegetation, green roofs and water bodies; - Roof materials, shade structures, solar panels or hard scaping materials with high solar reflectivity index. • Non-glazed façade materials exposed to summer sun <u>should</u> have a low solar absorptance. | <p>Achieved in part - Condition(s) required</p> <ul style="list-style-type: none"> • The SMP for the development specifies that build form will achieve an energy rating of 6.5 stars, which represents an improvement of 10% on minimum statutory compliance for the NatHERS Melbourne climate zone Falling short of the 20% improvement specified. • Adequate space allocation has been provided on the proposed roof plan for the solar PV consistent with the details in the SMP. This should be carried through to endorsed plans. • The north-east and north-west tower elevations will contain a high proportion of exposed glazing with no external shading to habitable rooms. • Any approval that may issue for the proposal should include a condition for changes to address the above matters. |
| <p><u>Sea level rise, flooding and water recycling and management:</u></p> <p>Raise internal floor levels above street level as a last resort, except where other measures and evidence / risk management necessitates it.</p> <p>Assess proposals in flood prone areas against:</p> <ul style="list-style-type: none"> • Design elements and materials <u>should</u> be resilient inc. water proof doors and windows, elevated power outlets and the like. • Land uses at ground level <u>should</u> be able to easily recover from temporary flooding. • Any level changes required between street level and internal ground floor <u>should</u> be integrated into the building design to maintain good physical and visual connection between street and interior. | <p>Achieved in part - condition(s) required</p> <ul style="list-style-type: none"> • The finished floor level at 2.5 metres sits below the 3 metre AHD specified by Melbourne water. • However, in the advice updated advice from MW dated 11 April 2019 a minimum level of 2 metres AHD may be granted under specific conditions. • The proposed height of 2.5 metres should be referred to Melbourne Water for advice as part of the application. |

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| <ul style="list-style-type: none"> • Essential services such as power connections, switchboards and other critical services <u>should</u> be located to address flooding impacts. • Developments and public realm layout and design should integrate best practice WSUD. | |
| <p>22.15-4.6 Communal open spaces</p> <p><u>Encourage</u> developments to landscape all public, communal and private open space.</p> <p>Landscape areas <u>should</u>:</p> <ul style="list-style-type: none"> • Contribute to creation of sense of place and identity and preferred character for the precinct. • Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice WSUD. • Incorporate opportunities for community gardens. • For POS, interpret and celebrate heritage and culture inc. Aboriginal cultural heritage. <p>Plant selection <u>should</u>:</p> <ul style="list-style-type: none"> • Support complex and biodiverse habitat including native and indigenous flora and fauna. • Balance provision of native and indigenous plants with exotic climate resilient plants that provide opportunity for biodiversity. • Support creation of vegetation links within FB to surrounding areas of biodiversity, plant selection design. <p>Buildings <u>should</u>:</p> <ul style="list-style-type: none"> • Include deep soil zones of at least 1.5m or planter pits for canopy trees. • Incorporate green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions. | <p>Achieved</p> <ul style="list-style-type: none"> • The application proposed 1,059m² communal outdoor open space (see L5, L7 and Rooftop) in the form of terraces. • The landscape plan provided indicates suitable planting opportunities including deep soil planting on the terraces situated at levels 5 and 7, and a diverse mix of indigenous and climate resilient plants will be utilised in keeping with the intent of this policy. • Suitable flood mitigation and stormwater run-off, and best practice WSUD have also been incorporated into the communal spaces, which will be considered further as part of our ESD referral comments discussion. |
| <p>22.15-4.8 New streets, laneways and pedestrian connections</p> <p>New streets, laneways and pedestrian connections <u>should</u> be spaced:</p> <ul style="list-style-type: none"> • Core areas: not more than 50-70m apart in preferred direction and 100m apart in the other direction in a block. • Non-core areas: not more than 100m apart and orientated in the preferred direction. | <p>Achieved in part - Condition(s) required</p> <ul style="list-style-type: none"> • South/west (side): The subject site is designated under the Fisherman Bend Framework to have a 12-metre laneway along the south-west boundary, over which will be a future lineal park. The subject site is 3031m² and under the current proposal only designates a 9 metre wide road. • The reduced road width at 9 metres will still facilitate a 6 metre wide two-way carriage for vehicles whilst allowing separated pedestrian |



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| <p>The preferred direction for new pedestrian connections and laneways is north-south.</p> <p>Sites >3000m2 <u>should</u> provide new streets, laneways or paths to create mid-block through links and define and separate buildings.</p> <p>New streets, laneways and pedestrian connections <u>should</u>:</p> <ul style="list-style-type: none"> • Be aligned with and connected to existing and proposed streets as per relevant Maps in CCZ1. • Provide direct access to existing or proposed public transport stations and routes, and existing or proposed public open space. <p>New shared streets or lanes <u>should</u> prioritise pedestrian movement and safety.</p> <p>New streets and lanes <u>should</u> be designed to: Enable views through the street block; Have active frontages in a core area; Be open to the sky; Allow for canopy tree planting.</p> | <p>footpaths to prioritise pedestrian movement and safety.</p> <ul style="list-style-type: none"> • The reduce width of the proposed road will not result in width discrepancies with existing roads as it is a discrete road not a continuation of an existing (or proposed) roadway. • The site would maintain the current activation of Bertie Street. |
| <p>22.15-4.9 Sustainable transport</p> <p>Ensure development does not compromise the delivery of future PT inc, new tram, train and bus routes.</p> <p>Reduce impacts of new vehicle access points on pedestrian, PT and bicycle priority routes.</p> <p>Design internal connections to give priority to pedestrians and bicycles.</p> <p>Provide high levels of and easy access to bicycle parking facilities, inc. change rooms, showers and lockers.</p> <p>Encourage developments to provide less than preferred max. no. car spaces.</p> <p>Encourage developments to provide for future conversion of car parking to alternative uses.</p> | <p>Achieved in part - Condition required</p> <ul style="list-style-type: none"> • The proposal would not compromise the delivery of future public transport. • The proposed vehicle crossings and new lane access point would not materially adversely impact on any pedestrian, or bicycle priority routes. • The proposal would not exceed the maximum number of car spaces specified under the PO1. • An appropriate levels of easily accessible bicycle parking has been provided on site, but end of trip facilities have not been provided as the provision of bicycle parking is for residential properties on site, making the end of trip facilities redundant. |
| <p>22.15-4.10 Land use transition</p> <p>Ensure new uses and expansion of existing uses with potential adverse amenity impacts do not prejudice the urban renewal of Fishermans Bend.</p> <p>Applications that may be affected by adverse amenity impacts, require the preparation of an Amenity Impact Plan that includes measure to mitigate adverse amenity impacts.</p> | <p>Achieved</p> <ul style="list-style-type: none"> • A detailed Amenity Impact Plan (AIP) has been prepared by GHD (Appendix H). • The AIP highlights that the subject site is within proximity to several uses which may cause adverse amenity impacts. • The AIP concludes that the site's amenity will not be adversely impacted by potential noise and air impacts. Additionally, the proposed |



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| | development of the site is not likely to result in dis-amenity to the existing industries. |
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11.3 Dwelling Density

11.3-1 The site is in the Sandridge area for which a maximum dwelling density of 349 dwelling per hectare is specified. The proposed 165 dwellings would not exceed the maximum density as follows:

| Capital City Zone (CCZ1) | Maximum dwelling density | Proposed No. dwellings |
|--|---|---------------------------------|
| Dwelling density (maximum) Sandridge core area: 349 dw/ha | Including land designated as a road: 165 dwellings/ 3031m ² = 544 dw/ha. Excluding the land designated as a road: 165 dwellings/ 1939m ² (lot size excluding 12m road) = 850 dw/ha | 165 dwellings – Fails to comply |

11.3-2 However the terms of reference for the Standing Advisory Committee process precludes the requirement to meet the dwellings density ratio specified above.

