



**7.5** **101 SALMON STREET, PORT MELBOURNE (3/2014/MPA/A)**  
**LOCATION/ADDRESS:** **101 SALMON 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 on Ministerial Application 2014/002000-1 at 101 Salmon Street, Port Melbourne, to amend the existing permit under Section 72 of the Planning and Environment Act 1987 including the alteration of plans, permit conditions and permit preamble.

**2. EXECUTIVE SUMMARY**

<b>WARD:</b>	Wirraway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	Accommodation (dwellings) within the Fishermans Bend Urban Renewal Area
<b>APPLICATION NO:</b>	2014/002000-1 (Previously MPA14/0011) (Minister for Planning) 3/2014/MPA/A (Council)
<b>APPLICANT:</b>	TQ Urban Planning
<b>EXISTING USE:</b>	Vacant Lot
<b>ABUTTING USES:</b>	One to two storey warehouse, offices and associated car parking.
<b>ZONING:</b>	Capital City Zone - Schedule 1 (CCZ1)
<b>OVERLAYS:</b>	Design and Development Overlay - Schedule 33 (DDO33) Environmental Audit Overlay (EAO) Parking Overlay - Schedule 1 (PO1) Infrastructure Contribution Overlay - Schedule 1 (ICO1)
<b>ABORIGINAL CULTURAL HERITAGE</b>	All of the property is in an 'area of Aboriginal Cultural Heritage Sensitivity'.
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

2.1 The subject site is in the non-core area of the Wirraway Precinct of the Fishermans Bend Urban Renewal Area (FBURA).



- 2.2 The Minister for Planning (the Minister) is the Responsible Authority for the application.
- 2.3 On 21 May 2015, the Minister approved a permit for development of the land for a twelve level (including a four-level podium) mixed use building, including ground level retail, first floor level offices, car parking and 157 dwellings.
- 2.4 At the time of approval, the land was in a 'Discretionary preferred height area' (i.e. no height limit) per the Fishermans Bend Strategic Framework Plan July 2014.
- 2.5 Plans to comply with the conditions of the permit have not been approved to date and the development has not started. The land is vacant.
- 2.6 The permit has been extended twice, the most recent of which allowed till 21 May 2019 to commence and 21 May 2020 to complete.
- 2.7 On 17 May 2019, an application to amend the permit and plans and extend the time to start and complete the development was made to the Minister C/- the Department of Environment, Land, Water and Planning (DELWP).
- 2.8 On 19 July 2019, DELWP referred the amendment application to Council as a recommending referral authority pursuant to S55 of the *Planning and Environment Act* (the Act). Council requested and was granted an extension of time to provide a referral response.
- 2.9 The application 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.
- 2.10 The proposal was internally referred. Officers raised concerns regarding building height, the design of a shared laneway along the north side of the site and the number of vehicle entry/exits off that lane, the lack of swept path diagrams to confirm car park access and passing area compliance and entry/exit sight lines, over reliance on car parking stackers, wind impacts adjacent to and within the site, lack of differentiation between the residential and commercial entrance foyers, noise impacts from the freeway, small provision of communal space, and lack of deep soil planting areas.
- 2.11 The proposed building whilst still 12 levels, would be 7.6m higher than the maximum height of the previously approved tower, and 15.1m and 4 levels higher than the 30m (8 storey) preferred maximum building height for the site introduced by Amendment GC81 in October 2018. The additional height is sought in part to accommodate adaptable floors within the podium, and the change from predominantly residential use to Office use in the tower (Commercial floor to floor heights are typically greater than residential floor heights because of the need to accommodate services above false ceilings).

The amendment application does not propose any community benefits such as Social Housing in return for the additional height.

The amended proposal should be reduced in height to generally match the height of the current approval.
- 2.12 The street wall height and setback to Salmon Street would comply with the Design and Development Overlay (DDO) and would be satisfactory. The setback above the street wall facing Salmon Street would fall within the ambit of discretion of the DDO and would achieve an acceptable design outcome.



- 2.13 The podium side and rear setbacks would partly comply with mandatory minimum setbacks, particularly along the north side.

The tower side and rear setbacks would only partly comply with the minimum discretionary setbacks.

The design should be reconsidered having greater regard to the preferred and mandatory minimum requirements of the DDO.

- 2.14 Plans show shadow from the proposal would fall over adjacent commercial buildings and a proposed linear park to the south, but would not overshadow the Wirraway North Open Space, in accordance with Planning Scheme overshadowing controls.

- 2.15 The proposed number of dwellings would not exceed the maximum density specified for the Wirraway non-Core area and the mix of one, two and three-bedroom dwellings would meet the dwelling diversity objectives for Fishermans Bend.

The apartment standards of Clause 58 of the Planning Scheme do not apply to the amendment application because the original permit application was lodged before the approval date of Amendment VC136 (i.e. 13 April 2017).

Notwithstanding this, the amended apartment layouts would exceed the minimum requirements of Clause 58, and the size, layout, open space and amenities of the dwellings are an improvement to the original designs.

- 2.16 Whilst the subject site is not in a preferred area for employment floor area, the proposed increase in commercial floor area (and reduction in number of dwellings) is supported as being consistent with the emerging mixed-use character of the Wirraway precinct.

- 2.17 The proposed car parking rate of 1.29 spaces per dwelling would exceed the Parking Overlay rate of 0.63 spaces per dwelling and the 0.94 spaces per dwelling ratio of the existing permit.

The number of car spaces for the dwellings should be reduced, ideally to the Parking Overlay rate, and if discretion is to be exercised, no greater than the existing permit rate of 0.94 spaces per dwelling.

- 2.18 The Fishermans Bend Framework and the Planning Scheme recommend a new 6.0m wide lane be created along the north side of the site, with 50% of the width to be provided on the subject site and 50% to be provided on the adjacent lot to the north when that site is developed.

The plans set aside the necessary 3.0m width of the lane, plus an additional 3.65m shared zone to provide interim two-way vehicle entry /exit to the car park levels, but fails to detail the design of the private access zone and the future public lane.

Changes to the design are needed to resolve these concerns.

- 2.19 The supporting documentation to the amendment application submits that the market price of the eight smallest one and two-bedroom dwellings in the building would satisfy the affordable housing policy. Officers believe the dwellings would be beyond the means of very low, low and moderate-income households as defined by the Act, and instead at least 6% of all dwellings should be allocated as affordable housing to a registered housing association or provider. This could be provided for by a condition of any approval.



- 2.20 The amendment application proposes changes (including deletions) to the permit conditions to update them to reference the amended plans and associated reports and/or provide for new matters arising from the amended plans and changes to planning controls since the original permit was approved.

Officers have identified other text and conditions in the existing permit which should also be changed.

Overall however, it is considered that the changes needed to the amended plans to make them satisfactory go beyond what can reasonably be achieved by permit conditions, and the proposal needs substantial revision to be able to be supported.

- 2.21 In response to Council and DELWP officer concerns, the applicants submitted an incomplete set of discussion plans proposing reducing the building height, increasing the number of dwellings and reducing the office floor area, activation of the northern side access/shared zone by adding a food truck and outdoor seating, and proposing a Social Housing uplift of three (3) dwellings gifted to a Housing Association.
- 2.22 The generality of the changes to the building height and dwelling/office mix and the provision of Social housing respond in part to concerns raised, but the changes to the northern side access/shared zone do not satisfactorily address Council concerns and the discussion plans do not show any revisions to building setbacks and internal car park design and other areas of concern.
- Officers are not able to form an overall opinion on the changes without a full set of revised plans and a formal substitution of a full set of revised plans.
- 2.23 Given the above concerns, it is recommended that Council not support the amendment application as proposed for the reasons set out in this report.



### 3. RECOMMENDATION

#### RECOMMENDATION - PART A

- 3.1 That Council advises the Minister (C/- the Department of Environment, Land, Water and Planning) and the applicant that:
- 3.1.1 Council does not support the amended application as proposed for the reasons set out in Sections 2, 9 and 11 of this report.
- 3.1.2 In the event the Minister determines to grant an amended permit for the application, any amended permit issued should incorporate the conditions set out in Section 11.23 of this report.

#### RECOMMENDATION - PART B

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

### 4. RELEVANT BACKGROUND

- 4.1 The subject site is part of the Rocklea Gardens Industrial Estate which was developed for warehouses and offices in the late 1990s/early 2000s.
- 4.2 The subject site is vacant land.
- 4.3 Whilst no development has commenced on the subject site there are six prior planning permit applications recorded for the land as follows:

Application No.	Proposal	Decision / Status
828/2001	Food storage & preparation warehouse, associated office, retail outlet & carparking	<b>Approved</b> 21 August 2001 Permit lapsed
166/2004	Erection of sixteen two storey buildings, including 14 warehouses, two ground floor showrooms, associated landscaping and the use of the land for two first floor offices and a reduction in car parking requirements.	<b>Approved</b> 26 July 2004 Permit lapsed
238/2004	Two (2) Lot subdivision PS 526254 K (forming the subject site and 8 Rocklea Drive behind)	<b>Approved</b> 10 May 2004
320/2006	The development and use of a two-storey building for the purpose of a 90-place childcare centre and office with associated car parking	<b>Approved</b> 29 August 2006 Permit lapsed
320/2006/A	To develop and use the land for a one storey building for a 120 place Childcare centre with associated car parking, and a two-storey building for Offices with associated car parking generally in accordance with the endorsed plans	<b>Approved</b> 18 January 2008 Permit lapsed
1016/2010	Construct a 2 and 3 storey building and construct and carry out works; Use for Warehouse comprising 14 storage units and 5 commercial display areas (Showrooms), and 4 Offices; Reduce	<b>Approved</b> 21 April 2011 Permit lapsed



	the number of car spaces required for the uses; Reduce the requirements for loading and unloading of vehicles for the storage of goods or materials	
<b>DELWP Ref: 2014/002000 CoPP Ref: 3/2014/MPA</b>	Construction of a mixed-use development and waiver of loading bay requirements	<b>Minister approved</b> 21 May 2015 Permit extended twice. Current application to further extend permit and amend plans

## 5. PROPOSAL

### Amendment to Permit

5.1 It is proposed to amend DELWP Permit 2014/002000 (CoPP Ref: 3/2014/MPA) as follows:

5.1.1 Amend the Permit preamble from:

*“Construction of a mixed-use development and waiver of loading bay requirements”;*

to:

*“Construction of a mixed-use development (including use of the site for ‘Dwellings’ and ‘Retail premises’), and provision of more than the maximum rate of carparking specified in the Parking Overlay”*

At the time of issue of the original permit, use for Dwelling and Retail premises did not require a permit and thus were not listed in the preamble.

Amendments to the Planning Scheme since 2015 now require a permit for these uses and to provide car parking in excess of the rates specified in the Parking Overlay.

5.1.2 Delete reference to ‘waiver of loading bay requirements’ as amendments to the Planning Scheme since 2015 no longer require a loading bay; and;

5.1.3 Amend Permit Conditions 1, 4, 6, and 7 to correlate with the amended plans and associated reports.

### Amendment to Plans

5.2 It is proposed to amend the plans as follows:

5.2.1 Substitute a revised design comprising:

- Vehicle access along the northern side of the site (including setting aside 3.0m as 50% of the width of a new 6.0m lane recommended in the Framework Plan and Planning Scheme);
- A six-level street wall on the Salmon Street frontage.
- A 5.0m setback from Salmon Street above the street wall.
- A maximum building height of twelve (12) levels (43.6m) to roof top level.



- Ground floor (Level 1) retail (288m<sup>2</sup>), commercial (office) and residential entries, car and bicycle parking, and building services.
- Level 2 and 3 commercial (office) floor area, and car parking.
- Level 4, 5, 6, and 7 commercial (office) floor area (total office floor area of 11,045m<sup>2</sup>).
- Level 8, 9, 10 and 11: fifty-five (55) dwellings (1 x 1BR, 38 x 2BR and 16 x 3BR).
- 157 car parking spaces (71 Residential spaces including 5 car share spaces = 1.2 spaces/dwelling, and 86 Commercial spaces including 2 car share spaces).
- Two (2) motorcycle spaces (1 residential and 1 commercial)
- 318 Bicycle parking spaces (248 commercial spaces including 12 visitor spaces and 70 residential spaces including 14 visitor spaces).
- One vehicle crossing entry/exit from Salmon Street at the northern front corner of the site.

5.2.2 The proposed amended height and setbacks are as follows

- Podium height: Six levels / 24.3m (Salmon St), 3 levels /11.9m (rear).
- Maximum height: 43.6m (47.25m AHD) to roof top level, 45.1m (48.75m to roof top parapet level, and 46.92m (50.57m AHD) to top of roof top services.
- Front setback: 0.0m (podium), 6.3m (Levels 06 and 07) and 5.0m (Levels 08, 09, 10 and 11) (tower).
- Podium side setbacks: 0.0m (south) and 2.9 to 6.9 metres (north).
- Tower side setbacks: 4.3 to 4.9m (south) and 4.6 to 10.2m (north).
- Rear setback: 0 to 4.7m (podium), and 4.7m (tower).

5.3 More particularly, the amended plans comprise:

Ground floor (Level 0)

- Single retail premises fronting Salmon street (and internal access way) with a floor area of 288m<sup>2</sup>.
- Commercial entrance foyer fronting Salmon Street, with an area of 260m<sup>2</sup>.
- Residential entrance foyer fronting Salmon Street, including mailboxes, and 70 residential bicycle spaces.
- 248 bicycle spaces and associated end of trip change and shower facilities, and 276 storage lockers.
- Vehicle access (and shared pedestrian zone) along the northern boundary leading to ground floor vehicle parking, loading bay and ramp to upper floor parking.
- Forty-four (44) residential vehicle spaces (comprised of eight stackers and 28 at-grade single spaces) and one residential motorcycle space.

First floor (Level 1)



- One commercial tenancy (755m<sup>2</sup>) fronting Salmon Street (and internal access way).
- Common property amenities including four lifts (two residential and two commercial), bin room, goods lift and storage.
- 55 residential storage lockers.
- Twenty-seven (27) residential vehicle spaces (comprised of eight stackers, and 10 at-grade single spaces) and twenty-three (23) at-grade commercial parking spaces (including six tandem pairs) and one commercial motorcycle space.

Second floor (Level 2)

- One commercial tenancy (857m<sup>2</sup>) fronting Salmon Street with an associated 215.5m<sup>2</sup> balcony, projecting 2.75m beyond the Title boundary over the Salmon Street footpath. The balcony would have an underside clearance of approximately 7.8m.
- Common property amenities including four lifts (two residential and two commercial), bin room, good lift and storage.
- Vehicle access to sixty-three (63) commercial vehicle spaces (comprised of nine stackers, and two DDA compliant spaces and 43 single spaces at-grade).

Third to seventh floor (Levels 3 to 7)

- One commercial tenancy on each level ranging in area from 1773m<sup>2</sup> to 2053m<sup>2</sup>.
- Common property amenities including four lifts (two residential and two commercial), bin room, good lift and storage.

Eighth floor (Level 8)

- Thirteen (13) dwellings, comprised of one x 1BR, 8 x 2BR and 4 x 3BR apartments with floor areas ranging between 63m<sup>2</sup> to 100m<sup>2</sup> with associated balconies of between 16.5m<sup>2</sup> and 86m<sup>2</sup>.
- Common property amenities including two lifts, bin room, goods lift, a communal room and outdoor terrace, and storage.

Ninth to eleventh floor (Levels 9 to 11)

- Fourteen (14) dwellings per floor, comprised of ten x 2BR, and 4 x 3BR apartments with floor areas ranging between 71m<sup>2</sup> to 100m<sup>2</sup>, with associated balconies of between 17m<sup>2</sup> and 25m<sup>2</sup>.
- Common property amenities including two lifts, bin room, goods lift, hallway and storage.

- 5.4 Materials and finishes are proposed to include white matt concrete, vertically ribbed concrete, horizontally striated concrete, silver glazing, bronze glazing, white metal sheets, bronze metal sheets, and perforated sheets.



**Figure 1:** 3D renders of Salmon street perspective and material details.

5.5 The plans and reports which are the subject of this assessment are those provided to Council on 05 June 2019 entitled:

- 101 Salmon Street, Port Melbourne, Project number 19010, Issue Date 10 May 2019: Drawing Nos. TP0.00 Rev A to TP0.02 Rev A, TP1.00 Rev A to TP1.12 Rev A, TP2.00 Rev A to TP2.03 Rev A, TP3.01 Rev A, TP4.01 Rev A to TP4.04 Rev A, and TP8.02 Rev A to TP8.03 Rev A, prepared by CHT Architects, received by Council on 05 June 2019.
- Town Planning Report, prepared by TQ Urban Planning, dated May 2019.
- Sustainable Management Plan, prepared by Ark Resources, dated 16 May 2019.
- Wind Impact Assessment, prepared by Vipac Engineers and Scientists, dated 08 May 2019.
- Waste Management Plan, prepared by Leigh Design, dated 01 May 2019.
- Traffic Engineering Report, prepared by Traffix Group, dated 10 May 2019

Summary comparison of plans

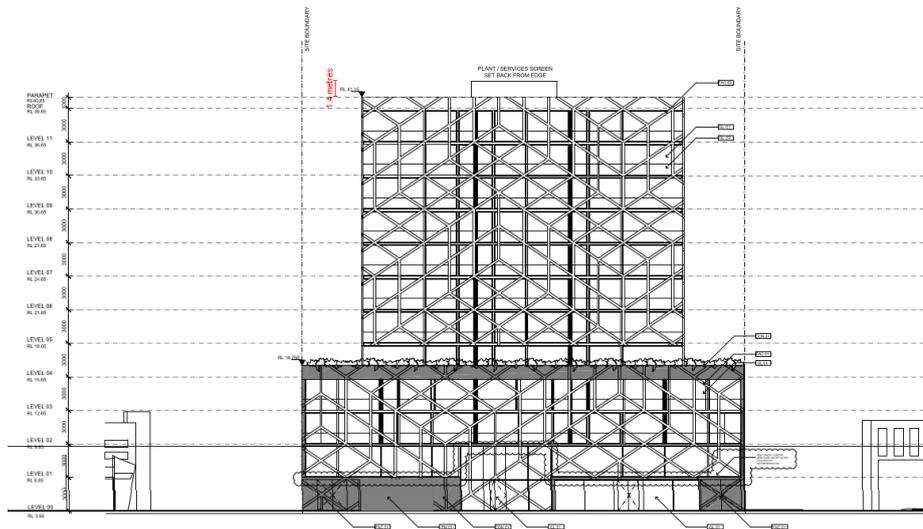
5.6 A summary and comparison of the **16 September 2014 original application plans** and the **10 May 2019 Amended Plans** is as follows:

	<b>16 September 2014 - Decision Plans</b>	<b>10 May 2019 - Amended Plans</b>
<b>Site area:</b>	3,287m <sup>2</sup> (0.3287ha)	3,287m <sup>2</sup> (0.3297ha)
<b>Non-residential floor area</b>	<b>989m<sup>2</sup></b> <b>Commercial:</b> 720m <sup>2</sup> (1 tenancy). <b>Retail:</b> 269m <sup>2</sup> (1 tenancy)	<b>11,333m<sup>2</sup></b> <b>Commercial:</b> 11,045m <sup>2</sup> (7 tenancies) <b>Retail:</b> 288m <sup>2</sup> (1 tenancy)
<b>CCZ1 Dwelling Density</b>	N/A	Wirraway - Non-Core area @ 174 dw/ha x 0.3287ha = <b>57 (57.19) dwellings</b>
<b>No. dwellings</b>	<b>157</b> (38 x 1BR, 81 x 2BR, 38 x 3BR)	<b>55</b> (1 x 1BR, 38 x 2BR, 16 x 3BR)
<b>Affordable housing</b>	N/A	Market price of eight smallest 1 and 2BR dwellings proposed as 'affordable' relative to CoPP dwelling prices.

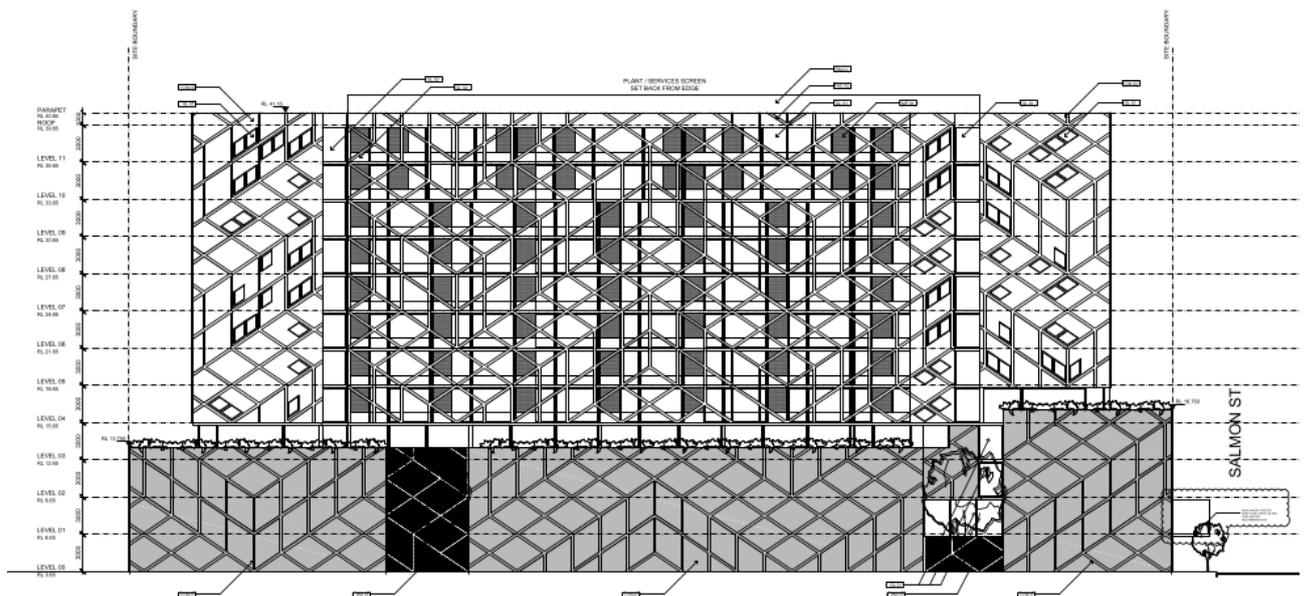


		( <b>Note:</b> 6% of 57 = 3 (3.43) dwellings).
<b>Social housing</b>	N/A	<b>N/A</b> - No social housing uplift proposed
<b>Street wall height:</b>	Salmon Street: 13.1m (Four storeys)	Salmon Street: 24.3m (Six storeys)
<b>Max. height:</b>	36m (39.65m AHD) (12 storeys) to roof top level, 37.5m (41.15m AHD to roof top parapet level, and 38.9m (42.55m AHD) to top of roof top services.	43.6m (47.25m AHD) (12 storeys) to roof top level, 45.1m (48.75m AHD to roof top parapet level, and 46.92m (50.57m AHD) to top of roof top services.
<b>Setbacks:</b>	<p><b>Front (Salmon St)</b></p> <ul style="list-style-type: none"> <li>- Min. 0.0m (podium).</li> <li>- Min. 5.0m (tower).</li> </ul> <p><b>Side (North and South)</b></p> <ul style="list-style-type: none"> <li>- Min. 0.0m (podium).</li> <li>- Min. 5.0m (tower).</li> </ul> <p><b>Rear (West)</b></p> <ul style="list-style-type: none"> <li>- Min. 0.0m (podium).</li> <li>- Min. 5.0m (tower).</li> </ul>	<p><b>Front (Salmon St)</b></p> <ul style="list-style-type: none"> <li>- Min. 0.0m to 2.65 (podium).</li> <li>- Min. 5.0m to 6.3m (tower).</li> </ul> <p><b>Side (North)</b></p> <ul style="list-style-type: none"> <li>- Min. 3.0m to 6.65m (podium).</li> <li>- Min. 4.5 to 10.3m (tower).</li> </ul> <p><b>Side (South)</b></p> <ul style="list-style-type: none"> <li>- Min. 0.0m (podium).</li> <li>- Min. 5.0m to 5.25m (tower).</li> </ul> <p><b>Rear (West)</b></p> <ul style="list-style-type: none"> <li>- Min. 0.0m (podium).</li> <li>- Min. 5.0m to 5.39m (tower).</li> </ul>
<b>Loading bay:</b>	Nil	One
<b>Car parking:</b>	<b>157</b> (148 residential [0.94 spaces per dwelling], 7 commercial and 2 retail)	<b>157</b> (71 residential inc. 5 car share spaces [1.2 spaces per dwelling], 96 commercial inc. 2 car share spaces)
<b>M<sup>3</sup>cycle parking:</b>	<b>12 spaces</b>	<b>2 spaces</b>
<b>Bicycle parking:</b>	<b>82 spaces</b>	<b>318 spaces</b> (248 Commercial in 12 visitors, 70 Residential inc. 14 visitors)
<b>Storage lockers</b>	Nil ( <b>Note:</b> 1 store per dwelling required by condition 1.(g) of permit)	55 Residential (1 per dwelling) + 276 retail/office bicycle parking stores
<b>Vehicle access:</b>	1 x new double width crossover off Salmon Street.	1 x new double width crossover off Salmon Street.
<b>Gross Floor Area (GFA):</b>	27,748m <sup>2</sup>	27,917m <sup>2</sup>

5.7 Front (east) and south (side) elevations of the 16 September 2014 plans are as follows:



**Figure 2:** Front elevation (Salmon Street), of previous decision plans for 3/2014/MPA (no plans have been endorsed in accordance with the permit).



**Figure 3:** South elevation of previous decision plans for 3/2014/MPA (no plans have been endorsed in accordance with the permit).

5.8 Front (east), rear (west) and North (side) elevations of the 10 May 2019 Amended Plans are as follows:

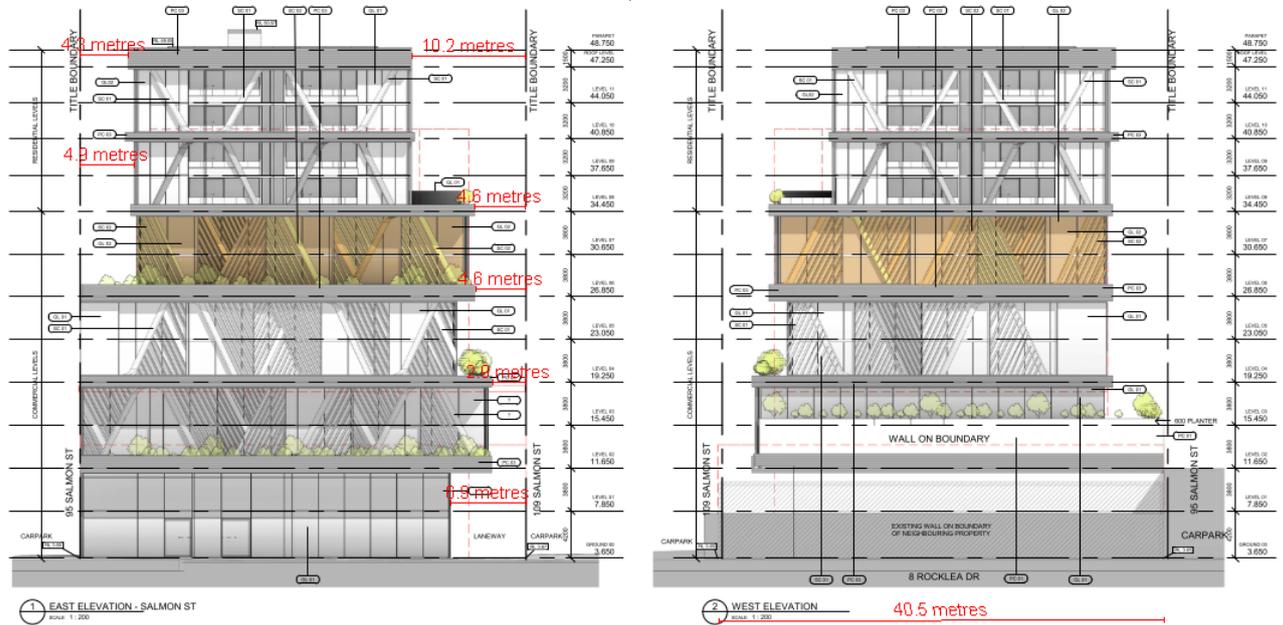


Figure 4: Front and rear elevation of proposed amendment plans, previous built form shown in via red outline.

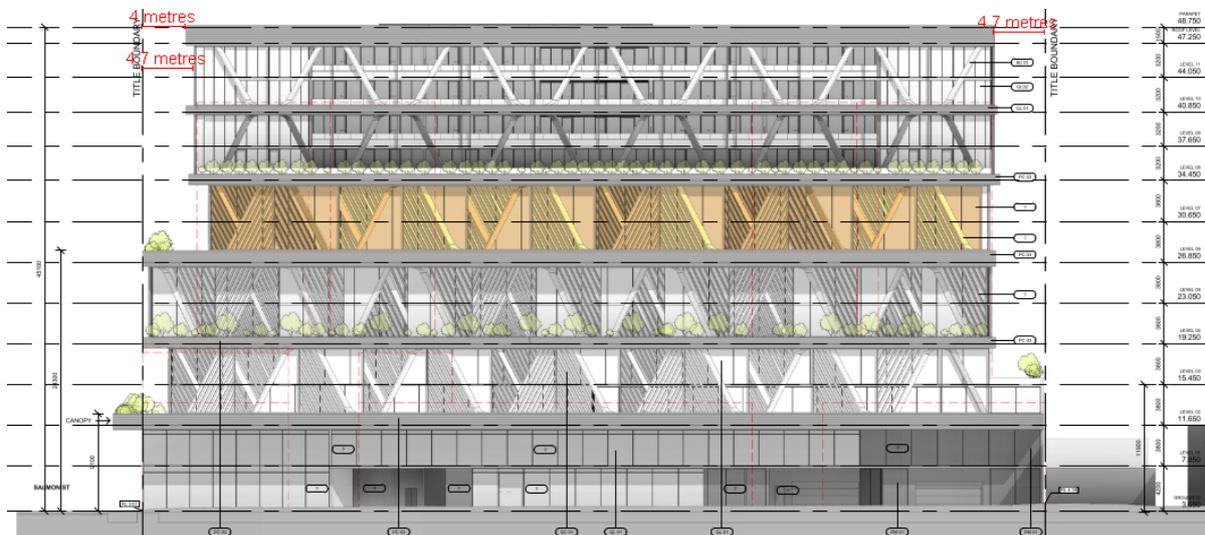


Figure 5: Front and rear elevation of proposed amendment plans.

## 6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	3,287m <sup>2</sup>
Existing building & site conditions	The subject site is located on the west side of Salmon Street, approximately 40.0m north of Rocklea Drive, and 140m south of the West Gate Freeway.