11.4 Building Mass, Height and Setbacks

11.4-1 The height and setback controls for the land have materially changed since the original application was approved pursuant to Amendment GC81

In particular, the new controls set out preferred and mandatory built form requirements. A permit may be granted to vary a preferred requirement, but cannot be granted to vary a mandatory requirement.

Pursuant to Clause 2.2 of DDO32, the requirements of GC81 do not apply to an application to amend an existing permit granted prior to GC81, provided it does not increase the extent of non-compliance with the requirements of DDO32. As the original application was never determined the above exemption does not apply.

The currently proposed plans comply only in part with the preferred and/or setback requirements of DDO32 and increase the extent of non-compliance compared to the original plans, particularly the setback of levels 7 to 20, which have architectural features setback only 4.8 metres from the side and rear boundaries, failing to meet the mandatory minimum setback.

11.4-2 Under DDO32 a 12 metre wide roadway is intended to run along the entirety of the south-east boundary of the site providing a throughway from Bertie Street to Ingles Street. The plans fail to provide this 12m road, and instead only designates 9.0m of the land, falling short of this requirement.

11.4-3 The table below sets out an assessment of the original application and the amendment proposal against the current DDO planning controls.

Table 11.4-5 - DDO32 Built Form Compliance Summary

11.4-6 An assessment of the proposal against the DDO32 policy follows, with non-compliances shown **red**:

| DDO32 | | Proposed | |
|---|---|-------------------------------------|--|
| Podium height (Pref) | At least 4 storeys | Podium height | 6 storeys |
| Podium height (Max) | 6 Storeys (>22m) | | |
| Overall Height storeys | 12 storeys (Bertie St) Unlimited (Ingles St) | Overall Height storeys | 20 Storeys (including a 6 storey podium) |
| Overall Height metres | 43m (Bertie St) None Specified (Ingles St) | Overall Height metres | 72.9m (top of services) 64.9m (top of parapet) (24.2 metres within height restricted portion the land) |
| Setback from street wall (Minimum) | 5m | Setback from street wall | 26.7m |
| Setback from street wall (Preferred) | 10m | | |
| Tower Setback side boundaries (minimum) | 5m | Tower Setback side boundaries | 4.8–5 metres (N/W) 14.2-14.4 metres (S/E) |
| Tower Setback side boundaries (preferred) | 10m | | |
| Primary active frontages | 80% clear glazing | Primary active frontages | N/A |
| Secondary active frontages (type 1) | 60% clear glazing | Secondary active frontages (type 1) | N/A |
| Secondary active frontages (type 2) | 20% clear glazing | Secondary active frontages (type 2) | N/A |
| DDO32 - Adaptable buildings | | | |
| Ground level | At least 4m in height | Ground level height | 3.7m |

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| Other levels in podium (inc. parking) | At least 3.8m in height | Heights of other levels in podium (inc parking) | 2.7-3.5m 2.7m (levels 5 and 6) |
| Dwelling adaptability | Ability for one and two-bedroom dwellings to be combined | Dwelling adaptability | Stated in report but not shown on the plans |
| CCZ1 | | | |
| Dwelling density must not exceed | 349dw/ha | Dwelling density Proposed | 165 dwellings/ 3031m2 = 544 dw/ha 165 dwellings/ 1939m2 = 850 dw/ha |
| Commercial to dwelling floor area required | 3.7:1 | Dwelling density needed | 106 dwellings/ 3031m2 = 349 dw/ha 67 dwellings/ 1939m2 = 349 dw/ha |

Height

11.4-4 The building now proposed has a 20-storey built form, which would be two storeys and 8.2m higher than the previous built form called in by the Minister. As part of the site (after the Gazettal of Planning Scheme Amendment GC81) is now in an area designated under the DDO32 as having a discretionary maximum height of 12 metres a portion of the proposed 20 storey tower will likely fall within this reduced height portion of the land, therefore failing to comply. The remainder of the lot is within an area with no height restriction therefore only a small portion of this built form would be non-compliant.

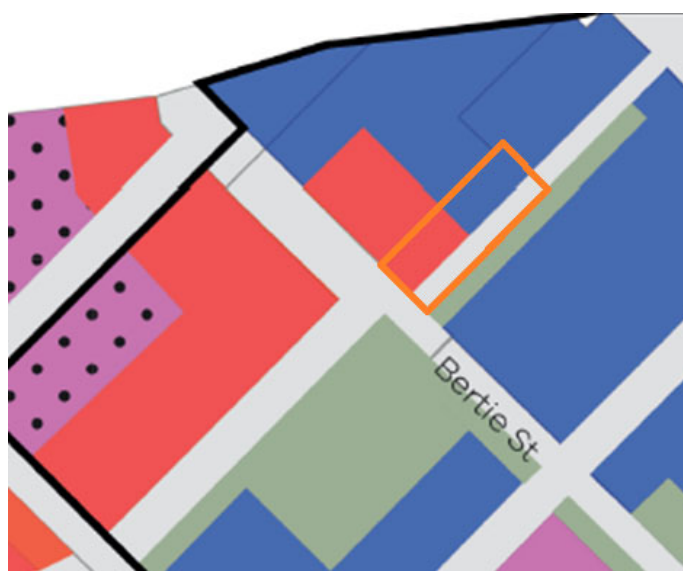


Figure 7. Extract of Map 2 of DDO32 showing the 12-storey height area in **red**, and non-specified height area in **blue**, and propose public open space in **green**. The subject site boundaries are shown **orange**.



- 11.4-5 The 12 storey (43m) height limit is located over the Bertie Street portion of the site, and is intended to reduce the visual bulk, and shadowing impacts from any proposed built form onto the public realm of Bertie Street and the future public park to the south-west of the subject site. The built form sets back the tower portion 26.7 metres from the front boundary of the site, almost 3 times the preferred setback stipulated under the DDO32.

Due to the narrow width of the site, which is then further reduced in width by the 9 metres road to be vested in Council, results in the tower portion of the built form being only 14.3 metres wide, therefore presenting a very narrow form to the Bertie Street streetscape. Given this narrow built form and the 26.7m setback to the street it is considered that the visual bulk resulting from the tower would be suitable given the site constraints.

- 11.4-6 It should also be noted that the top-most 6.2 metres of this built form height is in the form of structures encasing the roof top services which are allowed to encroach over the height limit specified in the DDO32.
- 11.4-7 The site has discretionary building height specified only over part of the land of 12 metres with the remainder of the land having no specified height limit. Given the portion of the 20 storey tower encroaching into the lower height limit area is minimal this on balance with the improved office and apartment amenity could be supported.