	<p>Salmon Street is approximately 36.0m wide and is identified in the FB Framework as a strategic cycling corridor and a road where no crossovers are permitted (unless there is no other option for site access).</p> <p>The site is rectangle and has a frontage width of 39.29m to Salmon Street, and a maximum depth of approximately 83.65m. The land is relatively flat, with minimal undulation across the site.</p> <p>The land is vacant.</p> <p>There is currently no constructed footpath or vehicle crossing along the Salmon Street frontage of the site.</p>
<p><b>Surrounds / neighbourhood character</b></p>	<p>Surrounding land is developed as follows:</p> <ul style="list-style-type: none"> <li>• <b>North (side):</b> 109 Salmon Street - A two storey industrial/warehouse building with ancillary office and showroom, and vehicle access and open car parking along the south side shared boundary with the subject site.</li> <li>• <b>South (side):</b> 95 Salmon Street, and 2 Rocklea Drive - both properties abut the southern boundary and comprise two storey industrial/warehouse buildings with ancillary offices. 95 Salmon Street has vehicle access and open car parking along its north side shared boundary with the subject site.</li> <li>• <b>East (opposite, across Salmon Street):</b> The lower reaches of the Salmon Street bridge over the freeway; 112 Salmon Street which comprises 2 x 2-storey warehouse/industrial buildings and 1 x 2-storey office building with an ancillary showroom. Two crossovers exit from Salmon street to two separate open-air carparks and access ways which are situated along the northern and southern boundaries of the site.</li> </ul> <p>The Salmon Street bridge is proposed to be upgraded including widening to accommodate cycle lanes and extending its length to reduce its grade. This would extend the lower reaches of the bridge to the south past more of the frontage of the subject site.</p> <ul style="list-style-type: none"> <li>• <b>West (rear):</b> 8 Rocklea Drive is developed with a two-storey warehouse-industrial buildings used for warehousing, industry, retail and office uses.</li> </ul>  <p><b>Figure 6:</b> Subject site (shown in red) and surrounds - Image date 23 February 2019.</p>



## 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?
<p><b>Clause 37.04: Capital City Zone (CCZ1)</b></p>	<p>Pursuant to Section 2 of the Table of uses at Clause 37.04-1 of the CCZ1 and Clause 1 of the Schedule to the CCZ1, a planning permit is required to use land for a use not in Section 1 or 3 of the Schedule to the zone. This includes a <b>Dwelling</b> if it is:</p> <ul style="list-style-type: none"> <li>• Within an Amenity buffer shown on Map 4</li> <li>• Within a Core Area.</li> <li>• Within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline.</li> <li>• Within 100m of the Port Melbourne to Symex Holdings pipeline.</li> </ul> <p>The land is not in the Core Area of the Wirraway Precinct. Accordingly, a permit is required for a dwelling under this clause.</p> <p>This also includes a <b>Retail Premises</b> if it:</p> <ul style="list-style-type: none"> <li>• Exceeds 1000 square metres gross leasable floor area, and is located outside a Core area.</li> <li>• Within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipelines as shown on Map 5.</li> <li>• Is within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5.</li> </ul> <p>The land is outside of a core area and thus requires a permit under this clause.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.0 of the Schedule to the CCZ1, a permit is required to construct a building or construct or carry out works in the Capital City Zone, with the exception of an addition of, or modification to a verandah, awning, sunblind or canopy of an existing dwelling.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.1 of Schedule 1 to the CCZ1, a permit is required to demolish or remove a building or works, except for:</p> <ul style="list-style-type: none"> <li>• The demolition or removal of temporary structures;</li> <li>• The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law.</li> </ul> <p>An application for the use of land, 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 <b>Dwelling</b> and <b>Retail Premises</b>.</p> <p>A permit is not required to use the land for <b>an Office</b> 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"> <li>• 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.</li> <li>• 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.</li> </ul>



<p><b>Clause 43.02: Design and Development Overlay - Schedule 33 - Fishermans Bend - Wirraway Precinct (DDO33)</b></p>	<p>The land is in Precinct Area W1 of DDO33 which encourages a mid-rise building typology and a preferred maximum building height of 30 metres (8-storeys). Pursuant to Clause 43.02-2 of the DDO and Clause 2.1 of Schedule 33 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p>
<p><b>Clause 45.03: Environmental Audit Overlay (EAO)</b></p>	<p>Pursuant to Clause 45.03-1 of the EAO: Before a sensitive use (<b>residential use</b>, 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"> <li>• A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or</li> <li>• A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use.</li> </ul> <p>A planning permit is required under this clause.</p>
<p><b>Clause 45.09: Parking Overlay (PO1)</b></p>	<p>A planning permit is required to provide more than the maximum parking provision specified for a use in Table 1 to this schedule. Use for <b>Dwelling, Office</b> and <b>Retail premises</b> are listed in Table 1. The number of car parking spaces would exceed the maximum rates set out in Table 1; therefore a permit is required under this clause.</p>
<p><b>Clause 45.11: Infrastructure Contributions Overlay (ICO1)</b></p>	<p>Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan has been incorporated into the Planning Scheme. Pursuant to Clause 45.11-6, land or development of land is exempt from the ICO if it is for:</p> <ul style="list-style-type: none"> <li>• A non-government school;</li> <li>• Housing provided by or on behalf of the Department of Health and Human Services;</li> <li>• Any other land or development of land specified in a Schedule to the ICO.</li> </ul> <p>Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:</p> <ul style="list-style-type: none"> <li>• An existing use of land provided the site coverage is not increased.</li> <li>• A sign.</li> <li>• Consolidation of land or a boundary realignment.</li> </ul> <p>This clause does not apply to amendments to existing permits.</p>
<p><b>Clause 52.06: Car Parking</b></p>	<p>Pursuant to Clause 45.09-1 (Parking Overlay) (PO), the PO operates in conjunction with the requirements of Clause 52.06. 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. A permit is not required under this clause.</p>
<p><b>Clause 52.34: Bicycle Facilities</b></p>	<p>A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1. A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4. A permit is not required under this clause.</p>



	Strategy 1.3.9 of the Fishermans Bend Framework October 2018 recommends the provision of one bicycle space per 50m <sup>2</sup> for workers and one space per 1000m <sup>2</sup> for visitors in non-residential areas.
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## 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
Community and Service Planning	No objection
Traffic Engineers	<p><b>Parking Provision:</b></p> <ul style="list-style-type: none"> <li>• It is noted, the report recognises the total parking spaces proposed on site has been resolved previously and retained the same 157 spaces. However, the report also indicates changes to the proportion of car parking allocation for residents and commercial components.</li> <li>• The assessment for the appropriate rate for car parking provision lies with Statutory Planning.</li> </ul> <p><b>Parking Layout and Access Arrangements:</b></p> <ul style="list-style-type: none"> <li>• Car space dimensions of 2.6m (wide) x 4.9m (length) with aisle width of at least 6.4m are in accordance with clause 52.06 of the Planning Scheme.</li> <li>• Spaces in tandem have additional 0.5m between bays and meets the requirements of the planning scheme.</li> <li>• Parking space has generally been provided an additional 300mm clearance adjacent to walls/columns.</li> </ul>



- However, the residential parking space nearest to the new laneway indicate a wall will encroach into the space. This is not considered acceptable.
  - Not all parking spaces adjacent to a wall/column are annotated on the plans to show the clearance distance. We recommend they update plans to show the clearance.
  - Plans indicate all mechanical stackers are Wohn Parklift 411-2,0 (a dependent system).
    - Each stacker is proposed to have an useable platform dimensions of 2.4m wide x 5.0m long, this does not meet planning scheme or Australian Standards. Single width car stacker must provide a clear platform width of at least 2.6m
    - Can the Applicant confirm the available platform length of the upper level of the mechanical stacker?
    - The traffic report indicates that the mechanical stacker can provide a height clearance of 1.8m on the lower level and up to 1.6m on the upper level. This satisfy the planning scheme
  - The plans show a hash outline of the mechanical stacker. It is not clear if this will reduce the aisle width directly adjacent to the mechanical stacker.
  - The report indicates Swept Path Assessments are included in the report. This was not included. The Traffic Report needs to be updated to include the assessments.
  - The plans indicate a roller door/gate on Level 1 to separate commercial and residential parking. The door/gate will make manoeuvring in this section difficult. A swept path assessment should be provided demonstrating two vehicles can enter/exit this section at the same time.
  - Similarly, we have concerns with vehicle movements for commercial parking near the ramp as well. Swept path assessment should be provided to demonstrate vehicle movements.
  - Three separate accessway is provided on the new laneway. This represent a poor design outcome. Vehicle access should be consolidated to reduce the number of pedestrian/cyclist/ vehicle conflict points. More comments about loading is provided below.
  - Corner splays have been provided for vehicle access with the ramps.
  - No corner splays are provided for the ground level resident parking accessway. The report/plan indicate the roller door is permeable. This is considered a poor design and we recommend a corner splay to be provided.
- Ramps:**
- Access grade of no steeper than 10% within 5 metres of the frontage has not been provided as per the planning scheme.
- Loading provision:**
- We think there is a typo in the traffic report. Can the Applicant confirm the expected largest vehicle accessing this site (Medium Rigid Vehicle or HRV)?
  - In addition to the above comment about consolidating vehicle access, it is preferred vehicles requiring access to the loading area to be able to enter/exit in a forward direction.
- Traffic Generation:**
- There has been no cumulative traffic assessment from nearby properties that will impact the new laneway.



	<p><b>New Laneway:</b></p> <ul style="list-style-type: none"> <li>We note the surface level of the proposed 6 metre wide laneway may impact the site's accessway. Any grade change required must be contained wholly within the site.</li> <li>Is the new laneway considered public and vested to CoPP? Other abutting properties may be redeveloped in the future and may require vehicular access via the new laneway. Input should also be sought from other Council's teams with regard to but not limited to the laneway's functionality, access arrangements and management during this period.</li> </ul> <p><b>Salmon Street:</b></p> <ul style="list-style-type: none"> <li>The new footpath along the building's frontage should be constructed and must align with the existing footpath.</li> </ul> <p><b>Bike Facilities:</b></p> <ul style="list-style-type: none"> <li>A total of 318 bicycle spaces comprising of 248 for commercial staff/visitors, 56 for residents and 14 for residents' visitors.</li> <li>Plans indicate all bike racks are wall mounted or multi-tier racking systems (E3DT-GP model by Cora). I suggest at least 20% of bike racks are installed horizontal (i.e. not wall mounted) as per AS 2890.3.</li> </ul>
<p><b>Strategic Planning</b></p>	<ul style="list-style-type: none"> <li>The change in use to replace over 100 dwellings with commercial floor space is supported and fits with the broader objective for area W1 in the DDO, i.e.:</li> <li>Agreement to achieve a GBCA 5-Star as built rating is also a big positive.</li> <li>The proposal to create a diversity of housing stock (29% 3 bedroom apartments) is supported as well,</li> <li>The methodology proposed to meet the 6% affordable housing trigger should be based off more established and generally agreed definitions.</li> </ul>
<p><b>Urban Design</b></p>	<p>It is recommended the applicant and designers explore ways they can meet the policy objectives outlined in the DDO33, Apartment Design Guidelines for Victoria and the Fishermans Bend Framework and create a benchmark of design excellence that inspires future developments to help create a thriving urban renewal area. The conditions to consider include:</p> <ul style="list-style-type: none"> <li>Provide a visual impact (view shed assessment) from the top of the Salmon Street bridge looking south. Include the future park area opposite the site, Beacon Cove and view to Port Phillip Bay.</li> <li>Ensure the cantilevered garden overhanging the public realm is considered for its safety and risk. Ensure any agreement or permit offsets liability to the satisfaction of Council.</li> <li>Below the street wall (level 6), the proposed laneway on the north title boundary should be kept clear to the sky with no built form encroaching above the laneway allocation.</li> <li>Ensure 30% of NDA is allocated for the purposes of communal open space with the capability to meet the needs of residents, is accessible and has appropriate levels of solar access.</li> <li>Provide landscaping elements responsive to the location opposite the future park, and conducive to a shared zone and apartment development.</li> <li>Ensure the retail space at ground level is protected from potential vehicle impact.</li> <li>Ensure the shared zone is safe for cyclists, pedestrians and vehicles.</li> <li>Maintain clear sight-lines from the street to circulation areas for residents.</li> </ul>



	<ul style="list-style-type: none"> <li>• Create a sense of address and appropriate amenity for the residential building entry point, communal open spaces and shared zone.</li> <li>• Develop a landscape plan that is responsive to the future Park, the awning feature, the public private interface and provides deep soil areas that meet the landscape requirements outlined in the Better Apartment Design Standards.</li> <li>• Ensure the residential entry is setback from the title boundary with legible delineation between the commercial and residential entry points and appropriate weather protection for visitors.</li> <li>• Ensure the wind assessment provides a response to the specifications and unsafe wind conditions outlined in table 7 of the DDO33.</li> </ul>
<p><b>Environmentally Sustainable Design</b></p>	<p>The following changes to plans are recommended</p> <ul style="list-style-type: none"> <li>- Roof plan should include notation for 100kWp solar PV system and solar pre-heat for domestic hot water system (as committed to in SMP).</li> <li>- Eight electric vehicle parking bays to be nominated on floor plans (as committed to in SMP).</li> <li>- Ground floor plan end of trip area to include notation for showers, which are currently shown as cubicles.</li> <li>- The bike parking looks tight the configuration should be represented at a larger scale than the floor plans (such as the BADS assessment provided for apartment floor plans) should be provided at 1:50.</li> <li>- There is also no condition on the current permit relating to landscaping. Suggest that a detailed landscaping plan be required by condition containing a notation about the irrigation system specified in the SMP.</li> <li>- Provision of a landscape plan should also be required to demonstrate commitment to 2.5% of site containing native planting, as per commitment in the Ecology section of the SMP.</li> <li>- Floor plan to nominate connection point to precinct-wide third pipe system, as committed to in SMP and consistent with condition 12 of the existing permit.</li> <li>- There are inconsistencies between SMP details of rainwater harvesting and details shown on plans. SMP refers to a 95kL tank, whereas the ground floor plan shows a tank of 60m3. Also the roof catchment area in m2 above level 11 is noted differently on the plans and in the SMP. These need to be consistent to demonstrate that stormwater quality objectives can be met.</li> <li>- No tank for fire system test water shown on plans.</li> <li>- More detail required for each of the innovation credits claimed.</li> <li>- The project must meet the general Green Star credit requirements in this area before they can claim the innovation credit.</li> <li>- Nominate location of 6 electric bicycle parking spaces and charging infrastructure on floor plans.</li> <li>- Indoor plants commitment in SMP relates to primary and secondary spaces.</li> </ul>
<p><b>Housing Development Officer</b></p>	<p>I do not support .... (<i>the applicant's 'affordable' housing</i>) proposal for four reasons:</p> <ol style="list-style-type: none"> <li>1. Median priced apartments in Port Phillip, as indicated by the applicant, are not affordable to very low, low and most moderate income households, as defined by the income ranges published by the State Government. Based on the benchmark of 30% of gross household income spent on mortgage repayments, the affordable purchase prices in Port Phillip for dwellings are:</li> </ol>



Household Type and Income Level Household Type and Income Level		Housing Size	Purchase		
			Affordable purchase price	No	%
Single	Very low \$25,220	1 bedroom and bedsits	\$145,000	17	0.2%
	Low \$40,340		\$232,000	93	1.3%
	Moderate \$60,510		\$348,000	490	6.7%
Couple	Very low \$37,820	1 bedroom and bedsits	\$218,000	76	1.0%
	Low \$60,520		\$348,000	490	6.7%
	Moderate \$90,770		\$522,000	2,126	29.0%

Source: Port Phillip Rated Data 2018, DHHS rental letting data 2017; Planning and Environment Act 1987, Section 3Ab, Order in Council

Household Type and Income Level Highest annual income in each level) Note:..	Purchase				
	Affordable purchase price	No	%	No	%
<b>Families</b>		<b>2 + br</b>		<b>3+ br</b>	
Very low \$52,940	\$305,000	22	0.4%	2	0.2%
Low \$84,720	\$488,000	280	5.1%	7	0.6%
Moderate \$127,080	\$731,000	2,034	1.7%	92	7.4%

Source: Port Phillip rated Data 2018, DHHS rental letting data 2017; Planning and Environment Act 1987, Section 3Ab, Order in Council

Note: It is assumed that all moderate income households and low income families are not eligible for CRA Source: City of Port Phillip Housing Needs Assessment and Allocations Framework Report, Beverley Kliger & Associates March 2019

Thus, all single and couple very low, low and moderate income households, and very low and low income family households, will be unable to afford purchase of 1 and 2 bedroom dwellings at \$568,000 to \$693,000; and only moderate income families, who have an income of \$127,080 / year, will be able to afford the two bedroom dwellings sold for between \$568,000 to \$693,000.

- The sale prices of \$568,000 to \$693,000 are estimates only, as they will be sold for whatever the market will pay for them, which potentially may exceed these prices.
- This will not address the scarcity of affordable dwellings for sale on the market, as illustrated by the number and percentage of affordable purchase dwellings in Port Phillip shown in the above tables.



4. Notwithstanding the above, at the estimated sale prices, any 'affordability' benefit that is yet to be determined, may if achieved only create a windfall gain for the first purchasers, and subsequent on-selling will be at the prevailing market price points. This does not achieve a long-term affordable housing solution, and is not a good social return under the 6% affordable housing requirement, or in return for the proposed additional 2 levels.

**Officer Comment**

Calculations for the total number of affordable or social housing dwellings should be rounded down to the nearest whole number.

The preferred method of providing affordable housing is in accordance with the local policy.

**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.
- 9.4 This amendment means that Council's comments as a recommending referral authority to the Minister are now formal rather than informal advice as previously.
- The Minister is not bound to refuse to grant a permit if a **recommending** referral authority objects, but must refuse an application if a relevant **determining** referral authority objects.

**10. PUBLIC NOTIFICATION / OBJECTIONS**

- 10.1 The Minister for Planning is the Responsible Authority for the application.
- 10.2 The Minister has not given notice of the application.
- 10.3 An application to demolish or remove a building, construct a building or construct or carry out works, or use land (other than a nightclub, tavern, brothel or adult sex product shop) in the Capital City Zone is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and review rights of Section 82(1) of the Act. 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.

**11. OFFICER ASSESSMENT**

**11.1 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 Wirraway precinct is a predominantly family-friendly inner-city neighbourhood close to the bay and Westgate Park.



**11.2 Local Policy for Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area Local Planning Policy Framework (LPPF)**

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 Measure	Officer Assessment
<p><b>Providing for employment floor area</b></p> <p>Development in a Core area in the relevant Map in Schedule 1 to the Capital City Zone should provide floor area for employment generating uses. Table 1 sets out the preferred minimum plot ratio that should be provided for a use other than Dwelling within the Wirraway Core area is 1.9:1.</p>	<p><b>Not applicable</b></p> <p>The site is not in the Wirraway precinct Core area. Notwithstanding this, the proposed 11,333m<sup>2</sup> retail and office floor area would provide for employment in the precinct.</p> <p>The application notes the owner of the land is seeking to consolidate three separate photographic studio, digital printing and advertising production business operations currently dispersed across the FBURA onto the site, which would result in approximately 150 employees locating to the site. This is supported.</p>
<p><b>Community and diversity</b></p> <p>It is policy to:</p> <ul style="list-style-type: none"> <li>• Encourage a diversity of dwelling typologies and sizes within each precinct and within individual development sites.</li> <li>• Encourage Affordable housing to be provided within a range of built form typologies.</li> <li>• Encourage design that delivers a range of housing types suitable for households with children.</li> <li>• Encourage the delivery of adaptable floor plates including the opportunity to combine one and two-bedroom units to form larger apartments.</li> <li>• Encourage communal open spaces within residential development to include a range of facilities, garden and recreation areas.</li> <li>• Proposals of more than 100 dwellings in Wirraway should provide 30 per cent three-bedroom dwellings.</li> </ul>	<p><b>Achieved in part</b></p> <ul style="list-style-type: none"> <li>• The proposal includes a mix of 1, 2 and 3BR dwellings of varying sizes.</li> <li>• No affordable housing (as defined by the Act and the Planning Scheme) is proposed.</li> <li>• The dwelling layouts would deliver a range of housing types suitable for households with children, with large private outdoor spaces of 25m<sup>2</sup> to 86m<sup>2</sup> for some dwellings.</li> <li>• Whilst the proposal has not shown delivery of adaptable floor plates including the opportunity to combine one and two-bedroom units to form larger apartments, the built form includes a significant number of 90m<sup>2</sup> or larger 2 and 3-bedroom dwellings suitable for families.</li> <li>• A communal room and outdoor terrace is proposed at Level 8 of the building.</li> <li>• The proposal is for less than 100 dwellings. Nonetheless, the proposed 16 x 3BR dwellings equates to 29% of dwellings, which is satisfactory.</li> </ul>



Policy Measure	Officer Assessment
<p><b>Providing for Affordable housing</b></p> <p><u>Affordable housing</u></p> <ul style="list-style-type: none"> <li>• Development should provide at least six per cent of dwellings permitted under the dwelling density requirements in the Capital City Zone (excluding any Social housing uplift dwellings) as Affordable housing, unless: <ul style="list-style-type: none"> <li>- The built form envelope available on the site makes it impractical to do so.</li> <li>- It can be demonstrated that the development will contribute to the Affordable housing objectives while providing less than the minimum amount.</li> <li>- It can be demonstrated that meeting the Affordable housing objectives would render the proposal economically unviable.</li> </ul> </li> <li>• Affordable housing should; be a mix of one, two and three bedrooms that reflects the overall dwelling composition of the building; have internal layouts identical to other comparable dwellings in the building; and be externally indistinguishable from other dwellings.</li> </ul> <p><u>Social housing</u></p> <ul style="list-style-type: none"> <li>• Encourage development to provide Social housing, in addition to the provision of six per cent, affordable housing, by allowing a Social housing uplift equivalent to eight additional private, dwellings of equivalent size for each Social housing unit provided.</li> </ul>	<p><b>Not achieved</b></p> <p><u>Affordable housing</u></p> <ul style="list-style-type: none"> <li>• Six per cent of 57 dwellings equals 3 (3.43) dwellings. No affordable housing (as defined by the Act and the Planning Scheme) is proposed.</li> </ul> <p>The application argues eight dwellings comprising the smaller 1 x 63m<sup>2</sup> x 1BR, and 4 x 71m<sup>2</sup> and 3 x 72m<sup>2</sup> x 2BR dwellings would potentially be delivered to market at approximately \$567,000 to \$639,000, circa the median and less than the third quartile dwelling value in the City of Port Phillip, and this would constitute affordability.</p> <p>This is considered to be beyond the means of very low, low and moderate income households as defined by the Act.</p> <ul style="list-style-type: none"> <li>• Notwithstanding, the dwelling mix, internal layouts and access are suitable for the provision of affordable housing in the building.</li> </ul> <p>The affordable housing offer needs to meet the affordable housing cohorts cited in the Act.</p> <ul style="list-style-type: none"> <li>• Council's Housing Officer recommended affordable housing be provided by: <ul style="list-style-type: none"> <li>• Transferring four* dwellings to a registered Housing Association or Provider (i.e. as per FBURA Local Policy); or</li> <li>• Four* dwellings be sold to small investors subject to a requirement they be rented at a discounted rent of not more than 70-80% of market rent for their economic life (pursuant to a S173 Agreement).</li> </ul> </li> </ul> <p>* <b>Note:</b> The Housing Officer rounded the total number of dwellings up to the nearest whole number. Calculations should be rounded down to the nearest whole number, which would result in a requirement for three (3.3) dwellings, not four.</p> <p>The transfer of three dwellings to a registered Housing Association or Provider is preferred.</p> <p><u>Social housing</u></p> <ul style="list-style-type: none"> <li>• No Social housing is proposed.</li> </ul>
<p><b>Design excellence</b></p> <ul style="list-style-type: none"> <li>• Encourage varied built form typologies that align with the precinct character area as detailed in the relevant Schedule to the Design and Development Overlay.</li> <li>• Encourage fine grain, pedestrian scale environment.</li> </ul>	<p><b>Not achieved</b></p> <ul style="list-style-type: none"> <li>• The subject site is in precinct character area W1 - Mid-rise which promotes generally mid-rise (i.e. 7 to 15 storeys) development.</li> </ul> <p>The proposal would deliver variations in massing, building height, and roof forms and staggering or offsetting of tower footprints, and a selection of materials to help break up and articulate this mass.</p>



<ul style="list-style-type: none"> <li>• Developments should deliver variation in massing, building height, and roof forms and staggering or offsetting of tower footprints.</li> </ul>	<ul style="list-style-type: none"> <li>• However, the setbacks proposed fail to meet either the original building footprint currently approved or the minimum setbacks required under the present day controls of DDO33.</li> <li>• Council's Urban Designers recommended changes to the design (Refer Section 9.1 of this report).</li> </ul>
<p><b>Achieving a climate adept, water sensitive, low carbon, low waste community</b></p> <ul style="list-style-type: none"> <li>• Developments should achieve a 20 per cent improvement on current National Construction Code energy efficiency standards. This includes energy efficiency standards for building envelopes and for lighting and building services.</li> <li>• Residential developments should achieve an average 7-star NatHERS rating for each building.</li> <li>• Developments should incorporate renewable energy generation, on-site energy storage, and opportunities to connect to a future precinct-wide or locally distributed low-carbon energy supply.</li> </ul>	<p><b>Achieved in part - Condition(s) required</b></p> <ul style="list-style-type: none"> <li>• The applicant's Sustainable Management Plan (SMP) does not address the National Construction Code, alternatively stating the development would achieve: <ul style="list-style-type: none"> <li>- A FirstRate 5 energy rating of 7.0 stars;</li> <li>- A maximum annual cooling load of 30MJ/m<sup>2</sup> for all dwellings per Better Apartment Design Standards (Dec 2016) - Climate Zone 21;</li> <li>- A Green Star 5 Star Rating;</li> <li>- A NABERS Energy 5-star rating, which is defined as 'Excellence'</li> <li>- The Best Practice standard for stormwater quality in accordance with Clause 22.12 (WSUD) of the Planning Scheme.</li> </ul> <p>Council's Sustainable Design Officer raised concerns with the building design and SMP (Refer Section 9.1 of this report) and recommended both be revised.</p> </li> <li>• As above, the applicant's SMP does not address NatHERS (other than regards the cooling load provisions of Clause 58 of the Planning Scheme).</li> <li>• The SMP and plans do not detail renewable energy generation, on-site energy storage, and opportunities to connect to a future precinct-wide or locally distributed low-carbon energy supply.</li> </ul> <p>Any approval that may issue for the proposal should include a condition for changes to address the above matters.</p>
<p><b>Sea level rise, flooding and water recycling and management</b></p> <ul style="list-style-type: none"> <li>• Only consider the raising of internal ground floor level above street level as a last resort, except where the implementation of other measures coupled with an evidence based approach to risk management reasonably necessitates raising internal floor levels above street level.</li> </ul>	<p><b>Achieved in part - condition required</b></p> <ul style="list-style-type: none"> <li>• No change in finished floor level over that originally approved is proposed.</li> <li>• The plan and elevation drawings should be amended to show floor levels expressed to Australian Height Datum (AHD) to confirm flood level compliance.</li> </ul>
<p><b>Waste management</b></p> <ul style="list-style-type: none"> <li>• Developments should respond to any precinct waste management plan.</li> <li>• Where practicable, developments should create opportunities to:</li> </ul>	<p><b>Achieved</b></p> <ul style="list-style-type: none"> <li>• A precinct waste management plan has not been prepared for the FBURA to date.</li> <li>• Subject to incorporation of the systems and processes outlined in the Waste Management Plan</li> </ul>



<ul style="list-style-type: none"> <li>○ Optimise waste storage and efficient collection methods.</li> <li>○ Combine commercial and residential waste storage.</li> <li>○ Share storage or collections with adjacent developments.</li> <li>○ Separate collection for recycling, hard waste, and food and green waste.</li> </ul>	<p>by Leigh Design provided with the application, the proposal would generally meet this policy.</p>
<p><b>Communal open spaces</b></p> <ul style="list-style-type: none"> <li>● Create private and communal open spaces within developments to supplement the public open space network.</li> <li>● Encourage internal and external communal spaces within the same development to connect to one another and be designed as multifunctional, adaptable spaces.</li> <li>● Encourage the provision of additional publicly accessible areas at ground level that contribute to the creation of a network of passive, formal and informal recreational spaces.</li> </ul>	<p><b>Achieved in part - condition(s) required</b></p> <ul style="list-style-type: none"> <li>● A communal room and outdoor terrace is provided at Level 8 for the dwellings. However, these are considered to be undersized relative to the overall site and floor area. Access to these space via a residential corridor is likely to be disruptive to Level 8 residents. Independent access would resolve this.</li> <li>● The internal and external communal spaces would be connected and would be adaptable for a variety of uses.</li> <li>● The ground level site layout and building design does not include any additional publicly accessible areas that contribute to the creation of a network of passive, formal and informal recreational spaces. The shared zone along the northern side of the site is for vehicle access and is not suitable for recreation.</li> </ul>
<p><b>Landscaping</b></p> <ul style="list-style-type: none"> <li>● Encourage developments to provide landscaping in all areas of open space including public open space, communal open space and private open space</li> <li>● Buildings should: <ul style="list-style-type: none"> <li>○ Include deep soil zones of at least 1.5 metres or planter pits to accommodate canopy trees.</li> <li>○ Incorporate green facades, rooftop, podium or terrace planting that is water efficient, located and designed to be sustainable, viable and resilient and appropriate to micro-climate conditions.</li> </ul> </li> </ul>	<p><b>Achieved in part – condition(s) required</b></p> <ul style="list-style-type: none"> <li>● The architectural plans show notational planter landscaping of terraces and balconies for the offices and dwellings, including the communal open space at Level 8, and a balcony over Salmon Street which would be outside the Title boundary and is not supported. A condition of any approval should require the submission of a detailed landscape plan for the landscaped areas within the Title.</li> <li>● The building design makes no express provision for deep soil zones to accommodate canopy trees on site. The amended plans propose to build to the boundary at ground level, except for a rebate on the south side and a setback along the north side for vehicle access and a shared lane. This is inferior to the plans for the current permit which feature two rebates for deep soil planting along each side of the site.</li> <li>● The application documentation does not detail landscaping water efficiency, sustainability, viability and resilience and appropriate to micro-climate conditions. A condition of any approval should require a response to these matters.</li> </ul>



<p><b>New streets, laneways and pedestrian connections</b></p> <ul style="list-style-type: none"> <li>• New streets, laneways and pedestrian connections should be spaced in non-core areas, not more than 100m apart and be oriented in the preferred direction.</li> <li>• Sites of more than 3000m<sup>2</sup>, should provide new streets, laneways or paths to create mid-block through links and define and separate buildings.</li> <li>• New shared streets or shared laneways should prioritise pedestrian movement and safety.</li> <li>• New streets and laneways should be designed to: <ul style="list-style-type: none"> <li>○ Enable views through the street block.</li> <li>○ Have active frontages in a core area.</li> <li>○ Be open to the sky.</li> <li>○ Allow for canopy tree planting.</li> </ul> </li> </ul>	<p><b>Achieved in part - Condition(s) required</b></p> <ul style="list-style-type: none"> <li>• The plans set aside 3.0m along the northern side of the site as 50% of the width of a new lane recommended in the Framework Plan and Planning Scheme controls. The new lane would be not more than 100m from existing streets and would be oriented in the preferred direction.</li> <li>• The site has an area of 3,287m<sup>2</sup>. The land set aside for a new lane would contribute to the creation of a mid-block through link and would define and separate buildings.</li> <li>• The plans do not detail prioritising of pedestrian movement and safety or how vehicle access to the building via the shared zone on the subject site and future access along the mid-block through link would be achieved. Council's traffic engineers raised concerns there would be multiple conflict points between pedestrians and vehicles along the shared zone as proposed.</li> <li>• The new lane would enable views through the street block and be open to the sky (noting finalisation of the through block link requires land to be set aside on adjacent land to the north and west (rear). The lane design however makes no provision for canopy tree planting and the building design facing the lane is dominated by vehicle access and building services rather than active (and/or visually interesting) frontages. A condition of any approval should require a response to these matters.</li> </ul>
<p><b>Sustainable transport</b></p> <ul style="list-style-type: none"> <li>• Ensure development does not compromise the delivery of future public transport including new tram, train and bus routes.</li> <li>• Reduce impacts of new vehicle access points on pedestrian, public transport and bicycle priority routes.</li> <li>• Design internal connections to give priority to bicycle and pedestrian movements.</li> <li>• Provide high levels of and easy access to bicycle parking facilities, including end of trip change rooms, showers and lockers.</li> <li>• Encourage developments to provide less than the preferred maximum number of car spaces.</li> <li>• Encourage developments to provide for future conversion of car parking to alternative uses.</li> </ul>	<p><b>Achieved in part - Condition required</b></p> <ul style="list-style-type: none"> <li>• The proposal would not compromise the delivery of future public transport.</li> <li>• The proposed single vehicle crossing and new lane access point on Salmon Street would not materially adversely impact on any pedestrian, public transport or bicycle priority route.</li> <li>• The design of the internal connections does not give priority to bicycles and pedestrians. As per comments above, a condition of any approval needs to resolve the design of the shared zone and the new lane.</li> <li>• The design provides a high level of and easy access to bicycle parking facilities, including end of trip change rooms, showers and lockers.</li> <li>• The proposal would provide in excess of, rather than less than the preferred maximum number of car spaces.</li> <li>• The commercial car parking spaces on Levels 1 and 2 have been designed with level floors, centralised services and ramps designs which</li> </ul>



	provide potential conversion to additional commercial floor area.
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### 11.3 Dwelling Density

11.3-1 The site is in the Wirraway Non-core area for which a maximum dwelling density of 174 dwelling per hectare is specified. The proposed 55 dwellings would not exceed the maximum density as follows:

Capital City Zone (CCZ1)	Maximum dwelling density	Proposed No. dwellings
Dwelling density (maximum) Wirraway Non-core area: 174 dw/ha	174 dw/ha x 3,287m <sup>2</sup> site area = maximum 57 dwellings	55 dwellings - complies

### 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 DDO33, 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 DDO33.