As will be discussed in the next part of this report, the proposal would not unduly overshadow the future public open space to the south-west.

Shadow impacts

- 11.4-8 The Fishermans Bend Framework and the Planning Scheme stipulates the protection of the proposed and existing open spaces from impacts from surrounding developments, including from overshadowing.
- 11.4-9 DDO32 specifies the proposed park to the South-west of the subject site should not be overshadowed between 11.00am and 2.00pm on 22 September, however it should be noted that at the time of the original application, the shadow policy formed Objective 3.3, Guideline 4 of the Fisherman Bend Framework.
- 11.4-10 The proposed 26.7m setbacks of the tower portion of the built form to the Bertie Street (front) boundaries would increase the shadows cast compared to the current called in application. However, as demonstrated by the shadow diagrams at Figures 8 and 9, the extent of shadow on the proposed public open space would comply with this requirement.

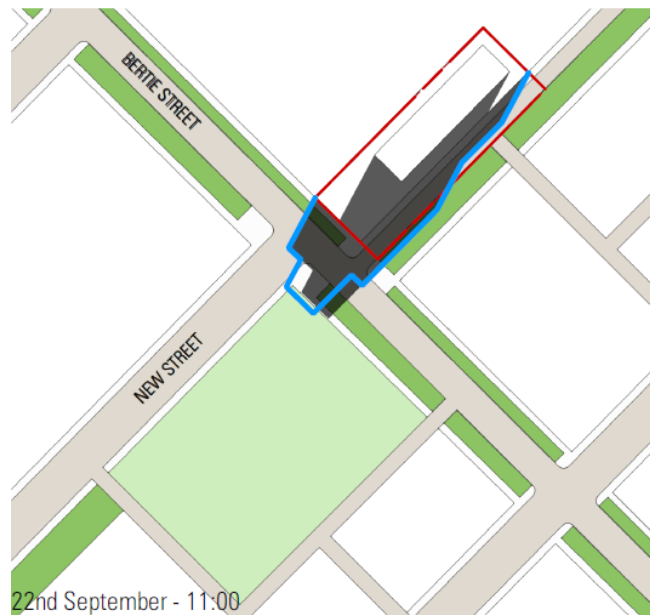


Figure 8: Extent of shadow at 11am on 22 September equinox. (Dark grey shading = proposed extent of shadow. Blue outline = shadow that would be cast by the planning envelope specified under the DDO32).

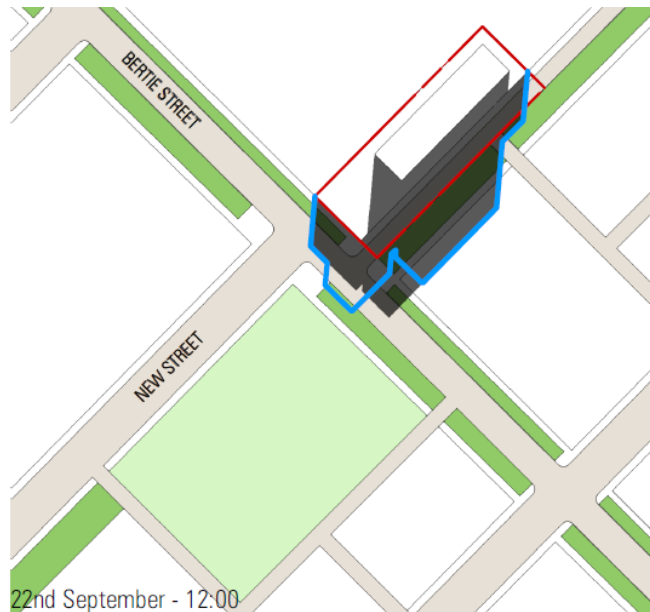


Figure 9: Extent of shadow at midday on 22 September equinox. (Dark grey shading = proposed extent of shadow. Blue outline = shadow that would be cast by the planning envelope specified under the DDO32).

11.4-7 Whilst the revised design would change the pattern of shadow falling onto the reserve at 11.00am, the new shadow still does not fall onto the protected portion of the public open space complying with the overshadowing requirement specified in Section 2.6 of the DDO32, and by an hour later at midday has retreated to covering only half of Bertie Street.



Front setbacks above the street wall

11.4-7 The current permit plans set the tower back 10m from Bertie Street above the podium street wall, which was set directly on the front boundary.

DDO32 specifies a preferred setback above the street wall of 10.0m and a minimum setback of 5.0m. As a podium-tower building typology is proposed, this exemption does not apply.

The amended plans propose to set the tower portion of the building (forming levels 7 to 20) back 26.7m. This setback far exceeds the minimum setback, however, it also far exceeds the preferred setback of 10 metres. On balance, given the shadow impacts that would result from compliance with a 10 metre preferred setback the increased setback is an improved outcome, over that sort by the 10 metre setback normally designated under the DDO32.

Side and rear setbacks

11.4-10 The setback of the tower portion of the built form (forming levels 7 to 20) to the north-west side and the rear setback are specified on the plans at 5m, which is equivalent to the minimum setback specified under the DDO32. The preferred setback for the site is 10 metres to side and rear boundaries, which the proposal falls far short of.

11.4-11 It is considered that some concession is appropriate, given the site's constraints due to the narrow width of the land and the burden of providing a 9.0, (w) road along the south-east boundary. This road effectively reduces the gross usable site area from 3031m² to 1939m², or by 36%. The impact on the width of the site is even more pronounced, with the original width of 33.36m being reduced to 24.36 metres. If the preferred 10.0m setback was enforced to the north-west boundary the tower would only be able to achieve a width of 9.36m, an unreasonable constraint on development. Therefore, it is recommended that the 5.0m setbacks should be supported.

11.4-12 A closer examination of the tower setbacks shows that the elevations contain design elements within the glazing treatment at each of levels 7 to 20 that protrude into the 5.0 minimum setbacks by approximately 0.2 metres. Given the minor intrusion into the minimum setback, and the modest extent of built form that infringes the setback, the non-compliance is considered acceptable in this instance.

11.5 Proposed roadway

11.5-1 The terms of reference for application proceeding to the Standing Advisory Committee states that *Proponents will be encouraged, but not required to meet the requirement to be generally in accordance with the Fishermans Bend Framework (September 2018) and provide new roads and laneways.*

11.5-2 Map 2 (Sandridge Urban Structure) of Schedule 1 of the CCZ, as well as the Fisherman Bend Framework (October 2018) designates that a 12.0m wide new roadway is intended to run along the south-east boundary of the subject site to

create a thoroughfare from Bertie to Ingles Street, and will be abutted to its south-east by a lineal park.