The amended plans comply only in part with the preferred and/or mandatory height and setback requirements of DDO33 and increase the extent of non-compliance compared to the original approval, particularly at Levels 3 and 4, and generally with regard to the proposed new lane along the northern side of the site.

11.4-2 The table below sets out an assessment of the original (current) permit and the amendment application against the current Design and Development Overlay planning controls.

Table 11.4-1 - DDO33 Requirements Summary

Measure	DDO33 requirement	Original Approval	Current Proposal
Street wall height (Street > 22m wide)	At least 4 storeys (preferred) 6 storeys (maximum)	13.1m (16.75m AHD) (4 storeys)	24.3m (27.95m AHD) (6 storeys) - <b>complies</b>
Street wall setback	0.0m (preferred)	0.0m	0.0m - complies
Building Height	30.0m (8 Storeys) (preferred)	Max. 37.5m (41.15m AHD) (12 storeys) <b>Note:</b> No height limit when originally approved	Max. 45.1m (48.75m AHD) (12 Storeys) – <b>variation required</b>
Setback above street wall (Tower)	10.0m (preferred) 5.0m (minimum - unless a lesser setback is required to deliver a building typology other than tower-podium)	Min. 5.0m	Min. 5.0m to 6.3m – <b>variation required</b>



<b>Side and rear setbacks below max street wall height (Non-core) (Podium)</b>	0.0m or within 300mm of boundary (preferred). If not on or within 300mm of boundary: • 9.0m (preferred) • 6.0m (minimum)	Min. 0.0m / within 300mm	<b>North (side):</b> Min. 3.0m to 6.35m (north) – <b>complies in part</b> <b>South (side):</b> 0.0m – <b>complies</b> <b>West (rear):</b> 0.0m – <b>complies</b>
<b>Side and rear setbacks above max street wall height (Non-core) (Tower)</b>	10.0m (preferred) 5.0m (minimum)	Min. 5.0m	<b>North (side):</b> Min. 4.5m to 10.3m - <b>variation required</b> <b>South (side):</b> Min. 5.0m to 5.25m - <b>variation required</b> <b>West (rear):</b> Min. 5.0m to 5.39m - <b>variation required</b>
<b>Primary active frontages</b>	80% clear glazing	90% clear glazing	81% clear glazing - <b>complies</b>
<b>DDO33 - Adaptable buildings requirements</b>	<b>DDO33 requirement</b>	<b>Original Approval</b>	<b>Current Proposal</b>
<b>Ground level</b>	At least 4.0m in height	3.0m	4.0m
<b>Other levels in podium (inc. parking)</b>	At least 3.8m in height	3.0m	All 3.8m

Height

11.4-4 The proposed building whilst still a maximum of 12 storeys, would be 7.6m higher than previously approved, and four storeys and 15.1m higher than the 30m (8 storey) preferred maximum height specified in the FB Framework Plan October 2019 and DDO33.

Five (5.0) metres of this additional height is a result of the amended plans increasing floor to floor heights in the podium levels to meet new adaptable building requirements.

A further 1.3m of the additional height is a result of increased floor to floor heights in the tower levels to accommodate the change from Dwelling use to Office use (Noting typical commercial floor to floor heights are greater than typical dwelling floor to floor heights because of the need to accommodate building services above false ceilings) and to improve amenity, and the final 1.3m additional height is a result of a revised rooftop parapet design.

11.4-5 Notwithstanding that the building height specified for the land is discretionary and the increase in height seeks to achieve compliance with adaptable building requirements and facilitate the office use and improve apartment amenity, it is considered that the increase in building height would be inconsistent with the height ambitions for the precinct and should be reduced.

Deleting two storeys from 12 to 10 would reduce the height to generally in accordance with the current approved height. Whilst this would still be two storeys and approximately 7.5m above the DDO33 preferred height, this is considered to be an acceptable outcome for the site.



Setbacks (podium)

11.4-6 The original permit provided for a four-level podium constructed to all four boundaries (with some minor rebates) and an 8-level tower setback the minimum permissible 5.0m (preferred 10.0m) from all boundaries, with some rebates (predominantly from the north side to provide open space).

Setbacks above the street wall (i.e. tower)

11.4-7 The current permit plans set the tower back 5.0m from Salmon Street above the podium street wall.

DDO33 specifies a preferred setback of 10.0m and a minimum setback of 5.0m, unless a lesser setback is required to deliver a building typology other than tower-podium. As a podium-tower building typology is proposed, this exemption does not apply.

The amended plans propose to set the building back 6.3m at Levels 6 and 7, and 5.0m at Levels 8, 9, 10 and 11. These setbacks fall within the ambit of discretion and are considered an acceptable outcome having regard to the existing approval and the DDO33 requirements.

Side and rear setbacks (podium and tower)

11.4-8 The table below sets out side and rear setback compliance and non-compliance in detail.

**Table 11.4-2: Side and rear setbacks**

DDO33 Requirement	South (side)	North (side)	West (rear)
<b>Below street wall:</b> 0.0m or within 300mm of boundary (preferred). If not on or within 300mm of boundary, <u>should</u> be setback 9.0m (preferred), and <u>must</u> be setback at least 6.0m (minimum)			
<b>Level 0 (Ground)</b>	0.0m: <b>complies</b>	3.65m from lane (6.65m from title boundary): <b>does not comply - discretion to allow</b>	0.0m: <b>complies</b>
<b>Level 1</b>	0.0m: <b>complies</b>	3.65m from lane (6.65m from title boundary): <b>does not comply - discretion to allow</b>	0.0m: <b>complies</b>
<b>Level 2</b>	0.0m: <b>complies</b>	0.55m from lane (3.55m from title boundary): <b>does not comply - no discretion</b>	0.0m: <b>complies</b>
<b>Level 3</b>	0.0m (pt): <b>complies</b> 5.0m (pt): <b>does not comply - discretion to allow</b>	0.55m from lane (3.55m from title boundary): <b>does not comply - no discretion</b>	5.0m: <b>does not comply - discretion to allow</b>
<b>Level 4</b>	0.0m (pt): <b>complies</b> 5.0m (pt): <b>does not comply - discretion to allow</b>	0.0m from lane (3.0m from title boundary): <b>complies</b>	5.0m: <b>does not comply - discretion to allow</b>
<b>Level 5</b>	0.0m (pt): <b>complies</b>	3.3m from lane (6.3m from title boundary): <b>does not</b>	5.0m: <b>does not comply - discretion to allow</b>



	5.0m (pt): <b>does not comply - discretion to allow</b>	<b>comply - discretion to allow</b>	
<b>Above street wall:</b> 10.0m (preferred), 5.0m (minimum)	<b>South (side)</b>	<b>North (side)</b>	<b>West (rear)</b>
<b>Level 6</b>	5.0m: <b>variation required - discretion to allow</b>	2.25m from lane (5.25m from title boundary): <b>does not comply - no discretion</b>	5.0m: <b>variation required - discretion to allow</b>
<b>Level 7</b>	5.25m: <b>variation required - discretion to allow</b>	2.24m from lane (5.24m from title boundary): <b>does not comply - no discretion</b>	5.39m: <b>variation required - discretion to allow</b>
<b>Level 8</b>	5.0m: <b>variation required - discretion to allow</b>	1.5m from lane (4.5m from title boundary): <b>does not comply - no discretion</b>	5.0m: <b>variation required - discretion to allow</b>
<b>Level 9</b>	5.01m: <b>variation required - discretion to allow</b>	5.3m from lane (10.3m from title boundary): <b>variation required - discretion to allow</b>	5.0m: <b>variation required - discretion to allow</b>
<b>Level 10</b>	5.01m: <b>variation required - discretion to allow</b>	5.3m from lane (10.3m from title boundary): <b>variation required - discretion to allow</b>	5.0m: <b>variation required - discretion to allow</b>
<b>Level 11</b>	5.0m: <b>variation required - discretion to allow</b>	5.3m from lane (10.3m from title boundary): <b>variation required - discretion to allow</b>	5.0m: <b>variation required - discretion to allow</b>

South (side) and West (rear) (podium)

11.4-9 The Level 0 (ground), 1 and 2 south (side) and west (rear) of the podium would be built to the boundary and would comply. This would generally match the existing approval, except the amended plans would delete one of two rebates for deep soil landscaping on the approved plans.

At Levels 3, 4 and 5 of the podium, part of the south (side) would also be built to the boundary which would also comply, but the majority of the Level 3, 4 and 5 south side walls and the other south (side) and west (rear) walls would be setback 5.0m or thereabouts, which would be less than the preferred 9.0m and the minimum allowed 6.0m and would not comply.

A variation can be supported for the 5.0m setback because it would match the accrued right of the minimum south side setback of the existing approval at these levels.

North (side) (podium)

11.4-10 Along the north (side), compliance needs to be calculated 3.0m in from the Title boundary to account for the required new lane, noting that the DDO specifies that the building should be built to or within 300mm of the new side lane (or setback 6 to 9.0m) below the street wall, and setback 5 to 10m above this.

The amended plans propose setbacks more or less than those approved. Tribunal decisions have held that variations to the accrued rights of an existing approved plan should not increase detriment i.e. setbacks should not be less than those approved, and heights should not be greater.



Following this guidance and the current DDO setback requirements, there is discretion to allow the podium to be setback as follows:

- 0.0m from the northern side Title boundary at Levels 0, 1 and 2 and part of Level 3;

or

- 3.0m from the northern side Title boundary (equivalent to 0.0m from the new lane);

or

- 5.0m or 12.365m from the northern Title boundary along parts of the northern side at Levels 3 to 5 (to match the approved plans);

or

- A minimum of 9.0m from the northern side Title boundary (equivalent to 6.0m from the new lane, up to a maximum of 12.0m from the northern side Title boundary (equivalent to 9.0m from the new lane) pursuant to the DDO.

The proposed ground, Level 1 and Level 4 3.65m 0.55m and 3.3m setbacks at Levels 0, 1, 2, 3 and 5 would not comply, but there is discretion to allow the Ground and Level 1 setbacks. The cantilevered Level 4 north side setback would equate to the southern boundary of the future lane and would comply.

Discretion is supported for the Ground and Level 1 setbacks because they are necessary for access to the building until the 6.0m wide lane is completed to the north. It is possible, that when the lane is completed, the ground and first floor could be extended to the edge of the lane.

The Level 2, 3 and 5 podium north side setbacks should be revised.

#### North (side) (tower)

Above the street wall, Levels 6, 7 and 8 of the tower would be setback 2.25m, 2.24m and 1.5m respectively from the new north side lane, whereas they should be setback at least 5.0m and preferably 10.0m. Levels 9, 10 and 11 would be setback 5.3m from the future lane and so would be within the ambit of discretion. Whilst the varied north side setbacks of the podium and tower levels provide a degree of visual and architectural interest, because they do not comply with mandatory minimum requirements of the DDO, they cannot be approved.

#### South (side) and West (rear) (tower)

All other tower side and rear setbacks above the street wall are proposed at the discretionary minimum 5.0m or thereabouts, rather than the preferred 10.0m. Whilst these reduced setbacks would accord generally with the accrued rights of the tower setbacks of the current permit, uniformly matching the previous planning controls instead of achieving the new controls or minor variations to the new controls would not achieve a satisfactory design outcome for the site and would be inequitable for any new application on adjacent sites.

#### Other setback matters

11.4-11 At Level 1, an awning is proposed to extend 2.75m over the Salmon Street nature strip and have an underside clearance of 7.435m. The awning would be setback approximately 0.6m to 3.0m from the Salmon Street kerb.

At Level 2, the awning is proposed to incorporate landscaping over Salmon Street.

The dimensions of the awning would be generally in accordance with Condition 1(c) of the current permit which requires:

*'The proposed street canopy awning redesigned to not impact on the mature height and breadth of the existing street trees, be setback at least 500mm from the face of the kerb and have an underside clearance of at least 2.7m.'*

- 11.4-12 Whilst landscaping and green wall treatments are encouraged, they should be achieved on the subject site and not encroach into public land. The awning landscaping over Salmon Street should be deleted in lieu of just a canopy.

### **11.5 Interior Layout, Amenity and Diversity.**

#### Dwelling Design

- 11.5-1 Clause 58 apartment standards do not apply to an application for an amendment of a permit under S72 of the Act, if the original permit application was lodged before the approval date of Amendment VC136, which is the case in this instance.
- 11.5-2 The size, layout and amenities of the dwellings have been improved over that originally approved, with internal floor areas, and open space provision increased to:
- A single one-bedroom apartment with a floor area of 63m<sup>2</sup> + 86m<sup>2</sup> balcony.
  - Thirty-eight two-bedroom dwellings with internal floor areas ranging from 80-90m<sup>2</sup> and open space provision from 25m<sup>2</sup> to 86m<sup>2</sup>;
  - Sixteen three-bedroom dwellings with internal floor areas of 100m<sup>2</sup> and open space provision ranging from 17m<sup>2</sup> to 91m<sup>2</sup>.

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 8m<sup>2</sup> within min. dimension of 1.8m, 8m<sup>2</sup> with min dimension of 2m and 12m<sup>2</sup> with min. dimension of 2.4m for 1, 2 and 3BR dwellings respectively.

The proposal exceeds these minimum requirements.

### **11.6 Resident Communal Facilities**

- 11.6-1 A resident communal room and outdoor communal landscaped terrace are proposed at Level 8. Access to these facilities is proposed via the entry corridor for Level 8, which would have a potential to cause adverse on-site amenity impacts from increased pedestrian traffic at Level 8. The communal facilities should have separate access. Further, the application and plans lack details of the layout and functionality and layout of the communal spaces.

Council's Urban Designers raised concerns that the proposed 158m<sup>2</sup> of indoor and outdoor communal area fell well short of the benchmark 30% of Net Developable Area (NDA) (i.e. 996m<sup>2</sup>) being provided for communal open space. It is considered that the design should be revised to provide more



communal areas, such as by revising the ground floor north side shared zone and/or the rooftop level.

- 11.6-2 The original application incorporated a larger common property area of 318m<sup>2</sup> at Level 3, which provided outlook for the north facing dwellings and had improved planting opportunities.