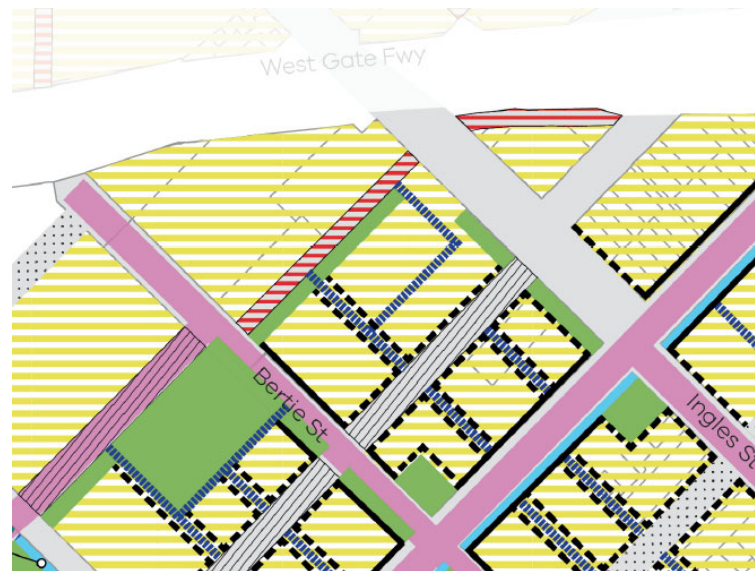


Figure 10. Extract of Map 2 of CCZ1, showing the proposed 12 metre roadway in red cross hatching.

11.5-3 The subject site is 3,031m² in area and under the current proposal only designates a 9.0 wide roadway, which as shown below facilitates a 6 metre wide road, with separate pedestrian path either side of a 1.5m width (or one pathway of 3.0m). The application states that the proposed allowance for a 9.0m wide roadway along the south eastern boundary will ensure that the intentions of the Fishermans Bend Framework are successfully implemented by providing an effective vehicular and pedestrian connection between Bertie and Ingles Street.

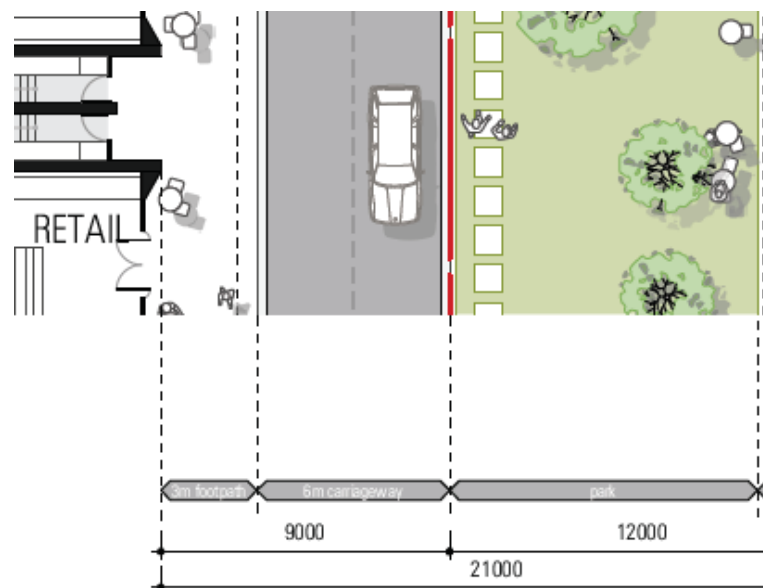


Figure 11: Demonstration of the ability to achieve a 6 metre wide two-way thoroughfare within the 9 metre roadway proposed by the applicant. South-east lot boundary shown in red.



- 11.5-4 Given the constraints of the site due to its small size, and narrow width enforcing the provision of the full 12 metre extent for the new road, needs to be considered against the likely vehicular traffic that will eventually utilize the road and the effect, if any, of the reduced width of the road would have on its feasibility and usability as intended by the Fishermans Bend Framework.
- 11.5-5 Austroads Guide to road design specified that the main factor to be considered for the width of a proposed road is the Annual Average Daily Traffic (AADT) and what percentage of this is to be heavy vehicles. The guide specified that for a local urban road a through lane width of 3 metres (each way) will be suitable to facilitate the traffic flow. As Bertie Street and the relevant portion of Ingles street terminate at the Westgate Freeway, the frequency of vehicles along this road should be reduced to primarily only local traffic.
- 11.5-6 Given the terms of reference have designated that the provision of roads shown in the Fishermans Bend Framework are not mandatory and the reduced demand likely on the proposed new road, the 9 metre wide roadway is considered a suitable solution, that will still successfully implement the Fishermans Bend vision.

11.6 Interior Layout, Amenity and Diversity.

Dwelling Design

- 11.6-1 Clause 58 apartment standards do not apply to an application if the original permit application was lodged before the approval date of Amendment VC136, which is the case in this instance.
- 11.6-2 The size, layout and amenities of the dwellings have been modified over that originally proposed, and are focussed on providing a wide range of rental housing into the market as follows:
- Forty-four (44) small single bedroom apartments with floor areas of 38.2m² to 39.8m² + 8.1m² balconies.
 - Three (3) standard single bedroom apartments with floor areas of 48.6m² + 8.3m² balconies.
 - Eighty-four (84) two-bedroom dwellings with internal floor areas ranging from 64.6 to 94.9m² and open space provision from 8.1m² to 131m²;
 - Thirty-four (34) three-bedroom dwellings with internal floor areas ranging from 78.9 to 140m² and open space provision ranging from 10.3m² to 75m².
- 11.6-3 Whilst Clause 58 does not apply, the on-site amenity and facilities and dwelling dimension provisions of Clauses 58.05 and 58.07 still provides an appropriate benchmark for the dwelling living and bedrooms and open space areas to demonstrate compliance eg: Min. open space areas of 8m² within



min. dimension of 1.8m, 8m² with min dimension of 2m and 12m² with min. dimension of 2.4m for 1, 2 and 3BR dwellings respectively.

- 11.6-4 With the exception of a small number of private open space balconies the proposal exceeds these minimum requirements. It should be noted that the development includes well in excess of the required communal open space provision to help offset the smaller private open space provision found in a number of the proposed dwellings. A full assessment against Clause 58 can be found as appendix 8 attached to this report.

11.7 Resident Communal Facilities

- 11.7-1 1,059m² of external and 147m² of internal communal open spaces is proposed as part of this development. Three external terraces are proposed, a small terrace at level 5, a large landscape terrace at level 7, and a rooftop terrace including a pool. The internal communal open spaces, are proposed in the form of two separate gym areas on level 5 and a multipurpose communal room at level 7.

The areas of communal open space have been designed for a range of purposes and provide:

- A gym area with outdoor courtyard
- Podium gardens for active and passive recreation including BBQ area, seating and a bocce court.
- A communal room with the flexibility to be used for a range of uses including a large dining room, lounge, meeting space and office space.
- Rooftop swimming pool and surrounding passive recreation area.

- 11.7-2 DDO32 specifies that 30% of the net developable area should be provided as communal open space. The net development area is 2,212.3 square metres (3031m² – 9 metre roadway) which equates to a minimum area of communal open space to be provided as 663.7 square metres (30%). The proposal incorporates 1,059.8 square metres of communal open space exceeding this requirement by 17%.