### **11.7 Commercial premises**

- 11.7-1 The Fishermans Bend Local Policy at Clause 21.15 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 non-core area of the Wirraway precinct. No minimum non-residential floor area is specified for non-core areas.
- 11.7-3 The amended plans propose 11,333m<sup>2</sup> of retail and commercial floor area, comprising 1 x retail tenancy of 288m<sup>2</sup> and 7 commercial tenancies totalling 11,045m<sup>2</sup> floor area.

This is a substantial increase over the 989m<sup>2</sup> (1 x retail tenancy of 269m<sup>2</sup> and 1 commercial tenancy of 720m<sup>2</sup>) retail and commercial floor area of the current approval.

The application documentation notes the proposal seeks to consolidate three existing businesses from elsewhere in the FBURA onto the site, accommodating approximately 150 jobs.

The level of retail and commercial floor area is supported.

### **11.8 Common property**

- 11.8-1 Separate foyers are proposed for the commercial and residential uses and this separation of uses is consistent throughout the building except for Level 1 where the plans indicate the car park will be utilised by both residential and commercial uses.

To achieve this, a roller door/gate is proposed to separate commercial and residential parking. The door/gate will make manoeuvring in this section difficult. Council's Traffic Engineers requested a swept path assessment be provided to demonstrate two vehicles could enter/exit the roller door exit at the same time.

The Traffic Engineers also raised concerns regards the potential for conflict between vehicles and pedestrian in the shared laneway along the northern side of the site due to three separate access ways (including one loading bay) being proposed. Vehicle access ways should be consolidated to reduce the number of conflict points. Sight line splays should also be provided for the vehicle access into the ground floor residential parking.

### **11.9 Noise**

- 11.9-1 Condition 19 of the existing permit sets out acoustic internal amenity 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. The required noise levels are



- Between 10pm and 7am in bedroom areas must not exceed LAeq, 9hour 40dB(A);
- Between 7am and 10pm in living rooms must not exceed LAeq, (15 hour) 45dB(A).

The application documentation notes an Acoustic Internal Amenity Report has been commissioned in accordance with Condition 19.

- 11.9-2 Since the original permit was issued, more stringent noise standards have been introduced at Clauses 55.07-6 and Clause 58.04-3 of the Planning Scheme for apartments in specified noise influence areas as follows:

Noise source	Noise influence area
<b>Zone interface</b>	
Industry	300m from the Industrial 1, 2 and 3 zone boundary
<b>Roads</b>	
Freeways, tollways and other roads carrying 40,000 Annual Average Daily Traffic Volume	300m from the nearest trafficable lane
<b>Railways</b>	
Railway servicing passengers in Victoria	80m from the centre of the nearest track
Railway servicing freight outside Metro Victoria	80m from the centre of the nearest track
Railway servicing freight in Metro Melbourne	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 120m 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 Whilst the Clause 58 Apartment Standards do not formally apply to the amendment application because the original permit was issued before the introduction of Clause 58, Clause 58.04-3 does provide a benchmark for assessing what is reasonable and it would be desirable for the proposal to meet the new noise level requirements of:
- 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.

## 11-10 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 permit was granted to increase the maximum rate for 3BR or more dwellings from 0.5 to 1.0 space per dwelling. The 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: 55 dwellings, comprising 16 x 3+ BR x 1 space/dwelling = 16 spaces + 39 x 1 or 2 BR x 0.5 spaces dwelling = 19.5 spaces = 35 (35.5 spaces = 0.63 spaces/dwelling)
- Commercial: 11,045m<sup>2</sup> gross leasable floor area (GFA) at 1 space/100m<sup>2</sup> GFA = 110 spaces
- Retail premises: 288m<sup>2</sup> GFA at 1 space/100m<sup>2</sup> GFA = 2 spaces
- Maximum No. spaces: 147 (147.5)
- Proposed No. spaces: 157

11.10-4 Eighty-eight (88) car spaces are proposed to be allocated to the commercial uses, which equates to less than 1 per 100m<sup>2</sup> and does not require a permit under the Parking Overlay.

Eighteen (18) spaces are proposed in 9 x non-independent car stackers and 70 spaces are proposed in single or tandem at-grade spaces

11.10-5 Seventy-one (71) spaces are proposed to be allocated to the 55 dwellings, which equates to 1.29 spaces per dwelling. This exceeds the 1.0 per dwelling maximum and thus requires a permit under the parking overlay

Two spaces (in 16 x non-independent car stackers) are proposed to be allocated to each 3BR dwelling and one at-grade space is proposed to be allocated to each one or 2BR dwelling.

11.10-6 The proposed ratio of 1.29 spaces would be above the typical FBURA dwelling / car parking ratio range of between 0.5 to 0.8 spaces per dwelling.

It would also be above the 0.94 spaces per dwelling ratio of the existing permit which allows 148 car spaces for 157 dwellings, 7 commercial for 720m<sup>2</sup> commercial and 2 retail spaces for 269m<sup>2</sup> retail floor area.

11.10-7 The application consultant traffic and parking assessment argues:



*“.... (the residential) car parking rates are consistent with typical (Column A) rates under Clause 52.06 of the Planning Scheme which are expected to be more akin to the likely car parking demand of future residents in the short to medium term future.”*

.....

*“... the subject site currently has a relatively low vehicle of access to public transport ... (sic)”*

.....

*“The ground level and podium levels have been designed with sufficient floor-to-floor height clearances to allow future conversion of car parking to commercial or residential floor area as desired.*

*Furthermore, the proposed car stackers are above ground (no pit) and therefore can easily be removed in the future.*

*Accordingly, the development has appropriately allowed for transition if reduced car parking provision is desired, particularly when future improvements to the public transport network become available.”*

- 11.10-9 The car parking rates of Clause 52.06 only apply to the FBURA for uses not listed in the Parking overlay. The Parking Overlay includes rates for the proposed Dwelling, Retail premises and Office uses and intentionally sets out lower rates than Clause 52.06.

Whilst it is acknowledged that the subject site is at present not well served by public transport (PT) and the new fixed rail tram line envisaged in the FB Framework along Plummer Street (295m to the south) and the Metro 2 rail line along Plummer Street or to the north are long term (i.e. circa 2025+) projects (and Metro 2 is not confirmed), there is potential for improvements to the existing bus service along Salmon Street and other nearby bus routes in the short to medium term.

The podium car park areas nominated for future conversion to commercial or residential floor area are poorly suited to either alternative use because their built to the boundary configuration precludes the provision of windows on the boundary or access to light via light courts without substantial modification of the building.

Further, once car parking spaces have been allocated to dwellings in a plan of subdivision, it is impractical, and unlikely, if not near impossible for those spaces to be relinquished.

To achieve the long-term car parking and travel mode objectives of the FBURA, the number of car spaces for the amended proposal should accord with the Parking Overlay now and not Clause 52.06, and the number of spaces should be reduced.

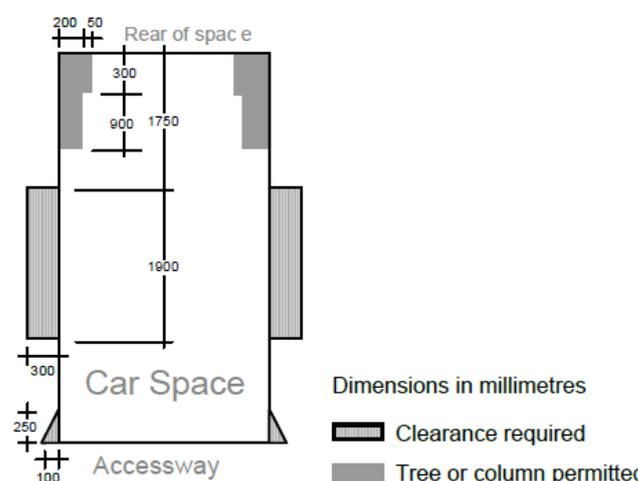
After assessment of the location of the subject site, parking arrangement, and reduced size of the residential component, it is considered that if any variance from the Parking Overlay rate of 0.63 spaces/dwelling is to be supported, it should not exceed the 0.94 spaces per dwelling ratio of the existing permit and not the proposed 1.29 spaces per dwelling.

#### 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 follows:

<b>Design Standard 1: Accessways:</b>																												
Minimum of 3m wide		<b>Achieved</b>																										
Internal radius of at least 4m at changes of direction or intersection or be >4.2m wide		<b>Achieved:</b> 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.		<b>Not applicable</b>																										
Provide Min. 2.1m headroom beneath overhead obstructions, calculated for a vehicle with a wheelbase of 2.8m.		<b>Achieved</b>																										
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.		<b>Achieved</b>																										
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.		<b>Achieved</b>																										
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.		<b>Not achieved:</b> Ground floor residential parking entrance need modification																										
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.		<b>Not applicable</b>																										
<b>Design Standard 2: Car parking Spaces</b>																												
<p><b>Table 2: Minimum dimensions of car parks and accessways</b></p> <table border="1"> <thead> <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> </thead> <tbody> <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 rowspan="3">90°</td> <td>6.4 m</td> <td>2.6 m</td> <td>4.9 m</td> </tr> <tr> <td>5.8 m</td> <td>2.8 m</td> <td>4.9 m</td> </tr> <tr> <td>5.2 m</td> <td>3.0 m</td> <td>4.9 m</td> </tr> </tbody> </table>		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	<b>Achieved in part:</b> The at-grade spaces would comply. The car stacker spaces do not.
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																									
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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.		<b>Not applicable</b>																										

<p><b>Diagram 1 Clearance to car parking spaces</b></p>  <p>Dimensions in millimetres</p> <p>Clearance required</p> <p>Tree or column permitted</p>														
<p><b>Design Standard 3: Gradients</b></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><b>Achieved in part:</b> Access grade of not more than 10% within 5.0m of the frontage has not been provided.</p>													
<table border="1" data-bbox="223 1198 1045 1444"> <thead> <tr> <th>Type of car park</th> <th>Length of ramp</th> <th>Maximum grade</th> </tr> </thead> <tbody> <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> </tbody> </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><b>Achieved</b></p>
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Private or residential car parks	20 metres or less	1:4 (25%)												
	longer than 20 metres	1:5 (20%)												
<p><b>Design Standard 4: Mechanical Parking:</b></p>														
<p>At least 25% of the mechanical spaces can accommodate a vehicle clearance height of at least 1.8m.</p>	<p><b>Achieved</b></p>													
<p>Spaces that require the operation of the system are not allocated to visitors unless used in a valet parking situation.</p>	<p><b>Achieved</b></p>													
<p><b>Design Standard 5: Urban Design</b></p>														
<p>Ground level parking, garage doors &amp; accessways should not visually dominate public space.</p>	<p><b>Not achieved:</b> Number of vehicle access points along the northern side should be reduced.</p>													
<p>Car parking within buildings (including visible portions of partly submerged basements) should be screened or obscured where possible, including through</p>	<p><b>Achieved</b></p>													



the use of occupied tenancies, landscaping, architectural treatments and artworks.	
Design of car parks should take into account their use as entry points to the site.	<b>Not achieved:</b> There is no delineation between the vehicle access on-site and the new lane on the north side of the site. The appearance of the multiple vehicle entries along the north side of the building is utilitarian and undermines the ground level presentation to the new lane.
<b>Design Standard 6: Safety</b>	
Car parking should be well lit & clearly signed.	<b>Refer Building Regs</b>
The design of car parks should maximise natural surveillance and pedestrian visibility from adjacent buildings.	<b>Not applicable</b> - The car park would be internal
Pedestrian access to car parking areas from the street should be convenient.	<b>Achieved in part:</b> Access via the internal lobby would be satisfactory. Access from the new lane along the north side of the site would be poor.
Ped routes through parking areas/building entries & other destination points should be clearly marked & separated from traffic in high activity parking areas.	<b>Not achieved</b>
<b>Design Standard 7: Landscaping:</b>	
The layout of parking areas should provide for water sensitive urban design treatment & landscaping.	<b>Not applicable</b>
Landscaping & trees should be planted to provide shade/shelter, soften appearance of ground level parking & aid in identification of pedestrian paths.	<b>Not applicable</b>
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.	<b>Not applicable</b>

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

- Access grade of no steeper than 10% within 5.0 m of the frontage has not been provided.
- Swept path drawings for cars and commercial vehicles demonstrating satisfactory access and passing space have not been provided.
- The door/gate between the residential parking and the commercial parking on Level 1 is likely to impede manoeuvrability.
- The car stackers dimensions do not achieve minimum standards.
- 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.
- There has been no cumulative traffic assessment of the new laneway.
- The design of the new lane to the north side of the site is not resolved.

11.10-12 Additional planner concerns include:

- If vehicle stackers are to be used, they should allow for independent vehicle access.

### 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
<b>Developments &gt; 50 dwellings</b>	1 resident space per dwelling x 55 dwellings	55	56
	1 visitor space per 10 dwellings	5 (5.5)	14
<b>Developments &gt; 10,000m<sup>2</sup> non-residential floor space</b>	1 staff space per 50m <sup>2</sup> non-residential floor area x 11,333m <sup>2</sup>	226 (226.66)	236
	1 visitor space per 1000m <sup>2</sup> non-residential floor area	11 (11.33)	12
<b>TOTAL:</b>		<b>297</b>	<b>318</b>

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 wall mounted or multi-tier racking systems (E3DT-GP model by Cora). Council's traffic engineers suggest at least 20% of bike racks should be installed horizontally (i.e. not wall mounted) as per AS 2890.3.

### 11.12 Loading / Waste Management

#### Loading

A loading bay is proposed at ground floor level off the shared lane for the shops and waste collection. It could also be used by tradespersons, moving and deliveries.

Council's traffic engineers raised no concerns with the dimensions of the loading bay, but advised the number of vehicle access points along the north side of the building should be reduced, vehicles using the loading area should be able to enter/exit in a forward direction only and swept path assessments were needed to confirm access.

#### 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.

Council's 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 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.

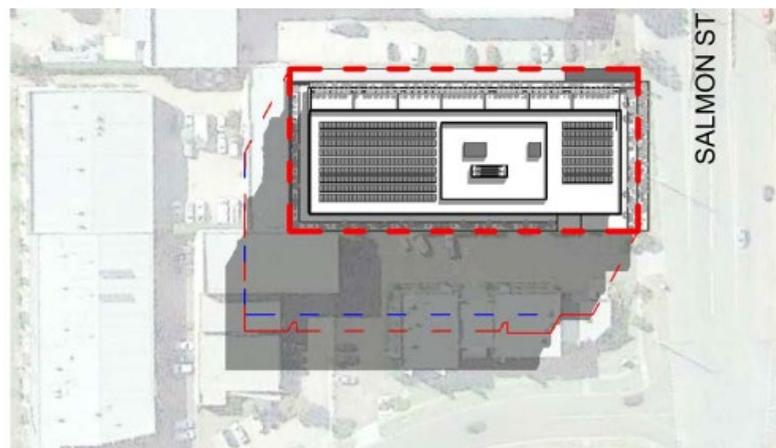
### 11.13 Shadow Impacts

The Fishermans Bend Framework and the Planning Scheme show two open space areas near the subject site comprising:

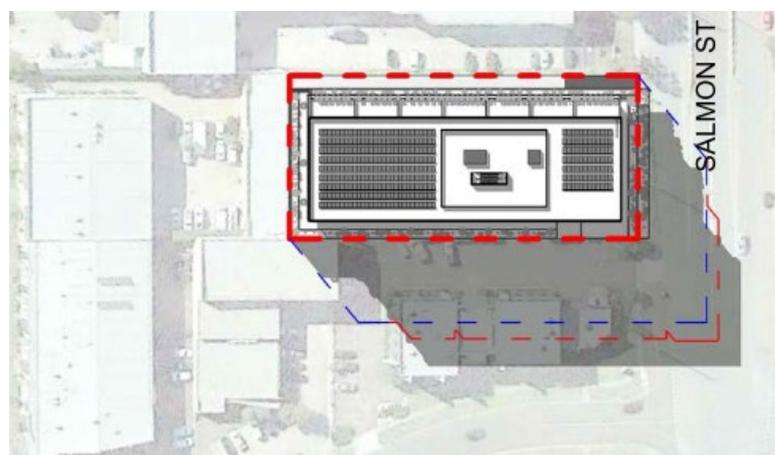
- The Wirraway North Open Space directly opposite across Salmon Street; and
- A 6.0m wide linear park along the northern side of Rocklea Drive to the South.