11.7 Commercial premises

- 11.7-1 The Fishermans Bend Local Policy at Clause 22.15 of the Planning Scheme encourages new development in Core areas to provide a percentage ratio of the site as non-residential (i.e. retail / commercial / office) floor area.
- 11.7-2 The subject site is in the core area of the Sandridge precinct a discretionary minimum non-residential floor area ratio is required of 3.7:1. As proposed, the total floor area not used for a dwelling is 4,424.6sqm. This is a plot ratio of 2.1:1 (based on a site area of 2,121.4sqm – exclusive of the new 9 metre road).
- 11.7-3 The applicant states that whilst the total area not used for a dwelling is less than 3.7:1, it is considered appropriate in this instance given that:



- *The built form envelope available on the site makes it impractical to provide the minimum plot ratio. This is because the site is relatively small as it stands and has been considerably reduced by the 9m wide road required to be included along the south-eastern border. Further to this, the large setback requirements mean that providing desirable commercial floorplates within the tower levels is not possible.*
- *The podium's minimum floor to floor heights of 3.5m will allow for future conversion of the car park and residential areas to employment generating uses.*
- *The build to rent model of ownership will allow for the developer to choose to convert apartments into commercial floorspace in the future, should the demand support this change of use.*
- *Given that this will be one of the first buildings to be approved and constructed in Fishermans Bend, there will not be the market to sustain such a high ratio of employment generating uses when the building is initially occupied. As the area continues to be developed, the building could be retrofitted to meet the growing demand.*
- *Employment floor area is provided at the ground level for by way of two retail tenancies six commercial offices with apartments above. These offices create the opportunity for businesses to have a direct street interface.*

11.7-4 The original called in proposal specified only one 288m² retail tenancy as the only commercial component, which has now been significantly increased to 775m² of floor area dedicated to commercial uses (458m² retail and 317m² Office).

11.7-5 Given the ownership of the property due to the build to rent model proposed will remain with one entity this will allow for the developer to choose to convert apartments into commercial floorspace in the future, should the demand support this change in usage. This coupled with the higher floor to ceiling levels proposed which would be suitable for commercial ventures in future is considered to be supportable proposition.

11.8 Common property

11.8-1 Separate foyers are proposed for the Bertie Street and proposed road interfaces, resulting in duplication of infrastructure for the first six levels of the building. The duplication results in a disconnect for the Bertie Street entrance from the common facilities proposed on site (gym, outdoor terraces and pool), Residents with dwellings accessed via the Bertie Street entrance will need to exit the building and go through the residential entrance on the proposed street to access these facilities.

To improve connectivity, it is recommended that through access should be provided from the Bertie Street entrance to the common property on level 7,



via the extension of the lift core up into the podium terrace area. This would allow direct access from the Bertie Street lift core, onto level 7 and via the communal terrace into the tower lift well.

11.9 Noise

11.9-1 The proximity of the subject site to uses with adverse amenity impacts requires noise levels for dwellings within the development and requires the submission and approval of an acoustic report prepared by a qualified acoustic consultant before the development starts. Clause 58.04-3 of the Planning Scheme for apartments specifies for the required noise levels as follows:

- Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.
- Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.

11.9-2 The above noise requirements are required in specified noise influence areas as follows:

| Noise source | Noise influence area |
|---|---|
| Zone interface Industry | 300m from the Industrial 1, 2 and 3 zone boundary |
| Roads Freeways, tollways and other roads carrying 40,000 Annual Average Daily Traffic Volume | 300m from the nearest trafficable lane |
| Railways Railway servicing passengers in Victoria Railway servicing freight outside Metro Victoria Railway servicing freight in Metro Melbourne | 80m from the centre of the nearest track 80m from the centre of the nearest track 135m from the centre of the nearest track |

Note: The noise influence area should be measured from the closest part of the building to the noise source.

11.9-3 The subject site is within 140m of the West Gate Freeway to the north and is approximately 230m from Industrial 1 zoned land in the City of Melbourne to the north across the freeway and so falls within noise influence areas under the updated controls.

11.9-4 The application documentation includes an Acoustic Internal Amenity Report by Acoustic Logic, however the report fails to adequately demonstrate that the above required noise levels could be achieved. Therefore, any support for the proposal would be subject to a condition for the provision of an acoustic report demonstrating compliance with Clause 58.04-3.

11-10 Transport and parking

Car Parking

Parking Overlay



11.10-1 The subject site is within the Parking Overlay pursuant to Clause 45.09 of the Planning Scheme. The Parking Overlay specifies maximum rather than minimum car parking rates.

The Parking Overlay provisions and rates have been amended since the original application was lodged to introduce a maximum rate for 3BR or more dwellings 1.0 space per dwelling, and for two or less bedroom dwellings a rate of 0.5. The applicable rates now are:

Table 1: Maximum car parking spaces

| Use | Rate | Measure |
|---|------|---|
| Dwelling | 0.5 | To each 1 or 2 bedroom dwelling |
| | 1 | To each 3 or more bedroom dwelling |
| Industry | 1 | To each 150 square metres of gross floor area |
| Office | 1 | To each 100 square metres of gross floor area |
| Place of assembly | 1 | To each 100 square metres of gross floor area |
| Residential Village, Retirement Village | 0.5 | To each dwelling |
| Restricted retail premises | 1 | To each 100 square metres of gross floor area |
| Retail premises | 1 | To each 100 square metres of gross floor area |
| Supermarket | 2 | To each 100 square metres of gross floor area |

11.10-2 A Planning Permit is required to exceed these rates.

11.02-3 The maximum parking provision without a permit is:

- Dwelling: 165 dwellings, comprising 34 x 3BR x 1 space/dwelling = 34 spaces + 131 x 1 or 2 BR x 0.5 spaces dwelling = 65.5 spaces = a total allowable provision of 99.5 (99.5 spaces = a ratio of 0.60.3 spaces/dwelling).
- Commercial: 775m² gross leasable floor area (GFA) at 1 space/100m² GFA = 7.75 spaces
- Maximum No. spaces: 106.5
- Proposed No. spaces: 101 (93 residential + 6 car share + 2 commercial)

11.10-4 Ninety-three (93) spaces are proposed to be allocated to the dwellings, which equates to less than 1 space per 3BR, and 0.5 spaces per 1BR and 2BR do not require a permit under the Parking Overlay and achieves a parking ratio of 0.61:1.

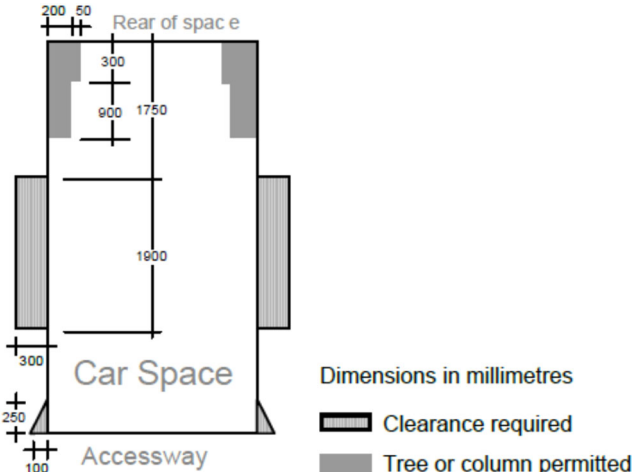


11.10-5 Two (2) spaces are proposed to be allocated to the commercial premises achieving a rate of less than 1 space per 100m² of floor area and does not require planning approval.

Design Standards for Car Parking

11.10-10 Car parking should meet the dimensions and design requirements of Clause 52.06-8. An assessment of the application against the standards is as follows:

| Design Standard 1: Accessways: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|------------------|-----------------|-----------------|----------|-------|-------|-------|-----|-------|-------|-------|-----|-------|-------|-------|-----|-------|-------|-------|--|-------|-------|-------|--|-------|-------|-------|-----------------|
| Minimum of 3m wide | Achieved | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Internal radius of at least 4m at changes of direction or intersection or be >4.2m wide | Achieved: Intersections > 4.2m wide. | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Allow vehicles parked in the last space of a dead-end accessway in public car parks to exit in a forward direction with one manoeuvre. | Not applicable | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Provide Min. 2.1m headroom beneath overhead obstructions, calculated for a vehicle with a wheelbase of 2.8m. | Achieved | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| If serving 4 or more car spaces or connects to a road in a Road Zone, cars must be able to exit the site in a forward direction. | Achieved | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Provide a passing area at the entrance at least 5m wide & 7m long if serving 10 or more car spaces & is either more than 50m long or connects to a road in a Road Zone. | Achieved | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Have a corner splay or area at least 50% clear of visual obstructions extending >2m along the frontage road from the edge of an exit lane & 2.5m along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided or adjacent landscaped areas provided the landscaping is less than 900mm in height. | Achieved | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| If access to 4 or more car parking spaces is from land in a Road Zone, the access to the car spaces must be >6m from the road carriageway. | Not applicable | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Design Standard 2: Car parking Spaces | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <div>Table 2: Minimum dimensions of car parks and accessways<table><tr><th>Angle of car parking spaces to access way</th><th>Access way width</th><th>Car park width</th><th>Car park length</th></tr><tr><td>Parallel</td><td>3.6 m</td><td>2.3 m</td><td>6.7 m</td></tr><tr><td>45°</td><td>3.5 m</td><td>2.6 m</td><td>4.9 m</td></tr><tr><td>60°</td><td>4.9 m</td><td>2.6 m</td><td>4.9 m</td></tr><tr><td>90°</td><td>6.4 m</td><td>2.6 m</td><td>4.9 m</td></tr><tr><td></td><td>5.8 m</td><td>2.8 m</td><td>4.9 m</td></tr><tr><td></td><td>5.2 m</td><td>3.0 m</td><td>4.9 m</td></tr></table></div> | Angle of car parking spaces to access way | Access way width | Car park width | Car park length | Parallel | 3.6 m | 2.3 m | 6.7 m | 45° | 3.5 m | 2.6 m | 4.9 m | 60° | 4.9 m | 2.6 m | 4.9 m | 90° | 6.4 m | 2.6 m | 4.9 m | | 5.8 m | 2.8 m | 4.9 m | | 5.2 m | 3.0 m | 4.9 m | Achieved |
| Angle of car parking spaces to access way | Access way width | Car park width | Car park length | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Parallel | 3.6 m | 2.3 m | 6.7 m | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 45° | 3.5 m | 2.6 m | 4.9 m | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 60° | 4.9 m | 2.6 m | 4.9 m | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 90° | 6.4 m | 2.6 m | 4.9 m | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 5.8 m | 2.8 m | 4.9 m | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 5.2 m | 3.0 m | 4.9 m | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Car spaces in garages or carports should be at least 6m long and 3.5m wide for a single space & 5.5m wide for a double space measured inside the garage/carport. | Not applicable | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| <p>Diagram 1 Clearance to car parking spaces</p>  <p>Dimensions in millimetres</p> <p>Clearance required</p> <p>Tree or column permitted</p> | | | | | | | | | | | | | | |
|---|------------------------|----------------|---------------|------------------|-------------------|-----------|-----------------------|-------------|----------------------------------|-------------------|-----------|-----------------------|-----------|------------------------|
| <p>Design Standard 3: Gradients</p> <p>Accessway grades should not be steeper than 1:10 (10%) within 5 metres of the frontage to ensure safety for pedestrians and vehicles. The design should have regard to the wheelbase of the vehicle being designed for; pedestrian and vehicular traffic volumes; the nature of the car park; and the slope and configuration of the vehicle crossover at the site frontage. This does not apply to accessways serving three dwellings or less.</p> | <p>Achieved</p> | | | | | | | | | | | | | |
| <table><tr><th>Type of car park</th><th>Length of ramp</th><th>Maximum grade</th></tr><tr><td rowspan="2">Public car parks</td><td>20 metres or less</td><td>1:5 (20%)</td></tr><tr><td>longer than 20 metres</td><td>1:6 (16.7%)</td></tr><tr><td rowspan="2">Private or residential car parks</td><td>20 metres or less</td><td>1:4 (25%)</td></tr><tr><td>longer than 20 metres</td><td>1:5 (20%)</td></tr></table> <p>Where the difference in grade between two sections of ramp or floor is greater than 1:8 (12.5 per cent) for a summit grade change, or greater than 1:6.7 (15 per cent) for a sag grade change, the ramp should include a transition section of at least 2 metres to prevent vehicles scraping or bottoming.</p> <p>Grade changes of greater than 1:5.6 (18 per cent) or less than 3 metres apart should be assessed for clearances.</p> | Type of car park | Length of ramp | Maximum grade | Public car parks | 20 metres or less | 1:5 (20%) | longer than 20 metres | 1:6 (16.7%) | Private or residential car parks | 20 metres or less | 1:4 (25%) | longer than 20 metres | 1:5 (20%) | <p>Achieved</p> |
| Type of car park | Length of ramp | Maximum grade | | | | | | | | | | | | |
| Public car parks | 20 metres or less | 1:5 (20%) | | | | | | | | | | | | |
| | longer than 20 metres | 1:6 (16.7%) | | | | | | | | | | | | |
| Private or residential car parks | 20 metres or less | 1:4 (25%) | | | | | | | | | | | | |
| | longer than 20 metres | 1:5 (20%) | | | | | | | | | | | | |
| <p>Design Standard 4: Mechanical Parking:</p> <p>At least 25% of the mechanical spaces can accommodate a vehicle clearance height of at least 1.8m.</p> | <p>Achieved</p> | | | | | | | | | | | | | |
| <p>Spaces that require the operation of the system are not allocated to visitors unless used in a valet parking situation.</p> | <p>Achieved</p> | | | | | | | | | | | | | |
| <p>Design Standard 5: Urban Design</p> <p>Ground level parking, garage doors & accessways should not visually dominate public space.</p> | <p>Achieved</p> | | | | | | | | | | | | | |



| | |
|---|--|
| Car parking within buildings (including visible portions of partly submerged basements) should be screened or obscured where possible, including through the use of occupied tenancies, landscaping, architectural treatments and artworks. | Achieved |
| Design of car parks should take into account their use as entry points to the site. | Achieved |
| Design Standard 6: Safety | |
| Car parking should be well lit & clearly signed. | Refer Building Regs |
| The design of car parks should maximise natural surveillance and pedestrian visibility from adjacent buildings. | Not applicable - The car park would be internal |
| Pedestrian access to car parking areas from the street should be convenient. | Achieved |
| Ped routes through parking areas/building entries & other destination points should be clearly marked & separated from traffic in high activity parking areas. | Not achieved |
| Design Standard 7: Landscaping: | |
| The layout of parking areas should provide for water sensitive urban design treatment & landscaping. | Not applicable |
| Landscaping & trees should be planted to provide shade/shelter, soften appearance of ground level parking & aid in identification of pedestrian paths. | Not applicable |
| Ground level parking spaces should include trees planted with flush grilles. Spacing of trees should be determined having regard to the expected size of the selected species at maturity. | Not applicable |

11.10-11 Council's Traffic Engineers advised the car space and access aisle dimensions would be satisfactory, but raised concerns including:

- Swept path drawings for cars and commercial vehicles demonstrating satisfactory access and passing space have not been provided.
- The ground level residential parking accessway needs corner splays.
- Vehicles using the loading bay should be able to enter and leave in a forward direction.