The Scheme specifies the Wirraway North open space must not be overshadowed (more than the shadow cast by a building built to the maximum street wall height and existing buildings) between 11.00am and 2.00pm on 22 September, but does not specify overshadowing controls for the linear open space.

The amended proposal would not overshadow the Wirraway North park, but would cast some shadow over the linear park, and so would comply with the Scheme.



**Figure 11.13-1:** Extent of shadow at 11am on 22 September equinox. (Blue hatched line = previous extent of shadow. **Red bold hatched line = site boundary.** Red hatched line = max. shadow pursuant to Table 2 of Clause 2.6 of DDO33 - Not applicable to linear park)



**Figure 11.13-2:** Extent of shadow at 2pm on 22 September equinox. (Blue hatched line = previous extent of shadow. **Red bold hatched line = site boundary.** Red hatched line = max. shadow pursuant to Table 2 of Clause 2.6 of DDO33 - Not applicable to linear park)

#### 11.14 Wind Impacts

The documentation for the existing permit 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 without any wind tunnel testing. The assessment concluded:

- Wind conditions at the ground level footpath near the NE corner would be expected to be close to or above the walking comfort criterion. Porous windscreens along the northern boundary are recommend wind control treatments.
- Wind condition in the building entrance areas would be expected to be within the standing comfort criteria, considering the proposed canopy over these areas.
- Wind conditions at some areas of the high level large terraces would be expected to be within or on the recommended walking comfort criteria.

The applicant's wind consultants noted that the assessment lacked experimental validation and may not account for all complex flow scenarios in the vicinity. They recommended wind tunnel testing be conducted at the detail design stage to verify the assessment predications and determine appropriate wind control measures.

The existing permit does not include a condition requiring wind testing. Any approval of the amendment application 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 and approved, 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/m<sup>2</sup> 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 plan 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 not 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.

#### **11.18 Community Facilities**

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

#### **11.19 Development Contributions**

The construction proposed as part of the permit application triggers a requirement for a development contribution.

The amendment is still subject to Condition 5 of the original permit which requires (indexed) payment of \$15,900 per dwelling, \$180 per sqm of gross commercial floor area, and \$150 per sqm of gross retail floor area.

The application documentation includes a draft S173 Agreement to satisfy Condition 5 of the existing permit.

#### **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. The amendment is still subject to condition 28 of the original permit which requires the provision of a certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970 (EPA Act), or a statement under Section 53Z of the EPA Act.

The owner of the land to be developed must pay all reasonable legal costs and expenses associated with the preparation of the above documents



### 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.

### 11.23 Permit changes assessment

An assessment of the proposed changes to the permit preamble and conditions is as follows (deleted text shown with ~~strike through~~; new text shown underlined):

Applicant requested changes	
Existing Preamble	Proposed Preamble
Construction of a mixed-use development and waiver of loading bay requirements	<p><i>Construction of a mixed-use development <del>and waiver of loading bay requirements</del> (including use of the site for 'dwellings' and 'retail premises'), and provision of more than the maximum rate of carparking specified in the Parking Overlay</i></p> <p><b>Officer Comment:</b></p>



	The proposed changes are necessary because of changes to the planning controls and are satisfactory.
<b>Existing Permit conditions to be modified</b>	<b>Proposed conditions</b>
<b>Condition 1</b> <b>1(b).</b> Where 'saddleback' apartments are shown, the minimum width of the light corridor should be no less than 1200mm.	The amendment application requests deletion of Condition 1(b). <b>Officer Comment:</b> The amended plans do not include any 'saddleback' apartments. Consequently, Condition 1(b) is not required. The deletion of Condition 1(b) is supported.
<b>1(c).</b> The proposed street canopy awning redesigned to not impact on the mature height and breadth of the existing street trees, be setback at least 600mm from the face of the kerb and have an underside clearance of at least 2.7m.	The application requests Condition 1(c) be amended to read: <i>Installation of a porous wind screen at least 2.5m high at the north-east boundary of the site, in accordance with the Wind Impact Assessment Report dated May 2019.</i> <i>The responsible authority may consent to vary or waive this requirement if further wind tunnel testing demonstrates this wind control treatment is not required.</i> <i>The porous wind screen should be integrated into the urban art strategy required by this permit and be designed to enable temporary or permanent relocation.</i> <b>Officer Comment:</b> Condition 1(c) relates to ensuring the design of the street canopy does not encroach on existing street trees and has satisfactory setback from the kerb and underside clearance. It remains relevant and should be retained as is. The requested replacement condition relates to Wind Impacts which is a different issue which should be addressed by a new condition using the above wording or alternative wording. Refer to assessment regards recommended new Condition 34 for Wind impact management below.
<b>1(k). New condition requested for details of planter box landscaping</b>	The amendment application requests Condition 1 be amended to include a new condition (k): • <i>dimensions and details of planter boxes and accompanying planting and maintenance schedule that provides for planting of native indigenous planting, with opportunity for incorporation of 'food plants' within communal areas, as appropriate.</i> <b>Officer Comment:</b> The existing permit does not include a condition requiring a landscape plan. It is considered it would be better that a separate landscape plan by a qualified landscape designer be prepared rather than adding to the Architectural Drawings. Refer below.
<b>Condition 4. Materials and finishes</b> Except with the written consent of the Responsible Authority, the materials and finishes must be in accordance with those identified in the Architectural Plans (June	The amendment application requests Condition 4 be amended to change the reference date of the Architectural Plans from June 2014 to May 2019 as follows: <i>Except with the written consent of the Responsible Authority, the materials and finishes must be in</i>



<p>2014) prepared by Carabolt Holt Turcinov submitted with the application.</p>	<p><i>accordance with those identified in the Architectural Plans (May 2019) prepared by Carabott Holt Turcinov submitted with the application.</i></p> <p><b>Officer Comment:</b> The amended wording to change the reference date of the plans is satisfactory and is supported.</p>
<p><b>Condition 6. Environmentally Sustainable Design (ESD)</b> Sustainability arrangements must be in accordance with the Sustainability Management Report prepared by Ark Resources dated 4 June 2014. The submitted plan must not be modified or altered without prior consent of the Responsible Authority.</p>	<p>The amendment application requests Condition 6 be amended to change the reference date of the Sustainability Management Report from 04 June 2014 to 16 May 2019 as follows:</p> <p><i>Sustainability arrangements must be in accordance with the Sustainability Management Report prepared by Ark Resources dated 16 May 2019. The submitted plan must not be modified or altered without prior consent of the Responsible Authority.</i></p> <p><b>Officer Comment:</b> The amended wording to change the reference date of the plans is satisfactory and is supported. The title of the report referenced in the condition should also be amended to match the report submitted with the amendment application, so the condition would read as follows:</p> <p><i>Sustainability arrangements must be in accordance with the <u>Sustainable Management Plan and Water Sensitive Urban Design Response Sustainability Management Report</u> prepared by Ark Resources dated 16 May 2019. The submitted plan must not be modified or altered without prior consent of the Responsible Authority.</i></p>
<p><b>6(b). New condition requested for Green Star rating</b></p>	<p>The amendment application requests a new Condition 6(b) be added as follows:</p> <p><b>(b) Green Star rating</b></p> <ul style="list-style-type: none"> <li>• <i>Prior to the commencement of buildings and works, evidence must be submitted to the satisfaction of the responsible authority, that demonstrates the project has been registered to seek a minimum 5 Star Green Star Design and As-Built rating (or equivalent) with the Green Building Council of Australia.</i></li> <li>• <i>Within 12 months of occupation of the building, certification must be submitted to the satisfaction of the responsible authority, that demonstrates that the building has achieved a minimum 5 Star Green Star Design and As-Built rating (or equivalent).</i></li> </ul> <p><b>Officer Comment:</b> The condition is one of the new conditions required to be included on permits pursuant to Clause 4.3 of Schedule 1 to Clause 37.04 Capital City Zone and is satisfactory and is supported.</p>
<p><b>Condition 7. Waste Management</b> The waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP)</p>	<p>The amendment application requests Condition 7 be amended to change the reference date of the Waste Management Plan from 29 May 2014 to 01 May 2019 as follows:</p>



<p>prepared by Leigh Design dated 29 May 2014. The submitted WMP must not be modified or altered without the prior consent of the Port Phillip City Council.</p>	<p><i>The waste storage and collection arrangements must be in accordance with the Waste Management Plan prepared by Leigh Design dated 01 May 2019. The submitted WMP must not be modified or altered without prior consent of the Port Phillip City Council.</i></p> <p><b><u>Officer Comment:</u></b></p> <p>The amended wording to change the reference date of the report is satisfactory and is supported.</p>
<p><b>33. New condition requested for Right of way easement for proposed laneway</b></p>	<p>The amendment application requests a new Condition 33 be added for a right of way easement for the proposed laneway, noting:</p> <p><i>'It is accepted that the permit be amended to include a new Condition 33 to the effect of requiring a right of way easement of a strip of land 3m wide adjacent to, and for the full length of, the northern property boundary. This will form the southern half of the proposed 6m wide laneway.'</i></p> <p>The amendment application does not propose suggested wording for the new condition.</p> <p><b><u>Officer Comment:</u></b></p> <p>The setting aside of a 3.0m wide strip of land along the north side of the property for a new lane would be consistent with the Framework Plan and Planning Scheme and is supported.</p> <p>The reservation of the 3.0m strip as an easement of way however is considered to overly complicate the creation and future maintenance of the lane, noting its' alignment crosses four separate properties. It would be better that the land be vested in Council so it can ultimately be consolidated into a single public road.</p> <p>Clause 4.3 of Schedule 1 to Clause 37.04 Capital City Zone sets out standard conditions for FBURA permits including a condition for roads and laneways.</p> <p>Whilst the road/laneway condition is not mandatory for the proposed lane because it is marked indicative on the Framework and Planning Scheme map, it is considered the wording is well suited to the circumstances of this application and the Council's desired outcome for the new lane and it would be desirable to include it as follows:</p> <p><b><u>Roads and laneways</u></b></p> <p><u><i>An agreement under section 173 of the Act must be entered into between the landowner, the responsible authority and the local council (if not the responsible authority) which provides for the:</i></u></p> <ul style="list-style-type: none"> <li>• <u><i>Construction of the new road or laneway to the satisfaction of the responsible authority and the relevant road management authority; and</i></u></li> <li>• <u><i>Transfer of the new road or laneway to, or vesting in the relevant road authority as a public road at no cost to the relevant road authority.</i></u></li> </ul> <p>An additional sub clause allowing deferral of full construction of the lane till re-development of the adjacent</p>



	<p>site to the north side would assist in facilitating the amendment application. The additional sub-clauses could read as follows:</p> <ul style="list-style-type: none"> <li>• <u>Full construction of the new road or laneway to be deferred until re-development including setting aside of a corresponding 3.0m wide road or laneway on the adjacent site to the north side.</u></li> </ul>
<p><b>Council recommended changes</b></p>	
<p><b>Condition 1 amendments or additions to require changes to plans to address officer concerns and/or existing, amended or new permit conditions</b></p>	<p>The applicant has requested several changes to Condition 1. Officer review has identified redundant text in the preamble or conditions which should also be changed. Additional conditions should also be added for changes recommended by officers and to ensure requirements of reports and other matters set out in other conditions of the permit are correctly shown on the plans.</p> <p>The recommended changes include or supersede the changes requested as part of the amendment application as follows:</p> <p><b>Amended Plans</b></p> <ol style="list-style-type: none"> <li>1. <i>Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided, as well as an electronic version. The plans must be generally in accordance with the plans submitted with the amendment application (Garabott Holt Turcinev, dated 4-6-14) (CHT Architects dated May 2019) but modified to show:</i> <ol style="list-style-type: none"> <li>(a) <i>The building height reduced by the deletion of two levels;</i></li> <li>(b) <i>The Level 2, 3 and 5 podium north side setbacks increased to a minimum of 3.0m from the Title boundary (equivalent to 0.0m from the new north side lane), or at least 9.0m up to 12.0m from the Title boundary (equivalent to at least 6.0m up to 9.0 from the new north side lane).</i></li> <li>(c) <i>The Level 6, 7 and 8 tower north side setbacks increased to at least 8.0m from the Title boundary (equivalent to at least 5.0m from the new north side lane).</i></li> <li>(d) <i>Appropriate storage for rooftop runoff, equipped with power and water management telecommunications, as per <del>Objective 7.1, Guideline 2 and Objective 7.2, Guideline 4 of the Fishermans Bend Strategic Framework Plan. the Sustainable Management Plan and Water Sensitive Urban Design Response in the corresponding condition below;</del></i></li> </ol> </li> </ol>