11.11 Bicycle Facilities

Clause 52.34-1 of the Planning Scheme requires bicycle parking and facilities as follows:

| Measure | Statutory requirement (CCZ1) | No. spaces required | No. spaces proposed |
|---|---|---------------------|---------------------|
| Developments > 50 dwellings | 1 resident space per dwelling x 165 dwellings | 165 | 174 |
| | 1 visitor space per 10 dwellings | 17 (16.5) | 20 |
| Retail premises other than specified in this table | Employee: 1 to each 300 sq m of leasable floor area | 2 (1.6) | 5 |
| | Shopper: 1 to each 500 sq m of leasable floor area | 1 (0.9) | 5 |



| | | | |
|--|---|------------|------------|
| Office other than specified in this table | 1 to each 300 sq m of net floor area if the net floor area exceeds 1000sq m | 0 | 0 |
| | 1 to each 1000 sqm of net floor area if the net floor area exceeds 1000sq m | 0 | 0 |
| TOTAL: | | 185 | 204 |

The number of bicycle parking spaces would exceed the minimum number of spaces required, for the residential and commercial components with that recommended in the Fishermans Bend Strategic Framework Plan.

Plans indicate all bike racks are to be located in a lockable compound at the ground level.

11.12 Loading / Waste Management

Loading

One loading bay is proposed on the ground floor level off the new road for commercial deliveries, and the collection of waste. It could also be used by residents for moving house and deliveries etc. and for tradesperson parking.

No concerns with the dimensions of the loading bay, but no swept path assessments have not been included in the traffic report, to suitable demonstrate that vehicles using the loading area would be able to enter/exit the site in a forward direction.

Waste Management

A Waste Management Plan (WMP) was submitted with the application.

A private contractor is proposed to manage the waste system. Waste is proposed to be stored and collected within the development (hidden from external view). Residents / tenants would be required to sort their waste and dispose garbage and recyclables via chutes and/or directly into collection bins.

Councils Waste Management Officer did not object to the proposal.

As per comments above, swept path diagrams need to be provided to confirm accessibility and vehicles being able to enter and exit the site in a forward manner, the number of access points along the north side should be reduced, and the design of the shared access zone and the new lane needs to be resolved.

11.14 Wind Impacts

The documentation for the existing application included a wind tunnel assessment of the proposal.

The documentation for the amendment application includes a consultant Wind Impact Assessment desk top review of the amendment plans with wind tunnel testing. The assessment concluded the following:

Where stronger winds were experienced that exceeded the relevant criteria for comfort and/or safety, or exceeded the existing site conditions, ameliorative



treatments were tested (unless otherwise stated, with regards to in-principle treatment recommendations) and are described as follows:

- Recommended inclusion of porous screens (approximately 20-30% porosity) along the north-eastern façade of the podium. These will be located along the eastern corner balconies for Levels 2, 5 and 6.
- Recommended chamfer of the southern and western podium corners at Ground Level.
- Recommended setback of the Ground Level south-western façade (recommendation made in principle).
- Recommended inclusion of full height porous (50% porosity) screens with a minimum depth of 2.5m located along the south-western façade aspect (recommendation made in principle).

The applicant's wind consultants concluded further wind tunnel testing is recommended to be conducted at a later stage with the implementation of the in-principle treatment strategies to verify their effectiveness and wind conditions. With the inclusion of these recommended treatments to the final design, it is expected that wind conditions for all outdoor trafficable areas within and around the development will be suitable for their intended uses.

Any approval of the amendment proposal should be subject to conditions requiring wind tunnel testing of the design, and modifications of the design as necessary to meet wind impact criteria.

It is noted that since the original application was considered, new DDO provisions for wind effects on the public realm for structures higher than 40m have been included in Planning Scheme.

11.15 Sustainable Design / Water Sensitive Urban Design

A Sustainable Management Plan (SMP) was submitted with the application. The SMP proposed the following key sustainable design measures:

- High-performance glazing and energy efficient building services, appliances and fixtures;
- Rainwater harvesting system for toilet flushing and irrigation;
- A 100kWp rooftop photovoltaic solar array;
- Electric vehicle charging infrastructure;
- Shared electric bikes for staff;
- Environmentally preferable internal finishes.

The SMP does not address the National Construction Code or NatHERS (other than the cooling load provision) standards recommended in the Fishermans Bend Local Policy at Clause 22.15 of the Planning Scheme, alternatively stating the development would achieve:

The SMP states the proposal would achieve:

- A FirstRate 5 energy rating of 7.0 stars



- A maximum annual cooling load of 30MJ/m2 in accordance with the Victorian Better Apartment Design Standards (December 2016) - Climate Zone 21
- A Green Star 5 Star Rating.
- A NABERS Energy 5 Star rating, which is defined as 'Excellence'
- The Best Practice standard for stormwater quality in accordance with Clause 22.12 (WSUD) of the Planning Scheme

Council's Sustainable Design Officer raised concerns (Refer Section 9.1 of this report) with the building design and SMP and recommended both be revised.

Any approval that may issue for the proposal should include conditions for plans and SMP changes to address the above matters.

11.16 Public Open Space

No public open space is proposed.

11.17 Landscaping

A detailed landscape plan was provided with the amendment application.

The plans and elevation drawings set out indicative landscaping locations and forms. Officers raised concerns including:

- Cantilevered gardens overhanging the public realm may be a safety risk.
- Deep planting opportunities should be provided on site.

Council's arborist raised concerns with the location and scale of trees on the upper terraces and recommended that the plans be revised. These recommendations should be incorporated into any decision to issue.

11.18 Community Facilities

No community facilities or places are proposed as part of the development.

11.19 Development Contributions

The term of reference for the Standing Advisory Committee precludes discussion regarding the Infrastructure Contribution Overlay and associated development contributions as part any submissions.

At the time of writing this report no Infrastructure Contribution Plan has been determined or incorporated into the Port Phillip Planning Scheme.

11.20 Environmental Audit

The construction proposed as part of the permit application triggers a requirement for a certificate of environmental audit prior to the development associated with a sensitive use is commenced.

A site investigation report by EI Australia was provided as part of the application submission which determined that Based on the findings of the detailed site investigation and with consideration of the Statement of Limitations (**Section 13**), EI



conclude that **the site can be made suitable for the proposed land use of residential subject to the recommendations outlined in their report.**

The mandatory condition for a certificate of environmental audit prior to the development associated with a sensitive use is commenced be submitted an approved by the responsible authority will be required.

11.21 Melbourne Water Floor/Flood Levels

Melbourne Water has recommended minimum floor levels for the FBURA to protect buildings from predicted flooding and sea level rise impacts as follows:

| Land use | Floor level (m. to Australian Height Datum [AHD]) |
|--|---|
| On-street parking spaces; External entry to individual dwellings | 1.9 to 2.1m |
| Commercial Lobbies / retail | 2.4m |
| Garage / Car parking entry | 2.4m plus 600mm mechanical freeboard |
| Habitable Residential; Office; Lifts/Services | 3.0m |

The plan, elevation and section drawings show levels as Reduced Levels (RLs) rather than to AHD. Advice from the applicants is that the ground floor level would exceed Melbourne Water's recommendations and would be satisfactory.

A condition of any approval that may issue for the proposal should require floor levels to be confirmed on all drawings to AHD.

11.22 Aboriginal Cultural Heritage

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

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

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

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

12 Fishermans Bend Standing Advisory Committee Terms of Reference

Paragraph 19 of the Fishermans Bend Standing Advisory Committee Terms of Reference states *'The advisory committee may inform itself in anyway it sees fit.'*



Paragraph 20 sets out matters the Advisory Committee must consider *'In assessing the appropriateness of a site-specific planning control to facilitate a proposal ...'*

Paragraph 21 directs that the Advisory Committee must not consider submissions and evidence in relation to:

- (a) The application or operation of the Infrastructure Contributions Overlay.
- (b) The quantum of or need for public open space, roads and laneways.

13 COVENANTS

The subject land is not affected by any covenants or S173 agreements on title.

14 OFFICER DIRECT OR INDIRECT INTEREST

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

15 OPTIONS

15.20 Advise the Minister that the Council supports the proposal as referred.

15.21 Advise the Minister that the Council supports the proposal subject to conditions for changes to the design.

15.22 Advise the Minister that the Council does not support the proposal for the reasons set out in this report, and/or any other concerns of Council.

16 CONCLUSION

16.20 The proposed building now has a 20-storey built form, which would be two storeys and 8.2m higher than the previous proposal called in by the Minister. As part of the site after the Gazettal of Planing Scheme Amendment GC81 is in an area designated under the DDO32 as an area with a discretionary maximum height of 12 metres a portion of the proposed 20 storey tower will likely fall within this reduced height portion of the land therefore failing to comply.

16.21 The built form as proposed sets back the tower portion 26.7 metres from the front boundary of the site, almost 3 times the preferred setback stipulated under the DDO32. The tower portion of the built form due to the narrow width of the site, which is further reduced in width by 9 metres due to the designated of a road to be vested in Council, is only 14.3 metres wide, therefore only presenting a very narrow form to the streetscape. Given this narrow built form and the 26.7m setback to the street it is considered that the visual bulk resulting from the tower would be suitable given the site constraints.

16.22 The twelve-storey building height specified for part of the land is discretionary, whilst the remainder of the land has no specified height limit. Given the small portion of the built form that would fail to comply with the lower height limit is minimal and revised proposal improves office and apartment amenity, and does not unduly overshadow the proposed public open space to the south-west, it should be supported.



- 16.23 DDO32 specifies the proposed park to the South-west of the subject site should not be overshadowed between 11.00am and 2.00pm on 22 September, whilst the revised design would change the pattern of shadow falling onto the reserve at 11.00am, the new shadow still does not fall onto the protected portion of the public open space complying with the overshadowing requirement specified in Section 2.6 of the DDO32, and by an hour later at midday has retreated to covering only half of Bertie Street and should be supported.
- 16.24 The setback of the tower portion of the built form (forming levels 7 to 20) to the north-west side and the rear setback are specified on the plans at 5m, which is equivalent to the minimum setback specified under the DDO32, and far less than the 10m preferred setback specified. If the preferred 10 metre setback was enforced to the north-west boundary the tower would only be able to achieve a width of 9.36 meters, an unreasonable constraint on development. Therefore, it is recommended that the 5 metre setbacks should be supported.
- 16.25 The terms of reference for application proceeding to the Standing Advisory Committee states that *Proponents will be encouraged, but not required to meet the requirement to be generally in accordance with the Fishermans Bend Framework (September 2018) and provide new roads and laneways.*
- 16.26 As the new road will likely be deemed a local urban road a through lane width of 3 metres (each way) will be suitable to facilitate the traffic flow. Given the terms of reference have designated that the provision of roads shown in the Fishermans Bend Framework are not mandatory and the reduced vehicular demand likely on the proposed new road, the 9 metre wide roadway is considered a suitable solution, that will still successfully implement the Fishermans Bend vision.
- 16.27 Whilst Clause 58 does not apply, the on-site amenity and facilities and dwelling dimension provisions of Clauses 58.05 and 58.07 still provides an appropriate benchmark for the dwelling living and bedrooms and open space areas to demonstrate compliance eg: Min. open space areas of 8m² within min. dimension of 1.8m, 8m² with min dimension of 2m and 12m² with min. dimension of 2.4m for 1, 2 and 3BR dwellings respectively.
- 16.28 With the exception of a small number of private open space balconies the proposal exceeds these minimum requirements. The development includes well in excess of the required communal open space provision of 30% net developable area to help offset the smaller private open space provision found in small number of the proposed dwellings. Separate foyers are proposed for the Bertie Street and proposed road interfaces, resulting in duplication of infrastructure for the first six levels of the building. The duplication results in a disconnect for the Bertie Street entrance from the common facilities proposed on site (gym, outdoor terraces and pool), Residents with dwellings accessed via the Bertie Street entrance will need to exit the building and go through the residential entrance on the proposed street to access these facilities.
- 16.29 To improve connectivity, it is recommended that through access should be provided from the Bertie Street entrance to the common property on level 7, via the extension of



the lift core up into the podium terrace area. This would allow direct access from the Bertie Street lift core, onto level 7 and via the terrace into the tower lift well.

- 16.30 The concession for private amenity and provision of commercial floor area below that required in the core area of Sandridge Precinct are weighed against the benefits of the build to rent model proposed, and its ability to deliver affordable rental properties in to the market. To ensure that the end use of the development will remain consistent with the stated build to rent model it is considered that to an agreement under Section 173 of the Planning and Environment Act be registered on title as a condition of support.
- 16.31 Subject to the above conditions, it is considered that the application should be supported.
- 16.32 It is recommended that Council:
- Advise the Department of Land, Water, Environment and Planning that Council supports the application as proposed for the reasons set out in this report;
 - In the event that the Standing Advisory Committee determines to support the proposal, any decision issued should incorporate the without prejudice amended draft conditions to be provided as part of Council submission.
 - Authorise the Manager City Development to instruct Council's Statutory Planners and/or solicitors on any future VCAT application for review, and/or any independent advisory committee appointed by the Minister for Planning to consider application.

TRIM FILE NO:

PF19/24500

ATTACHMENTS

- 1. Architectural plans (Revision D) - 118 Bertie**
- 2. Landscape Plans (Revision B) - 118 Bertie**
- 3. Town Planning Report - 118 Bertie St**
- 4. Terms-of-Reference for Standing Advisory Committee (SAC)**