	<p>(e) <u>Where 'saddleback' apartments are shown, the minimum width of the light corridor should be no less than 1200mm.</u></p> <p>(f) <u>The proposed street canopy awning redesigned to not impact on the mature height and breadth of the existing street trees, be setback at least 600mm from the face of the kerb and have an underside clearance of at least 2.7m.</u></p> <p>(g) <u>The door to the bin room and adjacent corridor to be of sufficient size to accommodate the largest bins proposed to be used and the doors to the ground floor level bin chute room to be of sufficient size to accommodate a 660 litre bin.</u></p> <p>(h) <u>At least one level of the car parking, including the loading bay area if applicable, to have level floors and a floor to ceiling height of at least 3.0m to provide for future conversion from car parking to of the uses. Level(s) to be chosen at the discretion of the applicant.</u></p> <p>(i) <u>Details of structural column locations, showing any column located adjacent to a car space should be located between 0.25m and 1.25m from the open aisle end of the parking spaces to ensure that car door opening is not obstructed, or if this cannot be achieved, long term (resident and staff) spaces widened to 2.7m</u></p> <p>(j) <u>Each dwelling to be provided with an individual secure store of at least 6m<sup>3</sup>.</u></p> <p>(k) <u>All plant, equipment and domestic services (including air conditioning, heating units, hot water systems, etc.) which are to be located externally.</u></p> <p>(l) <u>Relocated power pole on Salmon Street in accordance with Condition 15.</u></p> <p>(m) <u>Changes to the vehicle entry, car and bicycle parking and loading bay design to show:</u></p> <ul style="list-style-type: none"> <li>• <u>Each single width vehicle stacker to have clear useable platform dimensions of 2.6m wide x 5.0m long.</u></li> <li>• <u>Confirmation of the available platform length of the upper level of the mechanical stackers.</u></li> <li>• <u>Confirmation the aisle width directly adjacent to the mechanical stackers will be at least 6.4m.</u></li> <li>• <u>Swept Path Assessment drawings of all car park level entries, ramps and passing areas.</u></li> <li>• <u>Swept path assessment drawing demonstrating two vehicles can enter/exit the roller door / gate separation between the commercial and residential parking at the same time.</u></li> <li>• <u>Consolidation of vehicle access along the north side to reduce the number of pedestrian/cyclist/ vehicle conflict points.</u></li> <li>• <u>Corner splays for the ground level resident parking accessway.</u></li> </ul>
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	<ul style="list-style-type: none"> <li>• <u>Access grade of no steeper than 10% within 5 metres of the frontage.</u></li> <li>• <u>Swept Path Assessment drawings for entry/exit for the loading bay.</u></li> <li>• <u>Confirmation of the expected largest vehicle accessing the loading bay.</u></li> <li>• <u>Confirmation vehicles using the loading area are able to enter/exit in a forward direction.</u></li> <li>• <u>Details of the immediate and any future design of the lane along the north side, with any grade change required contained wholly within the site.</u></li> <li>• <u>At least 20% of bike racks installed horizontal (i.e. not wall mounted) as per AS 2890.3.</u></li> </ul> <p>(n) <u>Any changes needed to meet the requirements of the Sustainable Management Plan and Water Sensitive Urban Design Response in the corresponding condition below, including:</u></p> <ul style="list-style-type: none"> <li>• <u>Notations on the roof plan for 100kWp solar PV system and solar pre-heat for domestic hot water system (as committed to in SMP).</u></li> <li>• <u>Eight electric vehicle parking bays to be nominated on floor plans (as committed to in SMP).</u></li> <li>• <u>Ground floor plan end of trip area to include notation for showers.</u></li> <li>• <u>Floor plan to nominate connection point to precinct-wide third pipe system (as committed to in SMP) and Condition 12.</u></li> <li>• <u>The ground floor plan to show a 95kL rainwater harvesting tank and changes to the roof catchment area in m2 above level 11 to accord with the SMP.</u></li> <li>• <u>A tank for fire system test water shown.</u></li> <li>• <u>Details for each of the innovation credits claimed.</u></li> <li>• <u>Six electric bicycle parking spaces and charging infrastructure.</u></li> </ul> <p>(o) <u>Any changes needed to meet the requirements of the Acoustic Report in the corresponding condition below.</u></p> <p>(p) <u>Any changes needed to meet the requirements of the Landscape Plan in the corresponding condition below.</u></p> <p>(q) <u>Plan notations for the development to include dual reticulation and a connection point to connect to a potential future precinct scale alternative water supply via a third pipe network to the satisfaction of the relevant water authority to the satisfaction of the Responsible Authority to meet the requirements of the corresponding condition below.</u></p> <p>(r) <u>A new footpath along the building's frontage constructed and aligning with the existing footpath.</u></p>
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<p><b>Delete Condition 15</b></p>	<p>Condition 15 required relocation of an existing power pole on Plummer Street to ensure clearance from the original street crossing to the south side of the site. The crossing is now proposed to the north side of the site and the condition is not required.</p> <p><del>15. The existing power pole at the location of the entry crossover must be relocated to the satisfaction of CitiPower.</del></p>
<p><b>Amend Condition 19: Acoustic Internal Amenity</b></p>	<p>Per Section 11.9 of this report, it is considered the level of acoustic attenuation should meet present day standards.</p> <p><b>Acoustic Internal Amenity</b></p> <p><b>19. Before the development starts (excluding demolition and site preparation works), an acoustic report prepared by a qualified acoustic consultant must be submitted to the Responsible Authority. The report must provide for noise attenuation measures to address noise intrusion within apartment bedroom and living areas (upon completion with furnishing within the spaces and with windows and doors closed) to achieve the following:</b></p> <p><del>a) Between 10pm and 7am in bedroom areas must not exceed LAeq, 9hour 40dB(A);</del></p> <p><del>b) Between 7am and 10pm in living rooms must not exceed LAeq, (15 hour) 45dB(A).</del></p> <p>a) <u>Not greater than 35dB(A) for bedrooms, assessed as an LAeq, 8h from 10pm to 6am.</u></p> <p>b) <u>Not greater than 40dB(A) for living areas, assessed LAeq, 16h from 6am to 10pm.</u></p>
<p><b>34. New Condition for Amended Wind Report</b></p>	<p>The existing permit does not include a condition for a wind report. The applicant's consultant wind engineers recommend that further wind assessment including wind tunnel testing be carried out. Officers concur.</p> <p>The amendment application proposed a new Condition 1(c) for installation of a wind screen at the NE boundary of the site as follows:</p> <p><i>Installation of a porous wind screen at least 2.5m high at the north-east boundary of the site, in accordance with the Wind Impact Assessment Report dated May 2019.</i></p> <p><i>The responsible authority may consent to vary or waive this requirement if further wind tunnel testing demonstrates this wind control treatment is not required.</i></p> <p><i>The porous wind screen should be integrated into the urban art strategy required by this permit and be designed to enable temporary or permanent relocation.</i></p> <p>Officers believe the requirements of the condition are premature and potentially incomplete given the need for wind tunnel testing to determine what if any wind mitigation measures may be required.</p> <p>It is recommended that an alternative wind condition be added as follows:</p>



	<p><b><u>34. Amended Wind Report Required</u></b></p> <p><u>Before the development starts, excluding demolition and site preparation works, an amended comprehensive wind tunnel test and environmental climate assessment report to assess the development plans, generally in accordance with the report prepared by Vipac Engineers and Scientists, dated 08 May 2019, must be undertaken and submitted to the Responsible Authority in consultation with the City of Port Phillip. The amended report must be modified to address all changes required under Condition 1 of this permit and:</u></p> <p>a) <u>Include wind tests taken at various points within the surrounding road network, including the proposed laneway and outdoor open space terraces and balconies, carried out on a model of the approved building inclusive of the modifications required to determine the wind impacts of the development and provide recommendations for any modifications which must be made to the design of the building to improve any adverse wind conditions within the public realm and on-site open space;</u></p> <p>b) <u>Demonstrate how the proposal would not cause unsafe wind conditions in publicly accessible areas within the assessment distance from all facades, and the comfortable wind conditions on the public realm at Clause 2.11 of DDO33 of the Port Phillip Planning Scheme;</u></p> <p><u>Any further modifications required to the development in order to ensure acceptable wind conditions to the surroundings streets and public areas must be carefully developed as an integrated high-quality solution with the architectural design and must not rely on street trees or wind amelioration screens within the public realm to the satisfaction of the Responsible Authority.</u></p> <p><u>The recommendations and requirements of the endorsed Wind Impact Assessment Report must be implemented at no cost to and be to the satisfaction of the Responsible Authority prior to the occupation of the development.</u></p>
<p><b>35. New Condition for Landscape Plan</b></p>	<p>The existing permit does not include a condition requiring submission and approval of a landscape plan. It is desirable that a landscape plan be prepared and implemented. A suitable condition is as follows:</p> <p><b><u>Landscape Plan</u></b></p> <p><u>Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:</u></p> <p>(a) <u>A survey plan, including botanical names, of all existing vegetation/trees to be retained;</u></p>



	<ul style="list-style-type: none"> <li><u>(b) Buildings and vegetation (including botanical names) on neighbouring properties within 3m of the boundary;</u></li> <li><u>(c) Significant trees greater than 1.5m in circumference, 1m above ground;</u></li> <li><u>(d) All street trees and/or other trees on Council land;</u></li> <li><u>(e) A planting schedule of all proposed vegetation including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant; and details of surface finishes of pathways and driveways;</u></li> <li><u>(f) Landscaping and planting within all open space areas of the site;</u></li> <li><u>(g) Water sensitive urban design;</u></li> <li><u>(h) Advanced tree stock (minimum 45 litre pot or bag 2.5 metres tall when planted unless otherwise agreed to in writing by the Responsible Authority).</u></li> <li><u>(i) No siting of trees over easements.</u></li> <li><u>(j) Irrigation in accordance with the endorsed Sustainability Management Plan.</u></li> <li><u>(k) 2.5% of site containing native planting, as per commitment in the Ecology section of the SMP.</u></li> </ul>
<p><b>36. New Condition for Affordable Housing</b></p>	<p><b><u>Affordable Housing</u></b></p> <p><u>Before the development starts, excluding demolition, bulk excavation and site preparation works, the owner must:</u></p> <ul style="list-style-type: none"> <li><u>(a) Enter into an agreement under Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority;</u></li> <li><u>(b) Register the agreement on the title(s) for the land in accordance with Section 181 of the Planning and Environment Act 1987; and</u></li> <li><u>(c) Provide the Responsible Authority with the dealing number confirming the registration on the title.</u></li> </ul> <p><u>The agreement must be in a form to the satisfaction of Responsible Authority, and the owner must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration, and ending of the agreement. The agreement must contain covenants to be registered on the title of the property so as to run with the land, and must provide the following:</u></p> <ul style="list-style-type: none"> <li><u>(i) The provision of 6% of the total number of dwellings (rounded down to the nearest whole number) as affordable housing one or two-bedroom dwellings in the building.</u></li> <li><u>(ii) The dwellings to be tenure blind.</u></li> <li><u>(iii) Title to the dwellings to be transferred in one single transaction to one single Housing Trust or registered</u></li> </ul>



	<p><u>Housing Association or Housing Provider approved by Port Phillip City Council.</u></p> <p>(iv) <u>Managed as affordable housing in perpetuity by a single Housing Trust or registered Housing Association or Housing Provider.</u></p> <p>(v) <u>Be set aside for occupation by very low or low income households to the satisfaction of Port Phillip City Council.</u></p> <p>(vi) <u>Dispersed throughout the development to the satisfaction of the Responsible Authority.</u></p> <p>(vii) <u>Allocated one bicycle space per dwelling.</u></p>
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11.3 Subject to the above changes, the modifications to the permit preamble and permit conditions are supported.

## 12. COVENANTS

The whole of the land is subject to Covenant AC663719J (registered 12/02/2004) which requires:

- Any setback area on the land from streets not be used except as paved walks or driveways, car parks or lawn or landscape areas.
- No building to be erected other than a building with walls generally of brick, masonry, finished concrete or glass.
- Goods and materials not be stored on the land unless screened from view.
- Specified uses including manufacture of chemicals, explosives, petroleum or metal products, tanning, sawmilling, scrap metal collection motor vehicle dismantling or panel beating, or any process likely to cause offensive emissions must not occur on the site.

The amended proposal would not breach the covenant.

## 13. AMENDED PLANS

13.1 In response to Council and DELWP officer concerns, the applicants submitted an incomplete set of discussion plans proposing:

- Reducing the height by 3.5m from 43.6m to 40.1m by converting Levels 6 and 7 from commercial to residential and incremental reductions in height of all the other levels (4.1m taller than existing approval).
- Increasing the number of dwellings by 29 from 55 to 84 (73 less than existing approval).
- Reducing the office floor area by 3,833m<sup>2</sup> from 11,333m<sup>2</sup> to 7,500m<sup>2</sup> (6,780m<sup>2</sup> more than existing approval).
- Revisions to activate the northern side access/shared zone to add a food truck and outdoor seating.
- A Social Housing uplift of three (3) dwellings gifted to a Housing Association (No affordable or Social housing required/provided in existing approval).

13.2 The generality of the changes to the building height and dwelling/office mix and the provision of Social housing respond in part of concerns raised, but the changes to the northern side access/shared zone do not satisfactorily address Council concerns and the discussion plans do not show any revisions to building setbacks and internal car park design and other areas of concern



Officers are not able to form an overall opinion on the changes without a full set of revised plans and a formal substitution of a full set of revised plans.

**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**

- 15.1 Advise the Minister that the Council supports the application as lodged.
- 15.2 Advise the Minister that the Council supports the application subject to conditions for changes to the design.
- 15.3 Advise the Minister that the Council does not support the application for the reasons set out in this report, and/or any other concerns of Council.

**16. CONCLUSION**

16.1 The proposal was internally referred. Officers raised concerns regarding building height, the design of a shared laneway along the north side of the site and the number of vehicle entry/exits off that lane, the lack of swept path diagrams to confirm car park access and passing area compliance and entry/exit sight lines, over reliance on car parking stackers, wind impacts adjacent to and within the site, lack of differentiation between the residential and commercial entrance foyers, noise impacts from the freeway, small provision of communal space, and lack of deep soil planting areas.

16.2 The proposed building whilst still 12 levels, would be 7.6m higher than the maximum height of the previously approved tower, and 15.1m and 4 levels higher than the 30m (8 storey) preferred maximum building height for the site introduced by Amendment GC81 in October 2018. The additional height is sought in part to accommodate adaptable floors within the podium, and the change from predominantly residential use to Office use in the tower (Commercial floor to floor heights are typically greater than residential floor heights because of the need to accommodate services above false ceilings).

The amendment application does not propose any community benefit such as Social Housing in return for the additional height.

The amended proposal should be reduced in height to generally match the height of the current approval.

16.3 The street wall height and setback to Salmon Street would comply with the Design and Development Overlay (DDO) and would be satisfactory. The setback above the street wall facing Salmon Street would fall within the ambit of discretion of the DDO and would achieve an acceptable design outcome.

16.4 The podium side and rear setbacks would partly comply and partly breach mandatory minimum setbacks, particularly along the north side.

The tower side and rear setbacks would only partly comply with the minimum discretionary setbacks.

The design should be reconsidered having greater regard to the preferred and mandatory minimum requirements of the DDO.



16.5 Plans show shadow from the proposal would fall over adjacent commercial buildings and a proposed linear park to the south, but would not overshadow the Wirraway North Open Space in accordance with Planning Scheme overshadowing controls.

16.6 The proposed number of dwellings would not exceed the maximum density specified for the Wirraway non-Core area and the mix of one, two and three-bedroom dwellings would meet the dwelling diversity objectives for Fishermans Ben.

The apartment standards of Clause 58 of the Planning Scheme do not apply to the amendment application because the original permit application was lodged before the approval date of Amendment VC136 (i.e. 13 April 2017).

Notwithstanding this, the amended apartment layouts would exceed the minimum requirements of Clause 58, and the size, layout, open space and amenities of the dwellings are an improvement to the original designs.

16.7 Whilst the subject site is not in a preferred area for employment floor area, the proposed increase in commercial floor area (and reduction in number of dwellings) is supported as being consistent with the emerging mixed-use character of the Wirraway precinct.

16.8 The proposed car parking rate of 1.29 spaces per dwelling would exceed the Parking Overlay rate of 0.63 spaces per dwelling and the 0.94 spaces per dwelling ratio of the existing permit.

The number of car spaces for the dwellings should be reduced, ideally to the Parking Overlay rate, and if discretion is to be exercised, no greater than the existing permit rate of 0.94 spaces per dwelling.

16.9 The Fishermans Bend Framework and the Planning Scheme recommend a new 6.0m wide lane be created along the north side of the site, with 50% of the width to be provided on the subject site and 50% to be provided on the adjacent lot to the north when that site is developed.

The plans set aside the necessary 3.0m width of the lane, plus an additional 3.65m shared zone to provide interim two-way vehicle entry /exit to the car park levels, but fails to detail the design of the private access zone and the future public lane.

Changes to the design are needed to resolve these concerns.

16.10 The amendment application argues the market price of the eight smallest one and two-bedroom dwellings in the building would satisfy the affordable housing policy. Officers believe the dwellings would be beyond the means of very low, low and moderate-income households as defined by the Act, and instead at least 6% of all dwellings should be allocated as affordable housing to a registered housing association or provider.

16.11 The amendment application proposes changes (including deletions) to the permit conditions to update them to reference the amended plans and associated reports and/or provide for new matters arising from the amended plans and changes to planning controls since the original permit was approved.

Officers have identified other text and conditions in the existing permit which should also be changed.



Overall however, it is considered that the changes needed to the amended plans to make them satisfactory go beyond what can reasonably be achieved by permit conditions, and the proposal needs substantial revision to be able to be supported.

16.12 In response to Council and DELWP officer concerns, the applicants submitted an incomplete set of discussion plans proposing reducing the building height, increasing the number of dwellings and reducing the office floor area, activation of the northern side access/shared zone by adding a food truck and outdoor seating, and proposing a Social Housing uplift of three (3) dwellings gifted to a Housing Association.

16.13 The generality of the changes to the building height and dwelling/office mix and the provision of Social housing respond in part of concerns raised, but the changes to the northern side access/shared zone do not satisfactorily address Council concerns and the discussion plans do not show any revisions to building setbacks and internal car park design and other areas of concern

Officers are not able to form an overall opinion on the changes without a full set of revised plans and a formal substitution of a full set of revised plans.

16.14 Given the above concerns, it is considered the application should not be supported in its present form.

16.15 It is recommended that Council not support the amendment application as proposed for the reasons set out in this report.

**TRIM FILE NO: PF19/17930**

**ATTACHMENTS**

1. Site Aerial view 1
2. Site Aerial view 2
3. Survey plan
4. Site Photos
5. Architectural Plan Drawings
6. Architectural Elevation and Section Drawings
7. Architectural Renders
8. Shadow plans